

## 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 Hawarden, Iowa, 2011.

**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 Hawarden, Iowa.
3. “Clerk” means the city clerk of Hawarden, 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 Hawarden, Iowa, 2011.
6. “Council” means the city council of Hawarden, Iowa.
7. “County” means Sioux 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“Ordinances” means the ordinances of the City of Hawarden, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.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.

**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 this Code of Ordinances for violation of any particular provision, section or chapter, any person failing to perform a duty required by this Code of Ordinances or otherwise violating any provision of this Code of Ordinances or any rule or regulation adopted herein by reference shall, upon conviction, be subject to a fine of at least sixty-five dollars (\$65.00) but not to exceed six hundred twenty-five dollars (\$625.00). Under no circumstances shall any person be subject to imprisonment as a penalty for a violation of this Code of Ordinances. (*Ord. 701 – Nov. 18 Supp.*)  
(*Code of Iowa, Sec. 364.3[2] and 903.1[1a]*)

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## CHAPTER 2

# CHARTER

2.01 Title  
2.02 Form of Government  
2.03 Powers and Duties of City Officers

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

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

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

*(Code of Iowa, Sec. 372.4)*

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

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

*(Code of Iowa, Sec. 376.2)*

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

*(Code of Iowa, Sec. 376.2)*

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

*(Code of Iowa, Sec. 372.1)*

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<sup>†</sup> **EDITOR'S NOTE:** Ordinance No. 414 adopting a charter for the City was passed and approved by the Council on July 21, 1975. The terms of Mayor and Council were changed from two to four years by special election held July 17, 1984.

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

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

**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 – \$250.00
  - B. Second offense - \$500.00
  - C. Third offense – \$750.00

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. A copy of the citation may be served by personal service as provided in Rule of Civil Procedure 1.305, by certified mail addressed to the defendant at defendant's last known mailing address, return receipt requested, or by publication in the manner as provided in Rule of Civil Procedure 1.310 and subject to the conditions of Rule of Civil Procedure 1.311. A copy of the citation shall be retained by the issuing officer, and the original citation shall be sent to the Clerk of the District Court. The citation shall serve as notification that a civil offense has been committed and shall contain the following information:

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

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

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

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

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

**3.06 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

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

**5.01 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 Hawarden as now or hereafter required by law."

*(Code of Iowa, Sec. 63.10)*

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

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

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

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

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

*(Code of Iowa, Sec. 64.13)*

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

*(Code of Iowa, Sec. 64.19)*

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

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

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

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

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

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

**5.04 BOOKS AND RECORDS.** All books and records required to be kept by law or ordinance shall be open to examination by the public upon request, unless some other provisions of law expressly limit such right or require such records to be kept confidential. Access to public records 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[3a])*

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

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

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

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

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

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

5. Newspaper. The designation of an official newspaper.

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

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

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

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

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

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

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

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

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

10. Cumulative Purchases. Contracts not otherwise permitted by this section, for the purchase of goods or services that benefit a City officer or employee, if the purchases benefiting that officer or employee do not exceed a cumulative total purchase price of \$6,000.00 in a fiscal year.

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

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

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

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

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

*(Subsections 10-12 – Ord. 714 – Nov. 19 Supp.)*

**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. The appointment shall be made within sixty (60) days after the vacancy occurs and shall be for the period until the next regular City election unless there is an intervening special election for the City, in which event the election for the office shall be placed on the ballot at such special election. If the Council chooses to proceed under this subsection, the Council shall publish notice of the appointment in accordance with Section 372.13 of the *Code of Iowa*. 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. Special 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])*

*(Ord. 690 – Aug. 15 Supp.)*

**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  
7.09 Participation in the Iowa Income Offset Program

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. Submission to Council. The finance officer shall submit the completed budget proposal to the Council each year at such time as directed by the Council.

4. Resolution Establishing Maximum Property Tax Dollars. The Council shall adopt a resolution establishing the total maximum property tax dollars that may be certified for levy that includes taxes for City government purposes under *Code of Iowa* Section 384.1, for the City's trust and agency fund under *Code of Iowa* Section 384.6, Subsection 1, for the City's emergency fund under *Code of Iowa* Section 384.8, and for the levies authorized under *Code of Iowa* Section 384.12, Subsections 8, 10, 11, 12, 13, 17, and 21, but excluding additions approved at election under *Code of Iowa* Section 384.12, Subsection 19.

*(Code of Iowa, Sec. 384.15A)*

A. The Council shall set a time and place for a public hearing on the resolution before the date for adoption of the resolution and shall publish notice of the hearing not less than 10 nor more than 20 days prior to the hearing in a newspaper published at least once weekly and having general circulation in the City.

B. If the City has an internet site, the notice shall also be posted and clearly identified on the City's internet site for public viewing beginning on the date of the newspaper publication or public posting, as applicable. Additionally, if the City maintains a social media account on one or more social media applications, the public hearing notice or an electronic link to the public hearing notice shall be posted on each such account on the same day as the publication of the notice. All of the following shall be included in the notice:

- (1) The sum of the current fiscal year's actual property taxes certified for levy under the levies specified in this subsection and the current fiscal year's combined property tax levy rate for such amount that is applicable to taxable property in the City other than property used and assessed for agricultural or horticultural purposes.
- (2) The effective tax rate calculated using the sum of the current fiscal year's actual property taxes certified for levy under the levies specified in this subsection, applicable to taxable property in the City other than property used and assessed for agricultural or horticultural purposes.
- (3) The sum of the proposed maximum property tax dollars that may be certified for levy for the budget year under the levies specified in this subsection and the proposed combined property tax levy rate for such amount applicable to taxable property in the City other than property used and assessed for agricultural or horticultural purposes.
- (4) If the proposed maximum property tax dollars specified under Subparagraph (3) exceed the current fiscal year's actual property tax dollars certified for levy specified in Subparagraph (1), a statement of the major reasons for the increase.

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

C. At the public hearing, the Council shall receive oral or written objections from any resident or property owner of the City. After all objections have been received and considered, the Council may decrease, but not increase, the proposed maximum property tax dollar amount for inclusion in the resolution and shall adopt the resolution and file the resolution with the County Auditor as required under *Code of Iowa* Section 384.16, Subsection 3.

D. If the sum of the maximum property tax dollars for the budget year specified in the resolution under the levies specified in this subsection exceeds 102 percent of the sum of the current fiscal year's actual property taxes certified for levy under the levies specified in this subsection, the Council shall be required to adopt the resolution by a two-thirds majority of the membership of the Council.

E. If the City has an internet site, in addition to filing the resolution with the Auditor under *Code of Iowa* Section 384.16, Subsection 3, the adopted resolution shall be posted and clearly identified on the City's internet site for

public viewing within 10 days of approval by the Council. The posted resolution for a budget year shall continue to be accessible for public viewing on the internet site along with resolutions posted for all subsequent budget years.

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

6. Notice of Hearing. Following, and not until adoption of the resolution required under Subsection 4 of this section, the Council shall set a time and place for public hearing on the budget to be held before March 31 and shall publish notice of the hearing not less than 10 nor more than 20 days before the hearing. A summary of the proposed budget and a description of the procedure for protesting the City budget under Section 384.19 of the *Code of Iowa*, in the form prescribed by the Director of the Department of Management, shall be included in the notice. Proof of publication of the notice under this subsection and a copy of the resolution adopted under Subsection 4 of this section must be filed with the County Auditor.

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

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

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

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

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

*(Section 7.05 – Ord. 716 – Nov. 19 Supp.)*

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

*(Code of Iowa, Sec. 384.18)*

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

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

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

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

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

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

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

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

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

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

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

3. 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.

4. 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.

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

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

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

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

*(Code of Iowa, Sec. 384.22)*

**7.09 PARTICIPATION IN THE IOWA INCOME OFFSET PROGRAM.** The City may participate in the Iowa Income Offset Program and may enter into a Memorandum of Understanding with the Iowa Department of Administrative Services, State Accounting Enterprise, for such purposes in accordance with the following procedures:

1. The City Administrator shall provide the Iowa Department of Administrative Services with a liability file on a qualifying liability owed to the City by a debtor.
2. When notified by the Department of Administrative Services that there is a match with a debtor, the debtor shall be sent a notification within ten calendar days including the following:
  - A. The City's right to the payment in question.
  - B. The City's right to recover payment through this offset procedure.
  - C. The basis of the City's case in regard to this debt.
  - D. The right of the debtor to request a split of the payment between parties when the payment in question is jointly owned or otherwise owned by two or more persons (e.g., tax refund).
  - E. The debtor's right to appeal the offset and the procedure to follow in that appeal.
3. A debtor wishing to appeal the offset shall file a written notice of appeal specifying the grounds for appeal with the City Council and the City Administrator within ten (10) calendar days from the date on which the debtor was sent the notification of the offset. Upon the filing of an appeal, the debtor shall be entitled to a hearing at the next regularly scheduled Council meeting or at a special meeting to be scheduled at the discretion of the Council. The debtor shall be given notice of the time and place of the hearing and shall be entitled to present evidence to the Council. A vote of three Council members shall be required to reverse or modify the offset. A debtor aggrieved by any decision of the City Council may, within thirty (30) days from date of the filing of the decision by the City Council, appeal therefrom to the District Court in accordance with the Iowa Rules of Civil Procedure, Division XIV, certiorari.

*(Code of Iowa, Section 8A.504)*

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## CHAPTER 8

# INDUSTRIAL PROPERTY TAX EXEMPTIONS

8.01 Purpose

8.02 Definitions

8.03 Period of Partial Exemption

8.04 Amounts Eligible for Exemption

8.05 Limitations

8.06 Applications

8.07 Approval

8.08 Exemption Repealed

8.09 Dual Exemptions Prohibited

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

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

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

**8.03 PERIOD OF PARTIAL EXEMPTION.** The actual value added to industrial real estate by the new construction of industrial real estate, research-service facilities, warehouses

and distribution centers is eligible to receive a partial exemption from taxation for a period of five (5) years.

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

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

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

1. For the first year, seventy-five percent (75%)
2. For the second year, sixty percent (60%)
3. For the third year, forty-five percent (45%)
4. For the fourth year, thirty percent (30%)
5. For the fifth year, fifteen percent (15%)

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

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

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

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

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

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

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

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

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

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

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

**CHAPTER 9**

**SPECULATIVE BUILDING  
PROPERTY TAX EXEMPTIONS**

**9.01 Purpose**  
**9.02 Eligibility and Effective Date**

**9.03 Application**  
**9.04 Definitions**

**9.01 PURPOSE.** This chapter establishes a method to allow a property tax exemption for speculative shell buildings constructed by community development organizations, not-for-profit cooperative associations under Chapter 499 of the *Code of Iowa*, and for-profit entities for economic development purposes.

**9.02 ELIGIBILITY AND EFFECTIVE DATE.** Eligibility for an exemption as a speculative shell building shall be determined as of January 1 of the assessment year. This exemption shall be effective for the assessment year in which the building is first assessed for property taxation and all subsequent years until the property is leased or sold or until the exemption is terminated by ordinance of the Hawarden City Council. If the shell building or any portion of the shell building is leased or sold, the portion of the shell building which is leased or sold shall not be entitled to this exemption for subsequent years. Upon the sale of the shell building, the shell building shall be considered new construction for purposes of Section 427B.1 of the *Code of Iowa* if used for purposes set forth in Section 427B.1.

**9.03 APPLICATION.** An application shall be filed pursuant to Section 427B.4 of the *Code of Iowa* for each project for which an exemption is claimed.

**9.04 DEFINITIONS.** For purposes of this chapter, the definitions in Section 427.1(27) of the *Code of Iowa* will apply.

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## CHAPTER 10

# URBAN RENEWAL

### EDITOR'S NOTE

The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing Urban Renewal Areas in the City and remain in full force and effect.

<b>ORDINANCE NO.</b>	<b>ADOPTED</b>	<b>NAME OF AREA</b>
524	November 19, 1990	Hawarden Urban Renewal Area
546	December 5, 1994	Hawarden Urban Renewal Areas A, B and C
589	December 18, 2000	2000 Addition to Hawarden Urban Renewal Area A
632	June 8, 2005	Closed an Urban Renewal Area
645	September 26, 2007	Hawarden Urban Renewal Area – Industrial TIF D

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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 four years.  
*(Code of Iowa, Sec. 376.2)*

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

1. Chief Executive Officer. Act as the chief executive officer of the City and presiding officer of the Council, supervise all departments of the City, except for supervisory duties delegated to the City Administrator, 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 Mayor Protem, and the Mayor also appoints, with Council approval, the following officials:

*(Code of Iowa, Sec. 372.4)*

1. Library Board of Trustees
2. Police Chief
3. Park Board
4. Citizens Programming Selection Committee

In addition, the Mayor recommends individuals for appointment by the Council for membership on the Planning and Zoning Commission. In making appointments, the Mayor shall comply with Iowa law, including the provisions for the achievement of gender balance on all boards.

**15.04 COMPENSATION.** The salary of the Mayor is six thousand seven hundred fifty dollars (\$6,750.00) per year, payable annually.

*(Ord. 684 – Aug. 14 Supp.)*

*(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)*

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## CHAPTER 16

### MAYOR PRO TEM

16.01 Vice President of Council  
16.02 Powers and Duties

16.03 Voting Rights  
16.04 Compensation

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

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

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

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

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

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

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

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

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## CHAPTER 17

### CITY COUNCIL

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

17.04 Council Meetings  
17.05 Appointments  
17.06 Compensation

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

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

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

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

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 26.10)*

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

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

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

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

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

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

1. Action by Council. Passage of an ordinance, amendment or resolution requires a majority vote of all of the members of the Council. Passage of a motion requires a majority vote of a quorum of the Council. A resolution must be passed to spend public funds in excess of one hundred thousand dollars (\$100,000.00) on a public improvement project, or to accept public improvements and facilities upon their completion. Each Council member's vote on a measure must be recorded. A measure 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 14 days after the date of passage, unless a subsequent effective date is provided within the ordinance or amendment.

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

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

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

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

1. Regular Meetings. The time and place of the regular meetings of the Council shall be fixed by resolution of the Council.
2. Special Meetings. Special meetings shall be held upon call of the Mayor or upon the request of a majority of the members of the Council.  
*(Code of Iowa, Sec. 372.13[5])*
3. Quorum. A majority of all Council members is a quorum.  
*(Code of Iowa, Sec. 372.13[1])*
4. Rules of Procedure. The Council shall determine its own rules and maintain records of its proceedings.  
*(Code of Iowa, Sec. 372.13[5])*
5. Compelling Attendance. Any three members of the Council can compel the attendance of the absent members at any regular, adjourned, or duly called meeting, by serving a written notice upon the absent members to attend at once.

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

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

In making appointments, the Council shall comply with Iowa law, including the provisions for the achievement of gender balance on all boards.

**17.06 COMPENSATION.** The salary of each Council member is two thousand two hundred fifty dollars (\$2,250.00) per year, payable annually. *(Ord. 683 – Aug. 14 Supp.)*  
*(Code of Iowa, Sec. 372.13[8])*

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# CHAPTER 18

## CITY CLERK

18.01 Appointment and Compensation  
18.02 Powers and Duties: General  
18.03 Publication of Minutes  
18.04 Recording Measures  
18.05 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 City Administrator is ex officio City Clerk and has the duties, powers and functions prescribed in this chapter, by State law and other ordinances of the City. The Council shall specify by resolution the compensation to be paid for such services.

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

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

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

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

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

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

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

1. Time. If notice of an election, hearing, or other official action is required by this Code of Ordinances or law, the notice must be published at least once, not less than four (4) 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.

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

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

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

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

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

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

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

*(Ord. 690 – Aug. 15 Supp.)*

**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 “IOWA” and around the margin of which are the words “CITY OF HAWARDEN” and “MUNICIPAL SEAL.”

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## CHAPTER 19

# CITY TREASURER

19.01 Appointment  
19.02 Compensation

19.03 Duties of Treasurer

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

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

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

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

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

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## CHAPTER 20

### CITY ATTORNEY

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

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

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

**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 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 City Administrator or the Council as a whole.

*(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])*

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## CHAPTER 21

# CITY ADMINISTRATOR

21.01 Purpose and Objectives  
21.02 Duties  
21.03 Council's Retained Powers

21.04 Mayor's Retained Powers  
21.05 Exceptions  
21.06 Council Relations

**21.01 PURPOSE AND OBJECTIVES.** The purpose of this chapter is to provide for a City Administrator for the City. The Council shall appoint by majority vote a City Administrator to serve for an indefinite term. The objectives of the position shall include:

1. Provide for the efficient and effective management of all facets of City government under the control and jurisdiction of the Council.
2. Provide optimum coordination, communication and cooperation between and among City departments, boards and commissions and City staff under the control and jurisdiction of the Council.
3. Promote efficient, fair and equitable personnel management and administration.
4. Support and assist retail, industrial and other economic development.
5. Provide for the systematic and orderly flow of information to and from the Council, its department heads and staff and citizens of the community.

**21.02 DUTIES.** The duties of the City Administrator are as follows:

1. Supervise enforcement and execution of all City ordinances and resolutions and applicable State and Federal laws and regulations within the City.
2. Attend all meetings of the Council unless excused by the Mayor or majority of the Council members.
3. Recommend to the Council such measures as may be necessary or expedient for the good government and welfare of the City.
4. Generally supervise and direct the administration of the City government.
5. Supervise and conduct the business affairs of the City and cause accurate records to be kept by modern and efficient accounting methods.
6. Supervise the performance of all contracts for work to be done for the City, supervise all purchases of material and supplies and ensure that such material and supplies are received and are of the quality and character called for by the contract.
7. Supervise the construction, improvement, repair, maintenance and management of all City properties, capital improvements and undertakings of the City, including the making and preservation of all surveys, maps, plans, drawings, specifications and estimates for capital improvements.
8. Be directly responsible to the Council for the administration of the City as directed by the Council. All City departmental administration requiring the attention of the Council shall be brought before the Council by the Administrator. Council

involvement in administration initiated by the Council must be coordinated through the Administrator.

9. Supervise and direct the official conduct of all officers, departments and employees of the City, specifically including, but not limited to, police, fire, streets, sewers, water pollution control facilities, parks, cemeteries, airport, municipal golf course, solid waste disposal, City utilities, and central administration. To effectuate this responsibility, the City Administrator shall have the power and authority to employ such assistants and other employees of the City for which the Council has approved the positions generally.
10. Represent the City, as directed by the Council, in all negotiations and relations with employees, contractors, consultants, other governmental units and civic organizations in which the City may have an interest.
11. Cooperate with, assist and advise all administrative agencies, City boards and commissions and act as the Council's liaison and representative to such entities.
12. Investigate the affairs and conduct of any department, agency, officer or employee of the City, as deemed appropriate.
13. Keep the Council fully advised of the financial and other conditions of the City and of its future needs.
14. Supervise and assist City boards, commissions and all City departments in the preparation of and administration and operation of the City's annual budget.
15. Make to the Council periodic reports of the general condition of the City, in writing, at such intervals as the Council directs.
16. Advise, assist and consult with the City Attorney on all City legal matters.
17. Formulate and recommend employment and personnel policies, compensation schedules and benefits with the approval of the Council and to cooperate and assist in all matters relating to collective bargaining.
18. Compile and maintain current and up-to-date information regarding all funding sources of the City, including State and Federal grant and loan programs; plan, develop, prepare and submit, with the approval and at the direction of the Council, applications for grants, loans and other sources of funding and to administer all such fundings.
19. Make recommendations to the Council and participate in projects and endeavors to support economic growth and development in the City.
20. Faithfully represent the Council and the City in intergovernmental relations.
21. Perform the responsibilities of the City Clerk as required by this Code of Ordinances and by the most current *Code of Iowa*.
22. Perform such other duties as the Mayor or Council may direct.
23. The City Administrator shall have the power to employ, reclassify, discipline or suspend or discharge any employee, except for those otherwise required to be appointed by the Mayor and/or the Council.

**21.03 COUNCIL'S RETAINED POWERS.** Without limitation, the Council specifically retains the following powers to:

1. Appoint the City Attorney.
2. Control and direct the activities of the City Administrator.
3. Make and establish the policies of the City.

**21.04 MAYOR'S RETAINED POWERS.** With limitations, the Mayor shall retain and enjoy the following powers to:

1. Function as the chief elected official with responsibility for the general public relations of the City and intergovernmental affairs.
2. Preside at all Council meetings.
3. Cooperate with the City Administrator in the furtherance of the policies of the Council.
4. Fulfill all legal obligations and responsibilities provided by ordinance or State law.
5. Appoint the Police Chief, subject to the consent of a majority of the Council.

**21.05 EXCEPTIONS.** The governance and operation of the Hawarden Community Hospital and the Hawarden Public Library are hereby excepted from all provisions of this chapter. The City Administrator shall have no authority over or responsibility in regard to such entities. The City Administrator shall act as the Council's liaison and representative to the Hawarden Community Hospital and Hawarden Public Library and will cooperate with the board and administrators of such entities for the good of the City. The City Administrator, from time to time, as deemed appropriate, shall make recommendations to the Council concerning its relations with the Hawarden Community Hospital and Hawarden Public Library.

**21.06 COUNCIL RELATIONS.** The City Administrator shall not take part in any election except by casting his or her vote, and shall not appoint a City elected official to any City office or employment.

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## CHAPTER 22

### LIBRARY BOARD OF TRUSTEES

22.01 Public Library	22.07 Nonresident Use
22.02 Library Trustees	22.08 Expenditures
22.03 Qualifications of Trustees	22.09 Annual Report
22.04 Organization of the Board	22.10 Injury to Books or Property
22.05 Powers and Duties	22.11 Theft
22.06 Contracting with Other Libraries	22.12 Notice Posted

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

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

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

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

1. Term of Office. All appointments to the Board shall be for six years, except to fill vacancies. Each term shall commence on July 1. Appointments shall be made every two years of one-third the total number or as near as possible, to stagger the terms.
2. Vacancies. The position of any Trustee shall be vacated if such member moves permanently from the City and shall be deemed vacated if such member is absent from six (6) consecutive regular meetings of the Board, except in the case of sickness or temporary absence from the City. Vacancies in the Board shall be filled in the same manner as an original appointment except that the new Trustee shall fill out the unexpired term for which the appointment is made.
3. Compensation. Trustees shall receive no compensation for their services.
4. Quorum and Voting. All action by the Board shall require a majority vote of the whole number of members appointed to the Board.

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

1. Officers. To meet and elect from its members a President, a Secretary, and such other officers as it deems necessary.
2. Physical Plant. To have charge, control and supervision of the Library, its appurtenances, fixtures and rooms containing the same.
3. Charge of Affairs. To direct and control all affairs of the Library.
4. Hiring of Personnel. To employ a librarian, and authorize the librarian to employ such assistants and employees as may be necessary for the proper

management of the Library, and fix their compensation; provided, however, 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, subject however, to the provisions of Chapter 35C of the *Code of Iowa*.

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

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

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

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

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

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

*(Code of Iowa, Ch. 661)*

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

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

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

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

2. Termination. Such a contract may be terminated at any time by mutual consent of the contracting parties. It also may be terminated by a majority vote of the electors represented by either of the contracting parties. Such a termination proposition shall be submitted to the electors by the governing body of a contracting party on a written petition of not less than five percent (5%) in number of the electors who voted for governor in the territory of the contracting party at the last general

election. The petition must be presented to the governing body not less than forty (40) days before the election. The proposition may be submitted at any election provided by law that is held in the territory of the party seeking to terminate the contract.

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

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

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

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

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

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

*(Code of Iowa, Sec. 716.1)*

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

*(Code of Iowa, Sec. 714.1)*

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

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

*(Code of Iowa, Sec. 714.5)*

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

*(Code of Iowa, Sec. 808.12)*

## CHAPTER 23

# PLANNING AND ZONING COMMISSION

23.01 Planning and Zoning Commission  
23.02 Term of Office  
23.03 Vacancies

23.04 Compensation  
23.05 Powers and Duties

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

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

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

*(Code of Iowa, Sec. 392.1)*

**23.03 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)*

**23.04 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)*

**23.05 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)*

## CHAPTER 24

### PARK BOARD

24.01 Park Board  
24.02 Term  
24.03 Appointments  
24.04 Organization  
24.05 Treasurer  
24.06 Budgeting

24.07 Records and Reports  
24.08 Jurisdiction and Authority  
24.09 Limited Leases  
24.10 Rules and Regulations  
24.11 Penalties  
24.12 Swimming Pool

**24.01 PARK BOARD.** There shall be a Board of Park Commissioners for the City consisting of five (5) citizens of legal age.

**24.02 TERM.** Commissioners are appointed for staggered four-year terms, excluding the initial appointments.

**24.03 APPOINTMENTS.** The Mayor shall appoint members to the Park Board subject to approval by the Council. The initial appointments shall consist of the three existing Park Board Members and two newly appointed members. Of the current Park Commissioners, the two most recently elected/appointed Park Board members shall be appointed to four-year terms. The remaining current Park Commissioner shall be appointed for a two-year term. The two additional appointed members of the Park Board shall be appointed for a two-year term and a four-year term.

**24.04 ORGANIZATION.** In January of every even year, the Board shall elect one of its members as Chairperson and one as Secretary.

**24.05 TREASURER.** The City Finance Officer is the Treasurer of the Board and pays out all moneys under the control of the Board on orders signed by the Chairperson and Secretary within approved budgeted amounts. Such officer receives no compensation for such services.

**24.06 BUDGETING.** The Board, working with the City Administrator, shall submit to the Council each year a proposed project list for general park purposes for the ensuing fiscal year. The Council shall include such items, or so much thereof as it may deem necessary, in the City's annual budget as certified to the County Auditor.

**24.07 RECORDS AND REPORTS.** The Board shall keep a record of all its transactions and proceedings and submit an annual presentation to the Council during the budget process describing the current status of existing projects funded and the upcoming item proposed.

**24.08 JURISDICTION AND AUTHORITY.** Subject to the ultimate authority of the Council, the Board shall have control of the parks and pleasure grounds or of any other ground owned by the City and set apart for like purposes within and without the City. All ordinances of the City shall be in full force and effect in and over the territory occupied by such parks.

**24.09 LIMITED LEASES.** Under the guidelines approved by the Council, the Board may lease under reasonable rates and requirements a particular park or portion thereof.

**24.10 RULES AND REGULATIONS.** The Board shall have the power to draft rules and regulations for the use of park or other facilities under its control for adoption by the Council. Such rules shall be posted on the facility or otherwise publicized in a manner to provide adequate notice to the public.

**24.11 PENALTIES.** Any person who violates a Board rule or regulation which has been approved by the Council and adopted by ordinance may be subject to the penalties provided for in the ordinance adopting the rule or regulation.

**24.12 SWIMMING POOL.** The Board shall not manage the City Swimming Pool and the area surrounding it which is incidental to or part of the pool.

## CHAPTER 25

# HOSPITAL BOARD OF TRUSTEES

25.01 Establishment of Board  
25.02 Term and Election of Members  
25.03 Compensation

25.04 Powers and Duties  
25.05 Contracts

**25.01 ESTABLISHMENT OF BOARD.** There is hereby established a Hospital Board of Trustees for the City.

**25.02 TERM AND ELECTION OF MEMBERS.** The Board of Trustees shall consist of five (5) members. Members of the Board shall reside within the hospital service area within the boundaries of the state, and shall be elected by the voters of the City, for four-year staggered terms, in such a manner that the term of office of no more than three (3) members shall expire at each regular City election. A vacancy on the Board shall be filled by appointment by the remaining members of the Board of Trustees unless within fourteen (14) days after the appointment there is filed with the City Clerk a petition which requests a special election to fill the vacancy. Trustees appointed to fill a vacancy or elected at special elections shall serve the unexpired terms of office or until their successors are elected and qualified.

*(Code of Iowa, Sec. 392.6)*

**25.03 COMPENSATION.** The Trustees shall receive no compensation for their services but may be reimbursed for any cash expenditures actually made for personal expenses incurred as Trustee, but an itemized statement of all expenses for moneys paid out shall be made under oath by each of the Trustees and filed with the Secretary and allowed only by affirmative vote of the full board.

**25.04 POWERS AND DUTIES.** The Board of Trustees is granted all the powers and duties necessary for the management, control and government of the City Hospital and the Board shall have and exercise the following specific powers and duties:

1. To meet and elect from its members a President, a Secretary and a Treasurer and such other officers as it deems necessary.
2. To purchase, condemn or lease a site for such public hospital and to provide and equip suitable hospital buildings.
3. To cause plans and specifications to be made and adopted for all hospital buildings and equipment and advertise for bids as required by law for other municipal buildings before making any contract for the construction of any such buildings or the purchase of such equipment.
4. To have general supervision and care of such grounds and buildings.
5. To employ an Administrator and necessary assistants and employees and to fix their compensation.
6. To have control and supervision over the physicians, nurses, attendants and patients in the hospital.

7. To accept property by gift, devise, bequest or otherwise and if the Board deems it advisable may at public sale sell or exchange any property so accepted upon a concurring vote of the majority of all members of the Board and apply the proceeds thereof or property received in exchange therefor to any legitimate hospital purpose.

8. To receive and control all revenue derived from hospital operations and grants and gifts from other sources and to determine the expenditure of the same pursuant to rules established by the Trustees without prior approval of the Council. The Trustees shall follow fiscal rules and procedures applicable to Iowa municipalities except as otherwise specifically required or permitted by State law or this Code.

9. To prepare an annual budget and submit the same to the Council.

The Board of Trustees shall not incur indebtedness or contract indebtedness or impose indebtedness on the City or enter into a contract agreeing for the expenditure of a sum of money where said money has not previously been provided for said Board by the Council.

**25.05 CONTRACTS.** The contracts made by the Board of Trustees pursuant to this chapter shall not be reviewable by the Council, nor shall said contracts need the approval of the Council.

## CHAPTER 26

# CITIZENS PROGRAMMING SELECTION COMMITTEE

### 26.01 Establishment

### 26.02 Committee Members

### 26.03 Organization of the Committee

### 26.04 Duties and Responsibilities

**26.01 ESTABLISHMENT.** There is hereby established a Citizens Programming Selection Committee whose purpose is to select for and commend to the community the value of cable television programming services to be carried on the broadband communications utility. These decisions will be based on a comprehensive analysis of data and information and recommendations provided by utility staff. These selections should provide constructive information and entertainment services and be economically viable.

**26.02 COMMITTEE MEMBERS.** The Committee shall be composed of seven (7) members, appointed by the Mayor and approved by the City Council. Criteria for committee membership shall include Hawarden residency, a subscription to the service, and a commitment to active participation.

### **26.03 ORGANIZATION OF THE COMMITTEE.**

1. Terms of Office. The term of appointment for each member shall be two (2) years, except that the term for the members of the first committee shall be as follows:

- A. One-half shall be appointed for two (2) years.
- B. One-half shall be appointed for four (4) years.

Thereafter, one-half of the membership shall be appointed bi-annually. Each member shall hold his or her position for the term for which he or she is appointed and until his or her successor shall have been appointed and qualified. A term shall begin on the first day of January and end on the last day of December in each appropriate year. Members may be reappointed for additional terms.

2. Vacancies. Any vacancy occurring in the Committee may be filled by appointment by the Mayor with approval of the City Council. A member appointed to fill a vacancy shall be appointed for the unexpired term of his or her predecessor. Any member may resign by submitting written notice of resignation to the Chairperson.

3. Meetings. The Citizens Programming Selection Committee may hold regular and special meetings. Regular meetings shall be held no less than four (4) times each year. Special meetings of the Committee may be called by the Chairperson. Written notice of the time and place for both regular and special meetings shall be given to each member either by personal delivery, mail, e-mail, phone, or fax at least 48 hours before the meeting. Any member who is absent, unexcused, from two consecutive regular meetings shall no longer be entitled to serve as a member of the Citizens Programming Selection Committee. Hawarden Municipal Utility staff shall attend all Citizens Programming Selection Committee meetings to advise and provide programming information, background and research data, and programming recommendations.

4. Quorum and Voting. At all meetings of the Committee, a simple majority of the members thereof shall constitute a quorum for the transaction of business. If a quorum is not present at any meeting of the Committee, the members present may adjourn the meeting, without notice other than announcement at the meeting, until a quorum shall be present.
5. Officers. The officers of the Citizens Programming Selection Committee shall be elected annually by the membership of the Committee and shall consist of a Chairperson, Co-Chair and Secretary.
  - A. Chairperson: Coordinate Committee activities in cooperation with the Hawarden Municipal Utilities staff, set meeting schedules and agendas, facilitate discussions, network with community groups and organizations, stay abreast of industry trends and programming developments. The Chairperson is a voting member of the Committee.
  - B. Co-Chair: Assist the Chairperson as requested, fill Chairperson's position in any absence, coordinate meeting times and facilities.
  - C. HMU: The Hawarden Municipal Utility staff shall provide programming information and background, coordinate presentations, conduct and provide research data, provide strategic direction, provide financial interpretation and support.

#### **26.04 DUTIES AND RESPONSIBILITIES.**

1. Duties and Responsibilities of the Committee. The Committee's primary responsibilities are to make selection decisions on cable television programming services and content and to serve as a private-sector advocate of the programming choices. The responsibilities of the Committee include:
  - A. Ensuring that cable television programming choices are consistent with community standards, market demands, and HMU's goals and objectives.
  - B. Serving as advocates to the community by promoting the goals and successes and advocating support for programming choices.
  - C. Fostering, encouraging, and developing community programming and utilization of access capabilities.
2. Duties and Responsibilities of the Committee Members. Collectively, the Committee has the final selection responsibility on the cable television programs and services that will be carried on the cable television system. Individually, Committee members provide input and serve as advocates of the program and support the Committee by serving responsibly and with dedication. Each Committee member shall meet the following requirements:
  - A. Showing undivided interest in the purpose and goals of the Hawarden Municipal Utilities operations.
  - B. Representing the community.
  - C. Supporting all Committee decisions.
  - D. Understanding the vision and mission of the HMU operations and promoting the goals and activities to member's own constituent groups and to the community as a whole.

- E. Attending all Committee meetings.
- F. Offering constructive, honest, and unbiased opinions without reservation.
- G. Encouraging orderly, systematic, and incremental implementation of the programming choices and discouraging the Committee from being distracted by secondary issues or projects not included in the programming 's annual agenda.
- H. Encouraging other Committee members to express their opinions openly in Committee meetings.
- I. Possessing and showing loyalty to the programming choices and honoring commitment to them.

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## CHAPTER 30

# POLICE DEPARTMENT

30.01 Department Established  
30.02 Organization  
30.03 Peace Officer Qualifications  
30.04 Required Training

30.05 Compensation  
30.06 Peace Officers Appointed  
30.07 Police Chief: Duties  
30.08 Departmental Rules

**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. The Police Chief shall recommend other members of the department, to be selected by the City Administrator.  
*(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.

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## CHAPTER 35

### FIRE DEPARTMENT

35.01 Establishment and Purpose

35.02 Organization

35.03 Training

35.04 Compensation

35.05 Employment Status

35.06 Worker's Compensation and Liability Insurance

35.07 Providing Service Outside the Fire District

35.08 Fees

35.09 Election of Officers

35.10 Fire Chief: Duties

35.11 Obedience to Fire Chief

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

*(Code of Iowa, Sec. 364.16)*

**35.02 ORGANIZATION.** The department consists of the Fire Chief and such other officers and personnel as may be authorized by the Council. Currently this is set at 30 firefighters, including the Fire Chief.

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

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

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

**35.04 COMPENSATION.** The City shall pay volunteer members as follows:

1. A fee of \$15.00 shall be paid to each firefighter participating in any training meeting or emergency run of the Fire Department.
2. The City shall reimburse training expenses incurred to meet minimum requirements for serving as firefighters on the Fire Department, including mileage to and from training sessions held outside of the City. Lodging, training costing more than \$30.00, training in excess of minimum requirements, or travel in excess of 60 miles for training shall require pre-approval of the Fire Chief.

**35.05 EMPLOYMENT STATUS.** Members of the Fire Department are considered to be employees of the City while in the performance of all duties and services reasonably connected with the operation of the Fire Department, for the purpose of the application of worker's compensation statutes and for the purpose of the application for liability insurance coverage.

**35.06 WORKER'S COMPENSATION AND LIABILITY INSURANCE.** The City shall purchase sufficient insurance to cover all personnel while providing fire services under the worker's compensation statutes of the State and shall purchase sufficient insurance to protect the City against loss from damages or public liability resulting from the operation of the Fire Department. The Council shall determine the amount of the insurance needed.

**35.07 PROVIDING SERVICE OUTSIDE THE FIRE DISTRICT.** The Department is authorized to respond to calls outside the Fire District of the City and to provide mutual aid to other fire and rescue services as required by agreements, either written or verbal, with other services.

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

**35.08 FEES.**

1. Established. Fees for the Fire Department and reasonably related emergency services furnished within or outside the Fire District shall be established by the Council through Fire Service Agreements or rates established by ordinance or resolution. The agreements and rates shall generally be adequate to cover the operating costs of the service.

A. Structural Fires (Emergency) - \$500.00 per emergency call.

B. Voluntary Controlled Burns (Training Fires) - \$1,000.00 to \$2,000.00, depending on the size of the structure with acceptance of the fires and setting of the fees determined by the Fire Chief and City Administrator.

C. Emergency Accident Scene Responses - \$100.00 per emergency call.

2. Calculation of Fees. The Fire Chief, with the assistance of the Emergency Services Coordinator, shall calculate and render bills for Fire Department and all reasonably related services rendered pursuant to the fees established by the Council.

3. Payment of Fees. All Fire Department fees and charges reasonably related emergency services shall be payable per any agreement or upon presentation of a statement for said fees and charges to the user and/or recipient of the service, and shall be paid to the City.

**35.09 ELECTION OF OFFICERS.** The Department shall elect a Fire Chief and such other officers as its constitution and bylaws may provide. In case of absence of the Fire Chief, the officer next in rank shall be in charge and have and exercise all the powers of the Fire Chief.

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

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

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

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

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

*(Code of Iowa, Sec. 102.2)*

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

*(Code of Iowa, Sec. 102.2)*

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

*(Code of Iowa, Sec. 102.3)*

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

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

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

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

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

*(Code of Iowa, Sec. 100.12)*

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

*(Code of Iowa, Sec. 100.13)*

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

*(Code of Iowa, Sec. 100.4)*

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

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

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

## CHAPTER 36

### EMERGENCY AMBULANCE SERVICE

36.01 Ambulance Service Established  
36.02 Organization  
36.03 Compensation  
36.04 Employment Status

36.05 Worker's Compensation and Liability Insurance  
36.06 Providing Service Outside the City Limits  
36.07 Fees  
36.08 Bylaws; Rules and Regulations

**36.01 AMBULANCE SERVICE ESTABLISHED.** There is hereby established an ambulance service owned and operated by the City and known as the Hawarden Ambulance Service.

**36.02 ORGANIZATION.** The Ambulance Service shall be under the general supervision of the Ambulance Director. The Ambulance Director shall ensure that the service is operated in accordance with high standards and meets all requirements of the State and Federal governments. The Ambulance Director, Medical Director, and Volunteer Advisory Board shall ensure that personnel for the Ambulance Squad are qualified and have met the minimum education and training requirements. The City Administrator shall appoint, supervise and dismiss the Ambulance Director. The Ambulance Director and City Administrator shall represent the Ambulance Squad in all matters before the Council. *(Ord. 673 – Aug. 12 Supp.)*

**36.03 COMPENSATION.** The City shall pay volunteer members as follows:

1. A run fee of \$20.00 for each driver or student; a fee of \$25.00 for each Emergency Medical Responder, and a fee of \$30.00 for each Emergency Medical Technician participating in the runs shall be paid per run. The run fees shall be doubled during the 24-hour period of a City-recognized holiday, as listed in the City personnel manual. No fees shall be paid for training meetings.
2. The City shall reimburse training expenses incurred to meet minimum requirements for serving as an attendant on the ambulance, including mileage to and from training sessions held outside of the City. Lodging, training costing more than \$30.00, training in excess of minimum requirements, or travel in excess of 60 miles for training shall require pre-approval of the Ambulance Director.

*(Ord. 673 – Aug. 12 Supp.)*

**36.04 EMPLOYMENT STATUS.** Members of the Hawarden Ambulance Service are considered to be employees of the City while in the performance of all duties and services reasonably connected with the operation of the ambulance, for the purpose of the applications of worker's compensation statutes and for the purpose of the application for liability insurance coverage.

**36.05 WORKER'S COMPENSATION AND LIABILITY INSURANCE.** The City shall purchase sufficient insurance to cover all personnel while providing ambulance service and during emergency medical training, under the worker's compensations statutes of the State and shall purchase sufficient insurance to protect the City against loss from damages or public liability resulting from the operation of the Ambulance Service.

**36.06 PROVIDING SERVICE OUTSIDE THE CITY LIMITS.** The Ambulance Service is authorized to respond to calls outside the incorporated limits of the City and to provide mutual aid to other ambulance and rescue services as required by agreements, either written or verbal, with other services and to transport patients to such locations as may be necessary in individual circumstances.

**36.07 FEES.**

1. Established fees for the use of the ambulance service and reasonably related emergency services furnished within or outside the City shall be established to adequately cover all the operating costs of the service except the replacement of vehicles, unless otherwise according to incident.

<b>AMBULANCE SERVICE AND MATERIAL CHARGES</b>	
<b>Services and Materials</b>	<b>New Fee</b>
ALS1 – Emergency Rate	\$ 720.00
BLS – Emergency Rate	\$ 607.00
ALS1 – Transport Rate Non-Emergency	\$ 455.00
BLS – Transport Rate Non-Emergency	\$ 379.00
Loaded Mileage	\$ 13.00
ALS – Level 2	\$ 1043.00

2. Calculation of Fees. The City shall provide for the calculation of fees and billings for the ambulance services and all reasonably related services rendered as directed by the Council.

3. Payment of Fees. All ambulance service fees and charges reasonably related to emergency services shall be payable upon presentation of a statement for said fees and charges to the user and/or recipient of the service and shall be paid as directed by the City according to procedures established by the Council. Actions for collection of fees and charges shall be brought in the name of the City, after authorization of commencement of action by the Council, in the same manner as other actions at law.

*(Section 36.07 – Ord. 708 – Nov. 19 Supp.)*

**36.08 BYLAWS; RULES AND REGULATIONS.** The Ambulance Service shall submit to the Council a set of bylaws and/or rules and regulations for the operation of the department upon request to ensure the department is acting in accordance with all applicable State and Federal laws, rules and regulations.

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## CHAPTER 40

### PUBLIC PEACE

40.01 Assault  
40.02 Harassment  
40.03 Disorderly Conduct

40.04 Unlawful Assembly  
40.05 Failure to Disperse

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

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

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

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

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

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 of 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)*

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

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

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

*(Code of Iowa, Sec. 708.7)*

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

*(Code of Iowa, Sec. 708.7)*

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

*(Code of Iowa, Sec. 708.7)*

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

*(Code of Iowa, Sec. 708.7)*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 723.5)*

*(Subsection 8 – Ord. 693 – Nov. 18 Supp.)*

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

*(Code of Iowa, Sec. 723.2)*

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

*(Code of Iowa, Sec. 723.3)*

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## CHAPTER 41

### PUBLIC HEALTH AND SAFETY

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

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

*(Code of Iowa, Sec. 727.1)*

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

*(Code of Iowa, Sec. 718.6)*

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

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

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

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

*(Code of Iowa, Sec. 719.2)*

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

*(Code of Iowa, Sec. 718.4)*

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

*(Code of Iowa, Sec. 719.1)*

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

*(Code of Iowa, Sec. 727.3)*

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

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

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

**41.10 DISCHARGING WEAPONS.**

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

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

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

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

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

1. Definitions. For purposes of this section, definitions are enumerated in the Iowa Code Section 727.2, which definitions are incorporated herein by reference.  
(Code of Iowa, Sec. 727.2)
2. Sales. Sales within the City are subject to the following general requirements:
  - A. Prior to any person engaging in the sale of consumer fireworks, the following shall be provided to the City Administrator:
    - (1) License: Proof of valid license issued from the State Fire Marshal.
    - (2) Liability Insurance: Proof of liability insurance separate from the building property insurance specifically showing coverage for fireworks sales for not less than \$1,000,000.00 per occurrence and an aggregate amount of not less than \$2,000,000.00.
  - B. Consumer firework sales shall only be conducted in accordance with the dates and times designated by Iowa Code Section 727.2. It shall be unlawful to sell consumer fireworks without meeting the requirements specified in this ordinance, or to sell fireworks outside of the dates and times specified.
  - C. Limitations on Sales. Sales within the City are subject to the following limitations:
    - (1) Consumer firework sales shall only be allowed in the area zoned for B-2 Commercial use pursuant to the City of Hawarden Zoning and Subdivision Ordinance.
    - (2) Consumer fireworks sales shall not be allowed in the Fire Zone established under Chapter 145 of the Code of Ordinances of the City of Hawarden without first obtaining a special permit from the City Council.
    - (3) No person shall sell a DOT 1.4 class consumer firework to a person under the age of 18.
    - (4) Consumer fireworks shall not be sold to an intoxicated person or to any person whom a reasonable person would believe may be impaired by any other substance.
3. Discharging Fireworks. The discharging of fireworks and use of novelties in the City of Hawarden is subject to the following regulations:
  - A. No person under the age of 18 shall discharge a DOT 1.4 class consumer firework device without parental supervision.
  - B. A person shall not discharge a consumer firework or novelty device on public property, including but not limited to, parks, school property, streets, and alleys nor on private property unless the owner or occupant of the private property has given prior written consent or has given prior verbal consent and is present.

C. Consumer fireworks shall not be discharged by persons showing visible signs of, or determined to be, intoxicated or under the influence of a drug or narcotic.

D. Any person discharging a consumer firework or novelty device assumes all responsibility for its operation and the consequences thereof. No person shall discharge a consumer firework device in a reckless manner or manner likely to cause death, injury, fire or property damage.

E. No person shall discharge a consumer fireworks device outside the following dates and hours:

(1) June 28 through July 4 from the hours of 12:00 p.m. until 10:00 p.m. Exception: discharge hours are extended to 11:00 p.m. on July 4<sup>th</sup> only.

(2) December 28 through January 3 from the hours of 12:00 p.m. until 10:00 p.m. Exception: discharge hours for December 31 are extended to 12:30 a.m. on January 1 only.

F. It shall be unlawful to alter or remove, components of a consumer fireworks device or to discharge a consumer fireworks device in a manner differing from its intended method of discharging.

G. The City may, upon application in writing, grant a permit for the display of fireworks on public property by a City agency, fair associations, amusement parks and other organizations or groups of individuals approved by City authorities when such display 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:

(1) Personal Injury: \$250,000.00 per person.

(2) Property Damage: \$50,000.00.

(3) Total Exposure: \$1,000,000.00.

H. Whenever drought, high winds, or other natural phenomena create, or are likely to create hazardous conditions and increased likelihood of fire danger and the Mayor determines that adverse conditions exist for the use and exploding of fireworks, the Mayor or Mayor's designee may issue a temporary ban and halt the use and detonation of fireworks in the City and may inform the local press, post notice of the ban on the City website and at the City offices and take such other actions as he deems necessary to inform the public of the ban and may rescind the ban upon determining the hazardous conditions are no longer present and then give notice of ending the ban in the same manner.

4. Violations. All violations of any provisions of this section are hereby declared a simple misdemeanor with a fine not to exceed \$250.00. Violations of this section will also be reported to the State Fire Marshal.

5. 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 theater, 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.

*(Section 41.13 – Ord. 698 – Nov. 18 Supp.)*

**41.14 DRUG PARAPHERNALIA.**

*(Code of Iowa, Sec. 124.414)*

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

- A. Manufacture a controlled substance.
- B. Inject, ingest, inhale, or otherwise introduce into the human body a controlled substance.
- C. Test the strength, effectiveness, or purity of a controlled substance.
- D. Enhance the effect of a controlled substance.

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

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

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

*(Ord. 682 – Aug. 14 Supp.)*

*(Code of Iowa, Sec. 708.12)*

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## CHAPTER 42

# PUBLIC AND PRIVATE PROPERTY

42.01 Trespassing

42.02 Criminal Mischief

42.03 Defacing Proclamations or Notices

42.04 Unauthorized Entry

42.05 Fraud

42.06 Theft

42.07 Other Public Property Offenses

**42.01 TRESPASSING.** 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 that 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])*

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

*(Code of Iowa, Sec. 716.1)*

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

*(Code of Iowa, Sec. 716.1)*

**42.04 UNAUTHORIZED ENTRY.** No unauthorized person shall enter or remain in or upon any public building, premises, or grounds in violation of any notice posted thereon or when said building, premises or grounds are closed and not open to the public. When open to the public, a failure to pay any required admission fee also constitutes an unauthorized entry.

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

*(Code of Iowa, Sec. 714.8)*

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

*(Code of Iowa, Sec. 714.1)*

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

1. Chapter 22 – Library
  - A. Section 22.10 – Injury to Books or Property
  - B. Section 22.11 – Theft of Library Property
2. Chapter 105 – Solid Waste Control and Recycling
  - A. Section 105.07 – Littering Prohibited
  - B. Section 105.08 – Open Dumping Prohibited
3. Chapter 135 – Street Use and Maintenance
  - A. Section 135.01 – Removal of Warning Devices
  - B. Section 135.02 – Obstructing or Defacing
  - C. Section 135.03 – Placing Debris On
  - D. Section 135.04 – Playing In
  - E. Section 135.05 – Traveling on Barricaded Street or Alley
  - F. Section 135.08 – Burning Prohibited
  - G. Section 135.12 – Dumping of Snow
4. Chapter 136 – Sidewalk Regulations
  - A. Section 136.11 – Interference with Sidewalk Improvements
  - B. Section 136.15 – Fires or Fuel on Sidewalks
  - C. Section 136.16 – Defacing
  - D. Section 136.17 – Debris on Sidewalks

- E. Section 136.18 – Merchandise Display
- F. Section 136.19 – Sales Stands

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## CHAPTER 45

# ALCOHOL CONSUMPTION AND INTOXICATION

45.01 Persons Under Legal Age

45.03 Open Containers in Motor Vehicles

45.02 Public Consumption or Intoxication

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

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

*(Code of Iowa, Sec. 123.47)*

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

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

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

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

*(Ord. 703 – Nov. 18 Supp.)*

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

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

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

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

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

D. “School” means a public or private school or that portion of a public or private school 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 in a public place.

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

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

*(Code of Iowa, Sec. 123.46)*

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

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## CHAPTER 46

### MINORS

46.01 Curfew

46.02 Cigarettes and Tobacco

46.03 Contributing to Delinquency

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

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

permitted without specific invitation; or to which the general public has access. For purposes of this section, a vehicle or other conveyance is considered to be a public place when in the areas defined above.

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

2. Curfew Established. It is unlawful for any minor to be or remain upon any of the alleys, streets or public places or to be in places of business and amusement in the City between the hours of 12:00 midnight and 5:00 a.m. of the following day.

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

A. The minor is accompanied by a responsible adult.

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

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

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

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

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

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

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

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

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

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

5. Enforcement Procedures.

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

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

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

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

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

6. Penalties.

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

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

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

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

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

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

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

*(Ord. 687 – Aug. 15 Supp.)*

**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)*

## CHAPTER 47

# PARK REGULATIONS

47.01 Purpose  
47.02 Use of Drives Required  
47.03 Fires

47.04 Littering  
47.05 Camping

**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 except in portions prescribed or designated by the Council, and the City may refuse camping privileges or rescind any and all camping privileges for cause.

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## CHAPTER 48

# SOCIAL HOST

48.01 Purpose; Findings  
48.02 Definitions  
48.03 Prohibited Acts

48.04 Exceptions  
48.05 Violations

**48.01 PURPOSE; FINDINGS.** The purpose of this chapter is to protect the public interest, welfare, health and safety within the City of Hawarden by prohibiting the services to and consumption of controlled substances and/or alcoholic beverages by persons under the age of twenty-one (21) at premises located in the City. The City Council finds that the occurrence of social gatherings at premises where controlled substances and/or alcoholic beverages are served to or consumed by persons under the age of twenty-one (21) is harmful to such persons themselves and a threat to public welfare, health and safety. The City Council further finds that persons under the age of twenty-one (21) obtain controlled substances and/or alcoholic beverages at such gatherings and that persons who are in control of such premises know or have reason to know of such service and/or consumption and will be more likely to ensure that controlled substances and/or alcoholic beverages are neither served or consumed by persons under the age of twenty-one (21) at these gatherings. Based on these findings, the City Council has deemed it necessary to enact the following regulations in the City of Hawarden.

**48.02 DEFINITIONS.** The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this chapter, except where the context clearly indicates a different meaning.

1. Controlled substance means a drug, substance or immediate precursor as specified in Iowa Code Chapter 124.
2. Alcoholic Beverage means any beverage containing more than one-half of one percent of alcohol by volume including alcoholic liquor, wine and beer.
3. Event, gathering or party means any group of three (3) or more persons who have assembled or gathered together for a social occasion or other activity.
4. Parent means any person having legal custody of a juvenile: (1) as natural parent, adoptive parent or stepparent; (2) as a legal guardian; (3) as a person to whom legal custody has been given by order of the court.
5. Premises means any home, yard, farm, field, land, apartment, condominium, hotel or motel room or other dwelling unit, or a hall or meeting, park or any other place of assembly, public or private, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party or other social function and whether owned, leased, rented or used with or without permission or compensation.
6. Social host means any person, partnership, corporation or association of one or more individuals who aids, conducts, allows, entertains, organizes, supervises, controls or permits an event, gathering or party. This includes but is not limited to (1) the person(s) who owns, rents, leases or otherwise has control of the premises where event, gathering or party takes place; (2) the person(s) in charge of the premises; or (3) the person(s) who organized the event. If the social host is a juvenile, then the

parent(s) of that juvenile will be jointly and severally liable for any violation of this chapter.

7. Underage person means any individual under the age of twenty-one (21).

**48.03 PROHIBITED ACTS.** It is unlawful for any social host to host an event, gathering or party on premises when the person knows or reasonably should know that an underage person has consumed or possessed a controlled substance and/or an alcoholic beverage with the intent to consume it, and the person fails to take reasonable steps to prevent the possession or consumption by the underage person. A social host who hosts such an event, gathering or party does not have to be present at the time the prohibited act occurs.

**48.04 EXCEPTIONS.** This ordinance does not apply to conduct solely between an underage person and his or her parent while present in the parent's household, to legally protected religious observances and to situation where underage persons are lawfully in possession of alcoholic beverages during the course and scope of employment.

**48.05 VIOLATIONS.** Violations of this chapter are declared to be municipal infractions pursuant to Chapter 3 of this code. Violations of this chapter may be considered by the City for purposes of approving licenses applied for by the social host or for any other requirements that are subject to approval by the City.

*(Ch. 48 – Ord. 702 – Nov. 18 Supp.)*

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## CHAPTER 50

# NUISANCE ABATEMENT PROCEDURE

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

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

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

*(Code of Iowa, Sec. 657.1)*

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

*(Code of Iowa, Sec. 657.2)*

1. **Offensive Smells.** Erecting, continuing, or using any building or other place for the exercise of any trade, employment, or manufacture that, by occasioning noxious exhalations, unreasonably offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort, or property of individuals or the public.
2. **Filth or Noisome Substance.** Causing or suffering any offal, filth, or noisome substance to be collected or to remain in any place to the prejudice of others.
3. **Impeding Passage of Navigable River.** Obstructing or impeding without legal authority the passage of any navigable river, harbor, or collection of water.
4. **Water Pollution.** Corrupting or rendering unwholesome or impure the water of any river, stream, or pond, or unlawfully diverting the same from its natural course or state, to the injury or prejudice of others.
5. **Blocking Public and Private Ways.** Obstructing or encumbering, by fences, buildings or otherwise, the public roads, private ways, streets, alleys, commons, landing places, or burying grounds.
6. **Billboards.** Billboards, signboards, and advertising signs, whether erected and constructed on public or private property, that so obstruct and impair the view of any portion or part of a public street, avenue, highway, boulevard or alley or of a railroad or street railway track as to render dangerous the use thereof. **(See also Section 62.06)**
7. **Storing of Flammable Junk.** Depositing or storing of flammable junk, such as old rags, rope, cordage, rubber, bones and paper, by dealers in such articles within the fire limits of the City, unless in a building of fireproof construction.
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. **(See also Section 155.07[1]).**

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

11. Emerald Ash Borer. Trees infected with Emerald Ash Borer pest. **(See also Chapter 151)**

12. 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.

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

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

1. Junk and Junk Vehicles **(See Chapter 155)**
2. Dangerous Buildings **(See Chapter 153)**
3. Storage and Disposal of Solid Waste **(See Chapter 105)**
4. Trees **(See Chapter 151)**

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

*(Code of Iowa, Sec. 657.3)*

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

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

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

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

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

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

- A. Description of Nuisance. A description of what constitutes the nuisance.
- B. Location of Nuisance. The location of the nuisance.
- C. Acts Necessary to Abate. A statement of the act or acts necessary to abate the nuisance.
- D. Reasonable Time. A reasonable time within which to complete the abatement.
- E. Assessment of City Costs. A statement that if the nuisance or condition is not abated as directed and no request for hearing is made within the time prescribed, the City will abate it and assess the costs against the property owner.
2. Method of Service. The notice may be in the form of an ordinance or sent by certified mail to the property owner.  
*(Code of Iowa, Sec. 364.12[3h])*
3. Request for Hearing. Any person ordered to abate a nuisance may have a hearing with the Council as to whether a nuisance exists. A request for a hearing must be made in writing and delivered to the Clerk within the time stated in the notice, or it will be conclusively presumed that a nuisance exists and it must be abated as ordered. The hearing will be before the Council at a time and place fixed by the Council. The findings of the Council shall be conclusive and, if a nuisance is found to exist, it shall be ordered abated within a reasonable time under the circumstances.
4. Abatement in Emergency. If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance or condition, the City may perform any action that may be required under this chapter without prior notice. The City shall assess the costs as provided in subsection 6 of this section after notice to the property owner under the applicable provisions of subsection 1 and 2, and the hearing as provided in subsection 3.  
*(Code of Iowa, Sec. 364.12[3h])*
5. Abatement by City. If the person notified to abate a nuisance or condition neglects or fails to abate as directed, the City may perform the required action to abate, keeping an accurate account of the expense incurred. The itemized expense account shall be filed with the Clerk, who shall pay such expenses on behalf of the City.  
*(Code of Iowa, Sec. 364.12[3h])*
6. Collection of Costs. The Clerk shall send a statement of the total expense incurred by certified mail to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one month, the Clerk shall certify the costs to the County Treasurer and such costs shall then be collected with, and in the same manner as, general property taxes.  
*(Code of Iowa, Sec. 364.12[3h])*
7. Installment Payment of Cost of Abatement. If the amount expended to abate the nuisance or condition exceeds five hundred dollars (\$500.00), the City may permit the assessment to be paid in up to ten (10) annual installments, to be paid in the same manner and with the same interest rates provided for assessments against benefited property under State law.  
*(Ord. 679 – Aug. 13 Supp.)*  
*(Code of Iowa, Sec. 364.13)*

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

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

## CHAPTER 51

# NOISE NUISANCES

51.01 Purpose; Definitions

51.02 Measuring Noise Levels

51.03 General Noise Restriction; Exceptions

51.04 Permits for Exception

51.05 Enforcement

**51.01 PURPOSE; DEFINITIONS.** The purpose of this chapter is to control excessive noise that interferes with the comfortable enjoyment of life, property, recreation or conduct of business as defined and described in this chapter. The following words and terms are defined as used in this chapter:

1. “Ambient noise” means background or surrounding noise.
2. “A-weighted sound level” means the sound pressure level in decibels as measured on a sound level meter using the A-weighted filter network. The A-weighted filter de-emphasizes the very low and very high frequency components of the sound in a manner similar to the response of the human ear. Such sound measurement is a numerical method of rating human judgment of loudness.
3. “Construction” means any site preparation, assembly, erection, substantial repair, alteration or similar action, for or of public and private rights-of-way, structures, utilities or similar property demolition.
4. “Noise measurement location” means the property line of the noise-producing property, or beyond.
5. “Noise measurement method” means the measurement of noise with a decibel meter meeting the standards prescribed by the American Standards Association and using the A-weighted or C-weighted scale, fast response. Measurements shall be taken so as to provide a proper representation of the noise being measured. The microphone shall be placed three to five feet above ground level, when possible, and positioned so as not to create any unnatural enhancement or diminution of the measured noise. Traffic, aircraft, and other transportation noise shall not be considered in taking measurements, except where such background noise interferes with the primary noise being measured.
6. “Noise nuisance” means:
  - A. Any loud, irritating, vexing, disturbing or unreasonable sound which causes distress, annoyance, discomfort or injury to or which interferes with the comfort or repose of any reasonable person of ordinary nervous sensibilities in the vicinity or hearing thereof, or any sound which endangers or injures the safety or health of humans or animals, or any sound which interferes with the physical well-being of humans or animals, or any sound which endangers or injures persons or real property.
  - B. Any noise measured in excess of 50 dBA for a residentially zoned property, or 60 dBA for any non-residentially zoned property, between the hours of 10:00 p.m. and 6:00 a.m.

7. "Receiving land use" means the use or occupancy of the property which receives the transmission of sound.
8. "Sound level" or "noise level" means the weighted sound pressure level obtained by use of a sound level meter having a standard frequency filter for attenuating part of the sound spectrum as specified in American National Standards Institute specifications for sound level meters (ANSI S1.4-1971).
9. "Sound level meter" means an instrument which includes a microphone, amplifier, RMS detector, integrator or time averages, output meter and weighing network used to measure sound pressure levels.

**51.02 MEASURING NOISE LEVELS.** The measurement of noise shall be made with a decibel meter meeting the standards prescribed by the American Standards Association and using the A-weighted, fast response. Measurements shall be taken so as to provide a proper representation of the noise being measured. The microphone shall be placed three to five feet above ground level, when possible, and positioned so as not to create any unnatural enhancement or diminution of the measured noise. Traffic, aircraft and other transportation noise shall not be considered in taking measurements, except where such background noise interferes with the primary noise being measured.

**51.03 GENERAL NOISE RESTRICTION; EXCEPTIONS.** A person may not create, generate, produce, cause, permit or emanate a noise nuisance.

1. The following exceptions to the above restriction shall apply to the activities listed below at all times:
  - A. Sound produced by a vehicle motor while the vehicle is moving on a public right-of-way, public waterway, airport runway or railway;
  - B. Sound produced by any governmental body in the performance of a governmental function to include work performed by or for public or private utilities;
  - C. Sound generated at or by a parade route during a lawful and permitted parade, a scheduled stadium event, or at outdoor celebrations sponsored or co-sponsored by the City or any governmental body in the performance of its duty or as otherwise allowed by law;
  - D. The emission of sound made by safety signals, warning devices, and sound resulting from any authorized emergency vehicle when responding to an emergency call or acting in time of an emergency;
  - E. The emission of sound during nonprofessional athletic and school events or practices;
  - F. The emission of sound from the use of snow removal equipment.
2. The following exceptions to the above restriction shall only apply to the activities listed below between the hours of 6:00 a.m. to 10:00 p.m.:
3. The emission of sound through the un-amplified human voice;
4. The activity, operation or noise source which emanates from an operation or activity (including, by way of example only, and not limited to construction, reconstruction, remodeling and rebuilding of any structure or place in conformity with applicable provisions of this Code of Ordinances and State law) that cannot

reasonably be done in an alternative manner, time or place so as to otherwise comply with the chapter;

5. The emission of sound from the use of lawn and garden equipment and chainsaws;
6. The conduct of one-day auction/sale events;
7. Downtown background music on Central Avenue between 7<sup>th</sup> and 10<sup>th</sup> Streets;
8. Agricultural activities associated with the raising and harvesting of crops, exclusive of those involving the ownership or possession of animals or birds;
9. Religious organizations conducting worship services outdoors with musical components.

#### **51.04 PERMITS FOR EXCEPTION.**

1. Applications for a permit for relief from the noise restrictions designated in this chapter on the basis of undue hardship may be made to the City Administrator. A letter of request containing the basis for the request and the applicable application fee as established by Council resolution must accompany each application. The relief requested may be granted upon a good and sufficient showing:

- A. That additional time is necessary for the applicant to alter or modify the activity or operation to comply with the provisions of this chapter;
- B. That the activity, operation, noise, or vibration source will be of temporary duration and cannot reasonably be done in a manner that would comply with this chapter; or
- C. That no reasonable alternative is available to the applicant.

2. If granted, the permit shall be in writing and contain all conditions upon which such permit is granted, including, but not limited to, the effective dates, any time-of-day, location, sound-pressure-level, or equipment limitations. The City Administrator may prescribe any reasonable conditions or requirements deemed necessary to minimize adverse effects upon the community or the surrounding area.

3. In the event the City Administrator denies an application for a permit for relief from the noise restrictions designated in this chapter, or grants relief under conditions the applicant finds unacceptable, the affected party may appeal the decision to the City Council by filing a written letter with the City Administrator within ten (10) calendar days after receiving notice of the City Administrator's decision. The appeal letter must specifically state each and every point of contention with the City Administrator's determination. The City Administrator shall immediately cause the appeal to be placed on the next regular meeting agenda of the Council for discussion and action. At that meeting, the Council shall consider the intent contained in this chapter, the City Administrator's reason for denying a permit or applying conditions, the points raised in the letter of appeal, and relevant surrounding facts.

#### **51.05 ENFORCEMENT.**

1. Responsible Violators. The persons responsible for violations of this chapter are identified as follows:

- A. At Private Residences. Any adult resident present at the time of the offense, and any adult guest or adult trespasser with the ability to control the

- level of noise at the time of the offense when no adult resident is present at the time of the offense.
- B. At Business Locations. Any business owner, operator, manager, employee in charge, and all persons in control or in possession of the noise nuisance-generating instrument or property at the time of the offense.
- C. Other Locations. Any person who leaves unattended any machine, instrument, device, child, animal, or any combination of same, which thereafter commences producing noise in violation of this chapter.
2. Determination of Violation. An arrest, citation, summons, or complaint for the violation of any part of this chapter must be based on probable cause arising from:
- A. The complainant's physical sense perceptions and observations of the unreasonable noise as defined herein, at the time such is occurring; or
- B. Sound level measurements, taken in accordance with Section 51.02 this chapter, which exceed the stated limits, or
- C. A combination of the foregoing two (2) types of evidence.
3. Enforcement Remedies and Penalties. In the event that the noise violation is not abated as ordered and within the time specified, the City may abate such violation by one or more of the methods listed below. Each time the noise violation is not abated as directed shall be considered a separate violation, with a minimum of 30 minutes between noise violations declared by the enforcement officer. Increased fines for repeat violations may be issued for similar violations at the same location within 30 days.
- A. Issuance of a municipal infraction.
- B. Undertaking the public abatement of the violation and assessment of costs thereof.
- C. Prosecution as a misdemeanor.
- D. Remedy by means of civil court proceeding or any other lawful process pursuant to the *Code of Iowa*.

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## CHAPTER 55

# ANIMAL PROTECTION AND CONTROL

55.01 Definitions	55.11 Females in Heat
55.02 Livestock	55.12 Vicious Dogs and Cats
55.03 Livestock Neglect	55.13 Owner's Duty
55.04 Domestic Animals	55.14 Confinement
55.05 Animal Neglect	55.15 At Large: Impoundment
55.06 Abandonment of Cats and Dogs	55.16 Destruction in Lieu of Impoundment
55.07 Immunization	55.17 Dead Animals
55.08 At Large Prohibited	55.18 Unsanitary or Offensive Conditions Prohibited
55.09 Damage or Interference	55.19 Pet Awards Prohibited
55.10 Annoyance or Disturbance	

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

1. "Advertise" means to present a commercial message in any medium including but not limited to print, radio, television, sign, display, label, tag or articulation.
2. "Animal" means a nonhuman vertebrate.  
*(Code of Iowa, Sec. 717B.1)*
3. "At large" means off the premises of the owner, not attached to a leash held by 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. "Cats" includes both male and female felines whether altered or not.
6. "Dogs" includes both male and female canines whether altered or not.
7. "Domestic animal" is a typical and customary house pet, under 100 pounds, that is not a livestock species or a dangerous animal as defined herein. This includes dogs, cats, non-dangerous aquarium fish, domesticated birds, hamsters or gerbils.
8. "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.
9. "Game" means a "game of chance" or "game of skill" as defined in Section 99B.1 of the *Code of Iowa*.

10. “Livestock” means an animal belonging to the bovine, caprine, equine, ovine or porcine species, ostriches, rheas and emus; farm deer as defined in Section 170.1 of the *Code of Iowa*; or poultry (i.e. chickens, turkeys, ducks, geese, pigeons, game hens, pheasants, etc.).

*(Code of Iowa, Sec. 717.1)*

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

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

**55.02 LIVESTOCK.** It is unlawful for a person to keep livestock within the City limits except in those locations previously grand-fathered and otherwise in compliance with the nonconforming use provisions of the Hawarden Zoning Code.

**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 DOMESTIC ANIMALS.** The total number of domestic animals older than six months shall not exceed four (4) per residence or place of business (excluding bona fide pet stores).

**55.05 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)*

**55.06 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)*

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

*(Code of Iowa, Sec. 351.33)*

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

**55.09 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.

**55.10 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.

**55.11 FEMALES IN HEAT.** The owner of any female dog or cat in heat shall confine the female dog or cat in a building or a cage/kennel or keep the same in said owner's presence so that the female dog or cat cannot come into contact with another animal except for planned breeding.

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

**55.13 OWNER'S DUTY.** 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 and law enforcement official. It is the duty of physicians and veterinarians to report to the local board of health and local police department the existence of any animal known or suspected to be suffering from rabies.

**55.14 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)*

**55.15 AT LARGE: IMPOUNDMENT.** Any dog or cat or other animal found at large in violation of this chapter shall be seized and impounded upon complaint; 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. The peace officer shall make a reasonable attempt to contact the owners of licensed animals with information available on the tag. Dogs, cats or other animals may be recovered by the owner, upon proper identification, by payment of the impounding fee of all boarding, food and care costs, and the production of a license and veterinary tag as required herein. If such dogs, cats, or other animals are not claimed within seven (7) working days after impoundment, they shall be disposed of in a humane manner. Any dog, cat, or other animal returned to the owner or adopted must be brought up to date on all vaccinations before being released.

**55.16 DESTRUCTION IN LIEU OF IMPOUNDMENT.** Notwithstanding any of the other provisions of this chapter, any peace officer of the City has the lawful authority to kill any animal, when such animal is caught in the act of maiming or killing any domestic animal or fowl or when such animal is attacking or attempting to bite a person without provocation.

**55.17 DEAD ANIMALS.** The owner of any dead animal within the City shall properly bury or otherwise properly dispose of the same within twenty-four (24) hours.

**55.18 UNSANITARY OR OFFENSIVE CONDITIONS PROHIBITED.** Any person who uses, keeps or harbors or owns any animals or domestic animals shall keep the same confined in an enclosed building, fenced enclosure or yard. Dogs or cats shall be allowed to be kept on a restraint consisting of a chain, rope or leash strong enough to adequately restrain such dog or cat. Any pen, yard, pasture or place in which animals are kept or confined must be kept sanitary by not allowing any filth, manure, excrement or other offensive matter to accumulate in such quantities as to create an offensive or unsanitary condition to exist.

**55.19 PET AWARDS PROHIBITED.**

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

1. Prohibition. It is unlawful for any person to award a pet or advertise that a pet may be awarded as any of the following:
  - A. A prize for participating in a game.
  - B. A prize for participating in a fair.
  - C. An inducement or condition for visiting a place of business or attending an event sponsored by a business.
  - D. An inducement or condition for executing a contract that includes provisions unrelated to the ownership, care or disposition of the pet.
2. Exceptions. This section does not apply to any of the following:
  - A. A pet shop licensed pursuant to Section 162.5 of the *Code of Iowa* if the award of a pet is provided in connection with the sale of a pet on the premises of the pet shop.
  - B. Youth programs associated with 4-H Clubs; Future Farmers of America; the Izaak Walton League of America; or organizations associated with outdoor recreation, hunting or fishing, including but not limited to the Iowa Sportsmen's Federation.

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## CHAPTER 56

# DANGEROUS AND VICIOUS ANIMALS

### 56.01 Definitions

### 56.02 Keeping of Dangerous Animals Prohibited

### 56.03 Seizure, Impoundment and Disposition of Dangerous Animals

### 56.04 Keeping of Vicious Animals Prohibited

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

1. “At large” refers to an animal’s presence outside of a structure or fixed enclosure.
2. “Dangerous animal” means:
  - A. Badgers, wolverines, weasels, skunk and mink;
  - B. Raccoons;
  - C. Bats;
  - D. Black widow spiders, brown recluse spiders and scorpions;
  - E. Red and black fire ants and other stinging ants native to Central or South America;
  - F. Africanized strains of the honey bee;
  - G. Non-domestic fowl (i.e. hawks);
  - H. Pit Bull Dogs. “Pit bull” is defined as any dog that is an American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier or any dog which has the appearance and characteristics of being predominately of one or more of the foregoing breeds as measured against the standards established by the American Kennel Club or United Kennel Club for any of the foregoing breeds.
2. “Euthanize” means to kill in a humane manner.
3. “Owner” means any person owning, keeping, sheltering or harboring an animal including temporary caregivers in the absence of the owners.
4. “Serious injury” means any illness, disease or bodily injury which creates a substantial risk of death or which causes serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.
5. “Unprovoked” as used in this chapter refers to an attack or bite, not the result of behavior (on the victim’s part) intended to irritate the animal.
6. “Vicious animal” means any animal, except for a dangerous animal per se, as listed above, that has (a) bitten, clawed, or attacked any person and the attack was unprovoked, or (b) bitten, clawed, or attacked another animal and caused serious injury. With respect to (a) above, if the person attacked or bitten was engaged in an unlawful act prior to the bite or attack, such incident shall not serve as a basis for declaring the offending animal a vicious animal.

**56.02 KEEPING OF DANGEROUS ANIMALS PROHIBITED.** No person shall keep, shelter or harbor for any reason in the City any dangerous animal except as provided in Subsection 56.03(1).

**56.03 SEIZURE, IMPOUNDMENT AND DISPOSITION OF DANGEROUS ANIMALS.**

1. A peace officer, on his or her own information or upon receipt of a complaint alleging that a person owns, is keeping, sheltering or harboring a dangerous animal in the City limits, may investigate to determine if a person owns, is keeping, sheltering or harboring a dangerous animal, and if after investigation, the facts indicate that the person in fact owns, is keeping, sheltering or harboring a dangerous animal, the peace officer shall order the owner, if known, or the person keeping, sheltering or harboring the animal to immediately secure the animal in a structure or fixed enclosure at all times and either to remove the animal from the City or euthanize the animal within seven (7) calendar days of receipt of the order. The removal order shall be contained in a notice to remove the dangerous animal, which notice shall be in writing and personally served upon the owner if the owner is known, or upon the person keeping, sheltering or harboring the dangerous animal. A person served with a notice and removal order under this section shall have ten days following the service of the notice and order to file a signed written notice of appeal with the Hawarden Chief of Police or the Hawarden City Clerk. In order to be effective, the notice of appeal must have attached to it a written evaluation of the animal prepared by West Sioux Veterinary Clinic evaluating whether the animal is a dangerous animal as defined in this Code. The evaluation shall be at City expense but shall be reimbursed if the animal is ultimately determined to be a dangerous animal. If the removal order is not complied with nor appealed within the time allowed, the Police Chief is authorized to seize and euthanize the animal. Upon receipt of a notice of appeal within the time allowed, a hearing shall be set before the Hawarden City Council on the issue of whether or not the animal is a dangerous animal under this Code.

2. If, after hearing, the Council determines that an animal is a dangerous animal as defined in this Code, the Council shall order the owner or the person keeping, sheltering or harboring the dangerous animal to either remove it permanently from the City or to cause it to be euthanized or to allow the City to euthanize it. The order shall be served in the same manner as the removal order and notice. The Council's decision may be appealed to the appropriate court of law within ten calendar days of the date of service the Council's order.

3. If the Council's order is not complied with within ten (10) calendar days of its service upon the owner or the person keeping, sheltering or harboring the dangerous animal, and is not appealed within that time, the Police Chief is authorized to seize and euthanize the animal.

4. Such notice to remove the dangerous animal shall not be required where such dangerous animal has previously caused serious injury or death to any person, in which case the peace officer shall cause the animal to be immediately euthanized. In the event that a dangerous animal is found at large and unattended upon public property, park property, public right-of-way or the property of someone other than its owner, thereby creating a hazard to persons or property, the peace officer may (a) seize the animal or (b) euthanize the animal. The choice of which of these options to pursue is left to the discretion of the peace officer. The peace officer shall be under no duty to attempt the seizure of a dangerous animal found at large prior to

euthanizing such animal, nor does the peace officer have a duty to notify the owner of such animal prior to pursuing any of the above options.

5. When, pursuant to the pertinent provisions of subsection 4 of this section, an animal is seized or euthanized without a prior notice to remove to the owner, the peace officer or other designated person shall, within seven (7) days thereafter, deliver to the animal's owner, if known, either in person or by ordinary mail and by certified mail, return receipt requested, a written notice of the action taken and the reasons therefor.

6. Costs incurred by the City for the removal, care, maintenance, transportation and euthanizing of a dangerous animal owned, kept, sheltered or harbored in violation of this chapter, shall be reimbursed to the City by the owner and/or by the person keeping, sheltering or harboring the dangerous animal.

**56.04 KEEPING OF VICIOUS ANIMALS PROHIBITED.** No person shall own, keep, shelter or harbor for any reason within the City a vicious animal, as defined in this chapter.

1. The Police Chief or other designated person, on his or her own information or upon receipt of a complaint alleging that a person owns, is keeping, sheltering or harboring a vicious animal as defined in this chapter may, in said person's discretion, initiate proceedings to declare such animal a vicious animal. A hearing on the matter shall be conducted by the Council. The owner of the animal in question shall be given not less than seventy-two (72) hours' written notice (including Saturday, Sunday and holiday) of the time and place of said hearing. Said notice shall order the owner to secure the animal in a structure or fixed enclosure at all times. The notice shall set forth a description of the animal in question and the basis for the allegation of viciousness and shall also notify the owner that should the animal be determined to be vicious, the owner will be required to euthanize it or allow the City to do so. The notice shall be personally served upon the owner of the animal if the owner is known, or upon the person keeping, sheltering or harboring the dangerous animal.

2. If, after hearing, the Council determines that an animal is vicious, the Council shall order the owner if the owner is known, or the person keeping, sheltering or harboring the dangerous animal to cause it to be euthanized or to allow the City to do so. The order shall be served upon the person against whom issued in the same manner as the notice of hearing. The Council may propose rules and regulations governing the above mentioned proceedings. The Council's decision may be appealed to the appropriate court of law.

3. If the order is not complied with within three (3) calendar days of its service upon the owner, and is not appealed, the Police Chief is authorized to seize and euthanize the animal.

4. If, after hearing, it has been determined that the animal properly falls within the category of vicious animal as defined in this chapter, and if in the Council's discretion it appears that the animal does not pose a significant threat to the safety of the public, the Council may order a probationary period for the animal. The duration and conditions of the probationary period are left to the discretion of the Council and shall be shaped with a view to the safety of the public. The reasons for the ordering of a probationary period and the terms and conditions thereof shall be committed to writing and delivered to the animal's owner by the Police Chief or other designated person. If the probationary period is successfully completed, the animal shall be free from further constraint, if not successfully completed, the animal shall be euthanized.

The Council shall determine whether or not the probationary period has been successfully completed at a hearing called for that purpose. The owner shall be given not less than seventy-two hours' written notice (including Saturdays, Sundays and holidays) of the time and place of such hearing. The notice shall be served in the manner provided for service of the notice prescribed in subsection 1 of this section. The Council's decision shall be committed to writing, and shall state the reasons for their conclusion. The decision shall be delivered to the animal's owner in the manner provided for in subsection 1 of this section. If it is determined that the probationary period has not been successfully completed, the written decision shall contain an order directing the owner to euthanize the animal within three days of the receipt of the decision. If the order is not complied with, and not appealed, any peace officer or other designated person shall seize the animal and euthanize it.

5. The notice required by subsection 1 of this section shall not be required where such vicious animal has previously caused serious injury or death to any person, in which case the peace officer shall cause the animal to be immediately euthanized. In the event a vicious animal is found at large and unattended upon public property, park property, public right-of-way or the property of someone other than its owner, thereby creating a hazard to persons or property, the peace officer may, in his or her discretion, seize and impound such animal or euthanize it if such seizure and impoundment is not possible or would expose any person to the risk of serious injury. The City shall be under no duty to attempt the seizure of a vicious animal found at large prior to euthanizing such animal, nor shall it have the duty to notify the owner of such animal prior to euthanizing it or seizing and impounding it.

6. When, pursuant to the pertinent provisions of subsection 5 of this section, an animal is euthanized without a prior notice to the owner, the peace officer shall, within seven (7) days thereafter, deliver to the animal's owner, if the owner is known either in person or by regular mail and certified mail, return receipt requested, a written notice of the action taken and the reasons therefor. When pursuant to such subsection an animal is impounded without prior notice to the owner, the Council shall, thereafter, initiate proceedings to have the animal declared a vicious animal, in the manner provided for in subsection 1 of this section. Thereafter, the procedures contained in subsections 1, 2 and 3, where applicable, shall apply.

7. Any animal which is alleged to be vicious and which is under impoundment or quarantine at the animal shelter shall not be released to the owner, but shall continue to be held at the expense of the owner pending the outcome of the hearing and/or end of the quarantine. Costs incurred by the City for the capture, care, maintenance, transportation and euthanizing of a vicious animal shall be reimbursed to the City by the owner and/or by the person keeping, sheltering or harboring the dangerous animal.

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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 "Hawarden 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 area bounded on the north by Iowa Highway 10, on the west by the centerline of Avenue F, on the east by the centerline of Avenue H, and on the south by the railroad right-of-way.
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 Traffic Code and State law relating to motor vehicles and law of the road are enforced by the Police Chief.

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

**60.04 POWER TO DIRECT TRAFFIC.** A peace officer, 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)*

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

*(Code of Iowa, Sec. 321.492)*

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

*(Code of Iowa, Sec. 321.229)*

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

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

2. Permission Required. No parade shall be conducted without first obtaining permission from the Police Chief. The person organizing or sponsoring the parade shall provide information concerning the time and date for the parade and the streets or general route therefor, and any permission given to such person includes all participants in the parade, provided they have been invited to participate.

3. Parade Not A Street Obstruction. Any parade for which permission has been given 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 Peace Officers and Firefighters. Persons participating in any parade shall at all times be subject to the lawful orders and directions in the performance of their duties of law enforcement personnel and members of the Fire Department.

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## CHAPTER 61

# TRAFFIC CONTROL DEVICES

61.01 Traffic Control Devices  
61.02 Installation  
61.03 Compliance  
61.04 Crosswalks

61.05 Traffic Lanes  
61.06 Necessity of Signs  
61.07 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 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 road-way, 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 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 Obstructing View at Intersections  
62.07 Compression Brakes  
62.08 Obstruction of Public Ways; Interference with  
Traffic Flow

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

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

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

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

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

121. Section 321.405 – Self-illumination.
122. Section 321.408 – Back-up lamps.
123. Section 321.409 – Mandatory lighting equipment.
124. Section 321.415 – Required usage of lighting devices.
125. Section 321.417 – Single-beam road-lighting equipment.
126. Section 321.418 – Alternate road-lighting equipment.
127. Section 321.419 – Number of driving lamps required or permitted.
128. Section 321.420 – Number of lamps lighted.
129. Section 321.421 – Special restrictions on lamps.
130. Section 321.422 – Red light in front.
131. Section 321.423 – Flashing lights.
132. Section 321.430 – Brake, hitch, and control requirements.
133. Section 321.431 – Performance ability.
134. Section 321.432 – Horns and warning devices.
135. Section 321.433 – Sirens, whistles, and bells prohibited.
136. Section 321.434 – Bicycle sirens or whistles.
137. Section 321.436 – Mufflers, prevention of noise.
138. Section 321.437 – Mirrors.
139. Section 321.438 – Windshields and windows.
140. Section 321.439 – Windshield wipers.
141. Section 321.440 – Restrictions as to tire equipment.
142. Section 321.441 – Metal tires prohibited.
143. Section 321.442 – Projections on wheels.
144. Section 321.444 – Safety glass.
145. Section 321.445 – Safety belts and safety harnesses; use required.
146. Section 321.446 – Child restraint devices.
147. Section 321.449 – Motor carrier safety regulations.<sup>†</sup>
148. Section 321.450 – Hazardous materials transportation.
149. Section 321.454 – Width of vehicles.
150. Section 321.455 – Projecting loads on passenger vehicles.
151. Section 321.456 – Height of vehicles; permits.
152. Section 321.457 – Maximum length.
153. Section 321.458 – Loading beyond front.

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<sup>†</sup>**EDITOR'S NOTE.** *Code of Iowa* Section 321.449B was added as Subsection 160 in November 2018.

- 154. Section 321.460 – Spilling loads on highways.
- 155. Section 321.461 – Trailers and towed vehicles.
- 156. Section 321.462 – Drawbars and safety chains.
- 157. Section 321.463 – Maximum gross weight.
- 158. Section 321.465 – Weighing vehicles and removal of excess.
- 159. Section 321.466 – Increased loading capacity; reregistration.
- 160. Section 321.449B – Texting or using a mobile telephone while operating a commercial motor vehicle. *(Ord. 704 – Nov. 18 Supp.)*

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

*(Code of Iowa, Sec. 321.255)*

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

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

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

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

**62.07 COMPRESSION BRAKES.** It is unlawful for the driver of any vehicle to use or operate or cause to be used or operated within the corporate City limits any engine brake, compression brake or mechanical exhaust device designed to aid in the braking or deceleration of any vehicle that results in excessively loud, unusual or explosive noise from such vehicle.

**62.08 OBSTRUCTION OF PUBLIC WAYS; INTERFERENCE WITH TRAFFIC FLOW.** No person shall, without proper authority or justification, obstruct any sidewalk, street, highway or other public way, preventing or hindering its lawful use in any way, nor shall any person interfere with or obstruct the flow of traffic on any street, highway or other public way.

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## CHAPTER 63

# SPEED REGULATIONS

### 63.01 General

### 63.02 State Code Speed Limits

### 63.03 Parks, Cemeteries and Parking Lots

### 63.04 Special Speed Zones

### 63.05 Minimum Speed

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

*(Code of Iowa, Sec. 321.285)*

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

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

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

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

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

*(Code of Iowa, Sec. 321.290)*

1. Special 30 MPH Speed Zones. A speed in excess of thirty (30) miles per hour is unlawful on any of the following designated streets or parts thereof.
  - A. Avenue E from 11<sup>th</sup> Street south to the railroad tracks.
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. Highway 10 (10<sup>th</sup> Street) from Avenue P to Avenue L.
  - B. Highway 10 (Avenue E) from 21<sup>st</sup> Street to 11<sup>th</sup> Street.
  - C. 10<sup>th</sup> Street from the east side of the Big Sioux River Bridge to Avenue A.

- D. County Road K-18 from 16<sup>th</sup> Street to 12<sup>th</sup> Street.
- E. 23<sup>rd</sup> Street from Avenue L to Avenue E.
- F. County Road K-18 beginning 1250 feet south of the south edge of pavement of Highway 10 and extending southward for a distance of 1250 feet.

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

*(Code of Iowa, Sec. 321.294)*

## CHAPTER 64

# TURNING REGULATIONS

64.01 Turning at Intersections

64.03 Left Turn for Parking

64.02 U-Turns

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

*(Code of Iowa, Sec. 321.311)*

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

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

**64.02 U-TURNS.** It is unlawful for a driver to make a U-turn except at an intersection, however, U-turns are prohibited within the business district 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.** It is unlawful for any driver to make a left hand turn into a parking space on Central Avenue between 7<sup>th</sup> Street and 10<sup>th</sup> 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  
66.06 Exception to State Vehicle Length and Weight Limitations

**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. 321.471)*

**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)*

#### **66.06 EXCEPTIONS TO STATE VEHICLE LENGTH AND WEIGHT LIMITATIONS.**

1. South Dakota Vehicles. A motor vehicle or combination of motor vehicles entering the corporate limits of the City from South Dakota may be operated upon the highways and streets of the City, irrespective of the length and weight limitations imposed by laws of the State of Iowa, if the length and weight of the motor vehicle or combination of motor vehicles is in conformity with the laws relating to the length and weight of motor vehicles effective in South Dakota as of July 1, 1974.

2. City of Hawarden and Sioux County, Iowa Vehicles. A motor vehicle or combination of motor vehicles originating in the corporate limits of the City or County may be operated upon the highways and streets of the City irrespective of the length and weight limitations imposed by the laws of the State of Iowa if operated on a direct route from the point of origination in the City or County, and if the length and weight of the motor vehicle or combination of motor vehicles is in conformity with the laws relating to the length and weight of motor vehicles effective in South Dakota as of July 1, 1974.

## CHAPTER 67

### PEDESTRIANS

67.01 Walking in Street

67.02 Hitchhiking

67.03 Pedestrian Crossing

67.04 Use Sidewalks

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

*(Code of Iowa, Sec. 321.326)*

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

*(Code of Iowa, Sec. 321.331)*

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

*(Code of Iowa, Sec. 321.328)*

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

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## CHAPTER 68

# ONE-WAY TRAFFIC

**68.01 ONE-WAY TRAFFIC REQUIRED.** 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 Park Adjacent to Curb	69.09 All Night Parking Prohibited
69.02 Park Adjacent to Curb – One-way Street	69.10 Large Vehicle Parking
69.03 Angle Parking	69.11 Snow Removal
69.04 Angle Parking – Manner	69.12 Snow Routes
69.05 Parking for Certain Purposes Illegal	69.13 Bicycle Parking in Business District
69.06 Parking Prohibited	69.14 School Bus Loading Zones
69.07 Persons With Disabilities Parking	69.15 Parking in Residential Front Yards
69.08 No Parking Zones	

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

*(Code of Iowa, Sec. 321.361)*

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

*(Code of Iowa, Sec. 321.361)*

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

*(Code of Iowa, Sec. 321.361)*

1. Tenth (10<sup>th</sup>) Street, on the north side, from the alley between Avenue E and Avenue F to Central Avenue, and on the south side from Avenue F to Central Avenue.
2. Central Avenue, on both sides, from 10<sup>th</sup> Street to 7<sup>th</sup> Street.
3. Ninth (9<sup>th</sup>) and 8<sup>th</sup> Streets, on both sides, from Avenue F to Avenue H.
4. Avenue P, on the east side, from 12<sup>th</sup> Street to 14<sup>th</sup> Street.

**69.04 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)*

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

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

1. Sale. Displaying such vehicle for sale;
2. Repairing. For lubricating, repairing or for commercial washing of such vehicle except such repairs as are necessitated by an emergency;
3. Advertising. Displaying advertising;
4. Merchandise Sales. Selling merchandise from such vehicle except in a duly established market place or when so authorized or licensed under this Code of Ordinances.

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

1. Crosswalk. On a crosswalk.  
*(Code of Iowa, Sec. 321.358 [5])*
2. Center Parkway. On the center parkway or dividing area of any divided street.  
*(Code of Iowa, Sec. 321.236 [1])*
3. Mailboxes. Within twenty (20) feet on either side of a mailbox 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. Railroad Crossing. Within fifty (50) feet of the nearest rail of a railroad crossing, except when parked parallel with such rail and not exhibiting a red light.  
*(Code of Iowa, Sec. 321.358 [8])*
10. Fire Station. Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of said entrance when properly sign posted.  
*(Code of Iowa, Sec. 321.358 [9])*
11. Excavations. Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic.  
*(Code of Iowa, Sec. 321.358 [10])*

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

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

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

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

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

*(Code of Iowa, Sec. 321.360)*

15. Alleys. No person shall park a vehicle within an alley in such a manner or under such conditions as to leave available less than ten (10) feet of the width of the roadway for the free movement of vehicular traffic, and no person shall stop, stand or park a vehicle within an alley in such a position as to block the driveway entrance to any abutting property. The provisions of this subsection 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])*

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

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

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

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

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

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

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

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

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

- C. Use by a vehicle in violation of the rules adopted under Section 321L.8 of the *Code of Iowa*.
3. Wheelchair Parking Cones. No person shall use or interfere with a wheelchair parking cone in violation of the following:
- A. A person issued a persons with disabilities parking permit must comply with the requirements of Section 321L.2A(1) of the *Code of Iowa* when utilizing a wheelchair parking cone.
- B. A person shall not interfere with a wheelchair parking cone which is properly placed under the provisions of Section 321L.2A(1) of the *Code of Iowa*.

**69.08 NO PARKING ZONES.** No one shall stop, stand or park a vehicle in any of the following specifically designated no parking zones except when necessary to avoid conflict with other traffic or in compliance with the direction of a peace officer or traffic control signal.

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

1. On Avenue E throughout the corporate limits of the City.
2. On all minor street approaches for a distance of 35 feet in advance of the stop signs on all exit sides of the minor streets for a distance of 35 feet beyond the far crosswalks, except at Avenue F, Central Avenue and Avenue I, where the parking shall be outside of 15 feet, instead of 35 feet.
3. On the north side of 10<sup>th</sup> Street from Avenue E east to Avenue H.
4. On the north side of 10<sup>th</sup> Street from Avenue E to the alley between Avenue E and Avenue F.
5. On the south side of 10<sup>th</sup> Street from Avenue E east to Avenue F.
6. On both sides of 10<sup>th</sup> Street from Avenue H to Avenue I.
7. On both sides of 10<sup>th</sup> Street from the alley between Avenue I and Avenue K east to the east corporation line.
8. On the west side of Avenue I from 9<sup>th</sup> Street to 13<sup>th</sup> Street.
9. On the east side of Avenue I, between 12<sup>th</sup> Street and 13<sup>th</sup> Street.
10. On the west side of Avenue O between 9<sup>th</sup> Street and 10<sup>th</sup> Street.
11. On the north side of 9<sup>th</sup> Street from Avenue N to Avenue O.
12. On the east side of Avenue D from 9<sup>th</sup> Street to 10<sup>th</sup> Street.
13. On the east side of Avenue L between 10<sup>th</sup> Street and 11<sup>th</sup> Street, and on the west side of Avenue L for the 100 feet south of the southwest corner of Avenue L and 11<sup>th</sup> Street.
14. On the south side of 11<sup>th</sup> Street for the 50 feet west of the western edge of Avenue L.

**69.09 ALL NIGHT PARKING PROHIBITED.** It is unlawful for any person to park a motor vehicle on Central Avenue in the City between 7<sup>th</sup> Street and 10<sup>th</sup> Street, between the hours of 3:00 a.m. and 6:00 a.m.

**69.10 LARGE VEHICLE PARKING.**

1. No vehicle, trailer or combination thereof shall be parked on any street, alley or public right-of-way in any residentially zoned area (R-1, R-2 and MH) for longer than two hours in any 24-hour period if the vehicle, trailer or combination thereof is any one of the following: non-motorized (not capable of propelling itself on the street); exceeds a gross vehicle weight of 10,000 pounds, or is more than 25 feet in length.
2. The stopping or parking of any truck or motor vehicle drawing a trailer or semi-trailer is prohibited in the following locations:
  - A. On Central Avenue between 7<sup>th</sup> Street and 10<sup>th</sup> Street.
  - B. On 8<sup>th</sup> Street and 9<sup>th</sup> Street between Avenue F and Avenue H.
  - C. On 10<sup>th</sup> Street between Avenue F and the intersection with Avenue K.

**69.11 SNOW REMOVAL.** No person shall park, abandon or leave unattended any vehicle on any public street, alley, or City-owned off-street parking area through the duration of any snow fall or snow storm or ice storm and up to twelve (12) hours after cessation of the same, except upon streets which have been fully and completely opened from curb to curb, or in the event of an emergency duly reported to the Police Department, and this ban shall be of uniform application.

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

**69.12 SNOW ROUTES.** The Council has designated all streets in the City as snow routes. When conditions of snow or ice exist on the traffic surface of a designated snow route, it is unlawful for the driver of a vehicle to impede or block traffic.

*(Code of Iowa, Sec. 321.236[12])*

**69.13 BICYCLE PARKING IN BUSINESS DISTRICT.** Bicycles when parked in the Business District shall be parked in zones or places designated and marked for that purpose. It is unlawful to park any bicycle along buildings in the Business District or along the street where they may interfere with traffic, or with persons getting in or out of motor vehicles. †

**69.14 SCHOOL BUS LOADING ZONES.** Parking in front of public schools is prohibited in areas identified as School Bus Loading Zones, during any day in which school is being held, between the hours of 7:00 a.m. and 4:00 p.m. of said day.

**69.15 PARKING IN RESIDENTIAL FRONT YARDS.** No person shall park or permit the parking of a vehicle in the front yard in a residential district except on a permitted, improved driveway or parking space other than temporary parking as defined herein. For purposes of this section the following are defined:

1. "Front yard" means the open space in that portion of a yard between the street and the face of the principal residence and a line extending from the left side of the lot to the right side of the lot. The line, as viewed from the street, shall extend parallel to the street to the nearest corner of the principal residence and then along the face of the principal residence to the right corner, and from that point on a line parallel to the street to a point on the right lot line. When there is no residence, it shall mean the area from the front building setback line to the front edge of the street right-of-way.

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† **EDITOR'S NOTE:** See also Section 76.12 (Parking of Bicycles).

Corner lots and through lots which abut more than one street shall be deemed to have two front yards for purposes of this section. This shall also apply to that area of the public way not covered by sidewalk and lying between the front lot line and the curb line.

2. “Improved surface driveway or parking space” means an area connected by a direct access to the street right of way by means of a continuously improved surface with such surface and parking area to be improved by surfacing with concrete, asphalt, paving stones, gravel or rock with a depth of not less than 3 inches or other hard surfaced durable material approved in advance by the City Administrator. The borders of a driveway or parking which is gravel or rock must have its borders clearly delineated with curb, brick, landscaping timbers or metal borders so that the driveway or parking area can be easily delineated from the grass and remaining yard. The area of the improved surface shall not contain more than 50% of the area of the front yard as described.

3. “Vehicle” means every device in, upon or by which any person or property is or may be transported or drawn or moved upon a street, highway, waterway or airway and shall include any automobile, truck, motor house, motorcycles, scooters, mopeds, all-terrain vehicles, boats, recreational vehicles, golf carts, go-carts, trailers, fifth wheel trailers, campers, camper shells, folding tent trailers, motor homes, truck campers removed from a truck or pickup, horse trailers, boat trailers with or without boats, and utility trailers or wheeled towing frames. This definition does not include non-motorized bicycles, small engine lawn mowers and devices of similar scale.

4. “Temporary parking” means parking limited to, weekend visitors, family gatherings, special events or large gatherings that are temporary in nature. No temporary parking shall exceed 48 hours in any seven-day period. Provided, however, that at no time shall such temporary parking or driving into the front yard be the cause of ruts and/or the non-growth of grass in the front yard such that the track of the vehicle is visible from the street for more than 72 hours after the end of the temporary parking.

*(Section 69.15 – Ord. 706 – Nov. 18 Supp.)*

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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.** Uncontested violations of parking restrictions imposed by this Code of Ordinances shall be charged upon a simple notice of a fine payable at the office of the City Clerk.

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

1. The simple notice of a fine for all parking violations, except improper use of a persons with disabilities parking permit, shall be in accordance with the following:
  - A. Snow Route Parking Violations - \$20.00
  - B. Other Parking Violations - \$5.00

If such fine is not paid within thirty (30) days, it shall be increased by five dollars (\$5.00).

2. The simple notice of a fine for improper use of a persons with disabilities parking permit is one hundred dollars (\$100.00).

**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.
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.
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.
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.

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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

75.08 Additional Regulations

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

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

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

*(Ord. 676 – Aug. 13 Supp.)*

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

2. “Off-road motorcycle” means a two-wheeled motor vehicle that has a seat or saddle designed to be straddled by the operator and handlebars for steering control and that is intended by the manufacturer for use on natural terrain. “Off-road motorcycle” includes a motorcycle that was originally issued a certificate of title and registered for highway use under Chapter 321 of the *Code of Iowa*, but that contains design features that enable operation over natural terrain. An operator of an off-road motorcycle is also subject to the provisions of this chapter governing the operation of all-terrain vehicles.

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

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

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

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

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

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

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

*(Ord. 688 – Aug. 15 Supp.)*

4. “Snowmobile” means a motorized vehicle that weighs less than one thousand (1,000) pounds, that 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 that has been altered or equipped with runners, skis, belt-type tracks, or treads.

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

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

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

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

1. Permitted Travel Routes. Snowmobiles shall be operated only upon streets which have not been plowed during the snow season and on permitted travel routes consisting of all streets and alleys within the City limits except the following:

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

- A. Central Avenue;
- B. Avenue E;
- C. Tenth (10<sup>th</sup>) Street;
- D. Sixteenth (16<sup>th</sup>) Street;
- E. Avenue L from 11<sup>th</sup> Street to 12<sup>th</sup> Street;
- F. Avenue M from 11<sup>th</sup> Street to 12<sup>th</sup> Street;
- G. Twelfth (12<sup>th</sup>) Street from Avenue L to Avenue M;
- H. Eleventh (11<sup>th</sup>) Street from Avenue L to Avenue M.

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

A. Emergencies. Snowmobiles may be operated on any street in an emergency during the period of time when and at locations where snow upon the roadway renders travel by conventional motor vehicles impractical.

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

B. Direct Crossing. Snowmobiles may make a direct crossing of a prohibited street provided all of the following occur:

- (1) The crossing is made at an angle of approximately ninety degrees (90°) to the direction of the street and at a place where no obstruction prevents a quick and safe crossing;
- (2) The snowmobile is brought to a complete stop before crossing the street;
- (3) The driver yields the right-of-way to all on-coming traffic 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.

However, no crossing shall take place at the intersection of Central avenue with 8<sup>th</sup> Street, 9<sup>th</sup> Street and 10<sup>th</sup> Street.

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

*(Code of Iowa, Sec. 321G.13[1h])*

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

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

5. Parks and Other City Land. Snowmobiles shall not be operated in any park, playground or upon any other City-owned property without the express permission of the City. A snowmobile shall not be operated on any City land without a snow cover of at least one-tenth of one inch.

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

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

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

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

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

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

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

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

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

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

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

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

**75.07 ACCIDENT REPORTS.** Whenever an ATV or snowmobile is involved in an accident resulting in injury or death to anyone or property damage amounting to one thousand dollars (\$1,000.00) 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 ADDITIONAL REGULATIONS.** The following additional regulations shall be observed by operators of snowmobiles and all-terrain vehicles in addition to complying with all other applicable Federal, State and City laws, ordinances and regulations while operating on "permitted travel routes" or elsewhere within the City limits:

1. The operator shall obey all traffic laws applicable to automobiles.
2. The operator shall be at least 16 years of age and have a valid motor vehicle operator's license in his or her possession.
3. The operator shall have in his or her possession proof of proper registration and proof of financial responsibility.
4. The snowmobile or all-terrain vehicle shall be equipped with a headlight and taillight which are in good working order and which shall remain lighted at all times.
5. All snowmobiles and all-terrain vehicles operated within the City limits shall be equipped with a muffler in good working order and in constant operation. No person shall operate a snowmobile or all-terrain vehicle within the City limits, which is equipped with a muffler cut-out, bypass or similar device.
6. Snowmobiles and all-terrain vehicles shall not be operated in any part of the City park system or in the dike area or dry creek area, nor shall they be operated on any private property without the express permission of the property owner.
7. Snowmobiles and all-terrain vehicles shall not be operated between the hours of 10:00 p.m. and 7:00 a.m.
8. No snowmobile or all-terrain vehicle shall be operated on any City-owned and operated property within the City limits except those streets and alleys designated in Section 75.04 as "permitted travel routes," except any City-owned property leased to a private party when the private party has granted express permission to the operator.

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## CHAPTER 76

# BICYCLE REGULATIONS

76.01 Scope of Regulations

76.02 Traffic Code Applies

76.03 Double Riding Restricted

76.04 Two Abreast Limit

76.05 Bicycle Paths

76.06 Speed

76.07 Emerging from Alley or Driveway

76.08 Carrying Articles

76.09 Riding on Sidewalks

76.10 Towing

76.11 Improper Riding

76.12 Parking

76.13 Owner's Consent Required for Use

76.14 Equipment Requirements

76.15 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 regulations apply to the operation of coasters, skateboards, roller skates, in-line skates and similar devices as well as bicycles:

1. **Business District.** No person shall ride a bicycle or use coasters, skateboards, roller skates, in-line skates and similar devices 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 or using coasters, skateboards, roller skates, in-line skates and similar devices upon a sidewalk, such person shall exercise due and proper care at all times and 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 unless the vehicle is manufactured for such use.

**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.<sup>†</sup>

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

**76.13 OWNER'S CONSENT REQUIRED FOR USE.** It is unlawful for any person to use or operate any bicycle within the City without the consent of the owner.

**76.14 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 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 300 feet

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<sup>†</sup> **EDITOR'S NOTE:** See also Section 69.13 (Bicycle Parking In Business District).

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])*

**76.15 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 80

# ABANDONED VEHICLES

80.01 Definitions

80.02 Authority to Take Possession of Abandoned Vehicles

80.03 Notice by Mail

80.04 Notification in Newspaper

80.05 Fees for Impoundment

80.06 Disposal of Abandoned Vehicles

80.07 Disposal of Totally Inoperable Vehicles

80.08 Proceeds from Sales

80.09 Duties of Demolisher

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

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

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

**80.02 AUTHORITY TO TAKE POSSESSION OF ABANDONED VEHICLES.** A police authority, upon the authority’s own initiative or upon the request of any other authority having the duties of control of highways or traffic, shall take into custody an abandoned vehicle on public property and may take into custody any abandoned vehicle on private

property. The police authority may employ its own personnel, equipment, and facilities or hire a private entity, equipment, and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles. A property owner or other person in control of private property may employ a private entity that is a garage keeper to dispose of an abandoned vehicle, and the private entity may take into custody the abandoned vehicle without a police authority's initiative. If a police authority employs a private entity to dispose of abandoned vehicles, the police authority shall provide the private entity with the names and addresses of the registered owners, all lienholders of record, and any other known claimant to the vehicle or the personal property found in the vehicle.

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

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

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

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

but shall be published within the same time requirements and contain the same information as prescribed for mailed notice in Section 80.03.

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

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

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

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

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

**80.07 DISPOSAL OF TOTALLY INOPERABLE VEHICLES.** The City or any person upon whose property or in whose possession is found any abandoned motor vehicle, or any person being the owner of a motor vehicle whose title certificate is faulty, lost or destroyed, may dispose of such motor vehicle to a demolisher for junk, without a title and without notification procedures, if such motor vehicle lacks an engine or two (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 POLICIES

90.01 Service Characteristics  
90.02 Engineering Practice  
90.03 Water Line Tap

90.04 Lateral/Service Line Costs Installations/Permits  
90.05 Construction Materials and Methods

**90.01 SERVICE CHARACTERISTICS.** The Utility<sup>†</sup> will supply water that is approved and certified by the United States Environmental Protection Agency and/or the Iowa Department of Natural Resources. The water supply will be fluoridated and chlorinated as required.

**90.02 ENGINEERING PRACTICE.** Facilities of the Utility shall be constructed, installed, maintained, and operated in accordance with accepted good engineering practice in the plumbing industry to assure – as far as reasonably possible – continuity of service and safety of persons and property. The Utility shall require compliance with applicable provisions of the most current *Iowa Plumbing Code* for service line construction as the standards of accepted good practice.

**90.03 WATER LINE TAP.** The customer or plumber must make application with the City for a water tap prior to the installation of the water service. The City will make the water tap. The connection to the main shall be made with a regulation corporation cock supplied and installed by the City; no tap will be made in an eight-inch main larger than 2 inches; in a six-inch main larger than 1½ inches, and in a four-inch main larger than 1 inch. All excavation in preparation for the tap and backfill after the tap is completed shall be completed by the owner or plumber.

**90.04 LATERAL/SERVICE LINE COSTS INSTALLATIONS/PERMITS.** The owner of a property to be served must assume the responsibility and bear the entire cost of the water service line, which runs from the water main to the building. All water services shall be installed to comply with the *State Plumbing Code*. The water service line shall be owned, maintained and repaired by the property owner. These service lines include the piping, corporation at the main, curb stop, curb box and meter valve. The Utility will not be responsible for the failure of any pipe or fixtures associated with the property owner's service line. All owners, at their own expense, must keep their service line (from the point of connection with the Utility's main to their premises) in good working condition. Any failure of the service line during normal operation by a Utility employee shall be repaired and paid for by the service line owner. Owners of any curb stop, curb box found inoperable will be notified by the City to have it repaired within 60 days. After the given time the City will replace the curb stop, curb box at the owner's expense. No person shall lay pipe in connection with or to be connected to the City water system without first obtaining a permit from the Public Works Director.  
*(Ord. 710 – Nov. 19 Supp.)*

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<sup>†</sup> **EDITOR'S NOTE:** For the definition of this and other terms used in this chapter, see Chapter 110.

**90.05 CONSTRUCTION MATERIALS AND METHODS.**

1. Material. Service pipes between the water mains and curb stop shall be of copper service tubing, known as Type K, soft temper, copper service tubing for use with either compression or flare fittings or continuous coiled poly pipe with mechanical connections rated at 200 PSI or greater or Schedule 40 PVC or greater with solvent weld joints. Three-fourths inch inside diameter shall be the minimum size used. *(Ord. 710 – Nov. 19 Supp.)*
2. Connection to Corporation Cock. The connecting of the service pipe to the corporation cock shall be made with approved fittings. A goose neck bend shall be made at the corporation cock connection and due precaution shall be taken so as not to injure the tubing in the act of bending.
3. Curb Line Box. Each service line shall be a brass valve known as a curb stop cock; and a curb stop box, both stop cock and stop box to be of an approved type designated by the City. The curb stop cock and box shall be placed at the curb line or five feet outside of the property line or at a place designated by the Superintendent of Public Works.
4. Depth of Lines. All service pipes shall be laid at least five feet below the surface of the ground and with sufficient waving to allow two extra feet of pipe for every 98 lineal feet of line, and in such a manner as to prevent damage by settlement. Where the length of service is less than 100 feet between the corporation cock and curb stop, the service shall be a single piece of pipe. The use of continuous coil pipe having joints therein is prohibited.
5. Meter Installation. The Utility will furnish, own, install and maintain all meters and meter connections through which service is supplied. The customer's meter size requirements shall be governed by the size of the service and determined by the Utility. All meters shall be placed on the service pipe, not to exceed two feet from a wall where the pipe enters the building and with the bottom of the meter at least seven inches above the floor with a shut-off valve between the meter and said wall. On services of 1½-inch or larger, a shut-off valve shall be installed on both sides of the meter. Multiple meter setups shall be installed so that any one of the meters can be removed without interruption to the other multiple meter services. All the necessary piping for the meter installation and the house piping on the outlet side of the meter shall be furnished by the customer. When meters are placed on a pipe connected to a boiler or other hot water apparatus, a relief valve must be placed between the meter and the boiler or hot water apparatus to protect such meter from the back pressure of steam or hot water. If a meter is damaged through negligence by excessive back pressure or freezing, the Utility shall charge the owner the total repair or replacement costs.
6. Meter Pits. Upon approval of the Utility, the customer may have meters installed outside the building in a meter pit or vault constructed according to specifications established by City. The customer will be responsible for all construction and maintenance costs of the pit or vault.
7. Abandoned Water Service Lines. All water services that become obsolete because of the laying of new or larger services must be cut and shut off at the water main and reported to the Utility. When a building is to be torn down or moved, eliminating the need for a water service, the water service must also be cut and shut

off at the water main. All expenses and work incurred in cutting and shutting the service off permanently is the responsibility of the owner.

8. **Repair and Replacement.** When a repair is necessary on an old service pipe and such repair indicates the necessity for the replacement of more than one-half of the service pipe, an entire new service shall be installed to conform with the rules and regulations for new service. If less than one-half requires replacement, the new section shall conform to rules and regulations governing new services.

9. **Water Leaks.** With the exception of meter connectors and meter leaks, all internal leaks on the service line or building lines will be the responsibility of the owner to repair and pay for. The Utility will make the final decision as to responsibility of external leaks. If Utility excavation on a leak finds the property owner's line needing repair, work will cease, if practical, and the owner notified. All Utility expenses will be billed to the owner.

10. **Irrigation Water Meters.** Customers may request a water meter to be added to the irrigation system to subtract water not being used in the sanitary sewer system. The Utility shall furnish, own, install and maintain the meter with a monthly service fee as set by ordinance. *(Ord. 710 – Nov. 19 Supp.)*

11. **Shared Sanitary Sewer Lateral.** Sewer laterals of 6 inch and smaller that service two or more property owners. These sewer lines are owned and operated by the property owners they serve, up to the point of connection to an 8 inch or larger sewer main. Where identified, such property owners shall be notified of responsibility to service and maintain the line. The property owner shall have the right to install a new sanitary sewer service to the City main at full cost to the homeowner.

*(Subsection 11 – Ord. 710 – Nov. 19 Supp.)*

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***Editor's Note:***

*For definitions of terms used in this chapter, see Chapter 110.*

*For Customer Service Policies, see Chapter 111.*

*For additional General Service Policies, see Chapter 112.*

*For Water Service Rates, see Chapter 113.*

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## CHAPTER 91

# WATER CONSERVATION

91.01 Water Shortages – General

91.02 Water Shortage Classifications

91.03 Water Use Restrictions by Water Shortage  
Classifications

91.04 Penalties

91.05 Water Base Allocations and Premium Rate Under  
a Water Emergency

**91.01 WATER SHORTAGES - GENERAL.** From time to time during and following drought conditions, or due to equipment failure, the City water supply may become significantly and seriously depleted to the point where a sufficient supply of water to meet all customary and usual demands may be threatened. Under these conditions, the Council may find, and declare by resolution, a public Water Watch, Water Warning or Water Emergency during which time the measures and provisions described herein shall be in effect to produce an orderly and equitable reduction of water consumption until, by resolution, the Council finds and declares the water shortage condition to be ended.

### **91.02 WATER SHORTAGE CLASSIFICATIONS.**

1. Water Advisory. A Water Advisory may be declared when future water shortages are anticipated. This typically occurs when we have experienced light winter snowfalls, or little or no spring rains. These previous factors, when coupled with high temperatures and limited amounts of forecasted rainfall will lead to a water advisory declaration. The Water Advisory will be declared to ensure that the needs of customers currently or in the foreseeable future are adequately met. Indicators of the need to impose a water advisory may be: any noticeable drop in water static and pumping levels; Big Sioux River water flow drops; extended hot and dry weather forecasts; and increases in the average and peak demand for water consumption. All customers of the City will be encouraged to limit or curtail all nonessential uses of water in order to conserve precious water resources during the time of shortage. Conservation education will be implemented and voluntary restrictions will be requested during this stage. City staff may declare a water advisory.

2. Water Watch. A Water Watch may be declared when a water shortage or equipment failure poses a potential threat to the ability of the water system to meet the needs of its customers currently or in the foreseeable future. Indicators of the need to impose a water watch include: the pumping of all primary wells are operating at 80% of peak firm capacity (1.25MGD) for 3 days during any 30-day period of active wells or active wells static and pumping water levels are below normal by greater than 2 feet up to 5 feet on average or moderate decreases in the recovery rate of water level in wells. Moderate mandatory water use restrictions will apply.

3. Water Warning. A Water Warning may be declared when a water shortage or equipment failure poses a serious threat to the ability of the water system to meet the needs of its customers currently and in the foreseeable future. Indicators of the need to impose a Water Warning include: the pumping of all primary wells are operating at 90% of peak firm capacity of active wells (1.40 MGD) for 3 days, during any 30-day period or active wells static and pumping water levels are below normal by more than 5 feet up to 7 feet on average or significant decreases are experienced in the recovery

rate of water level in wells or minor system failure in feeder water mains or the treatment plant. Significant mandatory water use restrictions will apply.

4. **Water Emergency.** A Water Emergency may be declared when a water shortage or equipment failure poses a severe and immediate threat to the ability of the water system to meet the needs of its customers. Indicators of the need to impose a Water Emergency include: the pumping of all primary wells are operating at 100% of peak firm capacity of active wells (1.40 MGD) for 3 days, during any 30-day period or active wells static and pumping water levels are below normal by more than 7 feet or more or severe decreases are experienced in the recovery rate of water level in wells or chemical spills, or major system failure in trunk water mains or the treatment plant. Severe mandatory water use restrictions will apply.

Note: The static and pumping water levels described above are specifically determined for each well, for each Water Phase by Table I of the Water Conservation and Drought Contingency Plan. The entry into each water conservation level shall actually be determined by any four of the active pumps reaching that level.

### **91.03 WATER USE RESTRICTIONS BY WATER SHORTAGE CLASSIFICATIONS.**

1. **Water Conservation Advisory – Normal and Slightly Below Normal.** No mandatory restrictions shall apply, only the following voluntary conservation measures:

A. Outdoor watering of any kind is prohibited between the hours of 8:00 a.m. and 8:00 p.m. and should occur only between the hours of 8:00 p.m. and 8:00 a.m. and should be restricted to three times per week.

B. Unnecessary outdoor watering such as washing streets, parking lots, driveways, sidewalks, building exteriors, or non-essential cleaning of commercial and industrial equipment, machinery and interior spaces should be minimized or discontinued altogether.

2. **Water Watch.** Under a Water Watch, no person shall use potable processed water of the City water service in any manner contrary to the following:

A. Outdoor watering of any kind is prohibited between the hours of 8:00 a.m. and 8:00 p.m. and is restricted to two times per week. Houses and businesses fronting on the north and east shall be permitted to water Tuesday and Saturday nights. Houses and businesses fronting on the south and west shall be permitted to water Wednesday and Sunday nights.

B. No water shall be used to wash streets, parking lots, driveways, sidewalks or building exteriors or other non-essential watering.

C. No water should be used for non-essential cleaning of commercial and industrial equipment, machinery and interior spaces.

3. **Water Warning.** Under a Water Warning, no person shall use water in any manner contrary to the following:

A. Outdoor watering of any kind is prohibited between the hours of 8:00 a.m. and 8:00 p.m. and is restricted to one time per week. Houses fronting on the north and east shall be permitted to water Saturday night. Houses fronting on the south and west shall be permitted to water Sunday night.

- B. Car washing is prohibited except in commercial establishments that provide that service.
  - C. No water shall be used to wash streets, parking lots, driveways, sidewalks or building exteriors or other non-essential watering.
  - D. No water shall be used for nonessential cleaning of commercial and industrial equipment, machinery and interior spaces.
4. Water Emergency. Under a Water Emergency, no person shall use potable processed water of the City in any manner contrary to the following:
- A. All outside water use, except for domestic sanitation and fire, is prohibited.
  - B. All commercial and industrial uses of water not essential in providing products or a service is prohibited. This shall include commercial car washing not using recycled water.
  - C. Outdoor watering or irrigation of lawn is prohibited. Irrigation of agricultural crops drawing from our shallow aquifer in our 5-year water recharge area on file with the DNR is prohibited. The City's agricultural fill point shall also be closed.
  - D. Recreational and leisure water use, including lawn and golf course watering, swimming pools, kiddy pools, and other incidental or recreational use is prohibited. The swimming pool shall also be closed.
  - E. Water use not necessary for the preservation of life or the general safety or welfare of the community is prohibited.
  - F. The normal water rate shall be amended to apply a premium surcharge rate to be charged for water usage over the base allocation. This shall apply for complete billing route cycles.
5. Exceptions to Water Restrictions.
- A. Deep wells/treated effluent. Wells and sources of water not drawing from the City Well Field 5-year recharge zone. The boundaries of said recharge zone are on file with the IDNR, as part of the City's watershed protection plan.
  - B. Commercial car wash facilities and other businesses that utilize recycled water.
  - C. Businesses that irrigate and that have a independently metered irrigation can be exempted from the premium rate usage charges by agreeing to do a final reading and cutoff of the irrigation system. If hose watering or the irrigation is not separately metered this exemption shall not apply.

**91.04 PENALTIES.** The following penalties shall apply for violations of water use restrictions imposed under this chapter.

1. First Violation. For a first violation, the City shall issue a written notice of violation warning to the water user violating the water use restrictions.
2. Subsequent Violations. A second or subsequent violation of the Water Watch, Warning or Water Emergency use restrictions by any person within a 12-month period constitutes a municipal infraction. Any person who, in making

application to the Public Works Director for adjustment of the base allocation or premium charges, intentionally provides false or incorrect statements or information commits a municipal infraction. Any business that has agreed to cut off irrigation, which then subsequently restarts the utilities shall be considered to have committed a municipal infraction. Any other violations of the provisions of this chapter shall also be considered a municipal infraction.

#### **91.05 WATER BASE ALLOCATIONS AND PREMIUM RATE UNDER A WATER EMERGENCY.**

1. Monthly Base Allocation. The base allocation of water per residential unit shall be 1200 cubic feet per billing period. For five-week billing periods the residential monthly base allocation shall be increased to 300 cubic feet. For commercial, industrial or institutional use, the base allocation shall be established for those businesses with irrigation systems. The base allocation for these nonresidential customers shall be the average monthly water used during the previous winter for the period of November through April.

2. Appeal and Adjustment of the Base Allocation. Any person may file an appeal with the Public Works Director to adjust the base allocation amount. The Water Appeal Board may grant an adjustment to the appellant based upon the following criteria:

A. For single-family residential use, the base allocation may be increased by additional 200 cubic feet per person, over 4 people up to a maximum of 400 additional cubic feet per billing period for all individuals residing at the appellant's residence for a period of more than thirty (30) days.

B. For commercial, industrial, institutional or other nonresidential uses, the base allocation shall be determined for those that typically irrigate through a permanent system or hose. The base allocation shall be determined by taking a 6-month average of water usage for November through April. The base allocation may be increased by the Public Works Director based on factors appropriate to the individual customer; such as usage, production, service and occupancy data provided by the customer.

C. For those situations where the criteria do not apply, the Public Works Director shall make a determination on the base allocation utilizing the above described methods as closely as possible.

3. Premium Rate for Imprudent Consumption. In addition to the water rates duly enacted by the City, all persons shall pay a premium rate of \$5.00 per 100 cubic feet or fraction thereof for water consumed in excess of the base allocation. The premium rate shall apply on the next complete billing cycle beginning with Route 1 and shall be applicable through complete billing cycles until the water emergency is lifted by the Council.

4. Adjustment of Premium Rate Charges. Any person may file for adjustment of the premium rate charges for imprudent water consumption with the Public Works Director. The Public Works Director 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 for over-consumption due to human carelessness.

- B. The applicant shall furnish proof that the mechanical failure was repaired promptly. This should be in the form of a licensed plumber's invoice or statement or a materials receipt.
- C. The adjustment shall be granted only for the billing period prior to the correction of the failure.
- D. For those accounts granted an adjustment of the premium rate charges, the minimum adjusted rate shall be only for the premium rate charges and associated sales tax.

For any person not satisfied with the decision of the Public Works Director may file a written appeal to the Water Appeal Board. As provided by the Utility Service Rules the customer shall pay the undisputed portion of the water bill.

- 5. Water Appeal Board. The Board of Zoning Adjustment shall serve as the Water Appeal Board. The Water Appeal Board shall hear appeals of any action taken pursuant to this chapter only, except for municipal infractions. If a customer is charged with a municipal infraction relating to this chapter, that proceeding shall be conducted pursuant to Chapter 3 of this Code of Ordinances and Iowa Code Section 364.
- 6. Reduction in Flow of Water to Any Person. The Public Works Director is authorized, after giving notice and opportunity for hearing before the Water Appeal Board, to reduce the flow of water to any person determined to be using water in any manner not in accordance with this chapter during a Water Emergency.

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## CHAPTER 92

# PUBLIC WATER SUPPLY WELLHEAD PROTECTION REGULATIONS

92.01 Definitions

92.02 Maps of Zones of Influence

92.03 Restrictions Within the Primary Protection Zone

92.04 Restrictions Within the Secondary Protection Zone

92.05 Exceptions

92.06 Determination of Locations Within Zones

92.07 Enforcement and Penalties

92.08 Inspections

92.09 Notice of Violation and Hearing

92.10 Injunctive Relief

### 92.01 DEFINITIONS.

1. "Alluvium" means sand, clay, etc., gradually deposited by moving water.
2. "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.
3. "Contamination" means the presence of any harmful or deleterious substances in the water supply.
4. "Flow system boundaries" means a delineation criterion that uses groundwater divides, surface water bodies or other hydrologic/physical features to delineate a Wellhead Protection Area.
5. "Groundwater" means subsurface water in the saturated zone from which wells, springs and groundwater runoff are supplied.
6. "Hazardous substances" means those materials specified in the most recent version of Title 40 of the Code of Federal Regulations, Section 261, subparts A, B, C and D, Federal Hazardous Waste, Section 302, and substances listed by the Iowa Labor Commissioner pursuant to Section 89B.17 of the Code of Iowa.
7. "Labeled quantities" means the maximum quantity of chemical as recommended on the label, for specific applications.
8. "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.
9. "Petroleum product" means fuels (gasoline, diesel fuel, kerosene and mixtures of those products), lubricating oils, motor oils, hydraulic fluids, solvents, and other similar products.
10. "Pollution" means the presence of any substance (organic, inorganic, radiological or biological) or condition (temperature, pH, turbidity) in water that tends to degrade usefulness of the water.
11. "Potable water" means water that is satisfactory for drinking, culinary and domestic purposes, meeting current drinking water standards.

12. "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.
13. "Public utility" means any utility (gas, water, sewer, electrical, telephone, cable television, etc.) whether publicly owned or privately owned.
14. "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.
15. "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 25 feet below the normal ground surface.
16. "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.
17. "Transit" means the act or process of passing through the wellhead protection zones, where the vehicle in transit may be parked (within the wellhead protection area) for a period not to exceed two (2) hours.
18. "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.
19. "Well" means a pit or hole sunk into the earth to reach a resource supply such as water.
20. "Well field" means a tract of land that contains a number of wells for supplying water.
21. "Wellhead protection zones" means the zones delineated by fixed radii criterion around wellheads, within which toxic substances will be regulated to protect the quality of the underground resource.
22. "Zones of contribution" means the area surrounding a pumping well that encompasses all areas or features that supply groundwater recharge to the well.

#### **92.02 MAPS OF ZONES OF INFLUENCE.**

1. Maps. Zones of Protection maps and any amendments thereto are incorporated by reference and made a part of this chapter. These maps shall be on file at City Hall. At the time of adoption of the ordinance codified by this chapter, the location of all wells in the City supplying potable water to the City Water System shall be located on the official Wellhead Protection Map with Primary Zone and Secondary Zone indicated.

2. Map Maintenance. The Zone of Protection maps may be updated on an annual basis. The basis for such an update may include, but is not limited to, the following:
  - A. Changes in the technical knowledge concerning the aquifer.
  - B. Changes in permitted pumping capacity of City wells.
  - C. Additions of wells or elimination of existing wells.
  - D. Designation of new well fields.
3. Wellhead Protection Zones. The zones of protection indicated on the Zone of Protection maps are as follows:
  - A. Primary Protection Zone. The area within a zero (0) to fifty (50) feet capture zone of any well supplying potable water to the City water system.
  - B. Secondary Protection Zone. The area within a fifty (50) to one hundred fifty (150) feet capture zone, excluding the Primary Protection Zone, of any well supplying potable water to the City water system.

### **92.03 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.
  - A. Industrial buildings within the Primary Protection Zone, provided there is no on-site waste disposal or fuel storage tank facilities associated within this use, and the Iowa DNR *Separation Distances from Wells* for sources of contamination is complied with. All sites must comply with the restrictions and covenants set by the City.
  - B. Playgrounds/parks.
  - C. Wildlife areas, open spaces.
  - D. Lawns and gardens.
  - E. Residential development.
  - F. Non-motorized trails, such as biking, skiing, nature and fitness trails.
2. Additional restrictions are as follows:
  - A. No person shall discharge or cause or permit the discharge of a hazardous substance to 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 Wellhead Protection Officer.
  - B. Any person(s) responsible for discharging or causing or permitting such discharge of hazardous substances will be financially responsible for all environmental cleanup costs, and may be subject to fines as specified in this chapter.
  - C. No person shall discharge or cause or permit the discharge of fertilizers or pesticides in excess of labeled quantities to the soils, ground water, or surface water within the Primary Protection Zone. Any person knowing or having evidence of a discharge shall report such information to the Wellhead Protection Officer.

**92.04 RESTRICTIONS WITHIN THE SECONDARY PROTECTION ZONE.**

1. Permitted Uses. The following uses are permitted in the Secondary Protection Zone. Uses not listed are to be considered prohibited.
  - A. All uses listed as permitted in the Primary Protection Zone.
  - B. Sewer - residential and commercial.
  - C. Above ground storage tanks when incompliant with State Fire Marshal's regulations.
  - D. Basement storage tanks.
  - E. Livestock grazing and field cropping activities.
2. Additional restrictions are as follows:
  - A. No person shall discharge or cause or permit the discharge of a hazardous substance to the soils, groundwater, or surface water within the Secondary Protection Zone. Any person knowing or having evidence of a discharge shall report such information to the Wellhead Protection Officer.
  - B. Any person(s) responsible for discharging or causing or permitting such discharge of hazardous substances will be financially responsible for all environmental cleanup costs, and may be subject to fines specified in this chapter.
  - C. Any person who stores, handles, produces or uses chemicals within the Secondary Protection Zone shall make available the relevant MSDS sheets to the Wellhead Protection Officer regardless of their status under Section 92.05(4).

**92.05 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. The use of any hazardous substance solely as fuel in a vehicle fuel tank or as a lubricant in a vehicle.
  - C. Fire, police, emergency medical services, emergency management center facilities, or public utility transmission facility.
  - D. Retail sales establishments that store and handle hazardous substances for resale in their original unopened containers only in the Secondary Protection Zone.
  - E. Consumer products limited to use at a facility solely for janitorial or minor maintenance purposes.
  - F. Consumer products located in the home which are used for personal, family, or household purposes.
  - G. 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.

H. The use of water treatment chemicals connected with the operation of the well or plant.

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 the chapter. However, the storage and use of hazardous substances within the Primary Protection Zone, must provide an enclosed secondary containment system. Such structure or facility may not be enlarged, extended, reconstructed or substituted subsequent to adoption of said ordinance unless exemption is granted by the City Council.

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

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

**92.07 ENFORCEMENT AND PENALTIES.**

1. The Director of Public Works of the City or any duly authorized assistant, agent or representative is designated as the Wellhead Protection Officer to supervise the implementation and enforcement of this chapter.
2. The Wellhead Protection Inspector(s) shall be the Director of Public Works of the City or any duly authorized assistant, agent or representative.
3. No building permit shall be issued which is a violation of the Iowa DNR *Separation Distances From Wells*, as published in the Iowa Administrative Code: IAC [567] 43.3(7) Table A., "Separation Distances," or its replacement.
4. No new underground tank(s) will be allowed for auxiliary fuel storage in the Primary or Secondary zones.
5. Any person, firm or corporation who fails to comply with the provisions of this chapter shall be subject to the provisions and penalties provided therein.

**92.08 INSPECTIONS.**

1. The Wellhead Protection Inspector(s) shall have the power and authority to enter and inspect all buildings, structures and land within all wellhead protection zones for the purpose of making an inspection. Failure of a person having 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 or Inspector 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 or unsecured portion of the premises in order to conduct an inspection thereof.

3. The Wellhead Protection Officer or Inspector shall inspect each City well annually and shall maintain an inventory, if applicable, of all hazardous substances which exist within the Primary and Secondary Protection Zones. One format that may be used is Iowa DNR Form, OMB No. 2050-0072. MSDS sheets on these chemicals will be made available to the Inspector as under Section 92.05(4).

**92.09 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 in the manner hereinafter provided. A notice of violation shall:

1. Be in writing;
2. Be dated and signed by the officer or inspector;
3. Specify the violation or violations; and
4. State that said violation(s) shall be corrected within ten (10) days of the date on which the inspector issued the notice of violation.

**92.10 INJUNCTIVE RELIEF.** If any person who engages in nonresidential activities stores, handles, uses, and/or produces toxic substances within the wellhead protection zones, as indicated on the Zone of Protection 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.

*(Ch. 92 – Ord. 681 – Aug. 13 Supp.)*

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## CHAPTER 95

# SANITARY SEWER SERVICE POLICIES

95.01 Service Characteristics  
95.02 Engineering Practice  
95.03 Sewer Line Tap

95.04 Costs of Installation; Permit Required  
95.05 Construction Materials and Methods

**95.01 SERVICE CHARACTERISTICS.** The Utility will accept and treat normal sanitary sewer waste per the requirements of the United States Environmental Protection Agency and/or the Iowa Department of Natural Resources. The normal sanitary sewer discharges will be treated as required by law. Large sanitary sewer users or those with special discharges requiring special or additional pretreatment shall be handled on a case-by-case basis by contract with the City and IDNR.

**95.02 ENGINEERING PRACTICE.** Facilities of the Utility shall be constructed, installed, maintained and operated in accordance with accepted good engineering practice in the sewer industry to assure – as far as reasonably possible – continuity of service and safety of persons and property. The Utility shall require compliance with applicable provisions of the *Iowa Plumbing Code* for service line construction as the standards of accepted good practice.

**95.03 SEWER LINE TAP.** The customer or plumber must make application with the City for a sewer tap prior to the installation of the sewer service. The plumbing contractor will make the sewer connection/tap. All excavation in preparation for the tap and backfill after the tap is completed shall be completed/paid for by the owner.

**95.04 COSTS OF INSTALLATION; PERMIT REQUIRED.** The owner of a property to be served must assume the responsibility and bear the entire cost of the sewer service line, which runs from the sewer main to the building. All sewer services shall be installed to comply with the *Iowa Plumbing Code*. The sewer service line shall be owned, maintained and repaired by the property owner. This service line includes the piping, and cleanouts. The Utility will not be responsible for the failure of any pipe or fixtures associated with the property owner's service line. All owners, at their own expense, must keep their service lines (from the point of connection with the Utility's main to their premises) in good working condition. Any failure of the service line during normal operation by a Utility employee shall be repaired and paid for by the service line owner. No person shall lay pipe in connection with or to be connected to the City sanitary sewer system without first obtaining a permit from the Public Works Director. There is no permit fee for this connection.

**95.05 CONSTRUCTION MATERIALS AND METHODS.**

1. Material. Service pipes from the sewer mains onward shall be a minimum Schedule 40 PVC or other approved pipe by the Utility. The pipe diameter of any service shall be a minimum of four inches. Alternative materials may be used if approved by the City.
2. Pipe Laying. The laying of pipe shall be commenced at the lowest point, with the spigot ends pointing in the direction of flow. All pipe shall be laid with ends

abutting and true to line and grade. They shall be carefully centered, so that when laid they will form a sewer with a uniform invert.

3. Minimum Pipe Slope. Pipe shall be laid accurately to the line and at a grade not less than one-eighth-inch fall per lineal foot.

4. Depth of Lines. All service pipes shall be laid at least 42 inches below the surface of the ground.

5. Abandoned Sewer Service Lines. All sewer services that become obsolete because of the laying of new or larger services must be cut and shut off at the main and reported to the Utility. When a building is to be torn down or moved, eliminating the need for a sewer service, the service must capped on the owner's property. All expenses and work incurred in cutting and shutting the service off permanently is the responsibility of the owner.

6. Repair; Replacement. When a repair is necessary on an old service pipe and such repair shall indicate the necessity for the replacement of more than one-half of the service pipe, an entire new service shall be installed to conform with the rules and regulations for new service. If less than one-half requires replacement, the new section shall conform to rules and regulations governing new services.

7. Sanitary Sewer Connection Required. Every building intended for human habitation, occupancy or use on premises abutting on a street, alley or easement in which there is a public sewer within 500 feet shall have a connection with the public sewer, unless such sewer is otherwise unavailable for use as determined by the City. Notice shall be given to those owners requiring them to make connections as it becomes available. If the connections are not made by the property owners within the time fixed in the notice, the City Council shall proceed with assessment proceeding to cause such connections to be made and the cost thereof shall be assessed as a lien against the benefited property.

8. Private Sewage Disposal Systems. When public sewer is not available within 500 feet or otherwise unavailable for use as determined by the City, an individual sewage disposal system shall be installed. The individual sewage disposal system shall be found to be adequate and of an approved design as recommended by the Iowa State Department of Health in Appendix B, *Iowa State Plumbing Code*. A sewer permit shall be required from the City and Sioux County Engineer. If and when such system has failed or once every 10 years, whichever occurs first, the required connection to public sewer shall be reevaluated according to the criteria above.

9. Damage To Building or Public Sanitary Sewer. No person shall deposit by any means into the building sanitary sewer system any ashes, cinders, rags, inflammable, poisonous or explosive liquids, gases, oils or any other material which would or could obstruct, damage or overload the public sanitary sewer system.

10. Special Waste Disposal. Wastes detrimental to the public sewer system or detrimental to the functioning of the sewage treatment plant shall be treated and disposed of as found necessary and directly by the Superintendent of Public Works.

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***Editor's Note:***

*For definitions of terms used in this chapter and in Chapter 96, see Chapter 110.*

*For Customer Service Policies, see Chapter 111.*

*For additional General Service Policies, see Chapter 112.*

*For Sewer Service Rates, see Chapter 113.*

## CHAPTER 96

### USE OF PUBLIC SEWERS

96.01 Storm Water

96.02 Surface Waters Exception

96.03 Prohibited Discharges

96.04 Restricted Discharges

96.05 Restricted Discharges – Powers

96.06 Special Facilities

96.07 Control Manholes

96.08 Testing of Wastes

**96.01 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 combined sewers or storm sewers, or to a natural outlet approved by the Public Works Director. Industrial cooling water or unpolluted process waters may be discharged on approval of the Public Works Director, to a storm sewer, combined sewer, or natural outlet.

**96.02 SURFACE WATERS EXCEPTION.** Special permits for discharging surface waters to a public sanitary sewer may be issued by the Public Works Director 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.

**96.03 PROHIBITED DISCHARGES.** No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

1. Flammable or Explosive Material. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
2. Toxic or Poisonous Materials. Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) milligrams per liter as CN in the wastes as discharged to the public sewer.
3. Corrosive Wastes. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
4. Solid or Viscous Substances. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
5. Abnormal Wastewater Characteristics or Flow. Any wastewater (a) having an average concentration of suspended materials and five days BOD greater than 200 parts per million each, by weight, or (b) having ammonia nitrogen (NH<sub>3</sub>-N) greater

than 30 parts per million by weight, or (c) having oil and grease in excess of 100 mg/l, or total suspended solids greater than 200 parts per million, or (d) having a flow of 50,000 gallons or more per average workday, or (e) having a flow greater than five percent of the flow to the City's wastewater treatment system, or (f) having in its waste a toxic pollutant in toxic amounts as defined in standards issued under Section 307a of the Clean Water Act and adopted by reference in 567-62.5 of the Iowa Administrative Code, or (g) having a flow of 50,000 gallons or more per average workday, or (h) having a flow greater than five percent of the flow to the City's wastewater treatment system.

**96.04 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 Public Works Director 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 health, life, limb, or public property; constitute a nuisance; or be in violation of any applicable regulations or standards of the Iowa Department of Natural Resources. In forming an opinion as to the acceptability of these wastes, the Public Works Director 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 degrees (150°) F (65° C).
2. Fat, Oil, Grease. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of 100 milligrams per liter or 200 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 32° F and 150° F (0° to 65° 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 Public Works Director 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 Public Works Director 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 Public Works Director in compliance with applicable State or Federal regulations.
9. Excess Alkalinity. Any waters or wastes having a pH in excess of 9.5.
10. Unusual Wastes. Materials 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.

**96.05 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 96.04 and which in the judgment of the Public Works Director may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or health or constitute a public nuisance, the Public Works Director may:

1. Rejection. Reject the wastes by requiring disconnection from the public sewage system;
2. Pretreatment. Require pretreatment to an acceptable condition for discharge to the public sewers;
3. Controls Imposed. Require control over the quantities and rates of discharge; and/or
4. Special Charges. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Chapter 113.

**96.06 SPECIAL FACILITIES.** If the Public Works Director permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Public Works Director and subject to the requirements of all applicable codes, ordinances, laws, and regulations. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.

**96.07 CONTROL MANHOLES.** When required by the Public Works Director, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Public Works Director. The manhole shall be installed by the owner at the owner's expense, and shall be maintained by the owner so as to be safe and accessible at all times.

**96.08 TESTING OF WASTES.** All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of *Standard Methods for the Examination of Water and Wastewater*, published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, B.O.D. and suspended solids analyses are obtained from 24-hour composites of all outfalls whereas pH's are determined from periodic grab samples).

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## CHAPTER 105

# SOLID WASTE CONTROL

105.01 Purpose	105.07 Littering Prohibited
105.02 Definitions	105.08 Open Dumping Prohibited
105.03 Sanitary Disposal Required	105.09 Toxic and Hazardous Waste
105.04 Health and Fire Hazard	105.10 Waste Storage Containers
105.05 Open Burning Restricted	105.11 Prohibited Practices
105.06 Separation of Yard Waste Required	

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

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

1. “Collector” means any person authorized to gather solid waste from public and private places.
2. “Discard” means to place, cause to be placed, throw, deposit or drop.  
(Code of Iowa, Sec. 455B.361[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. “Refuse” means putrescible and non-putrescible waste, including but not limited to garbage, rubbish, ashes, incinerator residues, street cleanings, market and industrial solid waste and sewage treatment waste in dry or semisolid form.  
(IAC, 567-100.2)

9. “Residential premises” means a single-family dwelling and any multiple-family dwelling.

10. “Residential waste” means any refuse generated on the premises as a result of residential activities. The term includes landscape waste grown on the premises or deposited thereon by the elements, but excludes garbage, tires, trade wastes and any locally recyclable goods or plastics.

(IAC, 567-20.2[455B])

11. “Rubbish” means non-putrescible solid waste consisting of combustible and non-combustible waste, such as ashes, paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery or litter of any kind.

(IAC, 567-100.2)

12. “Sanitary disposal” means a method of treating solid waste so that it does not produce a hazard to the public health or safety or create a nuisance.

(IAC, 567-100.2)

13. “Sanitary disposal project” means all facilities and appurtenances (including all real and personal property connected with such facilities) that are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the Director of the State Department of Natural Resources. “Sanitary disposal project” does not include a pyrolysis or gasification facility as defined in Section 455B.301 of the *Code of Iowa*.

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

14. “Solid waste” means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined by Section 321.1 of the *Code of Iowa*. Solid waste does not include any of the following:

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

A. Hazardous waste regulated under the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6921-6934.

B. Hazardous waste as defined in Section 455B.411 of the *Code of Iowa*, except to the extent that rules allowing for the disposal of specific wastes have been adopted by the State Environmental Protection Commission.

C. Source, special nuclear, or by-product material as defined in the Atomic Energy Act of 1954, as amended to January 1, 1979.

D. Petroleum contaminated soil that has been remediated to acceptable State or federal standards.

E. Steel slag which is a product resulting from the steel manufacturing process and is managed as an item of value in a controlled manner and not as a discarded material.

F. Material that is legitimately recycled pursuant to Section 455D.4A of the *Code of Iowa*.

G. Post-use polymers or recoverable feedstocks that are any of the following:

(1) Processed at a pyrolysis or gasification facility.

- (2) Held at a pyrolysis or gasification facility prior to processing to ensure production is not interrupted.

*(Subsections 13 and 14 – Ord. 715 – Nov. 19 Supp.)*

**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 burn trash, leaves, paper or other combustible material anywhere in Blocks 1, 2, 3, 4, 5, 6, 7 and 8 of the Original Town plat, and no person shall allow, cause or permit open burning of combustible materials where the products of combustion are emitted into the open air without passing through a chimney or stack, except that open burning is permitted in the following circumstances:

*(IAC, 567-23.2[455B] and 567-100.2)*

1. Disaster Rubbish. The open burning of rubbish, including landscape waste, for the duration of the community disaster period in cases where an officially declared emergency condition exists, provided that the burning of any structures or demolished structures is conducted in accordance with 40 CFR Section 61.145.

*(IAC, 567-23.2[3a])*

2. Trees and Tree Trimmings. The open burning of trees and tree trimmings at a City-operated burning site, provided such burning is conducted in compliance with the rules established by the State Department of Natural Resources.

*(IAC, 567-23.2[3b])*

3. Flare Stacks. The open burning or flaring of waste gases, provided such open burning or flaring is conducted in compliance with applicable rules of the State Department of Natural Resources.

*(IAC, 567-23.2[3c])*

4. Landscape Waste. The disposal by open burning of landscape waste originating on the premises. However, the burning of landscape waste produced in clearing, grubbing and construction operations shall be limited to areas located at least one-fourth (1/4) mile from any building inhabited by other than the landowner or tenant conducting the open burning. Rubber tires shall not be used to ignite landscape waste.

*(IAC, 567-23.2[3d])*

5. Recreational Fires. Open fires for cooking, heating, recreation and ceremonies, provided they comply with the limits for emission of visible air contaminants established by the State Department of Natural Resources. Rubber tires shall not be burned in a recreational fire.

*(IAC, 567-23.2[3e])*

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

*(IAC, 567-23.2[3f])*

7. Training Fires. Fires set for the purpose of conducting bona fide training of public or industrial employees in firefighting methods, provided that the training fires are conducted in compliance with rules established by the State Department of Natural Resources.

*(IAC, 567-23.2[3g])*

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

*(IAC, 567-23.2[3h])*

9. Agricultural Structures. The open burning of agricultural structures if in accordance with rules and limitations established by the State Department of Natural Resources.

*(IAC, 567-23.2[3i])*

10. Controlled Burning of a Demolished Building. The controlled burning of a demolished building by the City, subject to approval of the Council, provided that the controlled burning is conducted in accordance with rules and limitations established by the State Department of Natural Resources.

*(IAC, 567-23.2[3j])*

11. Variance. Any person wishing to conduct open burning of materials not permitted herein may make application for a variance to the Director of the State Department of Natural Resources.

*(IAC, 567-23.2[2])*

**105.06 SEPARATION OF YARD WASTE REQUIRED.** All organic wastes consisting of tree limbs, leaves, grass clippings and other similar organic vegetative waste material shall be separated by the owner or occupant from all other solid waste accumulated on the premises and shall not be placed for normal solid waste pickup. Such waste shall be mulched or composted on site or placed in the City's organic waste program. Small amounts of leaves or grass clippings may be burned on site except in the areas specified in Section 105.05.

**105.07 LITTERING PROHIBITED.** No person shall discard any litter onto or in any water or land, except that nothing in this section shall be construed to affect the authorized collection and discarding of such litter in or on areas or receptacles provided for such purpose. When litter is discarded from a motor vehicle, the driver of the motor vehicle shall be responsible for the act in any case where doubt exists as to which occupant of the motor vehicle actually discarded the litter.

*(Code of Iowa, Sec. 455B.363)*

**105.08 OPEN DUMPING PROHIBITED.** No person shall dump or deposit or permit the dumping or depositing of any solid waste on the surface of the ground or into a body or stream of water at any place other than a sanitary disposal project approved by the Director of the State Department of Natural Resources, unless a special permit to dump or deposit solid waste on land owned or leased by such person has been obtained from the Director of the State Department of Natural Resources. However, this section does not prohibit the use of rubble at places other than a sanitary disposal project. "Rubble" means dirt, stone, brick, or similar inorganic materials used for beneficial fill, landscaping, excavation, or grading at places other than a sanitary disposal project. Rubble includes asphalt waste only as long as it is not used in

contact with water in a floodplain. For purposes of this section, rubble does not mean gypsum or gypsum wallboard, coal combustion residue, foundry sand, or industrial process wastes unless those wastes are approved by the State Department of Natural Resources.

*(Code of Iowa, Sec. 455B.301, Sec. 455B.307 and IAC, 567-100.2)*

**105.09 TOXIC AND HAZARDOUS WASTE.** No person shall deposit in a solid waste container or otherwise offer for collection any toxic or hazardous waste. Such materials shall be transported and disposed of as prescribed by the Director of the State Department of Natural Resources. As used in this section, “toxic and hazardous waste” means waste materials, including but not limited to, poisons, pesticides, herbicides, acids, caustics, pathological waste, flammable or explosive materials and similar harmful waste 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, 567-102.13[2] and 400-27.14[2])*

**105.10 WASTE STORAGE CONTAINERS.** Every person owning, managing, operating, leasing or renting any premises, dwelling unit or any place where refuse accumulates shall provide and at all times maintain in good order and repair portable containers for refuse in accordance with the following:

1. Container Specifications. Waste storage containers shall comply with the following specifications:

A. Residential. Residential waste containers, whether they be reusable, portable containers or heavy-duty disposable garbage bags, shall be of sufficient capacity, and leakproof and waterproof. Disposable containers shall be securely fastened, and reusable containers shall be fitted with a fly-tight lid which shall be kept in place except when depositing or removing the contents of the container. Reusable containers shall also be lightweight and of sturdy construction and have suitable lifting devices.

B. Commercial. Every person owning, managing, operating, leasing or renting any commercial premises where an excessive amount of refuse accumulates and where its storage in portable containers as required above is impractical, shall maintain metal bulk storage containers approved by the City.

2. Allowable Containers and Quantities. Solid waste shall be presented in plastic bags or approved tapered containers. The weight of any individual article or container and contents shall not exceed sixty-five pounds. The total weight of all containers and contents presented for one pickup shall not exceed one hundred ninety-five pounds. Unique items that do not meet the container requirements and presentation of waste in excess of the weight limitation shall also be subject to a reasonable fee set by the waste hauler based on the costs to remove the item(s). The reasonable fee shall be based on the weight of the item and any special removal or disposal cost associated with the disposal of the item.

3. Storage of Containers. Residential solid waste containers shall be stored upon the residential premises behind any house front facing a public street. 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.

4. Location of Containers for Collection. Containers for the storage of solid waste awaiting collection shall be placed at the curb or alley line by the owner or occupant of the premises served. Containers or other solid waste placed at the curb line shall not be so placed more than 24 hours in advance of the regularly scheduled collection day and shall be removed from the curb line within 24 hours after any scheduled collection.

5. Nonconforming Containers. Solid waste placed in containers which are not in compliance with the provisions of this section will not be collected.

**105.11 PROHIBITED PRACTICES.** It is unlawful for any person to:

1. Unlawful Use of Containers. Deposit refuse in any solid waste containers not owned by such person without the written consent of the owner of such containers.

2. Interfere with Collectors. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the City, or those of any other authorized waste collection service.

3. Incinerators. Burn rubbish or garbage except in incinerators designed for high temperature operation, in which solid, semisolid, liquid or gaseous combustible refuse is ignited and burned efficiently, and from which the solid residues contain little or no combustible material, as acceptable to the Environmental Protection Commission.

4. Scavenging. Take or collect any solid waste which has been placed out for collection on any premises, unless such person is an authorized solid waste collector.

## 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

**106.01 COLLECTION SERVICE.** The City shall provide by contract for the collection of solid waste, except bulky rubbish as provided in Section 106.05, from residential premises only. The owners or operators of commercial, industrial or institutional premises shall provide for the collection of solid waste produced upon such premises.

**106.02 COLLECTION VEHICLES.** Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste or solid waste containing such materials shall be 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 shall be loaded and moved in such a manner that the contents will not fall, leak, or spill therefrom, and shall be covered to prevent blowing or loss of material. Where spillage does occur, the material shall be picked up immediately by the collector or transporter and returned to the vehicle or container and the area properly cleaned.

**106.04 FREQUENCY OF COLLECTION.** All solid waste shall be collected from residential premises at least once each week and from commercial, industrial and institutional premises as frequently as may be necessary.

**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. *[See also Section 105.10(2).]*

**106.06 RIGHT OF ENTRY.** Solid waste collectors are hereby authorized to enter upon private property for the purpose of collecting solid waste therefrom as required by this chapter; however, solid waste collectors shall not enter dwelling units or other residential buildings.

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

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## CHAPTER 110

### UTILITY SERVICE AND POLICY DEFINITIONS

**110.01 DEFINITIONS.** Unless another meaning is specifically indicated, the definitions given below apply to terms used in Chapters 90, 95, 96, 110, 111, 112, 113, 115, 116 and 117 of this Code of Ordinances. Where a definition is not specifically provided, those definitions listed in IAC Chapters 19, 20 and 22 and Chapter 384 of the *Code of Iowa* shall apply for the specific utility service in question.

1. “Account holder, primary” means a person 18 years of age or older, partnership, firm, association, corporation, governmental agency or other legal entity, that is receiving a City utility service, whose name is specifically listed on an account as the primary entity responsible for decisions regarding the service and for financial obligations created from the use of the service.
2. “Account holder, secondary” means a person 18 years of age or older (who is not a dependent), partnership, firm, association, corporation, governmental agency, or other legal entity responsible by law for payment for a City utility service said person is receiving, regardless of whether or not said person is specifically listed on the account.
3. “Account status” terms are defined as follows:
  - A. “Closed” refers to an account that is no longer receiving utility service.
  - B. “Current” refers to an open or closed account that has paid all outstanding balances prior to the due date, with the exception of the most recent bill prior to the due date and any amount not yet read and billed.
  - C. “Delinquent” refers to any open or closed account that has not paid a service bill or service payment agreement amount in full on or before the last day for timely payment.
  - D. “Fully paid” refers to a closed account that has fully paid any and all charges against it.
  - E. “Grossly delinquent” refers to any open or closed account that has not fully paid the amount due after more than 90 days past the due date posted on the bill.
  - F. “Open” or “active” refers to an account that is presently receiving utility service.
  - G. “Paid to date” refers to an open or closed account that has paid all billed utility charges but that may still have unread and/or unbilled charges outstanding.
4. “Additional deposit” means deposit monies required in addition to an initial or new deposit necessary to cover an increase in number and/or types of services, usage of service previously underestimated with the initial or new deposit required.

5. "Applicant" means a person 18 years of age or older, partnership, firm, association, corporation, governmental agency or other legal entity, applying to the City for utility services.
6. "Basic service" means the cable entertainment television service tier above minimum service for which a separate price is charged.
7. "Bulk service" means the cable entertainment television service to multiple residential living dwellings where owners accept the responsibility of a single billing for all their units regardless of occupancy. The owner pays and provides service to tenants; fee is usually included in rent.
8. "Cable Act" means Section 631 of the Cable Communications Policy Act of 1934 as amended.
9. "Channel" means a portion of the electromagnetic frequency spectrum, or any other means of transmission, which is capable of carrying a video signal, an audio signal, a voice signal or a data signal, or any combination of such signals.
10. "City" shall mean and refer to the City of Hawarden.
11. "Combined telecommunications service account" means an account for all telecommunications services, including telephone, Cable TV, and internet services.
12. "Combined utility service account" means an account for the service of water, wastewater, gas, electric, and garbage collection.
13. "Commercial" means basic analog and basic digital and contracted cable entertainment services provided to a business establishment whose customers are being provided access to the video services.
14. "Commission" means the Department of Commerce Utility Division.
15. "Complaint" means a statement or question by anyone whether a utility customer or not, alleging a wrong, grievance, injury, dissatisfaction, illegal action or procedure, dangerous condition or action, or utility obligation.
16. "Converter" means a device utilized by a subscriber to change the frequency or other characteristics of a signal.
17. "Cubic foot" a measure of gas having its meanings set forth at 250 IAC 19.1(3)e, which shall be construed in the context of use. (In general, these definitions describe the quantity of gas occupying one cubic foot at specified conditions, including temperature and pressure).
18. "Customer" means an applicant and account holder as described above in these definitions.
19. "Delinquent" or "delinquency" refers to an account for which a service bill or service payment agreement has not been paid in full on or before the last date for timely payment.
20. "Demand" or "demand power" means a quantity of electric power needed by the customer at a given point in time.
21. "Deposit" means an amount determined by the Utility to be paid and kept on deposit with the Utility until good credit rating is achieved or service is terminated.
22. "Digital base package" means the lowest tier of digital cable television service.

23. "Drop" means the cable that connects the subscriber terminal at a point in the subscriber's home, designated by the subscriber, to the nearest feeder cable of the communications system.
24. "Equipment" means one or more of the following, but not limited to: converter, converter-descrambler, remote-control unit, security device, addressable control module, A/B switch, ground block, splitter, trap, cable modem, coaxial cable or fiber optic cable which is not inside wiring.
25. "Ethernet" means a physical link and data link protocol that operates at 10 Mbps (10,000,000 bits per second).
26. "FCC" means the Federal Communications Commission, its designee, or any successor thereto.
27. "Gas" means manufactured gas, natural gas, other hydrocarbon gases, or any mixture of gases produced, transmitted, distributed or furnished by the Utility.
28. "Governing body" means the Hawarden City Council.
29. "Heating and calorific values" – as set forth in 250 IAC 19.1(3)j. (Definitions for such values as BTU, therm, and various measures of BTU's evolved by combustion are found in the section cited.)
30. "Initial deposit" means a deposit required when first securing a utility service to include adding service if required according to the criteria herein.
31. "Inside wiring" means the cable that exists inside the subscriber's home or business to a point 12 inches outside of the home or business, and includes any extra outlets, splitters, connections, fittings, or wall plates attached to it.
32. "Installation" means the act of connecting or activating the communications system from the feeder cable to the subscriber terminal so that the subscriber may receive communications services.
33. "Interruption of utility service" means any disturbance of the utility supply whereby service to at least fifty customers in one segment or in a portion of a distribution system has been disrupted.
34. "IUB" means Iowa Utilities Board.
35. "Local service" means the cable entertainment television service tier that includes the retransmission of local television broadcast signals.
36. "Main" means a water, wastewater, or gas pipe, owner operated or maintained by the Utility, which is used for the purpose of transmission or distribution of gas, water, or wastewater, but does not include the "service line."
37. "Maximum demand" means the greatest demand required by the customer during a specific length of time.
38. "Meter" means a device that measures and registers the integral of a water, electric or gas quantity with respect to time.
39. "New deposit" means a deposit required if the initial deposit has been returned and the criteria exists to require a deposit. It is figured the same way as the initial deposit.
40. "Pay-per-view television" means digital cable television programming that is offered on a per-order basis. The programming is delivered over the

telecommunications system on per-channel or per-program signals to subscribers for a fee or charge, in addition to the regular monthly fee for basic cable and digital cable television services.

41. “Premium channels” means the additional channels added to the basic cable TV service tier for which a separate price is charged.

42. “Pressure” means an expression of pounds per square inch above atmospheric pressure, i.e., gauge pressure (abbreviated “psig”)

43. “Service” means any service, including the transmission of data, video and voice or any other service, whether originated by the Utility or any other person, which is offered to any subscriber in conjunction with, or distributed over the communications system.

44. “Service line” means a distribution line that transports a utility service from a common source of supply/service to a customer meter or the connection to a customer’s piping, whichever is farther downstream, or the connection to a customer’s piping if there is not a meter.

45. “Service rules” means the entire body of rules, procedures, and policies adopted by the City Council and on file for public inspection.

46. “Set top box” means a digital signal converter which allows a customer to view digital cable television programming carried via a compressed digital signal to a standard television.

47. “T1” means a digital transmission link with a capacity of 1.544 Mbps (1,544,000 bits per second).

48. “Telecommunication services” means, for the purposes of this Code, an all-inclusive term to encompass telephone, Cable TV, and internet services.

49. “Timely payment” means a payment on a customer’s account made on or before the date shown on a current bill for service, or on a form which records an agreement between the customer and the Utility for a series of partial payments to settle a delinquent account, as the date which determines application of a late payment charge to the current bill or future collection effort.

50. “Unsatisfactory payment history” means a payment record of the proposed account holder that:

- A. Has had NSF checks or ACH reject notices in the last twelve months; or
- B. Has received more than two disconnect notices of any utility service.
- C. Has two or more late payments (past the bill due date) for any utility in the last twelve months;

51. “Utility” is interchangeable with definition of “City.”

52. “Utility service” means one of the following utility services offered by the City to the customer, to include but not limited to: Potable Water, Wastewater, Electric, Gas, Solid Waste, Telephone and Cable, and internet.

*(Ch. 110 – Ord. 710 – Nov. 19 Supp.)*

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## CHAPTER 111

# CUSTOMER SERVICE POLICIES

111.01 Application for Service	111.06 Customer Obligations
111.02 Customer Deposits	111.07 Customer Services
111.03 Billing/Billing Information	111.08 Customer Communications
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### 111.01 APPLICATION FOR SERVICE.

1. Application Submittal. An application for utility service may be made at the City Offices at 1150 Central Avenue, Hawarden, Iowa. An application may also be submitted by the customer via fax, email, or internet. Initial applications cannot be acted upon until a signed application with all required information and any applicable deposits are received. Said application and any attachments thereto shall constitute an agreement between the Utility and the applicant. Although a signature shall be required for the initial application, subsequent changes shall be permitted via telephone, email, or internet provided such authority was given by the customer in writing and the proper verification information was provided at the time of the change.
2. Application Contents. The application will include the applicant's voluntary designation of a person or agency to receive a copy of any notice to disconnect service due to the applicant's nonpayment of a bill or deposit. In order for the application to be complete, the applicant must provide any of the following that said applicant possesses (in addition to the above):
  - A. Full names of all occupants of premises who are over the age of 18, who are not legal dependents, and the designation of the account holder(s) to receive monthly bills.
  - B. Birth date.
  - C. Two forms of acceptable United States proof of identity which may include a copy of valid driver's license or other ID which may include Social Security card, passport, or Consulate ID. An acceptable United States form of ID (at least one of which must be a photo ID). (*Ord. 710 – Nov. 19 Supp.*)
  - D. Telephone number.
  - E. Previous address.
  - F. Employer name, address, and telephone number.
  - G. Name, address and telephone number of a relative.
  - H. If tenant, name, address, and phone number of landlord.
  - I. Verification information that could be used to change account service without a signature, if so desired. A deposit may be required as outlined in Section 111.02.

3. Approval/Denial of Application for Utility Service. Upon receipt of a completed application a determination shall be made to approve or deny the application to provide a particular utility service. The Utility reserves the right to deny or refuse service for any of the reasons listed in subsection 4 of this section. The Utility may not deny or refuse service for any of the reasons listed in subsection 5 of this section. If an account holder has entered into a payment agreement or has a past due account, no additional utility service (e.g., telephone or cable features) will be added to the account until the account is current. The customer shall not be required to receive any advance written notice for the denial of an initial utility service request or for an additional service request not previously held by the applicant. However, a written reason for the denial of the service shall be mailed to the customer pursuant to these service rules if contact information is fully provided. The notice shall be considered rendered to the customer when deposited in the U.S. mail with postage prepaid.

4. Reasons for Denial of Service.

- A. In the event of a condition determined by the Utility to be hazardous.
- B. In the event of customer use of equipment in such a manner as to adversely affect the Utility's equipment or service to others.
- C. In the event of tampering with equipment furnished and owned by the Utility.
- D. In the event of unauthorized use or resale of Utility service.
- E. For violation of or noncompliance with Utility service rules.
- F. For failure of prospective customer to furnish service equipment, permits, certificates, or rights-of-way specified by the Utility as a condition of receiving service or for failure of prospective customer to fulfill his or her contractual obligations for service or facilities.
- G. For failure of the customer to permit the Utility reasonable access to its equipment.
- H. In the case of customers who have been disconnected or for whom credit action is pending, service will not be reconnected or continued in the name of another occupant or user of the premises if the previous customer or any other person liable for payment of the delinquent bill(s) continues to occupy or receive benefit of the service provided at the premises, unless arrangements are made to pay for the unpaid service at the premises. Similarly, new or transferred accounts will not be established for customers who will have co-occupants that will benefit from service so long as they have delinquent accounts. This shall not apply to an established account holder with a good credit history who allows a delinquent account holder to reside with said account holder.
- I. Failure to pay the required deposit, excluding the exception listed in subsection 5 below.
- J. Failure to comply with all terms and conditions of the Application for Service.

5. Insufficient Reasons for Denying Service. The following shall not constitute cause for refusal of service to a present or prospective customer:

- A. Delinquency in payment for service by a previous occupant of the premises to be served provided the person was not also receiving service at this location under the previous account holder.
  - B. Failure to pay for merchandise purchased from the Utility.
  - C. Failure to pay for a different type or class of public utility service.
  - D. Failure to pay the bill of another customer as guarantor thereof.
  - E. Failure to pay back bills rendered for under-registration of a meter.
  - F. Failure to pay bill adjustments resulting from an error on the part of the Utility.
  - G. Failure to pay for yellow page advertising.
  - H. Use of an auxiliary directory cover.
  - I. Failure to pay for information service not regulated by the board.
  - J. Failure to pay deregulated toll charges.
  - K. Failure of a residential customer to pay a deposit during the period November 1 through April 1 for the location at which he or she has been receiving service. (This shall not apply to new or existing customers who have not been receiving service at the location that a utility service is applied for or when adding a new utility service.)
  - L. Failure of a disconnected residential customer to pay the full amount due for past service if financial difficulty is confirmed and the customer is willing to enter into a reasonable agreement to pay the delinquent amount. (This excludes those customers that have already defaulted on a reasonable payment agreement for the same delinquent amount owed.)
  - M. Permitting another occupant of the premises access to the telephone utility service when that other occupant owed an uncollectible bill for service rendered at a different location. (Pertains to telephone service only.)
6. Classification of Service and Applicable Rates. At the time utility service is approved, the type of service per utility will be provided according to the applicable rate tables in effect at that time. Information on current rates are available at the Hawarden City Office, 1150 Central Avenue, Hawarden, IA, Telephone #712-551-2565.
7. Service Installation and Authority to Turn on Utilities. All customers will be provided service in a prompt, nondiscriminatory manner. Standard installations will be performed no later than three working days after an order has been placed. All other installations will be completed as soon as practical using due diligence. The Utility shall supply service to the applicant in accordance with this service policy and any applicable FCC and IUB rules at a price schedule established by the Utility for the applicant's appropriate class of service. No person shall have authority to turn on a utility other than a properly authorized City employee. Such authorization shall come from the City Administrator, the Director of Public Works or Telecommunications Director.

**111.02 CUSTOMER DEPOSITS.** A deposit intended to guarantee partial payment of bills for service may be required from either existing or new customers. A person other than the account holder may pay the deposit.

1. Criteria For Initial Service Deposits. An initial service deposit may be required of an applicant if any of the following criteria exists:

- A. Recent past payment history with any City Utility is unsatisfactory.
- B. The applicant has no, or insufficient, credit history with the City Utilities.
- C. The applicant has no credit or unsatisfactory credit with another utility provider.
- D. Incomplete application.

2. Criteria For New or Additional Service Deposits. A new or additional deposit may be required of a current customer whose initial deposit has been refunded or is found to be inadequate. The amount of a new or additional customer deposit shall be based on the deposit calculation criteria listed in subsection 3 of this section. A new or additional deposit may be required from customers who meet any of the following criteria:

- A. The customer has received two 12-day disconnect notices in the last 12 months.
- B. The customer has two NSF check notices or two ACH Reject notices, or a combination of the two, in the last 12-month period. If the customer has had service less than 12 months, the number of notices will be prorated.
- C. Diversion of utility services or evidence of fraud in the use of utility services.
- D. For those that have an existing deposit, where there are large increases in the utility usage resulting in a bill of 20% or more than the initial deposit.

3. Utility Deposit Calculation. If it is determined a deposit is necessary, the amount of the deposit will be calculated as provided below:

- A. Gas, Electric, Water, Sewer and Solid Waste Deposits. The amount of an initial service deposit will be no more than the actual, or estimated, maximum charge for one month's service in the last 12-month period. A reasonable deposit may be required for a temporary or special occasion. In calculating customer deposits, adjustments may be made by reasonably determining differences in the likely level of energy consumption including number of person served, changes in the type of service (i.e. residential vs nonresidential), the installation or removal of energy conservation or alternative energy measures, and utility rate changes or charges. Where the service connection was not previously metered, the maximum charge for one month's service shall be based on comparable existing service of the same utility.
- B. Cable TV, Telephone and Internet Deposits. The amount of an initial service deposit will be as follows:

- (1) Cable TV – Amount equal to estimated first month’s bill, plus all taxes and fees.
- (2) Internet – Amount equal to estimated first month’s bill, plus all taxes and fees. Additional equipment at a rate set in the schedule of fees.
- (3) Telephone Local Service – Amount equal to first month’s bill, plus all taxes and fees.
- (4) Telephone Long Distance – Actual average usage over previous two months from previous long-distance carrier or a minimum of \$50 (\$25 per month) if previous usage data does not exist or cannot be obtained. An additional deposit shall be required when the monthly long-distance charges exceed the monthly deposit by more than 25% and \$20.

*(Subsection 3 – Ord. 710 – Nov. 19 Supp.)*

4. Deposit Receipts. The Utility shall issue a receipt of deposit to each customer from whom a deposit is received, and will also provide a means whereby a depositor may establish claim if the receipt is lost.
5. Record of Deposits. The Utility shall maintain a record of all deposits indicating:
  - A. The name and address of the person(s) making deposit or portion thereof.
  - B. The amount and date of the deposit or portion thereof.
  - C. The property location and specific account for which the deposit has been made.
  - D. Each transaction concerning the deposit.
6. Refund; Application of Deposits. A deposit will be refunded after 12 consecutive months of prompt payment. This time may be extended when the Utility has reason to believe that continued retention of the deposit is required to insure the payment for future billings for services. The records of a customer not eligible for a deposit refund on the first deposit anniversary date will be reviewed on subsequent anniversary dates to determine refund eligibility. If necessary, deposits will be applied equally to any unpaid balances owed the City. Upon termination of service, the deposit less any unpaid billing shall be reimbursed to the person who made the deposit if the remaining deposit balance is greater than \$1.00. Deposits made by a third party are intended for the specific property location or service and will be applied to any unpaid utility, telephone or cable bill for which the deposit was originally required. If all bills are paid, the deposit can be returned to the third party.
7. Unclaimed Deposits. A record of each unclaimed deposit shall be maintained for at least one year from the date service is terminated. During that period, the Utility will make a reasonable effort to return the deposit. Deposits remaining unclaimed one year after termination of service will be transferred to the State of Iowa in accordance with Chapter 556, *Code of Iowa, Disposition of Unclaimed Property*.

**111.03 BILLING/BILLING INFORMATION.** Customers shall be billed on a monthly basis. Charges for services start immediately after service is activated. The billing period will coincide with the period that utility services, including electric, natural gas, wastewater,

garbage and/or water services, are provided during each billing month. Billing information will only be made available to those individuals designated by the account holder. Charges for all telecommunications services will be billed on a monthly statement that includes telephone, internet and cable services. When a customer is connected or disconnected or the meter reading date causes a given billing period to deviate by more than 10 percent (counting only business days) from the normal meter-reading period, such bill shall be prorated on a daily basis.

1. Minimum Bill. The minimum bill provided for in the rate schedule for each class of service will apply to any billing period during which service remains connected and the minimum quantity of service is not used. The minimum bill shall apply to each separate account holder receiving a service to include each individual dwelling unit.
2. Billing Form. The following information will be included on the billing form or made available to the customer at the Utility's customer services office:
  - A. The reading of the meter at the beginning and at the end of the period for which the bill is rendered.
  - B. The dates on which the meter was read at the beginning and end of the billing period.
  - C. The number and kind of units metered.
  - D. The applicable rate schedule or identification of the applicable rate schedule.
  - E. The account balance brought forward and the amount of each net charge for rate-schedule-priced utility service, sales tax, other taxes, franchise fees, late payment charge, and other charges required by the Utility and any regulatory authority and total amount currently due. In the case of prepayment meters, the amount of money collected shall be shown.
  - F. The last date for timely payment will be clearly shown and will not be less than 20 days after the bill is rendered.
  - G. A distinct marking or wording to identify an estimated bill or meter reading.
  - H. A distinct marking to identify a minimum bill.
  - I. Any conversions from meter readings units to billing units, or any calculations to determine billing units from recording or other devices, or any other factors, such as sliding scale or automatic adjustment (i.e., multiplier) and amount of sales tax adjustments used in determining the bill.
  - J. Any other requirements in accordance with Iowa Administrative Code.

As per IAC 19.4(9) as a utility serving fewer than 5,000 customers, information regarding Items 2, 4 and 8 above can be obtained by contacting the Utility's local office at 1150 Central Avenue or calling 712-551-2565.

3. Bill Payment Terms. Billed charges will be due and payable when rendered and will be considered past due 20 days from the time the bill is rendered. A bill is considered rendered when deposited in the U.S. Mail with postage prepaid. If delivery is by other than the U.S. Mail, the bill is considered rendered when delivered

to the last known address of the party responsible for payment. The last date for timely payment will be clearly shown on the bill and will be not less than 20 days from the date the bill is rendered. A late payment charge and interest on the unpaid balance at rates set by Section 113.11 will be assessed on past-due accounts. Each account will be granted at least one complete forgiveness of a late payment charge in each calendar year. All over-payment of billings will be refunded to the account holder, unless other arrangements have been made between account holder and City. The normal past due date that appears on the account holder's utility bill can be adjusted once every 12 months, if necessary, to better coincide with the account holder's cash flow situation. To qualify, customers must have a consumption of less than 250 ccf (gas) and 3,000 kWh (electric). The requested change must be in writing and in advance (i.e., not for any currently issued bills). Bills shall be paid by mail, by direct deposit through a financial institution, by deposit in designated receptacles at the City's business office or in person at the City business office at 1150 Central Avenue.

4. Partial Payments. Partial payments (including LIHEAP funds) made on accounts that have multiple services, shall be credited to the total bill; partial payments will not be accepted for one specific service. If a combined service account becomes delinquent, all services are subject to disconnection unless the account holder enters into a payment agreement or makes payment in full.

5. Returned Checks and Automatic Clearing House Rejects. A service charge per occurrence in an amount to be set by Section 113.11 shall be assessed to any customer whose check is returned unpaid or whose Automatic Clearing House (ACH) payment is rejected by the bank on which it was drawn. The service charge shall be in addition to the late payment penalty if the check is not made good and the service fee not paid prior to the delinquent date of the bill. If two or more checks are dishonored or ACH payments rejected, the Utility may require future payments to be by cash, cashier's check, or money order and may require a new deposit.

6. Adjustments of Bills.

A. Administrative and Hook-Up Errors. An adjustment, refund or back-billing shall be made for any overcharge or undercharge resulting from incorrect reading of the meter, incorrect application of the rate schedule, incorrect meter connection, or other similar reason.

(1) Overcharges. The amount of the overcharge will be refunded or credited to the customer. The time period for which the utility will adjust, refund, or credit the customer's bill shall not exceed five years.

(2) Undercharges. The bills will be recalculated back to a period not to exceed five years. If the recalculated bills exceed \$10.00, the customer may be backbilled for the amount due. Back-billing will be completed within six months of the discovery of the error. If the back-billing creates customer hardship, a reasonable agreement to pay shall be offered. The Utility reserves the right to forego back-billings which it determines are not cost effective.

B. Accidental Wastage of Gas or Water. When a customer provides reasonable evidence to the Utility that a leak, not resulting from customer negligence, has existed on the customer's side of the meter, the Utility shall

estimate the normal usage for each billing period during which the leak is reasonably believed to have existed, not to exceed two months. The bill for each such period shall be recomputed, treating the amount of the above-normal consumption as “lost gas or water.” Lost gas or water shall be billed at the lowest rate on the customer’s rate schedule and the total difference will be credited to the customer’s account.

C. Meter Error. Whenever a meter is found to have an average error exceeding the allowable tolerance by more than 2.0 percent, the Utility shall adjust a current customer’s bill by issuing a refund/credit or back-billing. The amount of the adjustment shall be calculated on the basis of metering accuracy of one hundred percent and pursuant to the rules of the IUB found in IAC. The adjustment period shall extend from the date the error began. If the time which the error first developed or occurred cannot be definitely determined, it shall be assumed that the error has existed for the shortest time calculated as one-half the time since the meter was installed, or one-half the time elapsed since the last meter test unless otherwise ordered by the Utility. The adjustment period shall not exceed six months without the approval of the Utility Division. When a meter is found not to register due to a failure of part or all of the Utility equipment, the Utility shall issue an estimated bill according to the rules of the IUB found in IAC.

7. Level Payment Plan (Budget Billing). All residential customers or other customers whose consumption is less than 250 CCF (gas) or 3000 kWh (electric) may select a plan of level payments. The plan shall:

- A. Be offered when the customer initially requests service.
- B. Have a date of delinquency changeable for cause in writing; such as, but not limited to, fifteen days from approximate date each month upon which income is received by the person responsible for payments.
- C. Provide for entry into the level payment plan anytime during the calendar year. The month of entry shall be that customer’s anniversary month.
- D. Have level payments equal to the sum of estimated charges divided by the number of standard billings intervals, all for the next twelve consecutive months.
- E. Provide for withdrawal from the plan at any time. The account must be balanced before termination or withdrawal, except that the customer may choose to apply an account credit to future service or receive a refund.
- F. The level payment plan account balance on the anniversary date shall be carried forward and added to the estimated charges for service during the next year, and this total will be the basis for computing the next year’s periodic billing internal level payment amount. The customer shall be given the option of applying any credit to payments of subsequent months’ level payment amounts due or obtaining a refund of any credit in excess of \$10. For purposes of this paragraph, the anniversary date account balance shall not carry forward on unpaid level payment bill. Delinquent level payments must be paid up in full as of the anniversary date.

G. Have the level payment amount computed at the time of entry into the plan. It may be recomputed on each anniversary date, when requested by the customer, or whenever utility rates or consumption, alone or in combination, result in a new estimate differing by ten percent or more from that in use. When a customer's payment level is recomputed, the customer shall be notified of the revised payment amount and the reason for the change. The notice shall accompany the monthly bill prior to the bill affected by the revised payment amount.

Regardless of the account balance, a delinquent payment on the level payment plan will subject the customer to the normal procedures for collection and termination of service. However, if the customer has an excess credit balance on said customer's account over and above normal usage for the entire plan year, a missed payment will be allowed. If the account balance is a credit, the level payment plan shall terminate after not less than 30 days nor more than 60 days of delinquency.

*(Section 111.03 – Ord. 717 – Nov. 19 Supp.)*

**111.04 SERVICE DISCONNECTION PROCEDURES.** Disconnection of service to customers for nonpayment of a bill or deposit shall be in accordance with the following procedures:

1. Procedures for Utilities Other Than Telephone Internet and Cable TV.
  - A. The Utility shall make a reasonable attempt to collect all past-due accounts.
  - B. The Utility shall give written notice to the customer and, where applicable, the person or agency designated by the customer to receive such notice that service will be disconnected if the account is not settled within twelve (12) calendar days from the date of notice. Notice shall include a written summary of the rights and remedies available to avoid disconnection in accordance with IUB mandated language. The written notice shall also include a telephone number where a Utility representative qualified to provide additional information about the disconnection can be reached. Each Utility representative must provide his or her name to the caller and have immediate access to the most current and detailed information available concerning the customer's account and previous contacts with the Utility.
  - C. The Utility may allow settlement of the account to include an agreement for payment of the past due amount over a specified period.
  - D. The Utility shall give the customer a reasonable opportunity to dispute the reason for disconnection to the Utility. If the matter cannot be satisfactorily resolved, the customer may appeal to the City's Hearing Officer or to the Utility division, as provided in Section 111.08(3).
  - E. If no effort has been made on the part of the customer to pay the past due amount or dispute the account, the Utility shall issue a two-day disconnection notice, with service to be disconnected at the end of the two days. The notice shall be posted on the property and a posting fee, as established by Section 113.11, shall be charged. When disconnecting service, the Utility shall make a diligent attempt to contact, by telephone or in person, the individual or agency responsible for payment of the bill to inform the customer of the pending disconnection and his or her rights and remedies. If an attempt at personal or telephone contact is unsuccessful and the customer

is living in a rental unit, the Utility may attempt to contact the landlord, if known, to determine if the customer is still in occupancy and, if not in occupancy, his or her present location. A landlord so contacted shall also be informed of the date when service may be disconnected.

F. For residential customers only, during the period from November 1 to April 1, if the attempt at customer contact fails, the premises shall be posted with a notice informing the customer of the pending disconnection and rights or remedies available to avoid disconnection. The notice shall be posted at least two days prior to disconnection.

G. For residential customers only, during the period from November 1 through April 1, the Utility shall give the customer twelve days from the date the disconnect notice was mailed to apply to the local community action agency for low-income energy assistance or weatherization assistance as provided in Section 111.05. This applies only to the Utility that is the source of heat (electric or gas) and not to the water, solid waste, or telecommunications utility service, which can be disconnected in accordance with Subsection E above.

H. Disconnection of a customer's service may not take place on a weekend, a holiday, or after 2:00 p.m. unless the Utility is prepared to reconnect the same day. A disconnection fee or trip charge as set by Section 113.11 shall apply if the Utility person either physically travels to the premises or does disconnect one or more utilities, per combined utility for delinquent accounts only.

2. Procedures for Utilities Other Than Telephone Internet and Cable TV. Disconnection of telephone, internet and/or cable service to customers for nonpayment of a bill or deposit shall be in accordance with the following procedures:

A. The Utility shall make a reasonable attempt to collect all past due accounts. Telephone, internet and cable bills are mailed out at the beginning of the month and due 20 days later.

B. On the first day after the due date, late fees will be assessed, and the Utility shall give written notice to the customer and, where applicable, the person or agency designated by the customer to receive such notice that service will be disconnected if the account is not settled by the last day of that month. The written notice shall also include a telephone number where a utility representative qualified to provide additional information about the disconnection can be reached.

C. The Utility may allow settlement of the account to include an agreement for payment of the past due amount over a specified period.

D. The Utility shall give the customer a reasonable opportunity to dispute the reason for disconnection to the Utility. If the matter cannot be satisfactorily resolved, the customer may appeal to the City's Hearing Officer.

E. If no effort has been made on the part of the customer to pay the past due amount or dispute the account, the telephone, internet and/or cable service will be disconnected according to the written notice and a disconnection fee will be charged.

F. If customer pays all past due amounts after disconnection and then requests services be reconnected, a reconnection fee will be charged, and both the disconnection and reconnection fees will be collected prior to services being reconnected. Also, if customer is required to make a deposit, that amount will need to be paid prior to reconnection.

*(Section 111.04 – Ord. 710 – Nov. 19 Supp.)*

#### **111.05 EXCEPTIONS TO DISCONNECTION OF SERVICE.**

1. Financial Difficulty. A residential account holder may avoid disconnection by providing confirmation of financial difficulty and entering into a reasonable payment agreement. Payment agreements will be provided as follows:

A. A residential customer who has been disconnected or is about to be disconnected due to the inability to pay in full will be offered the opportunity to enter into a reasonable payment agreement as directed by the IUB. The agreement shall be in writing and shall be signed by a party for the utility and by the customer or a party for the customer. A signed copy of the agreement shall be provided to the account holder.

B. The utility may require the account holder to provide confirmation of financial difficulty prior to entering into an agreement. Confirmation may be written acknowledgement from the Iowa Department of Social Services, a legal guardian, or another individual or agency at the discretion of the Utility.

C. Payment agreements shall include provisions for the payment of current bills pursuant to provisions of a level payment plan.

D. Whenever possible, the Utility shall attempt to reach a mutually acceptable payment agreement with the customer. If the attempt fails and the customer offers a payment agreement, which the Utility intends to refuse, the customer shall be provided a written explanation of the reason for refusal within thirty days of the mailing of the initial disconnect notice. A customer may protest the refusal by filing a written complaint, including a copy of the refusal, with the Iowa Utilities Board within ten days after written refusal by the Utility. A reasonable agreement may be amended at the discretion of the Utility upon request of the account holder. Default of the agreement by the customer renders the customer subject to the disconnection in accordance with procedures specified in Section 111.04, except that the twelve-day notice provision shall not apply.

E. Failure to enter into a reasonable payment arrangement will result in disconnection as provided in the original notices (without further written notice as permitted by law).

F. The Utility will not offer a second payment agreement to a customer who currently has an existing agreement, unless necessary to comply with IUB requirements.

2. Weather Forecast. Disconnection of gas and/or electric service to a residential customer who has entered a reasonable payment agreement may not take place, where gas or electricity is used as the only source of space heating or to control or operate the only space heating equipment at the residence, on any day when the National Weather Service forecast for the following 24 hours covering the area in which the residence is located includes a forecast that the temperature will fall below

20 degrees Fahrenheit. In any case where the Utility has posted a disconnect notice in compliance with Section 111.04, but is precluded from disconnecting service because of a National Weather Service forecast, the Utility may immediately proceed with appropriate disconnection procedures, without further notice, when the temperature in the area where the residence is located rises to above 20 degrees Fahrenheit, unless the customer has paid the past due amount in full or is entitled to postponement of disconnection under some other rule. This applies only to gas and/or electric service and shall not apply to water, wastewater, garbage collection or any telecommunication utility service.

3. Health of a Resident. Disconnection of a residential customer shall be postponed if the discontinuance of service would present a special danger to the health of any permanent resident of the premises. A special danger to health is indicated if one appears to be seriously impaired and may, because of mental or physical problems, be unable to manage his or her own resources, carry out activities of family living or protect oneself from neglect or hazardous situations without assistance from others. Indicators of an especial danger to health include but are not limited to: age, infirmity, or mental incapacitation; serious illness; physical disability, including blindness and limited mobility; and any other factual circumstances which indicate a severe or hazardous health situation. The utility may require written verification of the special danger to health by a physician or public health official. The written verification shall include: (1) the name of the person endangered, (2) a statement that he or she is a resident of the premises in question, (3) the name, business address, and telephone number of the certifying party, (4) the nature of the health danger and (5) approximately how long the danger will continue. Initial verification may be by telephone if signed written verification is forwarded to the utility within five days. Verification shall postpone disconnection for thirty days; however, the postponement may be extended by a renewal of the verification. In the event service is terminated within fourteen days prior to verification of illness by or for a qualifying resident, service shall be restored to that residence if a proper verification is made thereafter in accordance with the foregoing provisions. The customer must enter into a reasonable agreement for the retirement of the unpaid balance of the account within the first thirty days and keep the current account paid during the period that the unpaid balance is to be retired. This does not apply to any telecommunication utility service.

4. Eligibility for Winter Energy Assistance (November 1 – April 1) (For Residential Customers Only). If the utility is informed by the Community Action Agency that the customer's household may qualify for winter energy assistance or weatherization funds, there shall be no disconnection of service for thirty days from the date of application, to allow the customer time to obtain assistance. Disconnection shall not take place from November 1 through April 1 for a resident who is a head of household and whose eligibility for either the low-income home energy assistance or weatherization assistance program has been certified to the utility by the Community Action Agency. A notice describing availability of energy assistance funds and application procedures shall be published in a local newspaper of general circulation or mailed directly to all residential customers by November 1 of each year by the City. This applies only to gas and electric services, and does not apply to water, wastewater, garbage collection or any telecommunications utility service.

5. Disputed Bill. In the event there is a dispute concerning a bill for utility services, the customer may avoid disconnection by prompt payment of the undisputed portion of the bill and by filing a statement with the Utility of the reasons upon which

the dispute is based. The Utility will delay disconnection pending settlement of the disputed portion of the bill as outlined in Section 111.04.

#### **111.06 CUSTOMER OBLIGATIONS.**

1. Acceptance of Service Rules. An application being submitted and signed and such service provided, and/or subsequent usage of the utility service shall obligate a customer to the conditions imposed by this chapter and other service rules contained in this Code of Ordinances, and the owner of the property shall be considered as having expressed his or her consent to be bound by the regulations and requirements contained in such service rules.
2. Reading of Meters. Customers are required to read their own meters or allow Utility personnel access to the premises to read meters. Non-residential premises shall not be exempted. Estimated meter readings or meter readings by appointment may be charged a meter reading fee as set by Section 113.11. There is no charge for annual or verification meter readings that are specifically needed by the Utility. Damage to
3. Utility Equipment or Facilities. The customer shall not use the equipment or structures of the Utility for reasons other than those incident to normal service, or create a condition likely to interfere with the functions of such equipment and structures, without written consent of the Utility. The customer shall be held responsible for his or her actions which cause damage to or loss of utility equipment.
4. Customer Premises; Utility Access. The customer and owner shall grant the Utility, without charge, right-of-way over and on the premises on which equipment and structures of the Utility are located. Access to the equipment and structures shall be granted to the Utility at reasonable times for installation, inspection, testing, repair and other functions necessary for the maintenance of satisfactory service.
5. Notice by Customer To Terminate Service. A customer shall give the Utility not less than three business days' notice, excluding weekends and holidays, prior to final termination of service. Discontinuance of service notice under this section shall be during normal business hours for the Utility's Business Office at 1150 Central Avenue from 7:30 a.m. to 4:30 p.m., Monday through Friday, or by calling 712-551-2565 during regular business hours.
6. Moving or Altering of Utility Equipment. Equipment owned by the Utility, including but not limited to meters, lines, load management boxes/disconnects, converters, digital converter boxes and Residential Subscriber Units (RSU's), may not be moved to a location or address other than the location or address where service was installed without prior written authorization from the Utility. Also, only authorized employees may remove, cut, raise or change any facilities belonging to the Utility.
7. Attachment of Equipment. Attachment of any unauthorized device to Utility equipment, or modification to the Utility's equipment or facilities, is prohibited without prior written authorization from the Utility.
8. Resale of Service; Providing Utility Service to Others. No account holder, person, occupant or owner of any premises to which a utility service is supplied shall be allowed to provide or resell service of the Utility to other persons, families, buildings, premises, etc. or permit the same to be taken. All service shall be subject to immediate disconnection per IAC. Back-billing shall occur for past minimum charges and any expenses incurred as a result of this illegal activity.

9. Prohibited Equipment Installations. No customer-owned equipment or device that interferes in any way with the normal operation of the Utility facilities, including any equipment or device that intercepts or assists in intercepting or receiving any service offered by the Utility, may be installed on either the customer's wiring or the Utility's facilities.

10. Implementation of Energy Conservation Standards. As a condition of electric or gas service per space heating or cooling, the owner of any building or structure completed after April 1, 1984, intended primarily for human occupancy, must certify to the Utility that the building conforms with the energy conservation requirements of the State of Iowa Building Code (680 IAC 16.800) (3) as amended by 16.800 (4). If compliance is being certified to other State and local agencies, a copy of their certificate form may be provided to the City. Otherwise certification shall be provided on a form provided by the City.

### 111.07 CUSTOMER SERVICES.

#### 1. Customer Assistance Programs.

A. Low Income Programs. Customer discounts on telephone service and broadband services are available through assistance programs sponsored by the State of Iowa and the Federal government. The amount of the discount will equal the maximum amount authorized by State and Federal regulations. In order to qualify, applicants must demonstrate eligibility for one of the following lifeline programs. Qualifying applicants must present verifying documentation of their eligibility when signing up for services.

*(Subsection A – Ord. 710 – Nov. 19 Supp.)*

B. Project Share. The City participates in the Project Share Fund whereby anyone can donate to the fund to provide assistance for heating assistance. Any monies collected for Project Share are forwarded to Mid-Sioux Opportunity Inc. for distribution for heating assistance to low-income families.

2. Temporary Disconnections. The Utility may, upon reasonable notice by a customer, make temporary disconnects for the customer's convenience for construction. The customer shall be required to pay the standard temporary disconnect fee established by Section 113.11. Additional fees may also apply for repetitive or complicated requests.

3. Service Calls. The customer will be billed for the cost of services not the responsibility of the Utility, as listed below, at rates established by Section 113.11.

A. Service calls requesting the relocation of facilities belonging to the Utility. A deposit equal to the total estimated cost of labor and materials may be required in advance of any construction.

B. Service calls requesting temporary relocation of cable lines or other Utility facilities to accommodate movement of buildings or large equipment. The Utility shall be given a minimum of 72 hours' advance notice and shall be consulted regarding the route of the move. An advance deposit or cash bond shall be required to cover estimated costs.

C. Service calls requesting installation or relocation of facilities belonging to the customer.

- D. Service calls where the trouble is found to be on the customer's equipment.
  - E. For location of line.
  - F. The gas utility division shall investigate leak calls, shut-offs and re-light pilot lights without charge to the customer. In providing these services as a convenience to its customers, the Utility, its employees, and/or the City offer no warrant, express or implied, as to the operating condition of the customer's piping or appliances. For other services, such as adjustments to a customer piping and appliances, the customer shall be required to contact a qualified gas plumber, appliance dealer, and/or contractor.
  - G. Utility Reconnection; Check-In; Turn-On. Simple meter installations or the initial turning on of utility service or reconnection of a utility service for established premises.
4. Customer Requested Meter Tests and Referee Tests.
- A. Requested Meter Tests. Upon request by a customer, a utility shall test the meter servicing that customer, except that such tests need not be made more frequently than once in 18 months. A written report of the test results shall be mailed to the customer within ten days of the completed test and a record of each test shall be kept on file at the Utility's office. The Utility shall give the customer or a representative of the customer the opportunity to be present while the test is conducted. If the test finds the meter is accurate within the limits accepted by the Utility in its meter inspection and testing program, the Utility may charge the customer a fee as established by Section 113.11. The customer shall be advised of any potential charge before the meter is removed for testing.
  - B. Referee Meter Tests. Upon written request by a customer or Utility, the utilities board will conduct a referee test of a meter except that such tests need not be made more frequently than once in 18 months. The request shall be accompanied by a check or money order, in an amount established by Section 113.11, made payable to the Utility. Within five days of receipt of the written request and payment, the utilities board shall forward the deposit to the Utility and notify the Utility of the requirement for a test. The Utility shall, within 30 days after notification of the request, schedule the date, time, and place of the test with the board and customer. The meter shall not be removed or adjusted before the test and the Utility shall furnish all testing equipment and facilities for the test. If the tested meter is found to be more than two percent fast or two percent slow, the deposit will be returned to the party requesting the test and billing adjustments shall be made as required. The board shall issue its report within 15 days after the test is conducted, with a copy to the customer and the Utility.
5. Customer Assistance with Abnormal Utility Consumption. A customer whose utility consumption appears to the customer to be abnormally high may request the Utility to provide assistance in identifying the factors contributing to this usage pattern and to suggest remedial measures. The Utility shall provide assistance by discussing patterns of utility usage which may be readily identifiable, suggest that an energy audit be conducted (if available), and identify sources of energy information and financial assistance which may be available to the customer.

**111.08 CUSTOMER COMMUNICATIONS.**

1. Utility Customer Service Representatives. A Utility customer service representative charged with customer communication must give his or her name to the customer, whether communication is in person or by telephone. The representative must have immediate access to the most current detailed information available concerning the customer's account and previous contact with the Utility and shall be properly qualified and instructed in the screening and prompt handling of complaints.

2. Telephone and Other Contact Information. The Utility's main telephone number (712-551-2565) is staffed during the business hours of 7:30 a.m. to 4:30 p.m., Monday through Friday (excluding holidays), to handle routine business questions and other communications. After hours Utility Emergencies Information can be found at this same number with contact information given for each utility.

3. Complaint Procedure. Complaints concerning the charges, practices, facilities, or service of the Utility shall be investigated promptly and thoroughly. The Utility shall keep records of written complaints sufficient to enable review and analysis of its procedures and actions. Customers are required to submit previously unresolved verbal complaints in writing with the following information:

- A. Name of complainant.
- B. Address of complainant.
- C. Telephone number of complainant.
- D. Nature of the complaint.
- E. Relief sought.

Initial contact by a customer regarding a complaint shall be made with the customer service representative of the Utility. The complaint may be pursued with the appropriate supervisor or the appropriate manager, in that order, if the customer is not satisfied with the handling of the complaint. A written complaint may be filed with the City Administrator as Hearing Officer if the customer is not satisfied with the supervisor or manager's handling of the complaint. The Hearing Officer shall then establish a hearing date of the complaint. A customer who is unable to travel need not appear before any Utility official described in this section to explain the nature of the complaint. The customer may do so by telephone, via email, in writing, or in some other mutually agreeable fashion. During the hearing, each side may present information or evidence regarding his or her side of the issue. The hearing officer shall weigh the facts in the case in accordance with the City of Hawarden service rules and Iowa Law with a written decision and any applicable findings. The hearing officer's decision may be appealed to the Iowa Utility Board as provided below. In the absence of the City Administrator, the Mayor shall serve as the Hearing Officer. If the Utility does not resolve the complaint, the customer may request assistance from the Utilities Division of the Department of Commerce by calling or writing: Utility Division, Department of Commerce, 350 Maple Street, Des Moines, IA 50319, telephone number (515)-281-3839 or 877-565-4450. Complaints involving policies or actions of the Utility that are regulated by the IUB may also be filed with the IUB in accordance with applicable regulations.

**111.09 CUSTOMER PRIVACY.** The Utility shall abide by the limitations imposed upon operators in the use, collection and disclosure of personally identifiable customer information by the Privacy Act, FCC, IUB, and any other State or Federal Regulatory Agency.

1. Disclosure of Information. The disclosure of personally identifiable customer information to a third party shall only occur if the customer provides written or electronic consent in advance, or if disclosure is necessary to render communications services and related business activities, or if disclosure is required pursuant to a court order and the customer is notified of such order. In addition, these records may be available to employees, agents, and contractors of the Utility to install, market, provide or audit utility services and to measure usage and customer satisfaction and to provide customers with information concerning utility-related products and services offered by third parties. Information may also be made available to suppliers and outside auditors to check our records whenever such audits are required; to attorneys and accountants on a continuous basis as necessary to render service to the Utility; to representatives of governmental taxing, or regulatory authorities in furtherance of our legitimate business activities; and to collection services if required to collect past due bills at such time as bills are submitted for collection.
2. Retention of Customer Information. Retention of personally identifiable customer information shall be discontinued when it no longer serves a legitimate business purpose or required by law. Some documents such as work orders and involuntary disconnects shall be kept as required by law.
3. Involuntary Disclosure of Information. Court ordered disclosure of personally identifiable customer information shall be provided to authorities.
4. Information Inspection. Inspection of each customer's own personal identifiable customer information shall be permitted during normal office hours. Customers shall have the right to request the correction of any inaccurate information they believe to be inaccurate.
5. Legal Remedies. Customers shall have the right to seek all other legal remedies available to them.

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***Editor's Note:***

*For definitions of terms used in this chapter, see Chapter 110.*

*For Supplemental Water Service Policies, see Chapter 90.*

*For Supplemental Sanitary Sewer Service Policies, see Chapter 95 and Chapter 96.*

*For additional General Service Policies, see Chapter 112.*

*For Utility Rates and Fees, see Chapter 113.*

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## CHAPTER 112

# GENERAL UTILITY SERVICES POLICIES

112.01 General Utility Line Construction Methods

112.02 Meters for Gas, Electric and Water Utilities

112.03 Utility Line Extensions, Relocations and  
Modifications

112.04 Aggregation of Retail Customer Demand Response

112.05 Ancillary Services Provided by Demand Response  
Resources

### 112.01 GENERAL UTILITY LINE CONSTRUCTION METHODS.

1. Wire Installations on City Utility Poles. No wire, cable, or other attachments shall be permitted on any City-owned pole without approval of the City, a pole attachment agreement, and the payment of rents as required by said agreement.
2. Excavations. No excavation in any street, avenue, alley, or public grounds for any pipe, wire, or other purpose shall be made without first notifying Iowa One Call at 811 or 1-800-292-8989. Notification shall follow Iowa One Call guidelines.
3. Protecting the Public. The contractor shall be fully responsible to provide, erect, and maintain at all times, until final completion of his or her work, suitable and requisite barriers, signs and warning lights as may be necessary to insure the safety of the public and shall assume full responsibility for all damages sustained by any person or property due to carrying on of his work. All contractors will be required to provide the City with proof in insurance.
4. Inspection of Lateral/Service Line. Before any service line pipe is covered for water or sanitary sewer, it must be inspected by the Public Works Director. Any service pipe which fails to meet the requirements of these service rules or any other ordinances of the City shall not be accepted and must be corrected or such service will be not be provided or discontinued and the installer and owner will be subject to a municipal infraction.
5. Backfilling of Public Property. For backfill, only materials approved by the City shall be used. Pipes shall be backfilled completely under the pipe and along the haunches in uniform layers not exceeding six inches in depth up each side and up to a level of two feet over the top of the pipe. Above this backfill shall be laid and tamped in twelve-inch lifts. If located in the alley surfaced area, the last 12-inch lift shall be Iowa Class A road gravel. Each layer placed shall be uniformly mechanically tamped and compacted, to eliminate the possibility of vertical or lateral displacement. This tamping shall be required the full depth of the trench in the public right-of-way. Paving materials and dirt/grass shall be renewed or replaced at the owner's expense to the same condition in the right-of-way as existed prior to construction. If a concrete street, the concrete shall be pinned into the adjoining concrete and shall match the existing grade and thickness of the street/sidewalk concrete with a minimum of 6" thickness for the street and 4" for a sidewalk. All non-concrete streets a minimum of 6" concrete shall be poured level with the existing street. *(Ord. 710 – Nov. 19 Supp.)*
6. Interruption of Service. If the Utility deems it necessary, the Utility may temporarily interrupt utility service to any customer or group of customers for the purpose of making repairs, changes or improvements upon any part of the Utility's system. When practical, scheduled interruptions will occur during a period of

minimal usage or will be pre-arranged and advance notice will be given to the customer.

### **112.02 METERS FOR GAS, ELECTRIC AND WATER UTILITIES.**

1. Meter Ownership/Installation. The Utility shall install, own, and maintain a meter of a type appropriate to the nature of the service, for each applicable utility service. Each meter shall be fed with a single service line and means of shut off or disconnect. If more than one meter exists for a single account holder, at one location, the meters shall be billed as separate meters. Meters shall not be required, however, where consumption can be readily computed without metering or where the service is of a temporary nature and the cost of meter installation would be unreasonable. A meter seal shall be placed on all meters such that the seal must be broken to gain entry. Private meters up to the point of demarcation (Utility meter or RSU) are prohibited for any City utility service. Should a private meter exist, the City shall replace it with a Utility meter at no charge to the account holder.

*(Subsection 1 – Ord. 710 – Nov. 19 Supp.)*

2. Individual Metering. Individual metering shall be required on multi-occupancy premises in which units are separately leased or owned, except that the utility may provide single meters for the following:

- A. Service for central heating, cooling, water heating, or ventilation systems;
- B. Where individual metering is impractical, unreasonable, or uneconomical as determined by the City of Hawarden;
- C. Where sub-metering or resale was permitted prior to July 12, 1966; or
- D. Where resale as an undefined part of a fixed rental or lease payment was permitted prior to January 1, 1979.

Separately metered utilities shall not be interconnected (i.e., two separate gas services being connected is prohibited).

3. Special Metering Installation. The utility reserves the right, at its option and expense, to place special meters or instruments on the premises of a customer for the purpose of special tests of all or part of the customer's load or equipment or for remote or automated meter reading.

4. Meter Register. Where it is necessary to apply a multiplier to the meter readings, the multiplier shall be marked on the face of the meter register or stenciled in weather resistant paint upon the front cover of the meter. Customers shall have continuous visual access to meter registers at the meter except where the utility has experienced vandalism to windows in the protective enclosures, where access would create a safety hazard, or where access to tenant metering installations is restricted by a building owner.

5. Meter Testing. All meters and associated devices shall be inspected, tested, adjusted and certified to be within an allowable tolerance of error, prior to being placed in service. Subsequent periodic testing shall be in accordance with the schedules and tolerances required by the manufacturer, as can be accomplished by Utility personnel. Customer-requested tests shall be provided in accordance with Section 111.07 of this Code of Ordinances.

6. Meter Location. All meters shall be located in a proper, handy, and accessible place approved by the City of Hawarden. For new homes and businesses, gas and electric meters shall be outside the structure. Water meters shall generally be inside

the home, in basement if possible. However, the meter may be located outside a building, provided the account holder shall furnish and install at his/her expense a meter box, approved by the Water Supervisor, with proper extension dial near the surface of the ground.

### **112.03 UTILITY LINE EXTENSIONS, RELOCATIONS AND MODIFICATIONS.**

1. Main/Distribution System Line Extensions. The Utility shall make all standard utility main/distribution line extensions in accordance with terms and conditions established by resolution of the Council. The main distribution system will be constructed along existing public roads, streets and alleys and, where practical, along the rear of the customer's lot. Underground or overhead construction shall be established within the terms and conditions established by resolution of the Council.
2. Lateral/Service Line Extensions. Water and sewer service lines up to the main including the tap in connection are the responsibility of the customer. Electric, gas and telecommunications lines shall be the responsibility of the City. The route of all service line extensions and location of any meters will be determined by the City, working with the property owner.
3. New Subdivisions. The Utility must approve plats for any new subdivisions. Line extensions to the newly plotted and approved subdivisions of two or more lots may require an aid in construction by the owner or developer. The amount of the aid shall be established by resolution of the Council and shall be based upon actual construction cost.
4. Special Underground Service. The Utility may, upon request of a customer, provide underground service to a customer currently being served with overhead service. In providing such service to residential or nonresidential customers, the utility shall construct, own and maintain all facilities up to and including the meter and meter socket or RSU for telecommunications service. The customer shall be responsible for the cost of converting from overhead service to underground service on his or her facilities. The utility shall convert said services as time and resources permit. The utility may, upon its choice, install underground service to a customer. The cost of installing underground service from overhead to underground for the utility services would be paid by the utility in this case, including hiring an electrician or utilizing City staff to convert the owner facilities. This does not apply to utilities not owned by the City.
5. Nonresidential Low Use Extensions. Low use utility service at sites such as (but not limited to) services for isolated water pumps, cribs, dryers, feedlots, garages, and so forth shall require the customer to be responsible for the total cost of installing service as determined by the Public Works Director. If an additional meter is required, the customer shall be charged an additional monthly system charge plus usage.
6. Temporary Line Extensions. Where service is likely to be temporary or where it is provided on an emergency basis, the utility shall charge an amount equal to the total cost of installing and removing the service. Any deposit in excess of actual cost will be refunded. Utility may also require a customer deposit pursuant to Section 112.02 of this Code of Ordinances for any estimated usage.
7. Line Extension Costs. The Utility will construct broadband hybrid fiber optic and coaxial cable facilities at its own cost to all areas of the City when the density of

homes meets or exceeds ten homes within 1,320 cable-bearing strand feet. When a service extension is requested in an area of the City in which the required density of homes is not met, the Utility will absorb the first \$100.00 per customer of the extension cost. The Utility reserves the right to require payment in advance for the customer's portion of the line extension cost. Construction of line extensions will be completed promptly, and no later than six months after the date service was requested. Nothing in this chapter shall prohibit the Utility from constructing facilities in new housing developments or other areas of the City, whether or not the density test is met, if in the sole judgment of the Utility such construction will facilitate the efficient future expansion of services.

8. Relocation of Utility Facilities. In those cases where the relocation of Utility facilities is mutually beneficial, the cost may be shared on a basis agreeable to the customer or property owner and the Utility. Only authorized employees may remove, cut, raise or change any facilities belonging to the Utility. The customer or property owner shall reimburse the Utility for the cost of relocating its facilities under the following conditions:

- A. Structural changes in a building that will result in Utility facilities being damaged, inaccessible or unsafe.
- B. Modifications for the convenience of a customer or property owner, which in the judgment of the Utility, does not result in mutual benefits.

#### **112.04 AGGREGATION OF RETAIL CUSTOMER DEMAND RESPONSE.**

1. The Hawarden Municipal Utility System or its authorized designee is the sole entity permitted to bid demand response on behalf of retail customers served by the Hawarden Municipal Utility System directly into any Commission-approved independent system operator's or regional transmission organization's organized electric markets.

2. Retail customers served by the Hawarden Municipal Utility System wishing to bid their demand response into a Commission-approved independent system operator's or regional transmission organization's organized electric markets may do so by participating in the program established by the Hawarden Municipal Utility System or its authorized designee. Retail customers are not permitted to participate in the demand response program of any other entity without the express prior authorization of the Hawarden Municipal Utility System.

#### **112.05 ANCILLARY SERVICES PROVIDED BY DEMAND RESPONSE RESOURCES.**

1. The Hawarden Municipal Utility System or its authorized designee is the sole entity permitted to bid demand response on behalf of retail customers served by Hawarden Municipal Utility System directly into any Commission-approved independent system operator's or regional transmission organization's organized markets for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the Commission-approved independent system operator's or regional transmission organization's tariff).

2. Retail customers served by the Hawarden Municipal Utility System wishing to bid their demand response into a Commission-approved independent system operator's or regional transmission organization's organized markets for energy

imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the Commission-approved independent system operator's or regional transmission organization's tariff) may do so by participating in the program established by the Hawarden Municipal Utility System or its authorized designee. Retail customers are not permitted to participate in the demand response program of any other entity without the express prior authorization of the Hawarden Municipal Utility System.

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***Editor's Note:***

*For definitions of terms used in this chapter, see Chapter 110.*

*For Supplemental Water Service Policies, see Chapter 90.*

*For Supplemental Sanitary Sewer Service Policies, see Chapter 95 and Chapter 96.*

*For Customer Service Policies, see Chapter 111.*

*For Utility Rates and Fees, see Chapter 113.*

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## CHAPTER 113

### UTILITY RATES AND FEES

113.01 Rate Classifications For Service  
113.02 Minimum System Support Charge Applicable  
113.03 Liens For Nonpayment  
113.04 Rates for All Classes of Water Service  
113.05 Wastewater Utility Definitions and Rates  
113.06 Electric Utility Rates  
113.07 Gas Utility Rates

113.08 Solid Waste Collection Rates  
113.09 Cable Television Services  
113.10 Telephone Services  
113.11 Miscellaneous Fees and Charges  
113.12 Wholesale Internet Access Charges  
113.13 Monthly Retail Internet Charges

**113.01 RATE CLASSIFICATIONS FOR SERVICE.** Where a rate distinction is made between various classes of service (i.e. residential and nonresidential) the City shall generally attempt to classify the utility account by the categories listed below. It is possible to have multiple classifications for the same site depending on use.

1. Classifications of Service.
  - A. Residential. To include single-family dwellings, multi-family dwellings, mobile home trailers and condominiums and other similar residential dwellings. This does not include group homes, nursing homes and common areas of the described uses.
  - B. Nonresidential/Business: To include stores, shops, offices, restaurants, schools, Laundromats, dry-cleaning establishments, car washes, garages, service stations, rooming houses, dormitories, motels, hotels, hospitals, nursing homes, and processing plants and factories.
  - C. Nonresidential/Interdepartmental: To include all uses directly controlled by City and owned by the City taxpayers.
2. Interpretation of Classifications. When it is unclear what classification should be applied, the City (via the Public Works Director) shall at its sole discretion, determine the classification based on all available information, including but not limited to, the following:
  - A. Location of the service;
  - B. Other services at the location;
  - C. Most common use of the service;
  - D. Similar uses by other customers and how those classifications were treated (precedent);
  - E. Quantity of usage of the service;
  - F. Whether the use is advertised as a business including business cards, phone book, etc.; and
  - G. Any other pertinent information.

**113.02 MINIMUM SYSTEM SUPPORT CHARGE APPLICABLE.** The minimum system support charges provided for in this chapter apply to every account holder, per unit or site, as applicable, in which an active account/service is maintained, even though no actual

usage is generated or metered for the location. This does not apply to disconnected or closed accounts.

**113.03 LIENS FOR NONPAYMENT.** The amount of utility usage owed at a particular location shall constitute a lien upon that property served by the specific utility, where permitted by law. Such amount owed shall be collected in the same manner as other taxes, if payment is not made when due.

**113.04 RATES FOR ALL CLASSES OF WATER SERVICE.** The following rates apply to all classes of water service:

1. Minimum System Support Charge Per Unit: \$10.80 per month (this includes no usage);
2. \$1.89 per 100 cubic feet of water used;
3. Water Supplies. The City shall sell supplies it stores to electricians and owners at the City's cost plus 25%.

*(Ord. 696 – Nov. 18 Supp.)*

**113.05 WASTEWATER UTILITY DEFINITIONS AND RATES.**

1. Definitions. Unless the context specifically indicates otherwise, the meaning of terms used in this section shall be as follows:

A. "Ammonia nitrogen" means the measure of nitrogen in wastewater determined in a laboratory by measuring ammonia plus organic nitrogen after digestion to convert it to ammonia nitrogen (also known as Total Kjeldahl Nitrogen).

B. "BOD (Biochemical Oxygen Demand)" means the quantity of oxygen expressed in parts per million by weight, utilized in the biochemical oxidation of organic matter under standard laboratory conditions in five (5) days at twenty degrees Centigrade (20°C). The laboratory determinations shall be made in accordance with procedures set forth in "Standard Methods."

C. "Contributor" means any person or entity connected to the City's wastewater treatment system.

D. "Major contributing industry" means an industrial user of the City's wastewater treatment system that (i) has a flow of 50,000 gallons or more per average work day, or (ii) has a flow greater than five percent of the flow to the City's wastewater treatment system, or (iii) has in its waste a toxic pollutant in toxic amounts as defined in standards issued under Section 307a of the Clean Water Act and adopted by reference in 567-62.5 of the Iowa Administrative Code, or (iv) is found by the Iowa Department of Natural Resources to have a significant impact, either singly or in combination with other contributing industries, on the City of Hawarden's wastewater treatment system or on the quality of effluent from the City's wastewater treatment system.

E. "Nonresidential contributor" means any contributor to the City's wastewater treatment system who does not meet the definition of "residential contributor" as defined below.

F. “Normal wastewater” means wastewater where no testing has indicated that such wastewater has an average concentration of suspended materials and five (5) days BOD established at greater than 200 parts per million each, by weight, or ammonia nitrogen (NH<sub>3</sub>-N) greater than 30 parts per million by weight, oil, and grease in excess of 100 mg/1, or total suspended solids greater than 200 parts per million.

G. “Oil and grease” means fats, oil, and grease as set forth in EPA Method 1664, Revision A (N-Hexane Extractable Method).

H. “Residential contributor” means any contributor to the City’s wastewater treatment system whose lot, parcel of real estate, or building is used for domestic dwelling purposes only.

I. “Treatment agreement” means the Iowa Department of Natural Resources Operation Permit Application Treatment Agreement (DNR form 31).

J. “TSS” (total 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.

K. “Water meter” means a water volume measuring and recording device, furnished and/or installed by the City of Hawarden or furnished and/or installed by a user and approved by the City.

2. Normal Wastewater Contributor Rates Per Unit/User. Each contributor of normal wastewater to the City’s wastewater treatment system shall pay per unit/user for services provided by the City by payment of a minimum system support charge and additional charges based on water use as measured by water meters acceptable to the City according to the following schedule:

A. Minimum System Support Charge: \$30.00 per month (this includes no usage);

B. \$2.25 per 100 cubic feet, or fraction thereof, of water used.

A contributor to the City wastewater system whose use of the wastewater system is not accurately reflected by metered water usage will be charged a minimum usage of 400 cubic feet or at the request of either the City or the contributor, be billed based upon usage adjusted by measurements of wastewater meter(s) or separate water meter(s) installed and maintained at the contributor’s expense.

*(Subsection 2 – Ord. 712 – Nov. 19 Supp.)*

3. Rates for Contributions with BOD, TSS Oil and Grease, or Ammonia Nitrogen Strengths in Excess of Normal Wastewater Standards. For those contributors who contribute wastewater the strength of which is greater than normal wastewater, a surcharge in addition to the normal user charge shall be paid. The surcharge for operation and maintenance including replacement is:

A. \$.18 per pound BOD in excess of the BOD concentration limit defined for normal wastewater;

B. \$.12 per pound TSS in excess of the TSS concentration limit defined for normal wastewater;

C. \$.50 per pound ammonia nitrogen in excess of the ammonia nitrogen limit defined for normal wastewater;

D. \$.35 per pound of oil and grease in excess of the oil and grease concentration limit defined for normal wastewater;

E. For BOD, TSS, oil and grease, or ammonia nitrogen in excess of Treatment Agreement limits an amount equal to two (2) times the above rates for all quantities above the maximum limits set in the Treatment Agreement.

*(Ord. 686 – Aug. 15 Supp.)*

4. Treatment Agreement Required. Any major industrial contributor that discharges for treatment by the Municipal Wastewater Treatment Plan shall enter into a Treatment Agreement limiting the quantities of BOD, TSS, oil and grease, and ammonia nitrogen that can be discharged into the municipal treatment system. Agreement shall be based on the capacity of the Municipal Treatment Plant, NPDES permit discharge limits, and other factors as negotiated between the City and the contributor.

5. Special Rates for Extraordinary Discharges. Any contributor that discharges any toxic pollutants which cause an increase in the cost of managing the effluent or the sludge from the City's treatment works, or any user that discharges any substance which singly or by interaction with other substances causes identifiable increases in the cost of operation, shall pay for such increased costs with the charge to each such user to be as determined by the responsible plant operating personnel and approved by the City Council.

6. Charges for Testing of Discharges. Contributors of wastewater in excess of normal wastewater standards or of extraordinary discharges under subsections 3 and 5 above shall be charged the actual costs of billing, sample collection, sample testing and of servicing and maintaining metering and sampling stations. These charges may include but are not limited to costs of travel, labor, materials, chemicals, equipment replacement, postage and laboratory fees. Weekend measurements may be conducted on Mondays.

7. Alternate Sanitary Sewer System (E-1 System) Rates Per Unit. The following charges shall apply on a per unit basis whenever it is necessary to use alternative sanitary sewer equipment to provide service to a property:

A. The charge per E-1 unit shall be actual expense incurred by the City for the equipment and installation of the E-1 system unit. All costs are to be assessed to the customer. The customer shall be required to pay a deposit of one half of the estimated expense of the equipment and installation at the time the equipment is ordered, and the remaining balance shall be due thirty days after installation is completed.

B. Minimum System Support Charge: \$19.00 per month (this includes no usage) and is in addition to the applicable Normal Wastewater Contributor Rate Per Unit/User and rate per cubic feet of water used as set forth elsewhere in Section 113.05(2) a and b.

*(Subsection 7 – Ord. 710 – Nov. 19 Supp.)*

8. (Repealed by Ordinance No. 707 – Nov. 18 Supp.)

#### 113.06 ELECTRIC UTILITY RATES.

1. Residential Rates. Single phase, 120/240 volt, 3 wire, single meter. If more than one meter presently exists, the readings will be added as if the premises had a single meter.

- A. Minimum System Support Charge: \$13.65 (this includes no usage);
  - B. Plus all energy used: \$ .0755 per KWH
2. Nonresidential, Non-Demand Rate (Commercial). Single or three phase, 120/240 volt, 3 or 4 wire, single meter. If more than one meter presently exists for a single account holder, at one location, the readings will be added as if only one meter existed. Special secondary voltages may be made available at the discretion of the municipal utility. A demand reading of less than 100 kWh will be billed according to the rate in this category.
- A. Minimum System Support Charge: \$16.35 (this includes no usage).
  - B. Plus all energy used: \$ .0937 per KWH.
3. Nonresidential Demand Rate. Single or three phase, 120/240 volt, 3 or 4 wire, single meter. If more than one meter presently exists for a single account holder, at one location, the readings will be added as if only one meter existed. Special secondary voltages may be made available at the discretion of the municipal utility. A demand reading of 100 kWh or more will be billed according to the rates in this category.
- A. Minimum System Support Charge: \$0 (this includes no usage).
  - B. Demand Charge: \$4.98
  - C. Plus all energy used: \$ .064 per kWh
  - D. Minimum Demand Charge: Is the demand rate above applied to 75% of the peak demand in the 6 months preceding the billing month.
4. Nonresidential, Demand, Interruptible Rate. The City may enter into a contract for a minimum duration of one year with a nonresidential demand customer providing for an interruptible electric rate as follows: Single or three phase, 120/240 volt, 3 or 4 wire, single meter. If more than one meter presently exists for a single account holder, at one location, the readings will be added as if only one meter existed. Special secondary voltages may be made available at the discretion of the municipal utility. A demand reading of 100 kWh or more will be billed according to the rates in this category.
- A. Minimum System Support Charge: \$0 (this includes no usage).
  - B. Demand Charge: \$1.50
  - C. Plus all energy used: \$ .064 per kWh
  - D. Minimum Demand Charge: Is the demand rate above applied to 75% of the peak demand in the 6 months preceding the billing month.
5. Nonresidential, City Interdepartmental Rates. Rates applied to interdepartmental electrical services shall be determined by applying the applicable nonresidential rate under this Section 113.06 that would apply if the customer were not a department of the City. *(Ord. 713 – Nov. 19 Supp.)*
6. Other Services.
- A. Security Lights. Security lights shall be provided at a rate of \$5.00 for metered security lights plus any electrical usage, or \$8.00 per month for unmetered lights.

- B. Electric Supplies. The City shall sell electric supplies it stores to electricians and owners at the City's cost plus 25%.
7. Renewable Electric Energy Rates. The charge for renewal electric energy shall be \$2.00 per 100 kWh block of renewable wind energy purchased.
8. Purchased Power Cost Adjustment Clause: The energy charge per kilowatt-hour (kWh) shall be adjusted upward or downward each month in accordance with the provisions set forth below:
- A. City staff shall have the authority to adjust the purchased power cost adjustment (PPCA) as needed to reflect changes in the electricity supplier's generation, transmission, and other related expenses charged by the City's wholesale provider(s), hereafter referred to as "power costs," and may not change the City's revenues other than the amount necessary to pay the City's power costs from wholesale provider(s). Prior to each billing cycle, City staff shall determine the purchased power cost adjustment to be billed for that cycle by combining all power costs from wholesale provider(s) and divide said amount by the total kWh's purchased during said billing cycle.
- B. In the event the City is unable to calculate the exact PPCA for a specific billing cycle, the City staff shall prepare an estimate of the PPCA per kWh for said cycle to be billed and shall adjust the next billing cycle to reflect any over/under collections from the estimated PPCA. The adjustment to the estimate will reflect variances in the estimated and actual power costs billed by the City's wholesale supplier(s) by the City.

**113.07 GAS UTILITY RATES.**

1. Base Rates. The base rates for delivery of gas service, including delivery charges, transportation and pumping expenses, demand charge (space in pipeline and agreement to have a constant flow of gas available to occupy said space) and pipeline balancing fees shall be as follows:

A. Residential Service:

- (1) Minimum System Support Charge per month/per meter – \$9.00
- (2) Delivery Charge per CCF – \$ .50

B. Nonresidential/Business Service:

- (1) Minimum System Support Charge per month/per meter – \$9.00
- (2) Delivery Charge per CCF – \$ .50

C. Nonresidential/Interdepartmental Service:

- (1) Minimum System Support Charge per month/per meter – \$9.00
- (2) Delivery Charge per CCF – \$ .50

*(Subsection 1 – Ord. 709 – Nov. 19 Supp.)*

2. Gas Cost Recovery Fee. In addition to the payment of the base rate as set forth in Subsection 1 above, each gas customer will be billed for and must pay for the amounts of natural gas actually metered each month. Because of the volatility of the natural gas price paid by the City of Hawarden, the cost of said gas to be billed to each customer will be determined each month by measuring the volume of natural gas entering the City gate between approximately the first day of each month and the last day of the same month. This volume of gas entering the City gate shall be multiplied by the average price of each ccf charged to the City during the same one-month period. City gas customers will be charged the same price per ccf as the City is charged by its wholesaler(s). The City shall not “mark up” the cost of gas delivered to City gas customers.

3. Annual Rate Review and Adjustment. On or before the second regularly scheduled City Council Meeting in June of each year the Council shall review the Base Rates established under subsection 1 above and may adjust them as necessary by adoption of an ordinance setting forth the base rates to take effect at the beginning of the month following adoption of the ordinance and to remain in effect until such time as the rates are subsequently adjusted by ordinance of the Council.

4. Miscellaneous Sales of Inventory. The City may sell gas parts and supplies which it maintains on hand to contractors and property owners at the City’s cost plus 25%.

**113.08 SOLID WASTE COLLECTION RATES.**

- 1. Residential – \$17.50 per month
- 2. Commercial – \$4.00 per month
- 3. Additional Garbage Charges Above Base Rates – Additional garbage charges shall apply as provided for in the City’s Solid Waste Collection Contract.

*(Ord. 711 – Nov. 19 Supp.)*

**113.09 CABLE TELEVISION SERVICES.**

1. Service Tiers
  - A. Local Service.....\$ 28.95
  - B. Basic Service.....\$ 67.00
  - C. Digital Base Pack .....\$ 39.05

*(Ord. 700 – Nov. 18 Supp.)*
2. Analog Premium Channels
  - A. HBO .....\$ 20.00
  - B. Cinemax .....\$ 10.00
  - C. Showtime Package .....\$ 15.00
3. Digital Premium Multiplexes
  - A. HBO Digital Multiplex.....\$ 20.00
  - B. Showtime/TMC Digital Multiplex .....\$ 15.00
  - C. Cinemax Digital Multiplex.....\$ 10.00
  - D. Starz!/Encore.....\$ 15.00
4. Double Service Bundles
  - A. Basic Cable & Phone. Basic Cable, Phone with Unlimited Long Distance.....\$ 89.95
  - B. Basic Cable & Internet. Basic Cable, Up to 30 mbps High Speed Internet .....\$ 114.95

*(Ord. 700 – Nov. 18 Supp.)*
5. Triple Service Bundles
  - A. Bronze. Basic Cable, Phone, Up to 10 mbps High Speed Internet\$ 114.95
  - B. Silver. Basic Cable, Phone with Unlimited Long & Features, Up to 30 mbps High Speed Internet .....\$ 134.95
  - C. Gold. Basic Cable, Phone with Unlimited Long & Features, Up to 30 mbps High Speed Internet .....\$ 144.95

*(Ord. 700 – Nov. 18 Supp.)*

**113.10 TELEPHONE SERVICES.**

1. Basic Service
  - A. Residential.....\$ 11.05
  - B. Business Single-Line.....\$ 26.65
  - C. Business Multi-Line .....\$ 26.05
2. Interstate and Intrastate Long Distance. The charge for interstate and intrastate long distance service shall be \$.13 per minute.

## 3. International Long Distance Rates.

Country	Rate – 24 hours	Country	Rate – 24 hours
Afghanistan	\$3.02	Cape Verde Islands	\$1.48
Albania	\$0.98	Cayman Islands	\$0.82
Algeria	\$0.96	Central Africa Republic	\$2.34
American Samoa	\$1.04	Chad	\$2.36
Andorra	\$0.72	Chile	\$0.74
Angola	\$1.46	China	\$1.58
Anguilla	\$1.32	Christmas/Cocos Islands	\$1.16
Antarctica	\$1.16	Colombia	\$1.24
Antarctica/Scott	\$1.16	Comoros	\$1.96
Antigua	\$1.04	Congo	\$1.72
Argentina	\$1.12	Cook Islands	\$2.44
Armenia	\$1.78	Costa Rica	\$1.16
Aruba	\$0.92	Croatia Republic	\$0.88
Ascension Island	\$1.88	Cuba	\$1.72
Australia	\$0.44	Cyprus	\$0.92
Austria	\$1.16	Czech Republic	\$0.74
Azerbaijan	\$2.18	Denmark	\$0.44
Azores	\$0.10	Diego Garcia	\$1.72
Bahamas	\$0.54	Djibouti	\$2.04
Bahrain	\$1.66	Dominica	\$1.30
Bangladesh	\$2.36	Dominican Republic	\$0.60
Barbados	\$1.24	Ecuador	\$1.48
Belarus	\$1.04	Egypt	\$1.62
Belgium	\$0.44	El Salvador	\$1.18
Belize	\$1.50	Equatorial Guinea	\$1.92
Benin	\$1.52	Eritrea	\$2.76
Bermuda	\$0.60	Estonia	\$0.74
Bhutan	\$1.66	Ethiopia	\$2.44
Bolivia	\$1.36	Faroe Islands	\$0.84
Bosnia-Herzegovina	\$1.18	Falkland Islands	\$1.82
Botswana	\$1.06	Fiji Islands	\$2.02
Brazil	\$1.00	Finland	\$0.48
British Virgin Islands	\$0.92	France	\$0.42
Brunei	\$1.36	French Antilles	\$0.84
Bulgaria	\$0.94	French Guiana	\$1.04
Burkina Faso	\$1.62	French Polynesia	\$1.62
Burundi	\$1.74	Gabon	\$1.68
Cambodia	\$2.52	Gambia	\$1.46
Canada:		Georgia	\$1.78
204 Manitoba	\$0.26	Germany	\$0.42
306 Saskatchewan	\$0.26	Ghana	\$1.46
403 Alberta	\$0.26	Gibraltar	\$0.98
416 Ontario/Toronto	\$0.26	Greece	\$0.90
418 Quebec	\$0.26	Greenland	\$1.06
506 New Brunswick	\$0.26	Grenada	\$1.30
514 Quebec/Montreal	\$0.26	Guadeloupe	\$1.12
519 Ontario	\$0.26	Guam	\$0.54
604 British Columbia	\$0.26	Guantanamo Bay	\$1.60
613 Ontario	\$0.26	Guatemala	\$1.12
706 Ontario	\$0.26	Guinea	\$1.56
709 Newfoundland	\$0.26	Guinea-Bissau	\$2.32
807 Ontario	\$0.26	Guyana	\$1.94
819 Quebec	\$0.26	Haiti	\$1.58
902 Nova Scotia	\$0.26	Honduras	\$1.48
905 Ontario	\$0.26	Hong Kong	\$1.08

Country	Rate – 24 hours	Country	Rate – 24 hours
Hungary	\$0.66	Namibia	\$1.44
Iceland	\$0.76	Nauru Islands	\$2.12
India	\$1.92	Nepal	\$2.02
Indonesia	\$1.40	Netherlands	\$0.42
Iran	\$2.28	Netherlands Ant	\$1.00
Iraq	\$2.86	Nevis	\$0.10
Ireland	\$0.60	New Caledonia	\$1.64
Israel	\$0.58	New Zealand	\$0.50
Italy	\$0.54	Nicaragua	\$1.20
Ivory Coast	\$2.24	Niger Republic	\$1.96
Jamaica	\$1.56	Nigeria	\$1.92
Japan	\$0.90	Niue	\$2.48
Jordan	\$2.06	Norfolk Island	\$1.16
Kazakhstan	\$1.80	Norway	\$0.38
Kenya	\$1.80	Oman	\$1.90
Kirghiz	\$0.10	Pakistan	\$2.04
Kiribati	\$2.48	Palau	\$1.96
Korea, North	\$2.22	Palm Island	\$0.10
Korea, South	\$0.86	Panama	\$1.30
Kuwait	\$1.96	Papua New Guinea	\$1.14
Kyrgyzstan	\$2.14	Paraguay	\$1.52
Laos	\$1.82	Peru	\$1.30
Latvia	\$0.92	Philippines	\$1.16
Lebanon	\$1.82	Poland	\$0.82
Lesotho	\$1.34	Portugal	\$0.70
Liberia	\$1.24	Qatar	\$1.94
Libya	\$1.10	Reunion Island	\$1.40
Liechtenstein	\$0.48	Romania	\$1.12
Lithuania	\$0.96	Russia	\$1.28
Luxembourg	\$0.44	Rwanda	\$1.81
Macao	\$1.32	Saipan	\$0.88
Macedonia	\$1.26	Sakhalin	\$1.34
Madagascar	\$2.14	San Marino	\$1.08
Malawi	\$1.36	Sao Tome	\$2.92
Malaysia	\$0.68	Saudi Arabia	\$2.02
Maldives	\$1.56	Senegal Republic	\$2.38
Mali Republic	\$2.18	Seychelles	\$2.76
Malta	\$0.76	Sierra Leone	\$1.90
Marshall Islands	\$1.38	Singapore	\$0.94
Martinique	\$0.10	Slovakia	\$0.78
Mauritania	\$2.02	Slovenia	\$0.84
Mauritius	\$1.80	Solomon Islands	\$2.18
Mayotte Islands	\$2.22	Somalia	\$6.02
Mexico		South Africa	\$1.20
Zones 1-2	\$0.50	Spain	\$0.56
Zones 3-5	\$0.66	Sri Lanka	\$1.96
Zones 6-8	\$1.04	St. Helena	\$2.10
Micronesia	\$1.52	St. Kitts	\$1.02
Moldova	\$1.30	St. Lucia	\$1.24
Monaco	\$0.58	St. Pierre/Miquelon	\$0.86
Mongolia	\$2.42	St. Vincent/Grenadines	\$1.34
Montserrat	\$1.44	Sudan	\$1.48
Morocco	\$1.06	Suriname	\$2.35
Mozambique	\$1.58	Swaziland	\$0.94
Mustique	\$0.10	Sweden	\$0.36
Myanmar (Burma)	\$2.64	Switzerland	\$0.46
Nakhodka	\$1.34	Syria	\$1.96

Country	Rate – 24 hours	Country	Rate – 24 hours
Taiwan	\$1.06	United Kingdom	\$0.24
Tanzania	\$1.60	Uruguay	\$1.52
Thailand	\$1.48	Uzbekistan	\$1.62
Togo	\$2.00	Vanuatu	\$2.58
Tonga	\$2.07	Vatican City	\$0.60
Trinidad/Tobago	\$1.40	Venezuela	\$1.00
Tunisia	\$1.06	Vietnam	\$2.36
Turkey	\$0.98	Wallis/Futunia	\$1.34
Turkmenistan	\$2.06	West Samoa	\$1.82
Turks/Caico	\$1.24	Yemen Arab Republic	\$1.76
Tuvalu	\$1.94	Yemen Peoples Republic	\$0.10
Uganda	\$1.64	Yugoslavia	\$1.04
Ukraine	\$1.02	Zaire	\$1.44
Union Island	\$0.10	Zanbia	\$1.72
United Arab Emirates	\$1.34	Zimbabwe	\$1.06

- 4. Calling Features
  - A. All Call Forwarding ..... \$ 1.50
  - B. Call Forwarding-No Answer..... \$ 1.50
  - C. Call Forwarding-Busy..... \$ 1.50
  - D. Call Waiting ..... \$ 1.50
  - E. Cancel Call Waiting ..... \$ 1.50
  - F. Selective Call Rejection ..... \$ 1.50
  - G. Speed Calling ..... \$ 1.50
  - H. Caller ID..... \$ 6.50
  - I. Call Name & Number Block..... \$ 1.50
  - J. Three-Way Calling..... \$ 1.50
  - K. Serial Hunt ..... \$ 5.00
  - L. Voice Mail ..... \$ 6.75
- 5. Calling Feature Packages
  - A. Call Feature Package #1 - Voicemail or Caller ID and three other features for ..... \$ 6.95
  - B. Call Feature Package #2 - Voicemail and Caller ID and five other features for ..... \$ 9.95
- 6. Telecommunications Surcharges
  - A. Customer dialed/automated..... \$ 0.77
  - B. Customer dialed calling card station..... \$ 0.77
  - C. Customer dialed and operator assisted..... \$ 1.91
  - D. Customer dialed/operator must assist..... \$ 0.77
  - E. Operator Station ..... \$ 1.91

F.	Operator dialed surcharge .....	\$ 0.98
G.	Person to Person .....	\$ 6.17
H.	Busy line verify .....	\$ 6.75
I.	Busy line intercept.....	\$ 6.50
J.	Information Service Access Blocking .....	\$ 5.00
K.	Pre-subscribed Interexchange Carrier Charge .....	\$ 5.00
L.	E911 Charge.....	\$ 0.50
M.	Universal Service Charge.....	\$ 0.30
7.	Miscellaneous Telecommunications Rates.	
A.	Additional or alternate listings, per listing .....	\$ 0.50
B.	Private service, per listing .....	\$ 1.50
C.	Foreign or nonsubscriber service, per listing.....	\$ 2.00
D.	Per DID Line .....	\$ 39.00
E.	Non-recurring DID charge, per line .....	\$ 65.00
F.	Block of 100 reserved numbers.....	\$ 265.00
G.	Toll Restriction Service (outgoing calls only).....	\$ 3.00
H.	Non-recurring Toll Restriction charge .....	\$ 5.00
I.	Vacation/Suspended Service rate .....	50% of regular rate
J.	Customized Telephone Number Non-recurring charge, per line .....	\$ 25.00
	Information Service Access Blocking .....	\$ 5.00
K.	Telephone number change*	
	First number change .....	\$ 25.00
	Two or more number changes .....	\$ 50.00
L.	Reconnect from a disconnect for non-payment.....	\$ 15.00
M.	Returned Check/ Returned ACH Notice Fee .....	\$ 15.00
8.	Mileage Rates.	
	Between buildings on same premises Per two wire circuit .....	\$ 8.00
	Each additional ¼ mile or fraction thereof Per two wire circuit .....	\$ 2.00

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\* Fees may be waived with verification of a safety concern from proper law enforcement agency.

9.	End User Common Line Charge (Subscriber Line Charge)		
	Residential.....	\$	6.50
	Single-Line Business.....	\$	6.50
	Multi-Line Business.....	\$	9.00
10.	ISDN Line Charges		
	Business .....	\$	90.00
	Residential.....	\$	90.00
	ISDN BRI Line Port.....	\$	7.00/arrangement
	ISDN PRI Line Port .....	\$	46.00/arrangement
11.	Switched Access Service		
	A. Non Recurring Charges		
	B. Local Transport - Installation Entrance Facility		
	Voice Grade Two Wire .....	\$	230.00
	Voice Grade Four Wire.....	\$	230.00
	High Capacity DS1 .....	\$	251.00
	C. Interim NXX Translation Per Order		
	Per LATA or Market Area.....	\$	136.00
	D. FGC and FGD Conversion of Multi-Frequency Address Signaling to SS7 Signaling or SS7 Signaling to Multi-frequency Address Signaling		
	Per 24 Trunks Activated or Fraction Thereof on a Per Order Basis.....	\$	.321.00
	E. Direct Trunked Transport Activation		
	Per 24 Trunks Activated or Fraction Thereof on a Per Order basis.....	\$	310.00
	F. Local Transport		
	G. Premium Access		
	Entrance Facility, Per Termination		
	Voice Grade Two Wire.....	\$	46.79
	Voice Grade Four Wire.....	\$	71.67
	High Capacity DS1 .....	\$	191.82
	Direct Trunked Transport		
	Direct Trunked Facility, Per Mile		
	Voice Grade .....	\$	3.19
	High Capacity .....	\$	20.76
12.	Channel Signaling Network Connection		
	A. Signaling Network Access Link		
	Signaling Mileage Facility Per Mile .....	ICB	
	Signaling Mileage Termination, Per Termination.....	ICB	
	Signal Entrance Facility, Per Facility.....	ICB	
	B. STP Port, Per Port .....	ICB	
13.	Directory Assistance Service, Per Call .....	\$	2.00
14.	Operator Transfer Service, Per Call Transferred .....	\$	0.4588

15. Special Access Service

A. Voice Grade Service

Channel Termination Per Termination

Two Wire Service.....	\$ ...46.79
Two Wire Nonrecurring Charge .....	\$ .230.00
Four Wire Service .....	\$ ...71.67
Four Wire Nonrecurring Charge .....	\$ .230.00

Channel Mileage

Channel Mileage Facility .....	\$ .....3.19/mile
Channel Mileage Termination, Per Termination.....	\$ ...32.07

Optional Features and Functions

Voice Bridging

Two Wire .....	\$ 6.50
Four Wire .....	\$ 6.50

Data Bridging Per Port

Two Wire .....	\$ 6.50
Four Wire .....	\$ 6.50

Telephoto Bridging Per Port

Two Wire .....	\$ 6.50
Four Wire .....	\$ 6.50

DATAPHONE Select-A-Station Bridging

Sequential Arrangement, Ports Per Channel Connected

Two Wire .....	\$ 22.19
Four Wire .....	\$ 117.70

Addressable Arrangement, Ports Per Channel Connected

Two Wire .....	\$ 23.75
Four Wire .....	\$ 102.80

Telemetry and Alarm Bridging

Active Bridging Channel Connections Per Channel Connected

Split Band.....	\$ 8.89
Summation .....	\$ 3.47

Passive Bridging Channel Connections

Per Channel Connected .....	\$ 0.24
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Conditioning Per Termination

C Type.....	\$ 7.20
Improved Attenuation Distortion .....	None
Improved Envelope Delay Distortion .....	None

Data Capability .....	\$ 6.105
Telephoto Capability.....	\$ 9.02
Sealing Current .....	None
Improved Return Loss For Effective Two Wire or Four Wire Transmission Per Termination	
Two Wire .....	\$ 12.80
Four Wire .....	\$ 12.80
Customer Specified Receive Level, Per Two Wire Termination .....	\$ 8.80
Multiplexing Per Arrangement Voice To Telegraph Grade .....	\$ 226.19
Signaling Capability, Per Termination.....	\$ 12.95
Selective Signaling Arrangement, Per Arrangement .....	\$ 6.50
Transfer Arrangement (key activated or dial up) Per four port arrangement, including control channel termination .....	
	\$ 3.13
Per five port arrangement including control channel termination .....	
	\$ 7.14
Public Packet Switching Network Interface Arrangement, Per Arrangement .....	ICB
B. High Capacity Service.	
Channel Termination, Per Termination, DS1, 1.544 Mbps	
Monthly Rate .....	\$ 191.82
Nonrecurring Charge.....	\$ 251.00
Channel Mileage Facility, Per Mile .....	\$ 20.76
Channel Mileage Termination, Per Termination.....	\$ 102.39
Optional Features and Functions	
DS1 to Voice.....	\$ 183.12
Automatic Loop Transfer, Per Arrangement .....	\$ 158.00
Transfer Arrangement (key activated or dial-up), Per Four Port Arrangement Including Control Channel Termination.....	
	\$ 172.20
Clear Channel Capability, Per 1.544 Mbps Transmission path .....	
	ICB
Network Channel Terminating Equipment, Per Termination	
1.544 Mbps.....	\$ 89.60
Automatic Loop Transfer.....	\$ 360.00

16.	Other Services.		
	A.	Access Ordering	
		Access Order Charge Per Order .....	\$ 136.00
		Service Date Change Charge Per Order .....	\$ 53.00
		Design Change Charge .....	\$ 53.00
		Miscellaneous Service Order Charge, Per Occurrence .....	\$ 53.00
	B.	Additional Engineering Periods	
		Basic Time Per Engineer Normally Scheduled	
		Working Hours .....	\$ 25.35/half hour
		Overtime Per Engineer .....	\$ 38.02/half hour
		Premium Time Outside of Scheduled Work Day, Per Engineer .....	\$ 50.69/half hour
	C.	Additional Labor	
		Additional Labor Periods, Installation or Repair	
		Overtime Per Technician.....	\$ 33.03/half hour
		Premium Time Per Technician.....	\$ 46.04/half hour
		Stand By	
		Basic Time, Normally Scheduled Working Hours .....	\$ 22.92/half hour
		Overtime Per Technician.....	\$ 36.37/half hour
		Premium Time, Per Tech. ....	\$ 45.83/half hour
17.	Other Services.		
	A.	Additional Automatic Testing- Switched Access	
		To First Point of Switching	
		Additional Tests	
		Gain-Slope Tests .....	\$ 2.89/Test/Path
		C-Notched Noise Tests.....	\$ 2.89/Test/Path
		1004 Hz Loss.....	\$ 2.89/Test/Path
		C-Message Noise.....	\$ 2.89/Test/Path
		Balance (Return Loss).....	\$ 2.89/Test/Path
		Telecommunications Service Priority	
		Per Service Arranged, Nonrecurring Charge.....	\$ 56.63
		Controller Arrangement	
		Per Month, Per Arrangement.....	\$ 100.00
		Presubscription	
		Per Telephone Exchange Service Line or Trunk.....	\$ 5.00
		Blocking Service	
		Per Exchange Service Line or Trunk and/or Per Feature Group A Switched Access Line .....	\$ 11.20
		Billing Name and Address Service	
		Per BNA Order.....	\$ 50.94

	Per BNA Record .....	\$0.33
	Optional Magnetic Tape, Per Magnetic Tape .....	\$ 91.44
	Optional Format Programming Charge, Per Half Hour or Fraction .....	\$ 37.20
	Originating Line Screening Service Per Exchange Service Line .....	\$ 7.95
	Coin Supervision Additive Service Per Exchange Service Line .....	\$ 2.21/month
18.	Special Federal Government Access Services	
	A. Voice Grade Secure Communications	
	Type I, each T-3 Conditioning .....	ICB & Charges
	Additional Conditioning, Per Service Termination.....	ICB & Charges
	Type II, each G-1 Conditioning .....	ICB & Charges
	Type III, each G-2 Conditioning.....	ICB & Charges
	Additional Conditioning, Per Service Termination.....	ICB & Charges
	Type IV, each G-3 Conditioning.....	ICB & Charges
	Additional Conditioning, Per Service Termination.....	ICB & Charges
	B. Wideband Digital Special Access Service	
	Type I, each.....	ICB & Charges
	Type II, each .....	ICB & Charges
	Type III, each.....	ICB & Charges
19.	Special Facilities Routing of Access Services	
	A. Diversity.....	ICB
	B. Avoidance .....	ICB
	C. Diversity and Avoidance Combined.....	ICB
	D. Cable-Only Facilities .....	ICB
20.	Specialized Service or Arrangements .....	ICB
21.	Double Service Bundle	
	A. Phone with Unlimited Long Distance & Features & up to 10 mbps High Speed Internet.....	\$ 49.95
	B. Phone with Unlimited Long Distance & Features and Basic Cable.....	\$ 89.95
		<i>(Ord. 700 – Nov. 18 Supp.)</i>
22.	Triple Service Bundle	
	A. Bronze. Phone, Basic Cable and up to 10 mbps High Speed Internet.....	\$ 114.95
	B. Silver. Phone with Unlimited Long Distance and Features, Basic Cable & up to 30 mbps High Speed Internet .....	\$ 134.95

C. Gold. Phone with Unlimited Long Distance and Features, Basic Cable & up to 50 mbps High Speed Internet.....\$ 144.95

(Ord. 700 – Nov. 18 Supp.)

**113.11 MISCELLANEOUS FEES AND CHARGES.** Fees and charges for miscellaneous services not elsewhere listed are as follows:

1. Late fee (\$5.00 minimum)..... \$ 1.5%
2. Two-day posting fee..... \$ 25.00
3. Disconnection fee for nonpayment..... \$ 25.00
4. Connection/reconnection fee..... \$ 25.00
5. Service calls (for customer equipment)..... \$ 25.00
6. After hours service calls (\$25.00 minimum)..... time and materials
7. Returned checks ..... maximum lawful amount
8. Advance deposits:
  - Electric, Water, Sewer and Gas.....highest monthly bill past year, plus 10%
  - Cable ..... first month’s bill
  - Basic Phone..... first month’s bill
  - Phone Long Distance ..... \$50.00
9. Meter testing/reading..... \$ 100.00
10. Referee meter test..... \$ 100.00
11. Estimate meter reading..... \$ 5.00
12. Water tapping fee .....\$100.00 plus materials
13. Sewer tapping fee .....\$100.00 plus materials
14. Electric tapping fee:
  - Residential (less than 200 amp).....\$0.00
  - Residential upgrade (over 200 amp)..... time and materials
  - Commercial/Industrial..... time and materials
15. Gas tapping fee:
  - Residential.....\$0.00
  - Commercial/Industrial..... time and materials
16. New temporary service installation..... \$ 50.00
17. Relocation of facilities at customer request..... time and materials
18. Repair for non-concrete street..... time and materials
19. Material pricing on all calls..... cost plus 25%
20. Bulk water rate ..... \$25.00 per 100 gallons
21. Septic dumping at City sewer plant..... \$25.00 per 1,000 gallons

**113.12 WHOLESALE INTERNET ACCESS CHARGES.**

1. Monthly Service Charges.

	Per Month	Per Day
A. Bronze Level	\$23.50	\$0.79
B. Silver Level	\$28.50	\$0.95
C. Gold Level	\$33.50	\$1.12
D. Platinum Level	\$44.50	\$1.49
E. Hitec Fiber 3x3 Service	\$160.00	\$5.34
F. Hitec Fiber 4x4 Service	\$210.00	\$7.00
G. Hitec Fiber 8x8 Service	\$260.00	\$8.67
H. Hitec Fiber 10x10 Service	\$510.00	\$17.00

2. Installation Charges.

A. Cable Modem Install Charge .....	\$85.00
B. Fiber Installation Charge.....	\$510.00

*(Ord. 692 – Aug. 15 Supp.)*

**113.13 MONTHLY RETAIL INTERNET CHARGES.**

1. Monthly Service Charges	per Month
A. Up to 3mbps	\$29.95
B. Up to 10 mbps	\$44.95
C. Up to 30 mbps	\$54.95
D. Up to 50 mbps	\$64.95
E. Equipment Fee	\$3.00
F. Whole Home WiFi	\$2.95

2. Monthly Double Service Bundles

A. 10 Mb Internet & Phone. Up to 10 mbps High Speed Internet, Phone with Unlimited Long Distance & Features .....	\$49.95
B. 30 Mb Internet and Basic Cable. Up to 30 mbps High Speed Internet, Basic Cable .....	\$114.95

*(Ord. 700 – Nov. 18 Supp.)*

3. Monthly Triple Service Bundles

A. Bronze. Up to 10 mbps High Speed Internet, Phone, Basic Cable .....	\$114.95
B. Silver. Up to 30 mbps High Speed Internet, Phone with Unlimited Long Distance & Features, Basic Cable.....	\$134.95
C. Gold. Up to 50 mbps High Speed Internet, Phone with Unlimited Long Distance & Features, Basic Cable.....	\$144.95

*(Ord. 700 – Nov. 18 Supp.)*

*(Section 113.13 – Ord. 695 – Nov 18 Supp.)*

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## CHAPTER 115

# ELECTRIC SERVICE POLICIES

115.01 Service Characteristics

115.02 Engineering Practices

115.03 Special Condition of Service

115.04 Requirements of Electric Motors

115.05 Corrective Equipment

115.06 Arc Welding Installations

115.07 Distributed Generation

115.08 Large Power Contracts

**115.01 SERVICE CHARACTERISTICS.** The electric utilities shall make available throughout its service area electric service of a character determined by the Utility to meet the needs of the customer. The standard service available to meet this obligation is 120/240 nominal voltage, 60Hz alternating current, single phase, 200 amps or less, supplies via either overhead conductor or underground conductor as the Utility chooses. In supplying this service, the utilities shall construct, own and maintain all facilities up to, the premises. Where the Utility chooses to install underground conductor in supplying standard electric service, the Utility shall construct, own and maintain all facilities up to and including the meter socket and meter. In all standard service extensions, the utilities shall furnish, own and maintain the meter socket and meter. Other service connection, including three phase service and service at primary voltages, are available at the option of the Utility and may require a contribution in aid of construction or an advance for construction cost. Terms and conditions of customers' participation may be established by the City Council. The City Council may waive the costs if in the public interest. Such waivers, when entered in the minutes of the City Council, shall not be considered a discriminatory practice. Reference to the publications listed above shall be deemed to be the latest addition or revision as the accepted version of the Utility division as a standard of good practice. *(Ord. 710 – Nov. 19 Supp.)*

**115.02 ENGINEERING PRACTICES.** Facilities of the Utility shall be constructed, installed, maintained, and operated in accordance with acceptable good engineering practices in the electric industry to assure, as far as reasonably possible, continuity of service and safety of persons and property. However, the utility shall not be held liable in actions arising from interruption or filtration in service. The utility shall use and shall require compliance with applicable provisions of the publications listed below as standards of accepted good practice, unless otherwise ordered by the utility division.

1. *Iowa Electric Safety Code*, as defined in 199 IAC, Chapter 25 (476, 476A, 478).
2. *National Electric Code*, NFPA No. 70.
3. *American Standard Code of Electric Metering*, ANSI C12.
4. *National Electric Safety Code*, NESC
5. *Power Piping* - ANSI Standard B31.1 1998.
6. *U.S.A. Standard Requirements for Instrument Transformers*, ANSI C57.13.
7. *American National Standard Requirements For Electrical Analog Indicating Instruments*, ANSI C39.1.
8. *American National Standard Requirements For Direct-Acting Electrical Recording Instruments* (switchboard and portable types), ANSI C39.2.

9. *American National Standard Voltage Ratings For Electric Power Systems And Equipment* (60 Hz), ANSI C84.1.
10. *Grounding of Industrial and Commercial Power Systems*, ANSI C114.1.
11. *National Electric Safety Code* ANSI C2. (Ord. 710 – Nov. 19 Supp.)

Reference to the publications listed above shall be deemed to be the latest addition or revision as the accepted version of the utility division as a standard of good practice.

**115.03 SPECIAL CONDITION OF SERVICE.** Except for facilities defined in Section 112.03 of this Code of Ordinances as a responsibility of the utility, the customer shall be responsible for all wiring and electrical equipment on his or her premises. The installation and maintenance of the customer's facilities shall be consistent with the standards imposed by Chapter 112 of this Code of Ordinances, the special conditions of this section, and any other applicable statute and administrative law. Beginning March 1, 2009, the State of Iowa requires electrical permits and inspections for all new electrical installations including residential, commercial, and industrial. For more information contact State Electrical Inspection Office at 515-290-0629. No inspection or approval of the customer's compliance with this section by the Utility or other agents of the municipal government shall be construed to impose any duty or liability on the Utility but shall be considered solely for the purpose of insuring protection of the Utilities' property and continuity of service to the customers of the Utility.

**115.04 REQUIREMENTS OF ELECTRIC MOTORS.** All installation of power loads on Utility systems shall conform to the safety rules set forth in the *Iowa Electric Safety Code* and *National Electric Code*. It is the customer's responsibility to follow these rules.

1. Customers are required to provide suitable protective devices so that the motors and equipment will be protected from damage and from improper or dangerous operation in case of overload, loss of voltage, low voltage, single phasing of poly-phase motors, or re-establishment of nominal service after any of the above. The utility is not responsible for motor damage caused by any of the above conditions.
2. No motor in excess of 7½ horsepower shall be installed without application by the customer and the express approval of the utility. All motors 10 horsepower or larger must have capacitors installed. All motors 50 horsepower or larger must have low voltage or split-wound motor starters.

**115.05 CORRECTIVE EQUIPMENT.** Welders, hoists, corn dryers and other equipment that use electricity intermittently or which cause rapid load fluctuations shall be installed and used in such a manner as to not adversely affect voltage regulation or impair the Utility service to other customers. When such equipment creates diminution to the service of other customers or to the Utilities' use of its own equipment, the customer shall be required to install and maintain, at his or her own expense, suitable corrective equipment to eliminate the diminution effects.

**115.06 ARC WELDING INSTALLATIONS.** In 60-amp meter loops, the Utility shall approve for use on its lines only the welders meeting N.E.M.A. standards, with power factor correction, operating at 230 volts, and a nominal of 180 output current. On meter loops with capacity in excess of 60 amps, higher rated welders may be installed by obtaining special permission from the Utility.

**115.07 DISTRIBUTED GENERATION.** Customers may apply for an interconnection agreement to install wind and solar generation. The two levels of generation are <40KW and 40KW-10MW. All installation cost will be at the expense of the customer to include a new bi-directional meter provided by the City. All usage will be non-net metered. Any KWH supplied back into the City distribution system will be purchased by Missouri River Energy Services at a standard rate set yearly. Terms and conditions can be requested at the City office 1150 Central Avenue. *(Ord. 710 – Nov. 19 Supp.)*

**115.08 LARGE POWER CONTRACTS.** The Utility may supply large power service users, greater than 1500kWh, pursuant to provisions of a written contract.

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***Editor's Note:***

*For definitions of terms used in this chapter, see Chapter 110.*

*For Customer Service Policies, see Chapter 111.*

*For additional General Service Policies, see Chapter 112.*

*For Electric Service Rates, see Chapter 113.*

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## CHAPTER 116

# GAS SERVICE POLICIES

116.01 Service Characteristics  
116.02 Engineering Practices  
116.03 Special Condition of Service  
116.04 Gas Appliances

116.05 Gas Contract Service  
116.06 Interruptible Gas Service  
116.07 Gas Transportation Services

**116.01 SERVICE CHARACTERISTICS.** The Utility shall make available, throughout its service area, gas service of a character determined by the Utility to meet the needs of the customer and subject to limits of the Utility's gas supply. Standard gas service is gas having an approximate heating value of 1,000 British thermal units (BTU) per cubic foot at a pressure approximately 4 oz./sq. inch at customer's piping. In supplying this service, the Utility shall construct, own, and maintain all facilities up to and including the meter and meter outlet. Other service connections, including service at higher pressures, are available at the option of the Utility and shall require the customer to be responsible for the total cost of construction.

**116.02 ENGINEERING PRACTICES.** Facilities of the utility shall be constructed, installed, maintained and operated in accordance with accepted good engineering practice in the gas industry to assure, as far as reasonably possible, continuity of service and safety of persons and property. However, the Utility shall not be held liable in actions arising from interruptions or fluctuations in service. The utility shall use and shall require compliance with applicable provisions of the publications listed below as standards of accepted good practice, unless otherwise ordered by the Commission.

1. *Code Of Federal Regulations, Title 49, Part 191 – Transportation of Natural and Other Gas by Pipeline: Reports of Leaks, Part 192 – Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards, insofar as the same may be applicable, and as said regulations may be hereafter amended or modified by the Department of Transportation, United States of America.*
2. *NFPA 501 Standards On Manufactured Housing.*
3. *GNFPA 54 - National Fuel Gas Code Book.*
4. *NFPA 501A Standards for Fire Safety, Criteria for Manufactured Home installations, Sites and Communities.*

References to publications listed above shall be deemed to be the latest edition or revision accepted by the Utility Division as a standard of good practice. Additional guidelines of good practice are located in IAC section 19.5 (2) as other standards, which are not formally adopted herein as Hawarden standards.

**116.03 SPECIAL CONDITIONS OF SERVICE.** Except for facilities defined in Section 112.03 of this Code of Ordinances as a responsibility of the Utility, the customer shall be responsible for all gas piping and appliances on his or her premises. The installation and maintenance of customer facilities shall be consistent with standards imposed by Chapter 112 of this Code of Ordinances and other applicable statutory or administrative law. No inspection or approval of a customer's compliance with this section by the Utility or other agent of the municipal government shall be construed to impose any duty or liability on the Utility but

shall be considered solely for the purpose of ensuring protection of the utility's property and continuity of service to customers of the Utility.

**116.04 GAS APPLIANCES.** Each gas appliance shall bear a nameplate showing the manufacturer's name and the seal of approval of either American Gas Association or Underwriters Laboratories.

**116.05 GAS CONTRACT SERVICE.** Gas service for large volume users above 50mcf monthly may be supplied under terms and conditions of a written contract.

**116.06 INTERRUPTIBLE GAS SERVICE.** Interruptible gas service is not available.

**116.07 GAS TRANSPORTATION SERVICES.** (Repealed by Ordinance No. 710 – Nov. 19 Supp.)

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***Editor's Note:***

*For definitions of terms used in this chapter, see Chapter 110.*

*For Customer Service Policies, see Chapter 111.*

*For additional General Service Policies, see Chapter 112.*

*For Gas Service Rates, see Chapter 113.*

## CHAPTER 117

# TELEPHONE, CABLE TV AND INTERNET SERVICE POLICIES

117.01 Telecommunications, Internet and Cable  
Television Service Characteristics

117.02 Telecommunications and Cable Television Service  
Availability

117.03 Types of Service

117.04 Engineering Practices

117.05 Ownership of Inside Wiring and Plant Installed in  
Customer's Facilities

117.06 Right to Own Equipment

117.07 Prohibition Against Rebroadcast or  
Retransmitted Signals

117.08 Digital Cable Television Services

**117.01 TELECOMMUNICATIONS, INTERNET AND CABLE TELEVISION SERVICE CHARACTERISTICS.** The Communications Utility includes a 750-Megahertz broadband communications system that uses a hybrid fiber optic and coaxial cable distribution plant to provide fully interactive communications services. *(Ord. 710 – Nov. 19 Supp.)*

**117.02 TELECOMMUNICATIONS AND CABLE TELEVISION SERVICE AVAILABILITY.** These services will be made available to all prospective customers within the exchange boundaries and corporate limits of Hawarden, subject to the provisions governing line extension costs as noted in Chapter 112 of this Code of Ordinances. Within the corporate limits of the City of Hawarden, the Utility will construct, own and maintain all facilities up to the delivery point at the subscriber's property, which is the RSU. Telecommunications services provided to customers located outside of the Hawarden City limits, but within the Hawarden Telephone Exchange boundaries, will be done so through a resale agreement with a local provider. In areas in which service is provided through the resale agreement, all questions regarding service outages, service prices, account status, payment history, and all other service-related issues will be directed to the HITEC. Special Telecommunications Services will only be available at locations that meet operational criteria deemed appropriate by the HITEC. *(Ord. 710 – Nov. 19 Supp.)*

### **117.03 TYPES OF SERVICES.**

1. Telecommunications Services. Telecommunications Services include basic and long distance telephone services for residential and business customers, as well as calling features and other miscellaneous services. Calling features include, but are not limited to, call forwarding, call forwarding – no answer, call forwarding – busy, call waiting, cancel call waiting, selective call rejection, speed calling, caller ID, call name and number block, 3-way calling, serial hunt, and voice mail. Miscellaneous services include, but are not limited to, non-published listing, additional directory listing, and telephone number change.

2. Cable Television Services. Cable television services include basic and local analog service, digital base service, premium analog and digital channels, digital pay per-view, commercial, and bulk analog and digital services.

3. Internet/High Speed Internet Services. HITEC provides internet/high speed internet services for residential and business customers. There are individual internet speeds and bundled service options to choose from. *(Ord. 710 – Nov. 19 Supp.)*

4. Special Telecommunications Services. Special Telecommunications Services include, but are not limited to, T1 point-to-point, Ethernet private point-to-point, private point-to-multi-point, public point-to-multi-point, point-to-point via fiber, and other serial interfaces for dedicated voice, video and data services. Prices for special telecommunications services are established by the Council, and the latest edition of approved price schedules are considered part of this document.

**117.04 ENGINEERING PRACTICES.** Facilities of HITEC shall be constructed, installed, maintained and operated in accordance with accepted good engineering practices in the telecommunications industry to assure, as far as reasonably possible, continuity of service, uniformity in the quality of service furnished, and the safety of persons and property. However, HITEC shall not be held liable in actions arising from interruptions or fluctuations in service. Also, HITEC shall not be held liable for damage to any customer or third party equipment resulting from use of its service or from the presence of HITEC equipment on customer's premises.

**117.05 OWNERSHIP OF INSIDE WIRING AND PLANT INSTALLED IN CUSTOMER'S FACILITIES.** All inside wiring is the property of the customer or property owner, regardless of who may have installed it. Customer or property owner will be responsible for the repair and maintenance of the inside wiring. All equipment including fiber optic cable, termination cabinets and all other equipment installed by the Utility in providing special telecommunication services shall remain the property of the Utility.

**117.06 RIGHT TO OWN EQUIPMENT.** Per Iowa law, customers have the right to provide and own terminal equipment and new inside station wiring; however, the service rate is the same whether or not terminal equipment is provided by the customer.

**117.07 PROHIBITION AGAINST REBROADCAST OR RETRANSMITTED SIGNALS.** Cable television services (including all pay-per-view services) shall not be rebroadcast or retransmitted, nor shall admission be charged for viewing without written consent, in advance, from the Utility and the programming supplier. This consent may be withheld at the sole discretion of either the Utility or the programming supplier.

**117.08 DIGITAL CABLE TELEVISION SERVICES.**

1. Digital cable television services include a base package as well as premium and Pay-Per-View services. All the basic cable television customers will be required to first subscribe to a cable television package before receiving digital service.
2. Premium digital cable television services will be available to all digital service customers on an a la carte basis.
3. Pay-Per-View services will be available to all digital cable television customers. These services may only be ordered through the use of the remote control. Customers may order individual movies. By ordering a movie, customer acknowledges and agrees to pay the applicable charge which is in addition to the basic monthly charge for digital and basic cable television services.
4. Digital cable television customers will be subject to a \$100 credit limit on Pay-Per-View orders. When this limit is reached, Pay-Per-View access will be discontinued, and the customer will be notified of the amount of orders on his/her account. Customer will be required to pay the full amount of all Pay-Per-View orders

(including all taxes and applicable fees) on the account before his/her Pay-Per-View access will be restored.

5. All digital cable television customers must rent one digital set top box for each television on which he/she wishes to receive digital services.

6. All digital cable television customers must enter into an agreement with the Utility obligating the customer to maintain a subscription to at least one digital base package and rental of at least one digital set top box for an initial period of six months. The agreement will also obligate the customer to pay specified replacement costs for his/her set top box(es) and remote control(s) should irreparable damage be caused to the equipment while in the customer's possession.

*(Section 117.08 – Ord. 710 – Nov. 19 Supp.)*

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***Editor's Note:***

*For definitions of terms used in this chapter, see Chapter 110.*

*For Customer Service Policies, see Chapter 111.*

*For additional General Service Policies, see Chapter 112.*

*For Service Rates, see Chapter 113.*

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## CHAPTER 118

# CEMETERY

118.01 Definition

118.02 Trusteeship

118.03 Records

118.04 Sale of Interment Rights

118.05 Rules and Regulations

118.06 Perpetual Care

118.07 Interments Subject to Law; Interment in Places  
Other Than Cemeteries

**118.01 DEFINITION.** The term “cemetery” means the Grace Hill Cemetery, to include the St. Mary’s Catholic Cemetery (accepted in 1984), which is a municipal cemetery under the provisions of Chapter 523I of the *Code of Iowa* and which shall be operated under the provisions of Chapter 523I of the *Code of Iowa* and this chapter.

*(Code of Iowa, Sec. 523I.501)*

**118.02 TRUSTEESHIP.** Pursuant to Section 523I.502 of the *Code of Iowa*, the City Council hereby states its willingness and intention to act as the trustee for the perpetual maintenance of the cemetery property.

*(Code of Iowa, Sec. 523I.502)*

**118.03 RECORDS.** It is the duty of the Clerk to make and keep complete records identifying the owners of all interment rights sold by the cemetery and historical information regarding any transfers of ownership. The records shall include all of the following:

*(Code of Iowa, Sec. 523I.311)*

1. Sales or Transfers of Interment Rights.
  - A. The name and last known address of each owner or previous owner of interment rights.
  - B. The date of each purchase or transfer of interment rights.
  - C. A unique numeric or alphanumeric identifier that identifies the location of each interment space sold by the cemetery.
2. Interments.
  - A. The date the remains are interred.
  - B. The name, date of birth and date of death of the decedent interred, if those facts can be conveniently obtained.
  - C. A unique numeric or alphanumeric identifier that identifies the location of each interment space where the remains are interred.

**118.04 SALE OF INTERMENT RIGHTS.** The sale or transfer of interment rights in the cemetery shall be evidenced by a certificate of interment rights or other instrument evidencing the conveyance of exclusive rights of interment upon payment in full of the purchase price. The agreement for interment rights shall disclose all information required by Chapter 523I of the *Code of Iowa*. The payment of all fees and charges shall be made at the office of the Clerk where receipts will be issued for all amounts paid. Said fees and charges shall be based upon the charges as established by the Council.

*(Code of Iowa, Sec. 523I.310)*

**118.05 RULES AND REGULATIONS.** Rules and regulations for the cemetery may be adopted, and may be amended from time to time, by resolution of the Council and may cover such things as the use, care, control, management, restrictions and protection of the cemetery as necessary for the proper conduct of the business of the cemetery. The rules shall specify the cemetery's obligations in the event that interment spaces, memorials, or memorializations are damaged or defaced by acts of vandalism. Any veteran, as defined in Section 35.1 of the *Code of Iowa*, who is a landowner or who lives within the City shall be allowed to purchase an interment space and to be interred within the cemetery. In addition, any veteran who purchases an interment space within the cemetery shall be allowed to purchase an interment space for interment of the spouse of the veteran if such a space is available, and the surviving spouse of a veteran interred within the cemetery shall be allowed to purchase an interment space and be interred within the cemetery if such a space is available. *(Ord. 677 – Aug. 13 Supp.)*  
*(Code of Iowa, Sec. 523I.304)*

**118.06 PERPETUAL CARE.** The Council, by resolution, shall accept, receive and expend all moneys and property donated or left to them by bequest for perpetual care, and that portion of interment space sales or permanent charges made against interment spaces which has been set aside in a perpetual care fund. The assets of the perpetual care fund shall be invested in accordance with State law. The Council, by resolution, shall provide for the payment of interest annually to the appropriate fund, or to the cemetery, or to the person in charge of the cemetery to be used in caring for or maintaining the individual property of the donor in the cemetery, or interment spaces which have been sold with provisions for perpetual care, all in accordance with the terms of the donation or bequest, or the terms of the sale or purchase of an interment space and Chapter 523I of the *Code of Iowa*.  
*(Code of Iowa, Sec. 523I.503, 523I.507 & 523I.508)*

**118.07 INTERMENTS SUBJECT TO LAW; INTERMENT IN PLACES OTHER THAN CEMETERIES.** All interments, disinterments, and removals shall be made subject to the orders and laws of the properly constituted authorities of the City, County and State and to the provisions of this chapter and all cemetery rules and regulations. No interment shall be made anywhere other than in cemeteries established in accordance with City ordinances or State laws.

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## CHAPTER 119

# TELEPHONE TARIFFS

119.01 Local Telephone Tariff  
119.02 Intrastate Telephone Tariff  
119.03 Interstate Telephone Tariff

119.04 Domestic Telephone Tariff  
119.05 International Telephone Tariff

**119.01 LOCAL TELEPHONE TARIFF.** The local telephone tariff now on file with the Iowa Utilities Board is adopted by the City and provides rules, procedures and rates under and within which the City intends to operate.

**119.02 INTRASTATE TELEPHONE TARIFF.** The Intrastate Telephone Tariff now on file with the Iowa Utilities Board is adopted by the City and provides rules, procedures and rates under and within which the City intends to operate.

**119.03 INTERSTATE TELEPHONE TARIFF.** The Interstate Telephone Tariff now on file with the Federal Communications Commission is adopted by the City and provides rules, procedures and rates under and within which the City intends to operate.

**119.04 DOMESTIC TELEPHONE TARIFF.** The Domestic Telephone Tariff now on file with the Federal Communications Commission is adopted by the City and provides rules, procedures and rates under and within which the City intends to operate.

**119.05 INTERNATIONAL TELEPHONE TARIFF.** The International Telephone Tariff now on file with the Federal Communications Commission is adopted by the City and provides rules, procedures and rates under and within which the City intends to operate.

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## CHAPTER 120

# LIQUOR LICENSES AND WINE AND BEER PERMITS

120.01 License or Permit Required  
120.02 General Prohibition  
120.03 Investigation

120.04 Action by Council  
120.05 Prohibited Sales and Acts  
120.06 Amusement Devices

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

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

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

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

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

*(Code of Iowa, Sec. 123.30)*

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

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

**120.05 PROHIBITED SALES AND ACTS.** A person or club holding a liquor license or retail wine or beer permit and the person's or club's agents or employees shall not do any of the following:

1. Sell, dispense, or give to any intoxicated person, or one simulating intoxication, any alcoholic beverage. *(Ord. 703 – Nov. 18 Supp.)*

*(Code of Iowa, Sec. 123.49[1])*

2. Sell or dispense any alcoholic beverage, wine or beer on the premises covered by the license or permit, or permit its consumption thereon between the hours of 2:00 a.m. and 6:00 a.m. on a weekday, and between the hours of 2:00 a.m. on Sunday and 6:00 a.m. on the following Monday; however, a holder of a license or permit granted the privilege of selling alcoholic liquor, beer or wine on Sunday may sell or dispense

alcoholic liquor, beer or wine between the hours of 8:00 a.m. on Sunday and 2:00 a.m. of the following Monday, and further provided that a holder of any class of liquor control license or the holder of a class "B" beer permit may sell or dispense alcoholic liquor, wine or beer for consumption on the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on Monday when that Monday is New Year's Day and beer for consumption off the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on the following Monday when that Sunday is the day before New Year's Day.

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

3. Sell alcoholic beverages to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, to sales by a hotel or motel to bona fide registered guests, or to retail sales by the managing entity of a convention center, civic center, or events center. *(Ord. 703 – Nov. 18 Supp.)*

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

4. Employ a person under 18 years of age in the sale or serving of alcoholic beverages for consumption on the premises where sold. *(Ord. 703 – Nov. 18 Supp.)*

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

5. In the case of a retail wine or beer permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to wine, beer, or any other beverage in or about the permittee's place of business. *(Ord. 703 – Nov. 18 Supp.)*

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

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

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

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

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

8. Keep on premises covered by a liquor control license any alcoholic liquor in any container except the original package purchased from the Alcoholic Beverages Division of the State Department of Commerce and except mixed drinks or cocktails mixed on the premises for immediate consumption. However, mixed drinks or cocktails that are mixed on the premises and are not for immediate consumption may be consumed on the licensed premises, subject to rules adopted by the Alcoholic Beverages Division. *(Ord. 678 – Aug. 13 Supp.)*

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

9. Reuse for packaging alcoholic liquor or wine any container or receptacle used originally for packaging alcoholic liquor or wine; or adulterate, by the addition of any substance, the contents or remaining contents of an original package of an alcoholic liquor or wine; or knowingly possess any original package which has been reused or adulterated.

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

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

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

11. Permit or allow any person under twenty-one (21) years of age to remain upon licensed premises unless over fifty percent (50%) of the dollar volume of the business establishment comes from the sale and serving of prepared foods. This provision does not apply to holders of a class "C" beer permit only.

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

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

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

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

1. As used in this section, "registered electrical or mechanical amusement device" means an electrical or mechanical device required to be registered with the Iowa Department of Inspection and Appeals, as provided in Section 99B.53 of the *Code of Iowa*.

2. It is unlawful for any person under the age of twenty-one (21) to participate in the operation of a registered electrical or mechanical amusement device.

3. It is unlawful for any person owning or leasing a registered electrical or mechanical amusement device, or an employee of a person owning or leasing a registered electrical or mechanical amusement device, to knowingly allow a person under the age of 21 to participate in the operation of a registered electrical or mechanical amusement device.

4. It is unlawful for any person to knowingly participate in the operation of a registered electrical or mechanical amusement device with a person under the age of 21.

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## CHAPTER 121

# CIGARETTE AND TOBACCO PERMITS

121.01 Definitions  
121.02 Permit Required  
121.03 Application  
121.04 Fees  
121.05 Issuance and Expiration

121.06 Refunds  
121.07 Persons Under Legal Age  
121.08 Self-Service Sales Prohibited  
121.09 Permit Revocation

**121.01 DEFINITIONS.** For use in this chapter the following terms are defined:  
(*Code of Iowa, Sec. 453A.1*)

1. “Alternative nicotine product” means a product, not consisting of or containing tobacco, that provides for the ingestion into the body of nicotine, whether by chewing, absorbing, dissolving, inhaling, snorting, or sniffing, or by any other means. “Alternative nicotine product” does not include cigarettes, tobacco products, or vapor products, or a product that is regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.
2. “Cigarette” means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, this definition is not to be construed to include cigars.
3. “Place of business” means any place where cigarettes, tobacco products, alternative nicotine products, or vapor products are sold, stored, or kept for the purpose of sale or consumption by a retailer. (*Ord. 699 – Nov. 18 Supp.*)
4. “Retailer” means every person who sells, distributes or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, alternative nicotine products, or vapor products, irrespective of the quantity or amount or the number of sales, or who engages in the business of selling tobacco, tobacco products, alternative nicotine products, or vapor products to ultimate consumers.
5. “Self-service display” means any manner of product display, placement, or storage from which a person purchasing the product may take possession of the product, prior to purchase, without assistance from the retailer or employee of the retailer, in removing the product from a restricted access location.
6. “Tobacco products” means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking, but does not mean cigarettes.
7. “Vapor product” means any noncombustible product, which may or may not contain nicotine, that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can

be used to produce vapor from a solution or other substance. “Vapor product” includes an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device, and any cartridge or other container of a solution or other substance, which may or may not contain nicotine, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. “Vapor product” does not include a product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.

*(Ord. 687 – Aug. 15 Supp.)*

**121.02 PERMIT REQUIRED.**

1. Retail Cigarette Permits. It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes, alternative nicotine products, or vapor products at retail and no retailer shall distribute, sell, or solicit the sale of any cigarettes, alternative nicotine products, or vapor products within the City without a valid permit for each place of business. The permit shall, at all times, be publicly displayed at the place of business so as to be easily seen by the public and the persons authorized to inspect the place of business.

*(Code of Iowa, Sec. 453A.13)*

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

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

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

*(Ord. 687 – Aug. 15 Supp.)*

**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)*

<b>FOR PERMITS GRANTED DURING:</b>	<b>FEE:</b>
July, August or September	\$ 75.00
October, November or December	\$ 56.25
January, February or March	\$ 37.50
April, May or June	\$ 18.75

**121.05 ISSUANCE AND EXPIRATION.** Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of

business for which it is issued and shall be non-assignable. All permits expire on June 30 of each year. The Clerk shall submit a duplicate of any application for a permit to the Alcoholic Beverages Division of the Department of Commerce within 30 days of issuance of a permit.

*(Ord. 705 – Nov. 18 Supp.)*

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

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

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

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

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

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

*(Ord. 687 – Aug. 15 Supp.)*

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

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

*(Ord. 687 – Aug. 15 Supp.)*

**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	122.20 Location

**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 City Clerk for a license under this chapter. Such application shall set forth the applicant’s name, permanent and local address and business address if any. The application shall also set forth the applicant’s employer, if any, and the employer’s address, the nature of the applicant’s business, the last three places of such business and the length of time sought to be covered by the license.

**122.05 LICENSE FEES.** License fees as established by Council resolution shall be paid to the Clerk prior to the issuance of any license.

**122.06 BOND REQUIRED.** Before a license under this chapter is issued to a transient merchant, an applicant shall provide to the Clerk evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the *Code of Iowa*.

**122.07 LICENSE ISSUED.** If the Clerk finds the application is completed in conformance with the requirements of this chapter, the facts stated therein are found to be correct and the license fee paid, a license shall be issued immediately.

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

**122.09 LICENSE NOT TRANSFERABLE.** Licenses issued under the provisions of this chapter are not transferable in any situation and are to be applicable only to the person filing the application.

**122.10 TIME RESTRICTION.** All peddler's and solicitor's licenses shall provide that said licenses are in force and effect only between the hours of 8:00 a.m. and 7:00 p.m.

**122.11 REVOCATION OF LICENSE.** 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 five (5) calendar 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 (to include the weekly farmers market within the City Park).
4. Students. Students representing the West Sioux 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 504 of the *Code of Iowa* desiring to solicit money or to distribute literature are exempt from the operation of Sections 122.04 and 122.05. All such organizations are required to submit in writing to the Clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees or wages are to be charged by the solicitor and the amount thereof. If the Clerk finds that the organization is a bona fide charity or nonprofit organization, the Clerk shall issue, free of charge, a license containing the above information to the applicant. In the event the Clerk denies the exemption, the authorized representatives of the organization may appeal the decision to the Council, as provided in Section 122.15 of this chapter.

**122.20 LOCATION.** Peddlers, solicitors and transient merchants shall be prohibited from setting up at a location in any park, public property or public right-of-way except for the farmers market, and except for festivals as approved by the Council.

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## CHAPTER 123

# ADULT ORIENTED BUSINESSES

123.01 Purpose and Findings	123.13 Regulations Pertaining to Exhibition of Sexually Explicit Films or Videos
123.02 Definitions	123.14 Regulations Pertaining to Adult Cabarets
123.03 Classification	123.15 Loitering, Exterior Lighting, Visibility and Monitoring Requirements
123.04 License Required	123.16 Penalties and Enforcement
123.05 Issuance of License	123.17 Applicability to Existing Businesses
123.06 Fees	123.18 Prohibited Activities
123.07 Inspection	123.19 Scienter Required to Prove Violation or Liability
123.08 Expiration of License	123.20 Failure of City to Meet Deadline
123.09 Suspension	123.21 Restrictions on Location
123.10 Revocation	
123.11 Hearing; Denial, Revocation and Suspension; Appeal	
123.12 Transfer of License	

### 123.01 PURPOSE AND FINDINGS.

1. Rationale. It is the purpose of this chapter to regulate adult oriented businesses in order to promote the health, safety, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of adult 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 or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor 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 chapter to condone or legitimize the distribution of obscene material.

2. Findings. Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the City Council, and on findings, interpretations, and narrowing constructions incorporated in the following cases: *City of Littleton v. Z.J. Gifts D-4, L.L.C.*, 2004 U.S. LEXIS 4026 (June 7, 2004); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *Pap's A.M. v. City of Erie*, 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 426 U.S. 50 (1976); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215 (1990); *Sewell v. Georgia*, 233 S.E.2d 187 (Ga. 1977), dismissed for want of a substantial federal question, 435 U.S. 982 (1978); *Farkas v. Miller*, 151 F.3d 900 (8th Cir. 1998); *Jakes Ltd. v. City of Coates*, 284 F.3d 884 (2002); *BZAPS, Inc. v. City of Mankato*, 268 F.3d 603 (8th Cir. 2001); *SOB, Inc. v. County of Benton*, 317 F.3d 856 (8th Cir. 2003); *Green v. City of St. Paul*, 1999 U.S. App. LEXIS 12057 (8th Cir. 1999) (unreported); *Scope Pictures v. City of Kansas City*, 140 F.3d 1201 (8th Cir. 1998); *Excalibur Group v. City of Minneapolis*, 116 F.3d 1216 (8th Cir. 1997); *ILQ Invs. v. City of Rochester*, 25 F.3d 1413 (8th Cir. 1994); *Ambassador Books & Video v. City of Little Rock*, 20 F.3d 858 (8th Cir. 1994); *Alexander v. Minneapolis*, 928 F.2d 278 (8th Cir. 1991); *John Doe v. Minneapolis*, 898 F.2d 612 (8th Cir. 1990); *Thames Enters. v. St. Louis*, 851 F.2d 199 (8th Cir. 1988); *MRM, Inc. v. City of Davenport*, 290 N.W.2d 338 (Iowa 1980); *North Avenue Novelties, Inc. v. City of Chicago*, 88 F.3d 441 (1996); *World Wide Video of Washington, Inc. v. City of Spokane*, 2004 U.S. App. LEXIS 10443 (9th Cir., May 27, 2004) (including exhibits

cited therein), aff'g 227 F.Supp.2d 1143 (E.D. Wash. 2002); Bigg Wolf Discount Video v. Montgomery County, 256 F. Supp. 2d 385 (D. Md. 2003); Z.J. Gifts D-2, L.L.C. v. City of Aurora, 136 F.3d 683 (10th Cir. 1998); Z.J. Gifts D-4 L.L.C. v. City of Littleton, 93 P.3d 633 (Colo. App. 2004); County of Cook v. Renaissance Arcade and Bookstore, 122 Ill. 2d 123 (1988) (including cases cited therein); and other cases; and on reports concerning secondary effects in and around adult uses, including, but not limited to, Summaries of Key Reports Concerning the Negative Secondary Effects of Adult Oriented Businesses; Garden Grove, California - 1991; Los Angeles, California - 1977; Whittier, California - 1978; Austin, Texas - 1986; Phoenix, Arizona -1979, 1995-1998; Minneapolis, Minnesota - 1980; Houston, Texas - 1997; Tucson, Arizona – 1990; Indianapolis, Indiana – 1984; St. Cloud, Minnesota - 1994; Amarillo, Texas; Centralia, Washington - 2003; Seattle, Washington - 1989; Oklahoma City, Oklahoma - 1986; and Dallas, Texas - 1997; New York Times Square study - 1994; and also on findings from the Report of the Attorney General's Working Group On The Regulation Of Adult uses, (June 6, 1989, State of Minnesota), the Council finds:

- A. Adult oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on property values, urban blight, litter, and sexual assault and exploitation.
- B. Sexual acts, including masturbation, oral and anal sex, sometimes occur inside the premises of or in the parking lot of unregulated adult oriented businesses, including but not limited to those which provide private or semi-private booths, rooms, or cubicles for viewing films, videos, or live sexually explicit shows, which acts pose a risk to public health through the spread of sexually transmitted diseases.
- C. Each of the foregoing negative secondary effects constitutes a harm which the City has a substantial government interest in preventing and/or abating, and said substantial interest exists independent of any comparative analysis between adult oriented and non-sexually oriented businesses.

**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 regularly show images distinguished or characterized by their emphasis upon matter exhibiting or describing specified sexual activities or specified anatomical areas, and where the booth(s) or room(s) in which such images are shown contain less than twenty (20) individual seats for patrons.
2. “Adult bookstore or adult video store” means a commercial establishment that:
  - A. Has a substantial portion of its displayed merchandise which consists of, or
  - B. Has a substantial portion of the wholesale value of its displayed merchandise which consists of, or

- C. Has a substantial portion of the retail value of its displayed merchandise which consists of, or
- D. Derives a substantial portion of its revenues from the sale or rental, for any form of consideration of, or
- E. Maintains a substantial section of its sales or display space for the sale or rental, for any form of consideration, of any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas.

The term adult bookstore or adult video store shall also include a commercial establishment which regularly maintains one or more adult arcades.

3. “Adult cabaret” means a nightclub, bar, juice bar, restaurant bottle club, or similar commercial establishment, regardless of whether alcoholic beverages are served, which regularly features persons who appear nude or semi-nude.

4. “Adult model studio” means any place where a person, who regularly appears in a state of nudity or state of semi-nudity is provided for money or any form of consideration to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons. It is a defense to prosecution for any violation of this chapter that a person appearing in a state of nudity or state of semi-nudity did so in a modeling class operated:

- A. By a college, junior college, or university supported entirely or partly by taxation;
- B. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
- C. In a structure which has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; and where, in order to participate in a class, a student must enroll at least three days in advance of the class.:

5. “Adult motel” means a motel, hotel, or similar commercial establishment which offers public accommodations, for any form of consideration, and which regularly provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are distinguished or characterized by their emphasis upon the exhibition of specified sexual activities or specified anatomical areas and which regularly advertises the availability of such material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising, including but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television. Public accommodations shall include a full sized bed or larger, separate private bathroom facilities, and amenities for storing and hanging clothes.

6. “Adult motion picture theater” means a commercial establishment where films, motion pictures, videocassettes, slides, or similar photographic reproductions or visual images which are distinguished or characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas

are regularly shown for any form of consideration, and where the booth(s) or room(s) in which such images are shown contain more than twenty (20) individual seats for patrons.

7. “Adult oriented business” means an adult bookstore or adult video store, an adult cabaret, an adult motel, an adult motion picture theater, a sexual device shop, a semi-nude model studio, or a sexual encounter center.

8. “Adult theater” means a theater, concert hall, auditorium, or similar commercial establishment which, for any form of consideration, regularly features persons who appear in a state of semi-nudity or live performances which are distinguished or characterized by their emphasis upon the exposure of specified anatomical areas or specified sexual activities.

9. “Distinguished or characterized by their emphasis upon” means the dominant or principal theme of the object described by such phrase. For instance, when the phrase refers to films which are distinguished or characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas, the films so described are those whose dominant or principal character and theme are the exhibition or description of specified anatomical areas or specified sexual activities.

10. “Employ, employee, and employment” describe and pertain to any person who performs any service on the premises of an adult oriented business, on a full time, part time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

11. “Established” means and includes any of the following:

A. The opening or commencement of any adult oriented business as a new business; or

B. The conversion of an existing business, whether or not an adult oriented business, to another adult oriented business.

12. “Features” means to offer the goods or services so modified by that term to the public as one of the intended profit-making objectives of the commercial enterprise, which enterprise holds itself forth to the public, through marketing, advertising, signage, promotions, or merchandise display, as a place where said goods or services may be obtained.

13. “Influential interest” means any of the following:

A. The actual power, directly or indirectly, to control the operation, management or policies of a business or entity,

B. Ownership of a financial interest of thirty percent (30%) or more of a business or of any class of voting securities of a business; or

C. Holding an office (e.g., president, vice president, secretary, treasurer, etc.) or directorship in a legal entity which operates the adult oriented business.

14. “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 six children under fourteen years of age, where

such children are not related by blood, marriage or adoption to the owner or operator of the facility, for a period of less than twenty-four hours per day, regardless of whether or not the facility is operated for a profit or charges for the services it provides.

15. "Licensee" means a person in whose name a license to operate an adult oriented business has been issued, as well as the individual or individuals listed as an applicant on the application for an adult oriented business license.

16. "Nudity" means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.

17. "Operate" means to cause to function or to put or keep in a state of doing business. A person may be found to be operating or causing to be operated an adult oriented business regardless of whether that person is an owner or part owner of the business.

18. "Operator" or "manager" means a person who exercises supervisory control over the employees, activities, premises, or a portion of the premises of the sexually oriented business.

19. "Regularly" means and refers to the consistent and repeated doing of the act so described.

20. "Semi-nude or state of semi-nudity" means the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breasts exhibited by a dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.

21. "Sexual device" means any three (3) dimensional object designed and marketed for stimulation of the male or female human genital organ or anus or for sadomasochistic use or abuse of oneself or others and shall include devices such as dildos, vibrators, penis pumps, and physical representations of the human genital organs, and shall also include certain devices with non-sex related utility, such as leather whips, straps, and ligatures when said devices are marketed in a context promoting sexual or sadomasochistic uses. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

22. "Sexual device shop" means a commercial establishment that regularly features sexual devices. Nothing in this definition shall be construed to include any pharmacy, drug store, medical clinic, or any establishment primarily dedicated to providing medical or healthcare products or services, nor shall this definition be construed to include commercial establishments which do not restrict access to any portion of their premises by reason of age.

23. "Sexual encounter center" means a business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration, physical contact in the form of wrestling or tumbling between two or more persons, where one or more of the persons is in a state of nudity or state of semi-nudity.

24. “Specified anatomical areas” means human genitals, anus, cleft of the buttocks, or the female breast.

25. “Specified criminal activity” means any of the following specified crimes for which less than five years elapsed since the date of conviction, guilty plea, plea of *nolo contendere*, or the date of release from confinement for the conviction, guilty plea, or plea of *nolo contendere*, whichever is the later date:

- A. Vice offenses (Iowa Code Ch. 725);
- B. Obscenity offenses (Iowa Code Ch. 728);
- C. Sexual abuse offenses (Iowa Code Ch. 709);
- D. Money laundering (Iowa Code § 706B.2); or
- E. Controlled substances offenses (Iowa Code Ch. 124, Div. IV);

or any offense committed in another jurisdiction that, had the predicate acts been committed in Iowa, would constitute any of the foregoing specified Iowa offenses.

26. “Specified sexual activities” means any of the following:

- A. Sex acts, normal or perverted, including intercourse, oral copulation, masturbation or sodomy; or
- B. Excretory functions as a part of or in connection with any of the activities described in paragraph A above.

27. “Substantial” means more than twenty-five percent (25%) of the item so modified.

28. “Viewing room” means the room, booth, or area where a patron of an adult oriented business would ordinarily be positioned while watching a film, videocassette, or other video reproduction.

**123.03 CLASSIFICATION.** The classifications for adult oriented businesses shall be as follows:

- 1. Adult bookstores or adult video stores;
- 2. Adult cabarets;
- 3. Adult motels;
- 4. Adult motion picture theaters;
- 5. Semi-nude model studios;
- 6. Sexual device shops;
- 7. Sexual encounter centers.

**123.04 LICENSE REQUIRED.**

1. It is unlawful for any person to operate an adult oriented business in the City without a valid adult oriented business license.

2. An applicant for an adult oriented business license shall file, in person, at the City Administrator’s office a completed application made on a form provided by the City Administrator. The application shall be signed as required herein and shall be notarized. An application shall be considered complete when it contains, for each

person required to sign the application, the information and/or items required in paragraphs A through G below, accompanied by the appropriate fee:

- A. The applicant's full true name and any other names used by the applicant in the preceding five (5) years.
- B. Current business address or another mailing address of the applicant.
- C. Written proof of age, in the form of a driver's license or a copy of a birth certificate accompanied by a picture identification document issued by a governmental agency.
- D. The business name, location, legal description, mailing address and phone number of the adult oriented business.
- E. The name and business address of the statutory agent or other agent authorized to receive service of process.
- F. A statement of whether an applicant has been convicted of or has pled guilty or nolo contendere to a specified criminal activity as defined in this chapter, and if so, each specified criminal activity involved, including the date, place, and jurisdiction of each as well as the dates of conviction and release from confinement, where applicable.
- G. A statement of whether any adult oriented business in which an applicant has had an influential interest has, in the previous five (5) years (and at a time during which the applicant had the influential interest):
  - (1) Been declared by a court of law to be a nuisance; or
  - (2) Been subject to a court order of closure or padlocking.

The information provided pursuant to paragraphs A through G of this subsection shall be supplemented in writing by certified mail, return receipt requested, to the City Administrator's office within ten (10) working days of a change of circumstances which would render the information originally submitted false or incomplete.

3. An application for an adult oriented business license shall be accompanied by a legal description of the property where the business is located and a sketch or 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 shall 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 (6) inches. Applicants who are required to comply with Section 123.13 and Section 123.14 of this chapter shall submit a diagram indicating that the interior configuration meets the requirements of those sections.

4. If a person who wishes to operate an adult oriented business is an individual, the person shall sign the application for a license as applicant. If a person who wishes to operate an adult oriented business is other than an individual, each person with an influential interest in the business shall sign the application for a license as applicant. Each applicant must be qualified under Section 123.05 and each applicant shall be considered a licensee if a license is granted. If the applicant is an Iowa corporation or limited liability company it shall provide a certified copy of its articles and all amendments thereto on file with the Iowa Secretary of State. If a foreign corporation or limited liability company it shall provide a certified copy of its certificate of authority to transact business in this state.

5. The information provided by an applicant in connection with an application for a license under this chapter shall be maintained by the City Administrator's office.

#### **123.05 ISSUANCE OF LICENSE.**

1. Upon the filing of a completed application under Section 123.04 (2) for an adult oriented business license, the City Administrator's office shall immediately issue a temporary license to the applicant, which temporary license shall expire upon the final decision of the City to deny or grant an annual license. Within twenty (20) days of the filing date of a completed adult oriented business license application, the City Administrator shall issue a license to the applicant or issue to the applicant a letter of intent to deny the application. The City Administrator shall issue a license unless:

- A. An applicant is less than eighteen (18) years of age.
- B. An applicant has failed to provide information as required by Section 123.04 for issuance of a license or has falsely answered a question or request for information on the application form.
- C. The license application fee required by this chapter has not been paid.
- D. The adult oriented business is not in compliance with the interior configuration requirements of this chapter or is not in compliance with the City zoning regulations.
- E. Any adult oriented business in which the applicant has had an influential interest has, in the previous five (5) years (and at a time during which the applicant had the influential interest):
  - (1) Been declared by a court of law to be a nuisance; or
  - (2) Been subject to an order of closure or padlocking.
- F. An applicant has been convicted of or pled guilty or nolo contendere to a specified criminal activity, as defined in this chapter.
- G. Less than twelve months have expired since a license issued to the licensee was revoked.

**123.06 FEES.** The initial license and annual renewal fees for adult oriented business licenses shall be as follows:

1. Five hundred dollars (\$500.00) for the initial license.
2. Two hundred seventy-five dollars (\$275.00) for annual license renewal.

#### **123.07 INSPECTION.**

1. Adult oriented businesses shall permit the City Administrator to inspect, from time to time on an occasional basis, the portions of the adult oriented business premises where patrons are permitted, for the purpose of ensuring compliance with the specific regulations of this chapter, during those times when the adult oriented business is occupied by patrons or is open to the public. This section shall be narrowly construed by the City to authorize reasonable inspections of the licensed premises pursuant to this chapter, but not to authorize a harassing or excessive pattern of inspections.

2. The provisions of this section do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation.

#### **123.08 EXPIRATION OF LICENSE.**

1. Each license shall remain valid for a period of one calendar year from the date of issuance unless otherwise suspended or revoked. Such license may be renewed only by making application and payment of a fee as provided in Section 123.04 and Section 123.06.
2. Application for renewal should be made at least ninety (90) days before the expiration date, and when made less than ninety (90) days before the expiration date, the expiration of the license will not be affected.

**123.09 SUSPENSION.** The City shall issue a written letter of intent to suspend an adult oriented business license for a period not to exceed thirty (30) days if the adult oriented business licensee has knowingly violated this chapter or has knowingly allowed an employee to violate this chapter.

#### **123.10 REVOCATION.**

1. The City shall issue a letter of intent to revoke an adult oriented business license if the licensee knowingly violates this chapter or has knowingly allowed an employee to violate this chapter and the licensee's license has been suspended within the previous twelve (12) month period.
2. The City shall issue written intent to revoke an adult oriented business license, if:
  - A. The licensee has knowingly given false information in the application for the adult oriented business license.
  - B. The licensee has knowingly or recklessly engaged in or allowed possession, use, or sale of controlled substances on the premises.
  - C. The licensee has knowingly or recklessly engaged in or allowed prostitution on the premises.
  - D. The licensee knowingly or recklessly operated the adult oriented business during a period of time when the license was finally suspended or revoked.
  - E. The licensee has knowingly or recklessly engaged in or allowed any specified sexual activity to occur in or on the licensed premises.
  - F. The licensee has knowingly or recklessly violated a City, federal or state law relative to the operation of an adult entertainment business.
3. The fact that any relevant conviction is being appealed shall have no effect on the revocation of the license, provided that, if any conviction which serves as a basis of a license revocation is overturned or reversed on appeal, that conviction shall be treated as null and of no effect for revocation purposes.
4. When, after the notice and hearing procedure described in Section 123.11, the City Council revokes a license, the revocation shall continue for one (1) year and the licensee shall not be issued an adult oriented business license for one (1) year from the

date revocation becomes effective. Said revocation shall terminate any nonconforming use rights to use the property as an adult oriented business.

### **123.11 HEARING; DENIAL, REVOCATION AND SUSPENSION; APPEAL.**

1. When the City Administrator issues a written notice of intent to deny, suspend, or revoke a license, the City Administrator shall immediately send such notice, which shall include the specific grounds under this chapter for such action, to the applicant or licensee (respondent) by personal delivery or certified mail. The notice shall be directed to the most current business address or other mailing address on file with the City Administrator for the respondent. The notice shall specify a date, not less than ten (10) days nor more than twenty (20) days after the date the notice is issued, on which the City Administrator shall conduct a hearing on the intent to deny, suspend, or revoke the license.

2. At the hearing, the respondent shall have the opportunity to present all of respondent's arguments and to be represented by counsel, present evidence and witnesses on his or her behalf, and cross-examine any of the City Administrator's witnesses. The City Administrator shall also be represented by counsel, and shall bear the burden of proving the grounds for denying, suspending, or revoking the license. The hearing shall take no longer than two (2) days, unless extended at the request of the respondent to meet the requirements of due process and proper administration of justice. The City Administrator shall issue a written decision, including specific reasons for the decision pursuant to this chapter, to the respondent within five (5) days after the hearing. The decision of the City Administrator is final.

3. If the decision is to deny, suspend, or revoke the license, the decision shall not become effective until the thirtieth (30<sup>th</sup>) day after it is rendered, and the decision shall include a statement advising the respondent of the right to appeal such decision to a court of competent jurisdiction. If the City Administrator's decision finds that no grounds exist for denial, suspension, or revocation of the license, the City Administrator shall, contemporaneously with the issuance of the decision, immediately withdraw the intent to deny, suspend, or revoke the license and to notify the respondent in writing by certified mail of such action. If the respondent is not yet licensed, the City Administrator shall contemporaneously therewith issue the license to the applicant.

4. If any court action challenging the City Administrator's decision is initiated, the City Administrator shall prepare and transmit to the court a record of the hearing within ten (10) days after receiving written notice of the filing of the court action. The City Administrator shall consent to expedited briefing and/or disposition of the action, shall comply with any expedited schedule set by the court, and shall facilitate prompt judicial review of the proceedings. The following shall apply to any adult oriented business that is in operation as of the effective date<sup>†</sup> of this chapter: Upon the filing of any court action to appeal, challenge, restrain, or otherwise enjoin the City's enforcement of the denial, suspension, or revocation, the City shall immediately issue the respondent a provisional license. The provisional license shall allow the respondent to continue operation of the adult oriented business and will expire upon the court's entry of a judgment on the respondent's appeal or other action to restrain or otherwise enjoin the City's enforcement.

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<sup>†</sup> *The effective date of this chapter is the effective date of the ordinance adopting the Code of Ordinances of the City of Hawarden, Iowa, 2005.*

**123.12 TRANSFER OF LICENSE.** A licensee shall not transfer his or her license to another, nor shall a licensee operate an adult oriented business under the authority of a license at any place other than the address designated in the adult oriented business license application.

**123.13 REGULATIONS PERTAINING TO EXHIBITION OF SEXUALLY EXPLICIT FILMS OR VIDEOS.**

1. A person who operates or causes to be operated an adult 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 characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following requirements:

A. Each application for an adult oriented business license shall contain a diagram of the premises showing the location of all operator's stations, viewing rooms, overhead lighting fixtures, video cameras and monitors installed for monitoring purposes and restrooms, and shall designate all portions of the premises in which patrons will not be permitted. Restrooms shall not contain video reproduction equipment. The diagram shall also designate the place at which the license 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 shall be oriented to the north or to some designated street or object and shall 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 inches. The City Administrator 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.

B. It is the duty of the operator, and of any employees present on the premises, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to paragraph A above.

C. The interior premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5.0) foot candles as measured at the floor level. It is the duty of the operator, and of any employees present on the premises, to ensure that the illumination described above is maintained at all times that the premises is occupied by patrons or open for business.

D. It is the duty of the operator, and of any employees present on the premises, to ensure that no specified sexual activity occurs in or on the licensed premises.

E. It is the duty of the operator to post conspicuous signs in well-lighted entry areas of the business stating all of the following:

- (1) That the occupancy of viewing rooms is limited to one person.
- (2) That sexual activity on the premises is prohibited.

- (3) That the making of openings between viewing rooms is prohibited.
- (4) That violators will be required to leave the premises.
- (5) That violations of subparagraphs (2), (3) and (4) of this paragraph are unlawful.

It is the duty of the operator to enforce the regulations articulated in (1 though 5) above.

F. The interior of the premises shall be configured in such a manner that there is an unobstructed view from an operator's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose. Viewing rooms shall not contain a door or curtains at the entrance to the room. An operator's station shall not exceed thirty-two (32) square feet of floor area. If the premises has two (2) or more operator 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 operator's stations. The view required in this paragraph must be by direct line of sight from the operator's station. It is the duty of the operator to ensure that at least one employee is on duty and situated in each operator's station at all times that any patron is on the premises. It is the duty of the operator, and also the duty of any employees present on the premises, to ensure that the view area specified in this paragraph remains unobstructed by any doors, curtains, walls, merchandise, display racks or other materials or enclosures at all times that any patron is present on the premises.

- 2. It is unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.

#### **123.14 REGULATIONS PERTAINING TO ADULT CABARETS.**

- 1. A person who operates or causes to be operated an adult cabaret shall comply with the following requirements:

A. Each application for an adult oriented business license to operate an adult cabaret shall contain a diagram of the premises showing the location of the bar, tables, booths, restrooms, private rooms, employee's station, video cameras and monitors installed for monitoring purposes and any private rooms on the premises. The diagram shall also designate all portions of the premises where patrons will not be permitted. Restrooms shall not contain video reproduction equipment. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram shall be oriented to the north or to some designated street or object and shall 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 inches. The City Administrator 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.

B. It is the duty of the operator, and of any employees present on the premises, to ensure that no patron is permitted access to any area of the premises which has been designated in the application filed pursuant to paragraph A above as an area in which patrons will not be permitted.

C. It is unlawful for an operator to permit a patron to be in a private room unless an employee is available at the bar or an employee's station that provides unobstructed view of the private room.

D. It is the duty of the operator, and of any employees present on the premises to ensure that no specified sexual activity occurs in or on the licensed premises.

E. It is the duty of the operator or the licensee to post conspicuous signs in well-lighted entry areas of the business stating:

- (1) That sexual activity on the premises is prohibited.
- (2) That violators will be required to leave the premises.
- (3) That a violation of subparagraph (1) of this paragraph is unlawful.

F. The interior of the premises shall be configured in such a manner that there is an unobstructed view from the bartender's station or any manned employee's station of the premises including the interior of each private room but excluding restrooms to which any patron is permitted access for any purpose. An employee's station shall not exceed thirty-two square feet of floor area. If the premises has two or more employee 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 operator's stations. The view required in this paragraph must be by direct line of sight from the employee's station at all times that any patron is on the premises. It is the duty of any employees present on the premises, to ensure that the view area specified in this paragraph remains unobstructed by any doors, curtains, walls, merchandise, display racks or other materials or enclosures at all times that any patron is present on the premises.

G. Private rooms shall not contain a door or curtains at the entrance to the room. For the purpose of this paragraph a "private room" is an area on the licensed premises containing at least sixty-four square feet of floor space enclosed by four walls intended to be used for dancing or any other conduct by and between a patron and an employee.

H. It is unlawful to allow a person under the age of 18 to enter or be on the premises at any time that the establishment is open for business. It is the duty of the operator to ensure that an attendant is stationed at each public entrance to the premises at all times during business hours to prohibit any person under the age of 18 from entering.

2. It is the duty of the operator to enforce the regulations articulated in this section. It is unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.

**123.15 LOITERING, EXTERIOR LIGHTING, VISIBILITY AND MONITORING REQUIREMENTS.**

1. It is the duty of the operator of an adult oriented business to:
  - A. Post conspicuous signs stating that no loitering is permitted on such property;
  - B. Designate one or more employees to monitor the activities of persons on such property by visually inspecting such property at least once every ninety (90) minutes or inspecting such property by use of video cameras and monitors; and
  - C. Provide lighting of the exterior premises to provide for visual inspection or video monitoring to prohibit loitering. If used, video cameras and monitors shall operate continuously at all times that the premises are open for business. The monitors shall be installed within an operator's station.
2. No adult oriented business shall erect a fence, wall, or other barrier that prevents any portion of the parking lot(s) for the establishment from being visible from a public right-of-way.
3. It is unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.

**123.16 PENALTIES AND ENFORCEMENT.**

1. A person who knowingly violates, disobeys, omits, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this chapter shall be in violation of this Code of Ordinances. Each day a violation is committed, or permitted to continue, shall constitute a separate offense.
2. The City's legal counsel is hereby authorized to institute civil proceedings necessary for the enforcement of this chapter to prosecute, restrain, or correct violations hereof. Such proceedings, including injunction, shall be brought in the name of the City, provided, however, that nothing in this section and no action taken hereunder, shall be held to exclude such criminal or administrative proceedings as may be authorized by other provisions of this chapter, or any of the laws or ordinances in force in the City or to exempt anyone violating this chapter or any part of the said laws from any penalty which may be incurred.

**123.17 APPLICABILITY TO EXISTING BUSINESSES.** All existing adult oriented businesses are hereby granted a de facto temporary license to continue operation for a period of one hundred eighty (180) days following the effective date of this chapter<sup>†</sup>. By the end of said one hundred eighty days, all adult oriented businesses must conform to and abide by the requirements of this chapter.

**123.18 PROHIBITED ACTIVITIES.** It is unlawful for an adult oriented business to knowingly violate, or to knowingly allow an employee or any other person to violate, the following regulations.

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<sup>†</sup> *The effective date of this chapter is the effective date of the ordinance adopting the Code of Ordinances of the City of Hawarden, Iowa, 2005.*

1. It is a violation of this chapter for a patron, employee, or any other person to knowingly or intentionally, in an adult oriented business, appear in a state of nudity, regardless of whether such public nudity is expressive in nature.
2. It is a violation of this chapter for a person to knowingly or intentionally, in an adult oriented business, appear in a semi-nude condition unless the person is an employee. It is a violation of this chapter for an employee to touch any specified anatomical area of a patron or for a patron to touch any specified anatomical area of an employee or for an employee and a patron to engage in any specified sexual activities on the adult oriented business premises.
3. It is a violation of this chapter for any employee who regularly appears semi-nude in an adult oriented business to knowingly or intentionally touch a customer or the clothing of a customer on the premises of an adult oriented business.
4. It is a violation of this chapter for any person to possess or consume any alcoholic beverage, beer or wine on the premises of an adult oriented business and for the operator of such business to knowingly permit such possession or consumption.
5. A sign, in a form to be prescribed by the City Administrator and summarizing the provisions of subsections 1, 2 and 3 of this section, shall be posted near the entrance of the adult oriented business in such a manner as to be clearly visible to patrons upon entry.

**123.19 SCIENTER REQUIRED TO PROVE VIOLATION OR BUSINESS LICENSEE LIABILITY.** This chapter does not impose strict liability. Unless a culpable mental state is otherwise specified herein, a showing of a knowing or reckless mental state is necessary to establish a violation of a provision of this chapter. Notwithstanding anything to the contrary, for the purposes of this chapter, an act by an employee that constitutes grounds for suspension or revocation of that employee's license shall be imputed to the adult oriented business licensee for purposes of finding a violation of this chapter, or for purposes of license denial, suspension, or revocation, only if an officer, director, or general partner, or a person who managed, supervised, or controlled the operation of the business premises, knowingly or recklessly allowed such act to occur on the premises. It shall be a defense to liability that the person to whom liability is imputed was powerless to prevent the act.

**123.20 FAILURE OF CITY TO MEET DEADLINE.** In the event that a City official is required to take an action or do a thing pursuant to this chapter within a prescribed time, and fails to take such action or do such thing within the time prescribed, said failure shall not prevent the exercise of constitutional rights of an applicant or licensee. If the action required of the City official under this chapter, and not completed in the time prescribed, includes approval of condition(s) necessary for approval by the City of an applicant's or licensee's application for an adult oriented business license, the license shall be deemed granted and the business or employee allowed to commence operations or employment the day after the deadline for the City's action has passed.

**123.21 RESTRICTIONS ON LOCATION.** An adult oriented business shall be permitted only as a conditional use in a B-2 Commercial District provided that it is not operated within 300 feet of:

1. A church, mosque, synagogue or other place of religious worship;
2. A public or private elementary or secondary school;
3. A public park;

4. The boundary of a residential district, or;
5. A licensed day care center.

For purposes of this section, measurement shall be in a straight line without regard for intervening structures or objects from the nearest edge of the property line on which the business is located to the nearest edge of the property line or boundary line of the use identified in 1 through 5 above.

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## CHAPTER 135

### STREET USE AND MAINTENANCE

135.01 Removal of Warning Devices

135.02 Obstructing or Defacing

135.03 Placing Debris On

135.04 Playing In

135.05 Traveling on Barricaded Street or Alley

135.06 Use for Business Purposes

135.07 Washing Vehicles

135.08 Burning Prohibited

135.09 Excavations

135.10 Maintenance of Parking or Terrace

135.11 Failure to Maintain Parking or Terrace

135.12 Dumping of Snow

135.13 Driveway Culverts

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

*(Code of Iowa, Sec. 716.1)*

**135.02 OBSTRUCTING OR DEFACING.** It is unlawful for any person to drag any material or contrivance of any kind over any of the oiled, blacktop or asphalt-treated streets of the City which causes or which may cause visible damage to said streets, or to otherwise obstruct, deface or injure any street or alley in any manner.

*(Code of Iowa, Sec. 716.1)*

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

*(Code of Iowa, Sec. 321.369)*

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

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

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

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

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

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

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

1. Permit Required. No excavation shall be commenced without first obtaining a permit therefor. A written application for such permit shall be filed with the City and shall contain the following:
  - A. An exact description of the property, by lot and street number, in front of or along which it is desired to excavate;
  - B. A statement of the purpose, for whom and by whom the excavation is to be made;
  - C. The person responsible for the refilling of said excavation and restoration of the street or alley surface; and
  - D. Date of commencement of the work and estimated completion date.
2. Public Convenience. Streets and alleys shall be opened in the manner that will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.
3. Barricades, Fencing and Lighting. Adequate barricades, fencing and warning lights meeting standards specified by the City shall be so placed as to protect the public from hazard. Any costs incurred by the City in providing or maintaining adequate barricades, fencing or warning lights shall be paid to the City by the permit holder/property owner.
4. Insurance Required. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:
  - A. Bodily Injury - \$50,000.00 per person; \$100,000.00 per accident.
  - B. Property Damage - \$50,000.00 per accident.
5. Restoration of Public Property. Streets, sidewalks, alleys and other public property disturbed in the course of the work shall be restored to the condition of the property prior to the commencement of the work, or in a manner satisfactory to the City, at the expense of the permit holder/property owner.
6. Inspection. All work shall be subject to inspection by the City. Backfill shall not be deemed completed, and no resurfacing of any improved street or alley surface shall begin, until such backfill is inspected and approved by the City. The permit holder/property owner shall provide the City with notice at least twenty-four (24) hours prior to the time when inspection of backfill is desired.
7. Completion by the City. Should any excavation in any street or alley be discontinued or left open and unfinished for a period of twenty-four (24) hours after the approved completion date, or in the event the work is improperly done, the City has the right to finish or correct the excavation work and charge any expenses therefor to the permit holder/property owner.

8. 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.
9. 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*.
10. Permit Issued. Upon approval of the application and filing of insurance certificate, a permit shall be issued. A separate permit shall be required for each excavation.

**135.10 MAINTENANCE OF PARKING OR TERRACE.** It is 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 is not 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.

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## CHAPTER 136

# SIDEWALK REGULATIONS

136.01 Purpose	136.11 Interference with Sidewalk Improvements
136.02 Definitions	136.12 Awnings
136.03 Removal of Snow, Ice and Accumulations	136.13 Encroaching Steps
136.04 Responsibility for Maintenance	136.14 Openings and Enclosures
136.05 City May Order Repairs	136.15 Fires or Fuel on Sidewalks
136.06 Sidewalk Construction Ordered	136.16 Defacing
136.07 Permit Required	136.17 Debris on Sidewalks
136.08 Sidewalk Standards	136.18 Merchandise Display
136.09 Barricades and Warning Lights	136.19 Sales Stands
136.10 Failure to Repair or Barricade	

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

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

1. “Broom finish” means a sidewalk finish that is made by sweeping the sidewalk when it is hardening.
2. “Defective sidewalk” means any public sidewalk exhibiting one or more of the following characteristics:
  - A. Vertical separations equal to three-fourths ( $\frac{3}{4}$ ) inch or more.
  - B. Horizontal separations equal to one (1) inch or more.
  - C. Holes or depressions equal to three-fourths ( $\frac{3}{4}$ ) inch or more and at least four (4) inches in diameter.
  - D. Spalling over fifty percent (50%) of a single square of the sidewalk with one or more depressions equal to one-half ( $\frac{1}{2}$ ) inch or more.
  - E. Spalling over less than fifty percent (50%) of a single square of the sidewalk with one or more depressions equal to three-fourths ( $\frac{3}{4}$ ) inch or more.
  - F. A single square of sidewalk cracked in such a manner that no part thereof has a piece greater than one square foot.
  - G. A sidewalk with any part thereof missing to the full depth.
  - H. A change from the design or construction grade equal to or greater than three-fourths ( $\frac{3}{4}$ ) inch per foot.
3. “Established grade” means that grade established by the City for the particular area in which a sidewalk is to be constructed.
4. “One-course construction” means that the full thickness of the concrete is placed at one time, using the same mixture throughout.

5. “Owner” means the person owning the fee title to property abutting any sidewalk and includes any contract purchaser for purposes of notification required herein. For all other purposes, “owner” includes the lessee, if any.
6. “Portland cement” means any type of cement except bituminous cement.
7. “Sidewalk” means all permanent public walks in business, residential or suburban areas.
8. “Sidewalk improvements” means the construction, reconstruction, repair, replacement or removal, of a public sidewalk and/or the excavating, filling or depositing of material in the public right-of-way in connection therewith.
9. “Wood float finish” means a sidewalk finish that is made by smoothing the surface of the sidewalk with a wooden trowel.

**136.03 REMOVAL OF SNOW, ICE AND ACCUMULATIONS.** It is the responsibility of the abutting property owners to remove snow, ice and accumulations from sidewalks within a reasonable amount of time. If a property owner does not remove snow, ice or accumulations within a reasonable time, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax.

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

**136.04 RESPONSIBILITY FOR MAINTENANCE.** It is the responsibility of the abutting property owners to repair, replace or reconstruct, or cause to be repaired, replaced or reconstructed, all broken or defective sidewalks and to maintain in a safe and hazard-free condition any sidewalk outside the lot and property lines and inside the curb lines or traveled portion of the public street.

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

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

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

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

*(Code of Iowa, Sec. 384.38)*

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

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

1. Cement. Portland cement shall be the only cement used in the construction and repair of sidewalks.
2. Construction. Sidewalks shall be of one-course construction.
3. Sidewalk Base. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a three-inch sub-base of compact, clean, coarse gravel or sand shall be laid. The adequacy of the soil drainage is to be determined by the City.
4. Sidewalk Bed. The sidewalk bed shall be so graded that the constructed sidewalk will be at established grade.
5. Length, Width and Depth. Length, width and depth requirements are as follows:
  - A. Residential sidewalks shall be at least four (4) feet wide and four (4) inches thick, and each section shall be no more than 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) on the property line, unless the Council establishes a different distance due to special circumstances.
7. Grade. Curb tops shall be on level with the centerline of the street which 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 (½) inch above the curb for each foot between the curb and the sidewalk.
9. Slope. All sidewalks shall slope one-quarter (¼) inch per foot toward the curb.
10. Finish. All sidewalks shall be finished with a “broom” or “wood float” finish.
11. Curb Ramps and Sloped Areas for Persons with Disabilities. If a street, road, or highway is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the street, road, or highway with a sidewalk or path. If a sidewalk or path is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the sidewalk or path with a street, highway, or road. Curb ramps and sloped areas that are required pursuant to this subsection shall be constructed or installed in compliance with applicable Federal requirements adopted in accordance with the Federal Americans with Disabilities Act, including (but not limited to) the guidelines issued by the Federal Architectural and Transportation Barriers Compliance Board.

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

**136.09 BARRICADES AND WARNING LIGHTS.** Whenever any material of any kind is deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it is 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 are 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 or to a fair.

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

### EDITOR'S NOTE

All ordinances vacating streets, alleys, and/or public grounds which were adopted prior to the Ordinance adopting the 2011 Code of Ordinances are not codified herein but are specifically saved from repeal 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 Hawarden, 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

### FIRE ZONE

145.01 Fire Zone Established  
145.02 Plans Submitted  
145.03 Buildings Prohibited  
145.04 Construction Standards

145.05 Reconstruction Prohibited  
145.06 Special Permit  
145.07 Removal of Buildings  
145.08 Storage of Materials Restricted

**145.01 FIRE ZONE ESTABLISHED.** A Fire Zone is established to include all of the following territory:

*The west one-half of Blocks One, Six and Seven and the east one-half of Blocks Two, Five and Eight, all in original plat, Hawarden, Iowa.*

**145.02 PLANS SUBMITTED.** It is unlawful to build, enlarge, or alter any structure, building, or part thereof, within the Fire Zone until a plan of the proposed work, together with a statement of materials to be used has been submitted to the Council, who shall, if in accordance with the provisions of this chapter, issue a permit for the proposed work.

**145.03 BUILDINGS PROHIBITED.** The erection of any building or structure of any kind, or additions thereto, or substantial alterations thereof, involving partial rebuilding, are prohibited in the Fire Zone, unless constructed in strict compliance with the provisions of this chapter.

**145.04 CONSTRUCTION STANDARDS.** The construction standards for all buildings, structures, or parts thereof within the Fire Zone shall be of Type I, Type II, or, at a minimum, Type III - 1 hour fire resistant - construction, as specified in the *Uniform Building Code*.

**145.05 RECONSTRUCTION PROHIBITED.** Any building within the Fire Zone not constructed in accordance with the provisions of this chapter which is hereafter damaged by fire, decay, or otherwise shall not be rebuilt, altered, or reconstructed except in accordance with the provisions of this chapter.

**145.06 SPECIAL PERMIT.** The Council may, by four-fifths (4/5) vote, issue a special permit to improve any property within the Fire Zone contrary to the provisions of this chapter, on condition that such improvement shall not increase the rates for fire insurance or the fire hazard potential of the area, or to allow any person to erect or move in any building or structure for temporary purposes for a period of time not exceeding six (6) months from the date of such permission.

**145.07 REMOVAL OF BUILDINGS.** Any person who erects any building in the Fire Zone, contrary to the provisions of this chapter, shall be given written notice by the Mayor to remove or tear down the same, and if such removal or taking down is not completed within thirty (30) days from the time of the service of such notice, the Mayor shall cause the same to be removed or taken down. The Mayor shall report an itemized bill of the expense to the Clerk, and the same shall be charged to the person owning such building. The Clerk shall present the bill to the owner of the property and if the bill is not paid within ten (10) days from

the date it is presented, the amount of the bill shall be certified, by the Clerk, to the County Treasurer, as a lien against the property and collected the same as other taxes.

**145.08 STORAGE OF MATERIALS RESTRICTED.** No person shall have or deposit any grain stack, pile of rubbish, explosives, hazardous chemicals or other flammable substance within the Fire Zone, nor shall any person have or deposit any cord wood or fire wood, within the Fire Zone without written permission from the Mayor, specifying the maximum amount of such cord wood or fire wood, that may be kept, stored, or deposited on any lot or part of a lot within the Fire Zone, unless the same be within one of the buildings allowed by this chapter. No person shall build or allow any fires, whether trash fires or otherwise, within the Fire Zone as described in this chapter.

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## CHAPTER 150

### BUILDING NUMBERING

150.01 Avenues and Streets Designated	150.09 Conformance
150.02 Parts of Streets on the Same Line	150.10 Twenty-five Foot Frontage
150.03 Letter Designation	150.11 Basements and Floors Above Ground Floor
150.04 Number Designation	150.12 Number Material and Placement
150.05 House Numbering	150.13 Placement and Maintenance
150.06 Odd and Even Numbers	150.14 Noncompliance; Assessment
150.07 East and West Streets	150.15 Violation
150.08 North and South Avenues	

**150.01 AVENUES AND STREETS DESIGNATED.** Streets and avenues running north and south shall be called avenues, and the streets and avenues running east and west shall be called streets.

**150.02 PARTS OF STREETS ON THE SAME LINE.** All parts of any avenues or streets on the same line, between which there is intervening property, shall have the same designation.

**150.03 LETTER DESIGNATION.** The avenues running north and south are designated by the letters of the alphabet, and the unnamed street extending along the west side of Heald's Second Addition to be "A" Avenue and proceeding east each consecutive avenue to be designated by the corresponding consecutive letter to the unnamed street on the east side of Block Three of Morningside Addition, designated Falcon Avenue, provided that the letters "G," "J," and "P" shall be omitted and the avenue corresponding to "G" Avenue under this plan of designation is named Central Avenue, and the Avenue corresponding to "P" under this plan of designation is named Falcon Avenue. The road running along the east line of the City is designated "S" Avenue.

**150.04 NUMBER DESIGNATION.** The streets running east and west are numbered; the unnamed street along the south side of south side of South Addition to be First Street and proceeding north and next two streets to be designated consecutively Second and Third Streets. The street north of the Chicago and Northwestern Railway right-of-way shall be designated Seventh Street and proceeding north each consecutive street shall be consecutively numbered from Seventh Street to North Street designated under this plan of numbering by the name of Twenty-sixth Street.

**150.05 HOUSE NUMBERING.** All houses and places of business fronting on any avenues or streets within the City shall be numbered in accordance with the provisions of this chapter.

**150.06 ODD AND EVEN NUMBERS.** The numbers on the north and west side of the streets and avenues shall be odd numbers and on the east and south side even numbers.

**150.07 EAST AND WEST STREETS.** Numbering on east and west streets shall start at Avenue "A," the first block east to be assigned the number 100 as its first number and each succeeding block to be assigned as its first number 100 greater than the first number of the preceding block.

**150.08 NORTH AND SOUTH AVENUES.** Numbering on north and south avenues shall start at First Street, each block to have as its first number the number represented by the number of the street extending along its south side multiplied by 100.

**150.09 CONFORMANCE.** Numbering on east and west streets shall conform as nearly as possible north and south and numbering on north and south avenues shall conform as nearly as possible east and west.

**150.10 TWENTY-FIVE FOOT FRONTAGE.** Numbers shall be assigned for each twenty-five feet of frontage, provided that where buildings are of less size or in case of lots of greater size but not exceeding thirty feet, convenience requires a change, assignments of numbers may be made accordingly. Owners of buildings, with only one main entrance covering more than twenty-five feet frontage shall not be required to use more than one number of the numbers assigned.

**150.11 BASEMENTS AND FLOORS ABOVE GROUND FLOOR.** In cases where numbers are required for basements or floors above the ground floor, the same number shall be used as is assigned to the ground floor, the basement number to have the letter "B" before the number and the floors above the ground to have the numbers of the floor followed by a dash before the number. Such numbers shall be placed over or upon the stairway leading thereto.

**150.12 NUMBER MATERIAL AND PLACEMENT.** The numbers provided for herein shall be painted on or may be of wood or metal attached to the structure, shall be at least three (3) inches in height and legible in character, and shall be placed conspicuously upon, over or near the front or main door or entrance to the place numbered.

**150.13 PLACEMENT AND MAINTENANCE.** New buildings which are required to be numbered shall be numbered within ten days after their completion. All building numbers shall be maintained in good condition.

**150.14 NONCOMPLIANCE; ASSESSMENT.** In case the owner fails to place numbers as required by this chapter, the City may have the same done and the cost thereof shall be assessed against the property for collection in the same manner as a property tax.

**150.15 VIOLATION.** It is unlawful for any person to use any number for numbering a building except the one assigned under the provisions of this chapter, or to destroy, deface or remove any number affixed to any building under the provisions of this chapter.

## CHAPTER 151

### TREES

151.01 Definition

151.02 Planting Restrictions

151.03 Duty to Trim Trees

151.04 Trimming Trees to be Supervised

151.05 Disease Control

151.06 Inspection and Removal

**151.01 DEFINITION.** For use in this chapter, “parking” means that part of the street, avenue or highway in the City not covered by sidewalk and lying between the lot line and the curb line; or, on unpaved streets, that part of the street, avenue or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.

**151.02 PLANTING RESTRICTIONS.** No tree shall be planted in any parking or street except in accordance with the following:

1. Alignment. All trees planted in any street shall be planted in the parking midway between the outer line of the sidewalk and the curb. In the event a curb line is not established, trees shall be planted on a line ten (10) feet from the property line.
2. Spacing. Trees shall not be planted on any parking 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. If it is at all possible trees should be planted inside the property lines and not between the sidewalk and the curb.
3. Prohibited Trees. No person shall plant in any street any fruit-bearing tree or any tree of the kinds commonly known as cottonwood, poplar, box elder, Chinese elm, evergreen, willow or black walnut.

**151.03 DUTY TO TRIM TREES.** The owner or agent of the abutting property shall keep the trees on, or overhanging the street, trimmed so that all branches will be at least fifteen (15) feet above the surface of the street and eight (8) feet above the sidewalks. If the abutting property owner fails to trim the trees, the City may serve notice on the abutting property owner requiring that such action be taken within five (5) days. If such action is not taken within that time, the City may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

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

**151.04 TRIMMING TREES TO BE SUPERVISED.** Except as allowed in Section 151.03, it is unlawful for any person to trim or cut any tree in a street or public place unless the work is done under the supervision of the City.

**151.05 DISEASE CONTROL.** Any dead, diseased or damaged tree or shrub 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 Council shall inspect or cause to be inspected any trees or shrubs in the City reported or suspected to be dead, diseased or damaged, and such trees and shrubs shall be subject to the following:

1. City Property. If it is determined that any such condition exists on any public property, including the strip between the curb and the lot line of private property, the Council may cause such condition to be corrected by treatment or removal. The Council may also order the removal of any trees on the streets of the City which interfere with the making of improvements or with travel thereon.

2. Private Property. If it is determined with reasonable certainty that any such condition exists on private property and that danger to other trees or to adjoining property or passing motorists or pedestrians is imminent, the Council shall notify by certified mail the owner, occupant or person in charge of such property to correct such condition by treatment or removal within fourteen (14) days of said notification. If such owner, occupant or person in charge of said property fails to comply within 14 days of receipt of notice, the Council may cause the condition to be corrected and the cost assessed against the property.

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

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## CHAPTER 153

# DANGEROUS BUILDINGS

153.01 Enforcement Officer  
153.02 General Definition of Unsafe  
153.03 Unsafe Building  
153.04 Notice to Owner

153.05 Conduct of Hearing  
153.06 Posting of Signs  
153.07 Right to Demolish; Municipal Infraction  
153.08 Costs

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

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

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

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

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of (i) dilapidation, deterioration, or decay; (ii) faulty construction; (iii) the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay, or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse.
2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.
4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.
5. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

**153.04 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.

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

1. Notice. The owner shall be served with written notice specifying the date, time and place of hearing.
2. Owner's Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.
3. Determination. The Council shall make and record findings of fact and may issue such order as it deems appropriate.<sup>†</sup>

**153.06 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 HAWARDEN, IOWA." Such notice shall remain posted until the required demolition, removal or repairs are completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

**153.07 RIGHT TO DEMOLISH; MUNICIPAL INFRACTION.** In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the enforcement officer to proceed with the work specified in such notice. A statement of the cost

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<sup>†</sup> **EDITOR'S NOTE:** Suggested forms of notice and of a resolution and order of the Council for the administration of this chapter are provided in the APPENDIX to this Code of Ordinances. Caution is urged in the use of this procedure. We recommend you review the situation with your attorney before initiating procedures and follow his or her recommendation carefully.

of such work shall be transmitted to the Council. As an alternative to this action, the City may utilize the municipal infraction process to abate the nuisance.

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

**153.08 COSTS.** Costs incurred under Section 153.07 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes. In addition, the City may take any other action deemed appropriate to recover costs incurred.

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

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## CHAPTER 155

# PROPERTY MAINTENANCE CODE

155.01 Title	155.09 Sanitation
155.02 Purpose	155.10 Enforcement Procedures
155.03 Interpretation	155.11 Emergency Enforcement Procedures
155.04 Abrogation and Greater Restrictions	155.12 Enforcement Remedies and Penalties
155.05 Definitions	155.13 Notice of Order to Abate and Contents of Notice To Abate
155.06 Maintenance Standards Generally	155.14 Hearing
155.07 Maintenance of Property	155.15 Public Abatement
155.08 Maintenance of Structures	

**155.01 TITLE.** This chapter may be referred to as the “Hawarden Property Maintenance Code,” and is herein referred to as “this Code.”

**155.02 PURPOSE.** The purpose of this Code is to protect the public health, safety, and welfare, esthetics and property values by establishing minimum standards for maintenance, appearance, condition and occupancy, and for essential utilities, facilities and other physical components and conditions to make residential premises fit for human habitation, and to make nonresidential premises fit for use according to the purpose for which they were developed; by fixing certain responsibilities and duties upon the owners and managers, and distinct and separate responsibilities and duties upon the occupants; by authorizing and establishing procedures for inspection of premises, and enforcement of this Code; establishing penalties for violations; and providing for proper repair, demolition, or vacation of premises which do not comply with this Code.

**155.03 INTERPRETATION.** The provisions of this Code shall be interpreted and applied as minimum requirements, and shall not be deemed a limitation or repeal of any other power granted by the *Code of Iowa*. Nothing in this Code shall be construed to abrogate the Federal or State Constitutions, or to grant powers to the City that are otherwise reserved by and for Federal and State government.

**155.04 ABROGATION AND GREATER RESTRICTIONS.** It is not the intent of this Code to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations or permits previously adopted or issued pursuant to law. Where two or more provisions apply, the higher standard shall prevail.

**155.05 DEFINITIONS.** Words used in this Code shall have the same meaning as those defined by the Zoning Regulations, unless otherwise defined by this Code.

1. “Abandoned building” means any building or portion of a building under construction which has stood with an incomplete exterior shell for more than one year, or any completed building or portion thereof which has stood unoccupied for longer than six (6) months, and which is unsecured or violates any other City ordinances.
2. “Abatement” means, in connection with a property or structure, the removal or correction of violation of this code or the making of improvements needed to effect a rehabilitation of the property or structure. Abatement may include but shall not be limited to repair, removal, cleaning, extermination, cutting, mowing, grading, sewer repairs, draining, securing, barricading or fencing, demolition of dangerous or

abandoned structures or portions thereof, and elimination of nuisances. Abatement does not include the closing or boarding up of a building or structure that is found to be a public nuisance.

3. “Abatement costs” means those costs associated with abatement of nuisances and may include but shall not be limited to: the cost of removing or eliminating the violation; the cost of investigation, such as title searches, inspection, and testing; the cost of notification; filing costs; and other related administrative costs. Inoperable or obsolete vehicles, which have been impounded, may be sold in accordance with State law. If an inoperable or obsolete vehicle is not sold or if the proceeds of such sale or redemption are not sufficient to pay the costs of abatement, storage and sale of said inoperable or obsolete vehicle, such cost or the balance of such cost may be assessed against the premises in the same manner as a property tax.

4. “Deterioration” means a state of conditions caused by a lack of maintenance or excessive use, characterized by holes, breaks, rot, crumbling, peeling paint, rusting or other evidence of physical decay or neglect.

5. “Emergency condition” means a nuisance/violation that if left in place constitutes an imminent, clear and compelling danger to the health, safety or welfare of persons or property.

6. “Enforcement officer” means any peace officer, Police Chief, the Public Works Director, or City Administrator.

7. “Exposed to public view” means any premises or any part thereof, which can be lawfully viewed by the public or from an adjoining premises.

8. “Exterior” means yards and other open outdoor spaces on premises, and the external surfaces of any structure.

9. “Extermination” means the control and elimination of insects, rodents, and vermin.

10. “Farm” means a tract of land having an area of ten or more acres devoted to raising of crops or domestic livestock.

11. “Habitable” means safe and that it can be occupied in reasonable comfort.

12. “Hearing officer” may be a Judge, Magistrate, Police Chief, City Administrator, or City Council as provided for in this Code.

13. “Infestation” means the presence of insects, rodents, vermin, or other pests on the premises to the extent that they constitute a health hazard, as deemed by an enforcement officer to be in threat of spreading to adjoining premises, or which are exposed to public view.

14. “Junk” means any discarded or salvaged material or fixture; obsolete or inoperable machinery or vehicle, or parts thereof; or scrap metal.

15. “Nuisances” means physical conditions to premises by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment that are dangerous or detrimental to the public health, welfare or safety of persons or property on or near the premises where the conditions exist, or whatever is injurious to health, indecent, or unreasonably offensive to the senses, or obstruction to the free use of property, so as essentially to unreasonably interfere with comfortable enjoyment of life or property.

16. “Ordered public abatement” means the same as abatement except that the abatement shall be performed by the City or agents acting on behalf of the City after being ordered/authorized by a judge or magistrate with all notices, hearings, and other due process being considered satisfied via the judicial process.
17. “Owner” means any person who alone, jointly, or severally with others, holds legal or equitable title to any premises, with or without accompanying actual possession thereof.
18. “Premises” includes either property (real estate) or structures or both.
19. “Property (real estate)” means a lot, plot, or parcel of land. In addition it includes the public right-of-way directly abutting the lot, plot or parcel of land, which is the area located between the property line and the inside the curb or the street edge of pavement or gravel, if no curb exists.
20. “Public abatement” means the same as abatement except that the abatement shall be performed by the City or agents acting on behalf of the City and costs of such abatement assessed against the responsible party.
21. “Public authority” means any officer of any department or branch of the City, County, or State charged with regulating health, fire, zoning or building regulations, or other activities concerning property in the City.
22. “Refuse” means any material that has lost its value for the original purpose for which it was created or manufactured, or for its redesigned use, whether putrid or non-putrid, combustible or non-combustible, which is not securely stored in a building or legal outdoor storage yard for prompt disposal or resale, including but not limited to junk; paper or cardboard; plastic; metals; glass; yard clippings, leaves, woody vegetative trimmings, and other plant wastes which have not been properly composted; vegetable or animal waste resulting from the handling, processing, storage, preparation, serving or consumption of food; crockery; bedding, furniture, or appliances; offal; rubbish; ashes or incinerator residue; construction debris; accumulation of animal feces; dead animals; or wastes from commercial or industrial processes.
23. “Responsible party” means any person having possession, charge, care, or control of real or personal property, whether with or without the knowledge and consent of the owner, including without limitation any one or more of the following: owner, agent, property manager, contract purchaser, mortgagee or vendee in possession, receiver, executor, trustee, lessee or tenant, or any other person, firm or corporation exercising apparent control over a property.
24. “Structure” means any building constructed or used for a residence, business, industry, or other private or public purpose or accessory thereto, including tents lunch wagons, mobile homes, fence, shed, storage facility, garage, carports, animal kennels, billboards, and similar manmade construction that is otherwise built or erected with a fixed location or otherwise attached to something having a fixed location on the ground.
25. “Unsafe structure/building” means:
- A. All buildings or structures that 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, as specified in this chapter or any other ordinance; and

B. Any structure or mobile home meeting any or all of the following criteria:

(1) Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property;

(2) Whenever any portion of a building's exterior, to include any member, aperture, or ornamental feature attached thereto is not of sufficient strength or stability, or is not so anchored, attached, or fastened in place so as to be capable of resisting a wind pressure of twenty pounds per square foot;

(3) Whenever any portion thereof has cracked, warped, buckled, or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquake than is required in the case of similar new construction;

(4) Whenever the building or structure, or any portion thereof, because of (i) dilapidation, deterioration or decay, (ii) faulty construction, (iii) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building, (iv) the deterioration, decay or inadequacy of its foundation, or (v) any other cause, is likely to collapse partially or completely;

(5) Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used;

(6) Whenever the exterior walls or other vertical structural members list, lean, or buckle to such an extent that they are out of plumb;

(7) Whenever the building or structure, exclusive of the foundation, shows thirty-three percent (33%) or more damage or deterioration of its supporting member or members, or fifty percent (50%) damage or deterioration of its non-supporting members, or of its enclosing or outside walls or coverings;

(8) Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has so dilapidated or deteriorated as to become (i) an attractive nuisance to children; (ii) a harbor for vagrants, criminals, or immoral persons, or vermin; (iii) a house of ill fame as described in Iowa Code Chapter 657;

(9) Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, including lack of paint so as to expose wood to rotting, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air, sanitation facilities, or potable water, or otherwise, is determined by the building official to be unsanitary, unfit for human habitation, or in such condition that is likely to cause sickness or disease;

(10) Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections, or heating apparatus, or other cause, is determined by the state fire marshal or City building official or Fire Chief to be a fire hazard;

(11) Whenever any building or structure is in such a condition as to constitute a public nuisance, known in common law or in equity jurisprudence.

(12) Any abandoned building as defined herein.

26. “Vehicle” means any device designed to transport a person or property by land, air, or water, such as automobiles, trucks, trailers, motorcycles, tractors, buggies, wagons, boats, airplanes, or any combination thereof, except bicycles.

27. “Vehicle, inoperable” means any vehicle that is not licensed or insured for the current year as required by law or which exhibits any of the following characteristics: The vehicle cannot legally travel on a public street due to broken, damaged, or missing windshield or other glass customary to the vehicle, fender, door, bumper, hood, wheel, steering wheel, or exhaust system; lacking an engine or other means of power suitable to the design, one or more wheels, or other structural parts which renders the vehicle incapable of both forward and reverse movement in the manner for which it was designed; has become a habitat for rats, mice, snakes, or any other vermin or insects; or constitutes a threat to the public health and safety because of its defective or obsolete condition.

28. “Violation” means a nuisance or any other condition with or on premises that is contrary to the required maintenance standards of this Code.

29. “Working day” means Monday, Tuesday, Wednesday, Thursday, and Friday exclusive of holidays and when the City offices do not open on those days.

**155.06 MAINTENANCE STANDARDS GENERALLY.** Every premises shall be required to be maintained in good repair. To that end enforcement action will be taken against those premises that are not properly maintained in order to protect adjoining properties from blight, safety and fire hazards and other negative impacts as a result of poorly maintained premises.

**155.07 MAINTENANCE OF PROPERTY.** Each and every property shall be kept free of all nuisances, health, safety, and fire hazards, unsanitary conditions, and infestation. It is the duty of the responsible party to keep the premises free of all said conditions and to promptly remove and abate same, which includes but is not limited to the following declared nuisances:

1. Weeds or grasses allowed to grow to a height greater than ten (10) inches, or any accumulation of dead weeds or grass that are exposed to public view, on any non-farm property which is not within the jurisdiction of the County Weed Commissioner. This provision does not apply to prairies, wetlands or similar areas of naturalized perennial vegetation, which are certified by an enforcement officer not to constitute a nuisance. Non-platted property, having an area of more than one acre, may be exempted from this requirement, on a case-by-case basis, by the Police Chief. However, even the exempted property shall be required to maintain at least a 25-foot wide area around the exempted property in accordance with this standard.

2. The accumulation of refuse.
3. Any nuisance as defined herein or described as such by Chapter 657 of the *Code of Iowa*.
4. Any inoperable vehicle which is exposed to public view, unless located on the premises of a lawfully operated junk yard, undergoing repairs in an expeditious manner at a vehicle repair business, or located at a business location in an industrial zoning district behind a fully opaque 6-foot fence. Any other inoperable vehicles shall be stored within a fully enclosed building or other location not exposed to public view, or shall be removed from the premises.
5. Mud, dirt, gravel or other debris or matter, whether organic or inorganic, deposited upon public property in a quantity judged by an enforcement officer to be a threat to public safety or to cause pollution, obstruction, or siltation of drainage systems, or to violate solid waste disposal regulations.
6. Failure to establish a permanent cover of perennial grasses or ornamental ground cover on any non-farm property as soon as practical after any construction, and to thereafter maintain same in such condition as to substantially bind the surface of the soil and prevent erosion, whether by sheet flow or gullying, or by wind or water. Exceptions shall be permitted for densely shaded areas, landscape beds, and gardens, provided that vegetable gardens and agricultural crops shall not be placed in the front yard of a non-farm property, unless it can be demonstrated that no other viable location exists on the premises because of topography, natural vegetation, or similar circumstances out of the resident's control.
7. Any alteration, modification, or obstruction which prevents, obstructs or impedes the normal flow of runoff from adjacent lands, or any alteration or modification which substantially concentrates or increases the flow of water onto an adjoining premises to the extent of damaging or saturating such premises.
8. Conditions which are conducive to the harboring or breeding of vermin.
9. Facilities for the storage or processing of sewage, such as privies, vaults, sewers, private drains, septic tanks, cesspools, and drain fields, which have failed or do not function properly, as may be evidenced by overflow, leakage, seepage, or emanation of odors, or which do not comply with the Sioux County Department of Health regulations, as applicable. Septic tanks, cisterns, and cesspools that are no longer in use shall be removed, or emptied and filled with clean dirt or sand.
10. Dead or diseased trees or other woody vegetation which may lead to the spread of the disease to other specimens or pose a threat to safety or buildings; major parts thereof, such as a limb, which may be dead or broken or otherwise pose a threat to safety or buildings on adjoining premises; any vegetation located on private property which overhangs and is less than fifteen (15) feet above the traveled portion of any public street, or less than eight (8) feet vertically, or which protrudes into any public sidewalk.
11. Loose, overhanging objects or accumulations of ice or snow, which by reason of location above ground level constitute a danger of falling and causing injury to people or damage to property.

**155.08 MAINTENANCE OF STRUCTURES.** Each and every structure shall be kept sound and free of all nuisances, health, safety, and fire hazards, and shall generally be maintained to present an overall neat and orderly appearance. Structures shall also be kept

free from major aesthetic defects that otherwise can lead to the devaluation of adjoining property. All building owners shall be expected to keep their structures free of all the conditions listed below and to promptly take corrective action if such a condition is determined to exist with their structure. Structural maintenance violations include but are not limited to the following declared violations:

1. Each and every building shall be maintained to be weather and water tight, and free from excessively peeling paint or other conditions suggestive of deterioration or inadequate maintenance.
2. Exterior surfaces shall not have any holes or broken glass; loose, cracked, or damaged shingles or siding; missing doors or windows, or other defects in the exterior finish which admit rain, cold air, dampness, rodents, insects, or vermin.
3. Basements, cellars, and crawl spaces shall be free of standing water and hazards.
4. All wood, including floorboards, subfloors, joists, bridging, roof rafters and sheathing, and all other wood in any interior or exterior floor, wall, roof, or other part of the structure, shall be maintained to be free of cracks affecting structural integrity, termite damage, infestation, or rot. Any and all damaged or deteriorating materials shall be replaced. If infestation exists in any basement, cellar, or crawl space, such infestation shall be remedied in accordance with industry standards to effectuate the proper remove of such infestation.
5. The construction, moving, owning, or permitting the existence of unsafe building; or any building that is defined as abandoned or a public nuisance by Chapter 657 or 657A, *Code of Iowa*.
6. Materials and practices used in reconstruction and residing shall be of standard quality and appearance commensurate with the character of other properties in the vicinity of the premises.
7. Fences or retaining walls that are not structurally sound or which are deteriorating, as may be evidenced by leaning, loose, or missing elements.
8. The number on buildings as provided for in Chapter 150 of this Code of Ordinances.

**155.09 SANITATION.** Every building which is in whole or in part leased by the owner or agent, except hotels and other establishments licensed by the Iowa Department of Inspection and Appeals, shall comply with the following requirements. The owner or lessor shall be deemed responsible for compliance with said requirements.

1. **Room Size.** No habitable room in a residential structure shall have a floor area of less than 80 square feet, nor shall the ceiling height be less than 7½ feet.
2. **Heating.** Every residential building shall be equipped with heating equipment capable of maintaining every habitable room at a temperature of at least 70 degrees Fahrenheit.
3. **Lighting.** Every residential building shall be so equipped as to provide every habitable room thereof with artificial lighting equipment reasonably uniformly distributed and of sufficient intensity to produce illumination of six foot-candles on the floor area, and at least ten foot-candles at certain points for reading, study, sewing and similar tasks. Hallways, stairways and similar passageways shall be provided with one or more foot-candles of illumination.

4. Ventilation. Every habitable room located in a residential building shall be provided with an aggregate openable window area of at least four percent (4%) of the floor area for existing buildings and at least six percent (6%) for buildings and additions hereafter constructed. This provision does not apply to residential buildings having adequate provisions for artificial ventilation.

5. Plumbing and Excreta Disposal. All plumbing in residential buildings shall comply with the requirements of the State Building Code. Every such building to which running water and sewage disposal are available shall be provided at least one lavatory, one water closet, one bathtub or shower, and one kitchen sink.

6. Screening. Every residential building shall have all windows and doors to the outside equipped with screens of not less than 16 meshes to the inch, which are so maintained as to effectively prevent the entrance into the building of flies and mosquitoes.

7. Overcrowding. If any room in any residential building is overcrowded the health officer may order the number of persons sleeping or living in said room to be so reduced that there shall not be less than 400 cubic feet of air to each adult and 200 cubic feet of air to each child under 12 years of age occupying such room.

**155.10 ENFORCEMENT PROCEDURES.** The objective of this code being the abatement of violations, persons violating this Code shall be allowed a reasonable amount of time to voluntarily remedy the violation before action to assess costs or penalties for a violation is undertaken. Consideration will be given to evidence of a good faith effort to correct the violation; whether an imminent health or safety hazard exists; whether the person has previously been notified of or charged with violations of a similar nature; and other factors. Violations, which are not voluntarily remedied, may be abated by any or all of the remedies provided in Section 155.12. All inspections and enforcement actions on violations, unless expressly stated to the contrary, shall be under the direction and supervision of an enforcement officer, who may appoint or designate other public officers or employees to perform duties as may be necessary to enforce this Code, including inspections. The enforcement officers are hereby authorized to abate such violations in accordance with the procedures of this Code and to serve notice to abate same, whether upon the owner or other responsible party for a premises upon which a violation is being maintained, or upon the person or persons causing, maintaining, or permitting the violation.

**155.11 EMERGENCY ENFORCEMENT PROCEDURES.** It is further provided by this Code that if the enforcement officer judges that an emergency exists which creates a dangerous and imminent health or safety hazard to persons, property or the general public which requires immediate action, the City may order such public abate action as may be necessary to meet the emergency without prior notice. Any orders issued pursuant to this section shall be effective immediately or in the time and manner prescribed in the order itself. The costs of such emergency public abatement shall be assessed to the property after a notice and hearing is provided to the property owner as provided under Section 155.15 of this chapter.

**155.12 ENFORCEMENT REMEDIES AND PENALTIES.** In the event that the violation is not abated as ordered and within the time specified, the City may abate such violation by any of the methods listed below. Any of these methods may run concurrently:

1. By issuance of a municipal infraction.

2. By undertaking the public abatement of the violation and assessment of costs thereof.
3. Prosecution as a misdemeanor.
4. Remedied by means of civil court proceeding or any other lawful process pursuant to the *Code of Iowa*.

**155.13 NOTICE OF ORDER TO ABATE AND CONTENTS OF NOTICE TO ABATE.** Whenever an enforcement officer finds that a violation of this Code exists, said officer shall cause to be served upon the responsible party a written order (notice) to abate the violation. One notice (order) may contain and be utilized for multiple violations. The notice to abate the violation shall contain the following:

1. A description of what constitutes the violation;
2. The location of the violation;
3. A statement of the act or acts necessary to abate the violation;
4. A reasonable time within which to complete the abatement.
5. The rights to a hearing.

When service of a notice (order) to abate is required, the following methods of service shall be deemed adequate service upon the owner or other responsible party of the property upon which the violation exists, or upon the person or persons causing, permitting, or maintaining the violation: (i) personal service pursuant to rule of civil procedure 1.305, Iowa court rules, for the personal service of original notice; (ii) sending the notice by both regular mail and certified mail, as defined in Iowa Code Section 618.15, to the address listed with the Sioux County Treasurer for the mailing of real estate tax notices; (iii) by posting the notice in a conspicuous place on the property or building deemed in violation; or (iv) any other method of providing notice that results in the notice actually being received by the owner or other responsible party of the property upon which the violation exists, or upon the person or persons causing, permitting, or maintaining the violation. The notice shall be considered given when personal service is made or when the property is posted, when the notice to abate is mailed, or when notice is actually received. If the certified mail is returned refused or undeliverable, the notice shall be considered to have been provided in accordance with Iowa Law. The enforcement officer may, but shall not be required to, give notice to abate prior to issuance of municipal infraction for a repeat offense involving the same property and occurring within one year of a prior violation and notice to abate.

**155.14 HEARING.** Any responsible party ordered to abate a nuisance may have a hearing with the Police Chief (enforcement officer) as to whether a nuisance or prohibited condition exists. A request for a hearing must be made in writing and delivered to the police department within the time stated in the notice, or it will be conclusively presumed that a nuisance or prohibited condition exists and it must be abated. The minimum time an enforcement officer shall allow for a hearing shall be five calendar days following issuance of an order to abate a violation. At the conclusion of the hearing and after any due consideration of any information presented by the responsible party, the Police Chief or other enforcement officer shall render a written decision as to whether a nuisance or prohibited condition exists. If the Police Chief finds that a nuisance or prohibited condition does exist as originally determined, the Police Chief may maintain the original abatement schedule ordered or modify it as necessary to adjust for any information presented.

**155.15 PUBLIC ABATEMENT.**

1. Generally. If the responsible party notified to abate a violation neglects or fails to abate the violation as directed, the City may perform the required action to abate the violation as provided in Section 155.12(2).

2. Notice. Where public abatement is being pursued, a separate notice shall be provided by one of the following methods: (i) hand delivery to the party; (ii) personal delivery as provided for by Iowa Rules of Civil Procedure and court rules for the personal service of original notice; or (iii) mailing by certified mail, return receipt requested, and by ordinary mail to the last known address as shown by the records of the County Auditor along with the posting of a copy of the notice on a door of the property if a building is involved. The notice shall meet all the minimum requirements of Section 155.13 and in addition shall contain 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 the violation and assess the costs against the responsible person or property. The notice shall also indicate whether the cost of the abatement is estimated to be \$1,000.00 or more. The enforcement officer may, but shall not be required to, give additional time to abate a violation proposed to be publicly abated, if reasonable time was already provided to abate the same violation under another remedy process provided for in Section 155.12 (e.g., municipal infraction).

3. Hearing/Appeals Permitted. Where public abatement is being pursued, an initial hearing shall be as provided as stated in Section 155.14. At the conclusion of the hearing an appeal shall be provided if requested within five working days after the initial hearing with the Police Chief. The request shall be in writing and shall be delivered to the City Administrator/Clerk.

A. For violations that are proposed to be publicly abated, that do not involve the demolition of a structure and that are estimated to be under \$1,000.00 in abatement costs, an appeal from the Police Chief's hearing decision may be made to the City Administrator. This appeal will be heard before the City Administrator at a time and place fixed by the Administrator. The Administrator shall follow the same hearing process described in Section 155.14.

B. For violations that are proposed to be abated with public abatement that involve the demolition of a structure or over \$1,000.00 in abatement costs, an appeal from the Police Chief's hearing may be made to the City Council. This appeal will be heard before the City Council at a time and place fixed by the City Council. The City Council shall follow the same hearing process described as for the Police Chief in Section 155.14.

A party shall have 10 days following the decision of the City Administrator or Council under subsection 3(A) or 3(B) to file an appeal with the Iowa district court. Following the exhaustion of all appeals/hearings, the hearing officer may then order the public abatement of the violation as provided herein. If so ordered the enforcement officer may then proceed on seeking the public abatement of the nuisance.

4. Abatement Costs, Recording and Collecting. The enforcement officer shall be responsible for organizing such abatement actions and ensuring the submittal of abatement costs to the City Clerk. The City Clerk shall then keep an accurate account

of the itemized expenses incurred. The City Clerk shall pay all such abatement expenses on behalf of the City. Once the public abatement is completed, the City Clerk shall mail a statement of the total expense incurred 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 it shall then be collected with, and in the same manner, as general property taxes. If the amount expended to abate the nuisance or condition exceeds \$500.00, the City shall 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 as property being assessed for public improvements.

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## CHAPTER 156

# UNDERGROUND CONDUITS

156.01 Depth  
156.02 Location  
156.03 Construction; Map; Permit  
156.04 Manholes; Building Materials

156.05 Conformance  
156.06 Excavations; Repair  
156.07 Excavation; Costs

**156.01 DEPTH.** All underground wires or conduits shall be installed at least twenty-four (24) inches below the sidewalk grade now established in the City. In the event that the grade is changed at any time, the underground wire or conduit shall, if necessary, be changed without expense to the City.

**156.02 LOCATION.** The location of all underground wires, conduits and manholes in the public streets, alleys and public places in the City shall be under the supervision and control of the Council.

**156.03 CONSTRUCTION; MAP; PERMIT.** Within six months after the construction of underground wires, conduits or manholes as provided in this chapter, the person constructing and operating the same shall file with the Clerk a map or plat showing the location of the same. After the filing of such map or plat, no person shall in any manner excavate or disturb the ground of any street, alley or public place in the City where such underground wires, conduits or manholes may be located, without applying for and receiving from the Mayor and Clerk a written permit so to do, and such permit shall not be issued in any case whereby said underground wires, conduits or manholes shall be damaged, except as herein provided.

**156.04 MANHOLES; BUILDING MATERIALS.** All manholes connected with such underground wires or conduits shall be built of brick, stone or concrete with cast iron or concrete tops, and the grade at the top of such manholes shall not be higher than the established grade of the streets at the point of establishment. If the street grade is at any time raised or lowered by the City, the top of the manholes shall not be higher than the grade as thus established; such change in the manholes shall be made by the owner thereof, without expense to the City.

**156.05 CONFORMANCE.** All telephone companies and other persons using electric wire shall construct their underground wires, conduits and manholes to conform to the grades herein established and provided for and in the manner herein provided for.

**156.06 EXCAVATIONS; REPAIR.** All telephone companies and other persons using electric wire shall immediately after placing any wire or conduit in any street, alley or public place, restore the street or alley to a good condition, leaving the surface smooth and as nearly as it was before the excavating as is practicable. After so doing, should any holes or hollows appear at the point of excavation or adjacent thereto, such company or person shall immediately cause the same to be filled and the street or alley restored to as nearly its former condition as is practicable and in event of their failure to do so, the City may do such work and recover the amount expended from such person or company whose duty it was to perform it.

**156.07 EXCAVATION; COSTS.** All telephone companies and or other persons or companies using electric wire who avail themselves of the provisions of this chapter shall hold the City harmless from any and all damages sustained by any person or property by reason of injuries received in or growing out of the excavating in any street or alley for the purpose of placing wires or conduits as herein provided. In event the City is obliged to pay any sum for injuries to persons or property caused by the excavating or caving in after excavating is filled, then the person or company who did the excavating shall reimburse the City for such sums paid, costs and expenses of all kinds and natures growing out of or in any manner connected with the injuries or loss, and such sums may be recovered by the City against such person or company.

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## CHAPTER 165

# ZONING REGULATIONS

165.01 Short Title	165.16 "I-3" Heavy Industrial District
165.02 Definitions	165.17 Additional Area and Height Regulations
165.03 Validity and Severability Clause	165.18 Off-Street Parking
165.04 Conflict With Other Laws	165.19 Nonconformities
165.05 Zoning District Map	165.20 Accessory Uses
165.06 Application of Regulations	165.21 Temporary Uses
165.07 Use Classifications	165.22 Zoning of Annexed Areas
165.08 "A-1" Agricultural District	165.23 Governmental Bodies
165.09 "R-1" Single-Family Residential District	165.24 Home Occupations
165.10 "R-2" Medium Density Residential District	165.25 Bed and Breakfast Establishments
165.11 "MH" - Mobile Home Park District	165.26 Recreational Vehicle (RV) Sites
165.12 "B-1" Neighborhood Business District	165.27 Special Exception Procedures
165.13 "B-2" Commercial District	165.28 Enforcement
165.14 "I-1" Light Industrial District	165.29 Board of Adjustment
165.15 "I-2" Medium Industrial District	165.30 Changes and Amendments

**165.01 SHORT TITLE.** This chapter shall be known and may be cited as the "City of Hawarden Zoning Ordinance."

**165.02 DEFINITIONS.** For the purpose of interpreting this chapter, the following words, terms and expressions are defined.

1. "Accessory building" means a subordinate building or a portion of the main building located on the same lot as the main building (except as otherwise provided in this chapter), the use of which is clearly incidental to or customarily found in connection with the use of the main building or principal use of the land.
2. "Accessory use" means one which is customarily incidental to or customarily found in connection with and (except as otherwise provided in this chapter) on the same lot as the main use of the premises. When "accessory" is used in the text it has the same meaning as accessory use.
3. "Addition" means any construction which increases the site coverage, height, length, width or floor area of a structure.
4. "Alley" means a public thoroughfare not more than thirty feet (30') in width, for the use of vehicles, which has been dedicated or deeded to the public for its use.
5. "Alteration" means any change in the supporting members of a building, such as bearing walls, partitions, columns, beams or girders.
6. "Attached" means having one or more walls in common with a principal building, or joined to a principal building by a covered porch or passageway.
7. "Attic" means a space under a gable, hip or gambrel or other roof, the finished floor of which is or would be at or entirely above the level of the wall plates of at least two (2) exterior walls, and the height of which, from the floor level to the highest point of the roof, does not exceed ten feet (10').
8. "Basement" means a story partly underground.
9. "Block front" means all of the property on one side of a street between two intersecting streets or between an intersecting street and the dead end of a street.

10. "Boarding or lodging house" means a building, other than a hotel, where meals are regularly served or lodging furnished for compensation to more than three (3) persons not members of the family residing therein.
11. "Building" means a structure having a roof supported by columns or walls for shelter, support or enclosure of persons, animals or chattels. When separated by division walls from the ground up without openings, each portion of such structure shall be deemed a separate building.
12. "Building, height of" means the perpendicular distance measured in a straight line from the curb level to the highest point of the roof. Where a building is situated on ground above the curb level or where no curb grade is established, such height shall be measured from the level of the adjoining ground at the middle of the front wall.
13. "Building line" means the setback distance from the front property line, rear lot line, and side lot lines as provided in this chapter.
14. "Building wall" means the wall of a building forming a part of the main structure. The foundation walls of unenclosed porches, steps, walks and retaining wall or similar structures are not considered to be building walls under the provisions of this chapter.
15. "Building width" means the length of any one exterior side, being the extension lines from one external edge to the opposite external edge.
16. "Cellar" means a portion of a building located partly or wholly underground and having one-half or more of its floor-to-ceiling height below the average grade of the adjoining ground.
17. "Commission" means the Planning and Zoning Commission of the City.
18. "Court" means an open space fully enclosed on at least three (3) adjacent sides by walls of a building. An outer court is any court facing for its full width on a street, or on any other required open space not a court.
19. "Curb level" means the established curb grade adjacent to a lot.
20. "Detached" means fully separated from any other structure; not attached.
21. "Drive-in service" means a feature or characteristic of a use involving sale of products or provision of services to occupants in vehicles, including drive-in or drive-up windows and drive-through services such as mechanical automobile washing.
22. "Driveway" means an area providing vehicular access between a street and an off-street parking or loading area.
23. "Dwelling" means any building or portion thereof which is designed or used primarily for residential purposes but not including a tent or trailer.
24. "Dwelling, single-family" means a detached building that is arranged, designed or intended to be occupied as the residence of a single-family or housekeeping unit and having no party wall in common with an adjacent building.
25. "Dwelling, two-family" means a detached building that is arranged, designed or intended to be occupied as the residence of two (2) families or housekeeping units living independently of each other.

26. "Dwelling, multi-family" means an apartment house or dwelling used or intended to be used or occupied as the residence of three (3) or more families or housekeeping units living independently of each other.
27. "Dwelling unit" means a room or group of rooms within a dwelling and forming a single habitable unit with facilities for living, sleeping, and cooking.
28. "Family" means a group of individuals living and cooking together on the premises as one housekeeping unit, but a family does not include more than three (3) individuals not related by blood, marriage or adoption.
29. "Floor area" means the sum of the gross horizontal areas of all floors of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating buildings but not including cellar or basement space not used for retailing and nor including accessory off-street parking or loading spaces.
30. "Garage, private" means an accessory building or portion of a building in which one or more motor vehicles are housed, but in which no business services or industry connected with the motor vehicles is carried on other than leasing of space.
31. "Garage, public" means a garage other than a private garage.
32. "Home occupation" means a business or occupation use conducted in a residential zone, which use is incidental and secondary to the residential use and which complies with the provisions of Section 165.24 of this chapter.
33. "Loading space" means an area used for loading or unloading of goods from a vehicle in connection with the use of the site on which such space is located.
34. "Lot" means a parcel of land occupied or intended for occupancy by a use permitted in this chapter, including one main building together with its accessory building, and the open spaces and parking space required by this chapter, and having its principal frontage upon a street.
35. "Lot area" means the net horizontal area within bounding lot lines, but excluding any portion of a flag (panhandle) lot providing access to a street and excluding any public or private easement or right-of-way providing access to another lot.
36. "Lot coverage" or "building coverage" means the area of a lot covered by buildings or ground level paving, but excluding incidental projecting eaves, balconies, and similar features and excluding landscaping and open recreational facilities.
37. "Lot depth" means the distance from the front lot line to the rear lot line. In the case of a lot of irregular shape, the mean depth shall be the lot depth.
38. "Lot width" means the distance between the side lot lines. In the case of a lot of irregular shape, the mean width shall be the lot width.
39. "Lot, interior" means a lot other than a corner lot.
40. "Lot line, front" means, in the case of an interior lot abutting on only one street, the street line of such street. In the case of any other lot, it may be such street line as is selected by the owner as the "front lot line" for the purpose of this chapter, provided that the principal entrance to such building is on the street so selected and that it conforms to Section 165.17(2) of this chapter.
41. "Lot line, rear" means that boundary line which is opposite and most distant from the front lot line.

42. "Lot line, side" means any boundary line not a front line or a rear lot line.
43. "Mobile home" means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed, or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but also includes any such vehicle with motive power not registered as a motor vehicle.
44. "Mobile home park" means any site, lot, field or tract of land upon which two (2) or more occupied mobile homes are situated, either free of charge or for revenue purposes, and includes any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of such mobile home park.
45. "Modular home" means a factory-built structure which is manufactured or constructed to be used as a place for human habitation, but which is not constructed or equipped with a permanent hitch or other device allowing it to be attached or towed behind a motor vehicle, and which does not have permanently attached to its body or frame any wheels or axles.
46. "Mobile home space" means an area within a mobile home park which is designed for and designated as the location for a single mobile home and the exclusive use of its occupants.
47. "Nonconforming use" means a lawful use of any land, building, or structure, other than a sign, that does not conform with currently applicable use regulations, but which complied with use regulations in effect at the time the use was established.
48. "Parking facility" means an area on a lot or within a building, or both, including one or more parking spaces together with driveways, aisles, turning and maneuvering areas, clearances, and similar features, and meeting the requirements established by this chapter. The term "parking facility" includes parking lots, garages, and parking structures.
49. "Parking space" means an area on a lot or within a building, used or intended for use for parking of a motor vehicle, having permanent means of access to and from a public street or alley independently of any other parking space, and located in a parking facility meeting the requirements established by this chapter. The term "parking space" is equivalent to the term "parking stall" and does not include driveways, aisles, or other features comprising a parking facility.
50. "Premises" means a lot, together with all building and structures thereon.
51. "Plat, lot" means a drawing of a lot showing its dimensions, the building arrangement thereon and such other information as may be needed for the enforcement of this chapter.
52. "Public way" means an open or unoccupied public space more than thirty feet (30') in width which is permanently reserved for the purpose of access to abutting property.
53. "Porch, open" means a roofed structure, open on two (2) or more sides, projecting from the front, side or rear wall of the building.
54. "Public notice" means the publication of the time and place of any public hearing not less than seven (7) days or more than twenty (20) days prior to the date of said hearing in one newspaper of general circulation in the City.

55. “Recreational vehicle” means a vehicle towed or self-propelled on its own chassis or attached to the chassis of another vehicle and designed or used for temporary dwelling, recreational or sporting purposes. The term “recreational vehicle” includes, but is not limited to, travel trailers, pick-up campers, camping trailers, motor coach homes, converted trucks and buses, boats and boat trailers, and snowmobiles.
56. “Residential convenience service” means a use or activity of a commercial nature conducted as an accessory use to multi-family residential or mobile home park residential use, and intended solely for the convenience of residents thereof.
57. “Setback line” means a line within a lot parallel to and measured from a corresponding lot line, forming the boundary of a required yard and governing the placement of structures and uses on the lot.
58. “Sign” means any structure or part thereof, or any device attached to, painted on, or represented on a building or other structure, upon which is displayed or included any letter, work, model, banner, flag, pennant, insignia, decoration device, or representation used as, or which is in the nature of an announcement, direction, advertisement or other attention-directing device. A sign does not include a similar structure or device located within a building except for illuminated signs within show windows. A sign includes any billboard, but does not include the flag, pennant or insignia of any nation of association of nations, or of any state, city or other political unit, or any political, charitable, educational, philanthropic, civic, professional, religious, or like campaign, drive, movement or event.
59. “Sign area” means that area within a line including the outer extremities of all letters, figures, characters and delineations or within a line including the outer extremities of the framework or background of the sign, whichever line includes the larger area. The support for the sign background, whether columns, a pylon or a building or part thereof, is not included in the sign area.
60. “Site plan” means a plan, prepared to scale, showing accurately and with complete dimensions, all of the buildings, structures and uses, and principal site development features including parking, access, and landscaping and screening, proposed for a specific parcel of land.
61. “Story” means that part of any building comprised between any floor and the floor or attic next above; the first story of a building is the lowest story having at least one-half (1/2) of its height above the highest level of adjoining ground.
62. “Street, front” means the street or public place upon which a lot abuts. If a lot abuts upon more than one street or public place it means the street designated as the front street in the owner’s application for a building permit.
63. “Street line” means the dividing line between a lot and a public street, alley or place.
64. “Street, public” means a public thoroughfare more than thirty feet (30') in width.
65. “Street wall” means the wall of the building nearest the street under consideration.
66. “Structure” means anything constructed or erected, the use of which requires permanent location on the ground.

67. "Structural alteration" means any change in structural members of a building, such as walls, columns, beams or girders.
68. "Substandard lot" means a lot of record that does not comply with currently applicable minimum area, width, or depth requirements for the district in which it is located, but which complied with applicable requirements when it was placed on record.
69. "Townhouse" means a dwelling unit having a common wall with or abutting one or more adjoining dwelling units in a townhouse group.
70. "Townhouse group" means two (2) or more contiguous townhouses having common or abutting walls.
71. "Use" means the conduct of an activity, or the performance of a function or operation, on a site or in a structure.
- A. "Accessory use" means a use or activity which is incidental to and customarily associated with a specific principal use on the same site.
  - B. "Principal use" means a use which is a primary function of a lot or structure.
  - C. "Permitted use" means a use defined by Section 165.20 and listed by the regulations for any particular district as a permitted use within that zone, and permitted therein as a matter of right when conducted in accordance with the regulations established by this chapter.
  - D. "Special exception use" means a use defined by Section 165.20 and listed by the regulations for any particular district as a special exception use within that district and allowable therein, solely on a discretionary and conditional basis subject to a special exception use permit, and to all other regulations established by this chapter.
72. "Valuation" means the one hundred percent (100%) valuation of a building or structure, as determined by the Sioux County Assessor.
73. "Yard, front" means the required space, unobstructed to the sky, open for the whole width of the lot extending from the nearest part of any building of the lot to the front lot line excluding cornices, eaves, gutters or chimneys projecting not more than thirty inches (30"), steps, bay windows or similar features not extending through more than one story and which do not aggregate more than one-third (1/3) of the width of the frontage of the building, and vestibules not more than one story in height and extending more than three feet (3') beyond the front wall of the principal building, one story open porches eight feet (8') or less in width.
74. "Yard, rear" means the required open space, unobstructed to the sky, extending along the rear lot line (not street line), throughout the whole width of the lot to the rear of the principal building, excluding cornices, eaves, gutters, chimneys projecting not more than thirty inches (30"), uncovered steps, open porches not more than one story in height and eight feet (8') in width and accessory buildings.
75. "Yard, side" means the required open space, unobstructed to the sky, extending along the side lot line from the front yard to the rear yard, excluding cornices, eaves, gutters, chimneys, bay windows, and open porches, or similar features which project into the side yard but are thirty inches (30") or more from the side lot line.

**165.03 VALIDITY AND SEVERABILITY CLAUSE.** If any court of competent jurisdiction shall declare any part of this chapter to be invalid, such ruling shall not affect any other provisions of this chapter not specifically included in said ruling. If any court of competent jurisdiction shall declare invalid the application of any provision of this chapter to a particular land, parcel, lot, district, use, building or structure, such ruling shall not affect the application of said provision to any other land, parcel, lot, district, use, building or structure not specifically included in said ruling.

**165.04 CONFLICT WITH OTHER LAWS.** Where any conditions imposed by any provision of this chapter upon the use of any lot, building or structure is either more restrictive or less restrictive than any comparable condition imposed by any other provision of this chapter or by the provision of an ordinance adopted under any other law, or by provision of any State statute, the provision which is more restrictive or which imposes a higher standard or requirement shall apply. This chapter is not intended to abrogate or annul any easement, covenant or other private agreement provided that where any provision of this chapter is more restrictive or imposes a higher standard or requirement than such easement, covenant or other private agreement, the provision of this chapter shall govern.

**165.05 ZONING DISTRICT MAP.** The Council shall cause to be prepared and approved an Official Zoning District Map showing the various districts, which may be changed or corrected from time to time as recommended by the Commission and enacted by the Council. The map shall be kept up to date by the Zoning Administrator and will be placed in the City Council Chambers at City Hall. There shall also be placed a similar map prepared and placed in a convenient place in the office of the City Clerk for reference at any time.

1. Official Map. The “Official Zoning District Map” shall be that Zoning Map on file in the City Council Chambers, and all references hereafter to said official map shall mean the map just referred to, said map by reference being made part of this Zoning Ordinance. †
2. District. The City Council shall divide the Official Zoning Districts Map of the City into districts or zones as follows:
  - “A-1” Agricultural
  - “R-1” Single-Family Residential
  - “R-2” Medium Density Residential
  - “MH” Mobile Home Park District
  - “B-1” Neighborhood Business
  - “B-2” Commercial
  - “I-1” Light Industrial
  - “I-2” Medium Industrial
  - “I-3” Heavy Industrial
3. Boundaries. The zones shall show each zone in a certain place on the Zoning Districts Map and by different colors or shades, which also will show its boundaries in relation to the others and classify its uses under regulations as provided in this chapter.

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† See EDITOR’S NOTE at the end of this chapter for ordinances amending the zoning map.

**165.06 APPLICATION OF REGULATIONS.** No structures or buildings or part thereof shall be erected, constructed, reconstructed, remodeled, converted, altered, enlarged, extended, raised, moved or used, and no land shall be used except in conformity with the regulations herein prescribed for the district in which such building or land may be situated and until a zoning compliance permit has been issued by the Zoning Administrator as provided herein.

1. The principal building on a lot shall front a street or other approved public place.
2. No yard, or other open space provided about any building for the purpose of complying with the provisions of this chapter shall be considered as providing a yard or open space for any other building, nor shall the lot area per family be reduced in any manner except in conformity with the area regulations herein established for the district in which such building is located.
3. The depths of front yards or rear yards and width of side yards shall be measured from the lot line to the nearest point of the adjacent building wall of the building under consideration.
4. No lot shall hereafter be so reduced in area that any required yard, court or other open space will be smaller than is prescribed in this chapter for the district in which it is located.
5. No accessory building in the rear of any principal building on the same interior or corner lot shall be used for residential purposes.
6. Any portion of a building which is covered by a roof shall be considered as part of the building.
7. The owner of a corner lot may elect to front the principal building on such lot on either of the two (2) streets upon which the corner lot abuts, provided that the principal entrance to such building shall open on the street so selected. Where any such election is manifestly contrary to the established character or the welfare of the neighborhood, the Zoning Administrator shall thereupon refer the case to the Board of Adjustment for determination.
8. No more than one (1) principal use building shall be permitted on any lot in any district.

These regulations are required in addition to any applicable State and City health and building codes.

**165.07 USE CLASSIFICATIONS.** The purpose of the Use Classifications shall be to provide a consistent set of terms encompassing and defining uses permitted or specifically permitted in the various districts, and to provide a procedure for determination of the applicable use classification of any activity not clearly within any defined use classification. In the event of any question as to the appropriate use classification of any existing or proposed use or activity, the Zoning Administrator shall have the authorization to determine the appropriate classification, subject to the right of appeal pursuant to Section 165.29. In making such determination, the Zoning Administrator shall consider the characteristics of the particular use in question, and shall consider any functional, product, service, or physical facility requirements common with or similar to uses cited as examples of use classifications.

1. General Description of Residential Use Types. Residential use types include the occupancy of living accommodations on a wholly or primarily non-transient basis but exclude institutional living arrangements involving those providing 24-hour

skilled nursing or medical care and those providing forced residence, such as asylums and prisons.

- A. Single-Family Residential: The use of a site for only one dwelling unit.
  - B. Duplex Residential: The use of a site for two (2) dwelling units within a single building.
  - C. Two-Family Residential: The use of a site for two (2) dwelling units, each in a separate building.
  - D. Townhouse Residential: The use of a site for three (3) or more townhouse dwelling units, constructed with common or adjacent walls and each located on a separate ground parcel within the total development site, together with common area serving all dwelling units.
  - E. Condominium Residential: The use of a site for three (3) or more dwelling units intended for separate ownership, together with common area serving all dwelling units.
  - F. Multiple-Family Residential: The use of a site for three (3) or more dwelling units, within one or more buildings.
  - G. Group Residential: The residential occupancy of living accommodations by groups of more than five (5) persons not defined as a family on a weekly or longer basis. Typical uses include occupancy of fraternity or sorority houses, dormitories, residence halls, or boarding houses.
  - H. Mobile Home Residential: The residential occupancy of mobile homes by families on a weekly or longer basis. Uses only include mobile home parks or mobile home subdivisions.
2. General Description of Commercial Use Types. Commercial use types include the sale, rental, service, and distribution of goods; and the provision of services other than those classified as industrial or civic uses.
- A. Administrative and Business Offices: Office of private firms or organizations which are primarily used for the provision of executive, management, or administrative services. Typical uses include administrative offices, and services including real estate, insurance, property management, investment, personnel, travel, secretarial services, telephone answering, photocopy and reproduction, and business offices of public utilities, organizations and associations, or other use classifications when the service rendered is that customarily associated with administrative office services.
  - B. Agricultural Animal Husbandry (Limited): The raising of cattle, swine, poultry, horses, sheep, goats or similar farm animals for reproductive stock or for slaughter. Such uses shall be conducted completely within enclosed structures and are regulated as provided in Chapter 455B, *Code of Iowa*.
  - C. Agricultural Animal Husbandry (General): The raising of cattle, swine, poultry, horses, goats or similar farm animals for reproductive stock or for slaughter. Such uses are regulated as provided in Chapter 455B, *Code of Iowa*.

D. Agricultural Crop Production: The growing of the usual farm crops for sale, storage or for the provision of feed.

E. Agricultural Sales and Services: Establishments or places of business engaged in sale from the premises of feed, grain, fertilizers, pesticides and similar goods or in the provision of agriculturally related services with incidental storage on lots other than where the service is rendered. Typical uses include nurseries; hay, feed or grain stores, and tree service firms.

F. Automotive and Equipment Services: Establishments or places of business primarily engaged in automotive-related or equipment sales or services. The following are automotive and equipment use types:

(1) Automotive Washing: Washing and cleaning of automobiles and related light equipment. Typical uses include auto laundries or car washes.

(2) Service Station: Provision of fuel, lubricants, parts and accessories, and incidental services to motor vehicles.

(3) Commercial Off-Street Parking: Parking of motor vehicles on a temporary basis within a privately owned off-street parking facility, other than accessory to a principal use. Typical uses include commercial parking lots or parking garages.

(4) Automotive Rentals: Rental of automobiles, noncommercial trucks, trailers, and recreational vehicles, including incidental parking and servicing of vehicles available for rent or lease. Typical uses include auto rental agencies, trailer rental agencies and taxi parking and dispatching.

(5) Automotive Sales: Sale or rental of automobiles, noncommercial trucks, motorcycles, motor homes, recreational vehicles or boats, including incidental storage, maintenance, and servicing. Typical uses include new or used car dealerships, motorcycle dealerships, and; boat, trailer and recreational vehicle dealerships.

(6) Equipment Sales: Sale or rental of trucks, tractors, construction equipment, agricultural implements, mobile homes, and similar heavy equipment, including incidental storage, maintenance, and servicing. Typical uses include truck dealerships, construction equipment dealerships, and mobile homes sales establishments.

(7) Automotive Repair Services: Repair of automobiles, noncommercial trucks, motorcycles, motor homes, recreational vehicles, or boats, including the sale, installation, and servicing of equipment and parts. Typical uses include new and used car dealerships, motorcycle dealerships; and boat, trailer and recreational vehicle dealerships.

(8) Equipment Repair Services: Repair of trucks, tractors, construction equipment, agricultural implements, and similar heavy equipment. Typical uses include truck repair garages, tractor and farm implement repair services, and machine shops, but excluding dismantling or salvage.

- (9) Vehicle Storage: Long term storage of operational or non-operational vehicles. Typical uses include storage of private parking tow-aways or impound yards, but exclude dismantling or salvage.
- G. Building Maintenance Services: Establishments primarily engaged in the provision of maintenance and custodial services to firms rather than individuals. Typical uses include janitorial, landscape maintenance, or window cleaning services.
- H. Business Support Services: Establishments or places of business primarily engaged in the sale, rental or repair of equipment and supplies used by office, professional and service establishments to the firms themselves rather than to individuals, but exclude automotive, construction and farm equipment. Typical uses include office equipment and supply firms, small business machine repair shops or hotel equipment and supply firms.
- I. Business or Trade School: A use providing education or training in business, commerce, language, or other similar activity or occupational pursuit, and not otherwise defined as a home occupation, college, or university, or public or private educational facility.
- J. Cocktail Lounge: A use engaged in the preparation and retail sale of alcoholic beverages for consumption on the premises, including taverns, bars, and similar uses.
- K. Commercial Recreation: Establishments or places primarily engaged in the provision of sports, entertainment, or recreation for participants or spectators. The following are commercial recreation use types.
- (1) Indoor Sports and Recreation: Uses conducted within an enclosed building. Typical uses include bowling alleys, billiard parlors, ice and roller skating rinks, and arcades.
  - (2) Outdoor Sports and Recreation: Uses conducted in open or partially enclosed or screened facilities. Typical uses include driving ranges, miniature golf courses, golf courses, swimming pools, tennis courts, and racquetball courts.
  - (3) Indoor Entertainment: Predominately spectator uses conducted within an enclosed building. Typical uses include motion picture theaters, meeting halls and dance halls.
  - (4) Outdoor Entertainment: Predominately spectator uses conducted in open facilities. Typical uses include sports arenas, racing facilities, and amusement parks.
- L. Communication Services: Establishments primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms but excludes those classified as major utility facilities. Typical uses include television studios, telecommunication service centers or telegraph service offices.
- M. Construction Sales and Services: Establishments or places of business primarily engaged in construction activities and incidental storage on lots other than construction sites as well as the retail or wholesale, from the premises, of materials used in the construction of buildings or other structures other than retail sales of paint, fixtures and hardware; but excludes those

classified as one of the automotive and equipment service use types. Typical uses include building materials stores, tool and equipment rental or sales, or building contractors.

N. Consumer Repair Services: Establishments primarily engaged in the provision of repair services to individuals and households rather than firms, but excluding automotive and equipment use types. Typical uses include appliance repair shops, watch or jewelry repair, or musical instrument repair firms.

O. Convenience Storage: Storage services primarily for personal effects and household goods within enclosed storage areas having individual access, but excluding use as workshops, hobby shops, manufacturing, or commercial activity. Typical uses include mini warehousing.

P. Financial Services: Establishments primarily engaged in the provision of financial and banking services. Typical uses include banks, savings and loan institutions, loan and lending activities, and similar services.

Q. Food Sales: Establishments or places of business primarily engaged in the retail sale of food or household products for home consumption. Typical uses include groceries, delicatessens, meat markets, retail bakeries, and candy shops.

R. Funeral Services: Establishments engaged in undertaking services such as preparing the human dead for burial and arranging and managing funerals. Typical uses include funeral homes or mortuaries.

S. General Retail Sales: Sale or rental of commonly used goods, and merchandise for personal or household use, but excludes those classified more specifically in this section inclusive. Typical uses include department stores, apparel stores, furniture stores, or establishments providing the following products or services: household cleaning and maintenance products, drugs, cards and stationary, notions, books, tobacco products, cosmetics, and specialty items; flowers, fabrics, and like items; cameras, photography services, household electronic equipment, records, sporting equipment, kitchen utensils, home furnishing and appliances, art supplies and framing, arts and antiques, paint and wallpaper, carpeting and floor covering, interior decorating services, office supplies; bicycles; and automotive parts and accessories (excluding service and installation).

T. Health Services: A use providing consultation, diagnosis, therapeutic, preventative, or corrective personal treatment services by doctors, dentists, medical and dental laboratories, and similar practitioners of medical and healing arts for humans, licensed for such practice by the State of Iowa.

U. Kennels: Boarding and care services for dogs, cats and similar small animals. Typical uses include boarding kennels, pet motels, or dog training centers.

V. Laundry Services: Establishments primarily engaged in the provision of laundering, dry cleaning or dyeing services other than those classified as Personal Services. Typical use types include bulk laundry and cleaning plants, diaper services, or linen supply services.

W. Liquor Sales: Establishments or places of business engaged in retail sale for consumption off the premises of alcoholic beverages. Typical uses include liquor stores, bottle shops, or any licensed sales for off-site consumption.

X. Personal Improvement Services: Establishments primarily engaged in the provision of informational, instructional, personal improvement and similar services of a non-professional nature. Typical uses include photography studios, driving schools, health or physical fitness studios, reducing salons, dance studios, handicraft and hobby instruction.

Y. Personal Services: Establishments primarily engaged in the provision of frequently or recurrently needed services of a personal nature. Typical uses include beauty and barber shops, seamstress, tailor, shoe repair shops, and self-service laundry or apparel cleaning services.

Z. Pet Services: Retail sales and grooming of dogs, cats, birds, fish, and similar small animals customarily used as household pets. Typical uses include pet stores, dog bathing and clipping salons, or pet grooming shops.

AA. Professional Office: A use providing professional or consulting services in the fields of law, architecture, design, engineering, accounting, and similar professions.

BB. Research Services: Establishments primarily engaged in research of an industrial or scientific nature but excludes product testing. Typical uses include electronics research laboratories, space research and development firms, or pharmaceutical research labs.

CC. Restaurant (Convenience): A use engaged in the preparation and retail sale of food and beverages, excluding alcoholic beverages, for on-premises consumption. Typical uses include soda fountains, ice cream parlors, sandwich shops, cafes, and coffee shops.

DD. Restaurant (General): A use engaged in the preparation and retail sale of food and beverages, including sale of alcoholic beverages when conducted as an accessory or secondary feature and producing less than 50 percent of the gross income. A general restaurant may include live entertainment. Typical uses include restaurants, coffee shops, dinner houses and similar establishments with incidental alcoholic beverage service.

EE. Riding Academy: A use engaged in the provision of equestrian riding lessons, stables for the quartering of horses. Typical uses include saddle clubs, riding stables or liverys.

FF. Scrap and Salvage Services: Places of business primarily engaged in the storage, sale, dismantling or other processing of used or waste materials which are not intended for reuse in their original forms. Typical uses include automotive wrecking yards, junk yards or paper salvage yards.

GG. Veterinary Services: Veterinary services for animals. Typical uses include pet clinics, dog and cat hospitals, and veterinary hospitals.

HH. Visitor Habitation: Establishments primarily engaged in the provision of lodging services on a less-than-weekly basis with incidental food, drink and other sales and services intended for the convenience of guests. The following are visitor habitation use types:

- (1) Campground: Campground facilities providing camping or parking areas and incidental services for travelers in recreational vehicles or tents. Typical uses include recreational vehicle parks.
  - (2) Hotel / Motel: Lodging services involving the provision of room and/or board. Typical uses include hotels, motels or transient boarding houses.
3. General Description of Industrial Use Types. Industrial use types include the on-site extraction or production of goods by non-agricultural methods, and storage and distribution of products.
- A. Basic Industry: A use engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage of, or manufacturing processes utilizing flammable or explosive materials, or storage or manufacturing processes which potentially involve hazardous or commonly recognized offensive conditions.
  - B. Custom Manufacturing: Establishments primarily engaged in the on-site production of goods by hand manufacturing which involve only the use of hand tools or domestic mechanical equipment not exceeding two (2) horsepower or a single kiln not exceeding eight (8) kilowatts and the incidental direct sale to consumers of only those goods produced on-site. Typical uses include ceramic studios, candle making shops or custom jewelry.
  - C. Light Manufacturing: A use engaged in the manufacture, predominately from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution of such products, but excluding basic industrial processing.
  - D. Resource Extraction: A use involving the on-site extraction of surface mineral products or natural resources. Typical extractive uses are quarries, borrow pits, sand and gravel operations, oil and gas extraction, and mining operations.
  - E. Stockyards: Stockyard services involve the temporary keeping of livestock for slaughter, market or shipping. Typical uses include stockyards or animal sales and auction yards.
  - F. Warehousing and Distribution: Establishments or places of business primarily engaged in wholesaling, storage, distribution and handling of materials and equipment other than live animals and plants. The following are wholesaling, storage and distribution types:
    - (1) Limited Warehousing and Distribution: Wholesaling, storage and warehousing services within enclosed structures. Typical uses include wholesale distributors, storage warehouses or moving and storage firms.
    - (2) General Warehousing and Distribution: Open-air storage, distribution and handling of materials and equipment. Typical uses include monument or stone yards, grain elevators or open storage yards.

4. General Description of Civic Use Types. Civic use types include the performance of utility, educational, recreational, cultural, medical, protective, governmental, and other uses which are strongly vested with public or social importance.

A. Administrative Services: Offices, administrative, clerical or public contact services that deal directly with the citizens, together with incidental storage and maintenance of necessary vehicles. Typical uses include Federal, State, County or City offices.

B. Aviation Facilities: Landing fields, aircraft parking and service facilities, and related facilities for operation, service, fueling, repair, storage, charter, sales, and rental of aircraft, and including activities directly associated with the operation and maintenance of airport facilities and the provision of safety and security.

C. Cemetery: Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbariums, crematoriums, mausoleums and mortuaries when operated in conjunction with and within the boundary of such cemetery.

D. Club or Lodge: A use providing meeting, recreational, or social facilities for a private or non-profit association, primarily for use by members and guests. Typical uses include private social clubs and fraternal organizations.

E. College and University Facilities: An educational institution of higher learning which offers course of study designed to culminate in the issuance of a degree.

F. Community Recreation: A recreational facility for use by residents and guests of a particular residential development, planned unit development or limited residential neighborhood, including both indoor and outdoor facilities.

G. Convalescent Services: A use providing bed care and in-patient services for persons requiring regular medical attention, but excluding a facility providing surgical or emergency medical services, and excluding a facility providing care of alcoholism, drug addiction, mental disease, or communicable disease.

H. Cultural Services: A library, museum, art gallery, or similar non-profit use affording display, preservation and exhibition of objects of permanent interest in one or more of the arts and sciences.

I. Day Care Services (Limited): A facility, or use of a building or portion thereof, for the care of six (6) or fewer individuals. This term includes nursery schools, pre-schools, day care centers for children or adults, and similar uses.

J. Day Care Services (General): A facility, or use of a dwelling unit or portion thereof, for the care of seven (7) or more individuals. This term includes nursery schools, pre-schools, day care centers for children or adults, and similar uses. General day care facilities shall be registered as required by Chapter 237A of the *Code of Iowa*. Proof of said registration shall be provided before a zoning compliance permit may be issued.

- K. Detention Facilities: A publicly operated use providing housing and care for individuals confined by law.
- L. Game Refuge: A use of land providing natural habitat for animal and plant species. Typical uses include prairies, marshes, woodlands, and wetlands.
- M. Guidance Services: A use providing counseling, guidance, recuperative, vocational, or similar services to persons requiring rehabilitation assistance as a result of mental illness, alcoholism, detention, drug addiction, or similar condition, either on a residential or daytime care basis.
- N. Hospital Services: A facility providing medical, psychiatric, or surgical services for sick or injured persons primarily on an in-patient basis, and including ancillary facilities for out-patient and emergency treatment, diagnostic services, training, research, administration, and services to patients, employees, or visitors.
- O. Local Utility Services: Services which are necessary to support principal development and involve only minor structures such as lines, poles, transformers, control devices and junction boxes which are necessary to support principal development.
- P. Maintenance and Service Facilities: A facility supporting maintenance, repair, vehicular or equipment servicing, materials storage, and similar activities, including corporation yards, equipment service centers, and similar uses having characteristics of commercial services or contracting or industrial activities.
- Q. Major Utility Facilities: Generating plants, electrical switching facilities and primary substations, refuse collection or disposal facilities, water and wastewater treatment plants, and similar facilities of public agencies or public utility firms having potentially significant impact upon surrounding uses.
- R. Military Installations: Military facilities of the Federal or State governments.
- S. Park and Recreation Services: Publicly owned and operated parks, playgrounds, recreation areas or open spaces.
- T. Postal Facilities: Postal services, including post offices, bulk mail processing or sorting centers, operated by the United States Postal Service.
- U. Primary Educational Facilities: A public, private or parochial school offering instruction at the elementary school level in the branches of learning and study required to be taught in the public schools in the State of Iowa.
- V. Public Assembly: Publicly owned and operated facilities for major public assembly, recreation, sports, amusement or entertainment, including civic or community auditoriums, sports stadiums, convention facilities, fairgrounds, and exhibition facilities.
- W. Railroad Facilities: Railroad yards, equipment servicing facilities, and terminal facilities.

X. Religious Assembly: A use located in a permanent building and providing regular organized religious worship and religious education incidental thereto, but excluding primary or secondary educational facilities.

Y. Residential Care Services: A use, other than a hospital or convalescent facility, providing care for ambulatory persons in a residential environment, including over-night occupancy or care for extended periods of time.

Z. Safety Services: Facilities for conduct of public safety and emergency services, including police and fire protection services and emergency medical and ambulance services.

AA. Sanitary Landfill: A disposal project where garbage, refuse, rubbish, and other similar discarded solid or semisolid materials are buried between layers of earth.

BB. Secondary Educational Facilities: A public, private, or parochial school offering instruction at the junior and senior high school levels in the branches of learning and study required to be taught in the public schools of the State of Iowa.

CC. Transportation Terminals: A facility for loading, unloading, and interchange of passengers, baggage, and incidental freight or package express between modes of transportation, including bus terminals, railroad depots, airport terminals, and public transit facilities.

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**165.08 “A-1” AGRICULTURAL DISTRICT.** This district is intended to provide for areas of agricultural use which remain compatible with the surrounding residential or commercial uses.

1. Permitted Uses. Unless specifically provided elsewhere in this chapter, only the following structures and uses shall be permitted in the “A-1” Agricultural Districts.

- A. Residential Uses.
  - Single-Family Residential
  - Duplex Residential
- B. Commercial Uses.
  - Agricultural Animal Husbandry (Limited)
  - Agricultural Crop Production
  - Riding Academy
  - Veterinary Services
  - Campground
- C. Industrial Uses. None
- D. Civic Uses.
  - Game Refuge
  - Local Utility Services
  - Park and Recreation Services

2. Special Exception Uses. The following uses and structures may be allowed in the “A-1” Agricultural District subject to review and approval of the Board of Adjustment.

- A. Residential Uses.
  - Two-Family Residential
- B. Commercial Uses.
  - Agricultural Animal Husbandry (General)
  - Agricultural Sales and Services
  - Outdoor Sports and Recreation
  - Outdoor Entertainment
  - Communication Services
  - Kennels
- C. Industrial Uses.
  - Resource Extraction
  - Stockyards
- D. Civic Uses.
  - Aviation Facilities
  - Cemetery
  - Major Utility Facility
  - Military Installations
  - Railroad Facility
  - Religious Assembly
  - Sanitary Landfill

3. Development Regulations. Each development in the “A-1” Agricultural District shall be subject to the following minimum site development regulations.

- Lot Area: ..... 2 Acres
- Lot Width: ..... 300 feet
- Front Yard Setback:..... 50 feet
- Rear Yard Setback:..... 50 feet
- Side Yard Setback: ..... 30 feet
- Street Side Yard Setback:..... 50 feet
- Maximum Height: ..... None
- Maximum Lot Coverage: ..... 20% including principal and accessory buildings.

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**165.09 “R-1” SINGLE-FAMILY RESIDENTIAL DISTRICT.** This district is intended to provide for low density residential development.

1. Permitted Uses. Unless otherwise provided in this chapter, only the following structures and uses shall be permitted in the “R-1” Single-family Residential District.

- A. Residential Uses.
  - Single-Family Residential
  - Home Occupations, pursuant to Section 165.24 of this chapter
- B. Commercial Uses. None
- C. Industrial Uses. None
- D. Civic Uses.
  - Day Care Services (Limited and General)
  - Hospital Services
  - Park and Recreation Services
  - Primary Educational Facility
  - Religious Assembly
  - Secondary Educational Facilities

*(Ord. 685 – Aug. 15 Supp.)*

2. Special Exception Uses. The following uses and structures may be allowed in the “R-1” Single-Family Residential District subject to review and approval of the Board of Adjustment.

- A. Residential Uses.
  - Duplex Residential
  - Multiple Family Residential
  - Bed and Breakfast Establishments, pursuant to Section 165.25
- B. Commercial Uses. None
- C. Industrial Uses. None
- D. Civic Uses.
  - Administrative Services
  - Local Utility Services
  - Cemetery
  - Major Utility Services

3. Development Regulations. Each development in the “R-1” Single-Family Residential District shall be subject to the following minimum site development regulations.

- Lot Area: .....7,500 square feet for single-family unit  
15,000 square feet for 2 dwelling unit.
- Lot Width: .....75 feet.
- Front Yard Setback: .....20 feet.
- Rear Yard Setback: .....35 feet.

- Side Yard Setback: ..... 8 feet for single story structure.  
10 feet for 2 or more stories.
- Street Side Yard Setback: ..... 20 feet.
- Maximum Height: ..... 35 feet.
- Maximum Lot Coverage: ..... 40% including principal and accessory buildings.
- Foundation: ..... All principal use structures must be erected on a foundation constructed in a manner so as to be impervious to frost. The base of any foundation must be, at a minimum, 42 inches below ground level.
- Minimum Building Width: ..... All principal use buildings shall have a minimum width of 22 feet.

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**165.10 “R-2” MEDIUM DENSITY RESIDENTIAL DISTRICT.** This district is designed to provide residential areas of higher density than is allowed in the “R-1” district.

1. Permitted Uses. Unless provided elsewhere in this chapter, only the following structures and uses shall be permitted in the “R-2” Medium Density Residential District.

- A. Residential Uses.
  - Single-Family Residential
  - Duplex Residential
  - Multiple Family Residential
  - Home Occupations, pursuant to Section 165.24 of this chapter
- B. Commercial Uses. None
- C. Industrial Uses. None
- D. Civic Uses.
  - Day Care Services (Limited)
  - Park and Recreation Services
  - Primary Educational Facility
  - Religious Assembly

2. Special Exception Uses. The following uses and structures may be allowed in the “R-2” Medium Density Residential District subject to review and approval of the Board of Adjustment.

- A. Residential Uses.
  - Two-Family Residential
  - Bed and Breakfast Establishments, pursuant to Section 165.25
- B. Commercial Uses. None
- C. Industrial Uses. None
- D. Civic Uses.
  - College and University Facility
  - Day Care Services (General)
  - Local Utility Facility
  - Religious Assembly
  - Secondary Educational Facility
  - Convalescent Services
  - Guidance Services
  - Residential Care Services

3. Development Regulations. Each development in the “R-2” Medium Density Residential District shall be subject to the following minimum site development regulations.

- Lot Area: .....7,500 square feet for single-family unit  
15,000 square feet for 2 dwelling unit.
- Lot Width: .....75 feet.
- Front Yard Setback: .....20 feet.

- Rear Yard Setback:..... 35 feet.
- Side Yard Setback: ..... 8 feet for single story structure.  
10 feet for 2 or more stories.
- Street Side Yard Setback:..... 20 feet.
- Maximum Height: ..... 35 feet.
- Maximum Lot Coverage: ..... 40% including principal and accessory buildings.
- Foundation:..... All principal use structures must be erected on a foundation constructed in a manner so as to be impervious to frost. The base of any foundation must be, at a minimum, 42 inches below ground level.
- Minimum Building Width:..... All principal use buildings shall have a minimum width of 22 feet.

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**165.11 “MH” - MOBILE HOME PARK DISTRICT.** The intent of this chapter is to regulate the location and placement of mobile home parks in the City.

1. Use Regulations. Within the “MH” Mobile Home Park District, unless otherwise provided in this chapter, no building or land shall be used for other than one or more of the following purposes:

- A. Residential Uses.  
Mobile Home Residential
- B. Civic Uses.  
Park and Recreation Services  
Local Utility Services  
Community Recreation  
Day Care Services
- C. Commercial Uses. None
- D. Industrial Uses. None

2. Permitted Accessory Uses and Structures. The following accessory uses and structures shall be permitted:

- A. Accessory uses and structures normally incidental and subordinate to the permitted uses and structures permitted as exceptions;
- B. Private garage or carport;
- C. Private swimming pools and tennis courts;
- D. Private greenhouses not operated for commercial uses.

3. Special Exception Uses. Within the “MH” Mobile Home Park District, the following uses and structures may be permitted subject to review of the Board of Adjustment.

- A. Residential Uses. None
- B. Civic Uses. None
- C. Commercial Uses.  
Recreation Vehicle (RV) Parks pursuant to Section 165.26
- D. Industrial Uses. None

4. Site Development Regulations. Each Mobile Home Park shall be developed in accordance with the following regulations.

- A. Development Plan. The following information shall be shown on the development plan or submitted in writing with it:
  - (1) The name of the proposed mobile home park;
  - (2) Names, addresses and telephone numbers of the developer or the developer’s representative;
  - (3) Location of the Mobile Home Park, giving the subdivision and lot numbers;

- (4) A map of the entire area scheduled for development, if the proposed development is a portion of a larger holding intended for subsequent development;
- (5) A location map showing the relationship of the proposed development and the adjacent tracts or parcels;
- (6) The present land uses and the existing zoning of the proposed development and the adjacent tracts or parcels;
- (7) Interior streets, streets, street names, rights-of-way and roadway widths;
- (8) All lot lines and open spaces with dimensions shown;
- (9) Delineation of all improvements required in this section.

B. Permitted Accessory Uses and Requirements.

(1) Accessory buildings or structures under park management supervision shall be used only as office space, storage, laundry facilities, recreation facilities, garage storage or other necessary service for park residents only. No accessory building or structure shall exceed 25 feet in height; and shall meet requirements of the applicable codes and ordinances.

(2) A mobile home may be displayed and offered for sale, provided that the mobile home is situated on a permanent pad within the mobile home park.

(3) One identification sign, approved in conjunction with the final site plan approval of the mobile home park. In no case shall such sign be larger than 60 square feet in surface area or have any moving parts or stand higher than 10 feet from the ground to the top of the sign. Such sign shall be no closer to the public right-of-way than 30 feet.

No more than one entry or exit sign at each access drive onto the public right-of-way, approved in conjunction with the final site plan approval of the mobile home park. In no case shall the sign be larger than two square feet in surface area, or have any moving parts, or stand higher than five feet from the ground to the top of the sign.

(5) No more than one local street sign at a local intersection of such park which identifies the local street by name, the sign approved in conjunction with the final site plan approval for the mobile home park. In no case shall the sign be larger than one square foot in surface area per local street name, or stand higher than seven feet from the ground to the top of the sign.

C. Required Development Standards:

(1) The land area of a mobile home park shall not be less than 80,000 square feet.

(2) Mobile home sites shall be at least 4,500 square feet in area.

(3) Each mobile home within such park shall contain a flush toilet, sleeping accommodations, a tub or shower bath, kitchen

facilities and plumbing and electrical connections designed for attachment to appropriate external systems and so attached.

(4) Each mobile home site shall have side yards with each yard having a width of not less than 10 feet.

(5) Each mobile home site shall have front and rear yards with the rear yard not less than 25 feet in depth and the front yard of not less than 35 feet. Corner mobile home sites shall have front yard setbacks on each street frontage.

(6) For the purpose of this section, yard width shall be determined by measurement from the mobile home face (side) to its mobile home site boundary from which every point shall not be less than the minimum width herein provided. The rear yard shall be the yard opposite and having the farthest distance as measured from the street or public way.

(7) From all lots, a minimum distance of 35 feet shall be maintained from the boundary of the mobile home park.

(8) A mobile home shall not be permitted to occupy single or multiple sites if either its length or width would cause it to occupy the space required by yard setback dimensions.

(9) Each mobile home site shall be provided with a stand consisting of reinforced concrete runways not less than four inches thick and not less than the length of the mobile home that will use the site. These runways will be so constructed, graded and placed to be durable and adequate for support of the maximum anticipated load during all seasons.

(10) Each mobile home shall be anchored to the ground as provided in Chapter 103A, *Code of Iowa*.

(11) Accessory structures may be no closer to the side lot line than five feet.

(12) A permanent type material and construction compatible with the design and color of the mobile home shall be installed to enclose the open space between the bottom of the mobile home floor and the grade level of the mobile home stand, and shall be constructed to provide substantial resistance to heavy winds. Skirting shall be maintained in an attractive manner consistent with the exterior of the mobile home and to preserve the appearance of the mobile home park. Sufficient screened ventilating areas shall be installed in the skirting to supply the combustion requirements of heating units and ventilating of the mobile home. Provisions shall be made for easy removal of a section large enough to permit access for inspection of the enclosed area under the mobile home, and for repair of sewer and water riser connections.

(13) All mobile homes within such park shall be suitably connected to common sewer and water services provided at each mobile home site. All sanitary sewer facilities, including plumbing connections to each mobile home site, shall be constructed so that all

facilities and lines are protected from freezing, from bumping or from creating any type of nuisance or health hazard. Sewage facilities shall be of such capacity to adequately serve all users of the park at peak periods. Running water from a tested and approved supply, designed for a minimum flow of 200 gallons per day per mobile home site shall be piped to each mobile home. All sanitary sewer and water facilities shall conform to minimum State and County Health regulations and other applicable sections of this Code of Ordinances. Storm drainage facilities shall be so constructed as to protect those who reside in the mobile home park as well as the property owners adjacent to the park. Such park facilities shall be of such capacity to insure rapid drainage and prevent the accumulation of stagnant pools of water in or adjacent to the park.

(14) All electric, telephone, and other lines from supply poles outside the park or other sources to each mobile home shall be placed underground.

(15) Any fuel storage shall be in accordance with applicable Federal, State and local regulations.

(16) All roads, driveways and motor vehicle parking spaces shall be paved and constructed so as to handle anticipated peak loads, and adequately drained and lighted for safety and ease of movement of pedestrians and vehicles.

(17) All mobile home parks shall be provided with safe and convenient vehicular access from abutting public and private streets or roads to each mobile home site. Alignment and gradient shall be properly adopted to topography. Access to mobile home parks shall be designed to minimize congestion and hazards at the entrance or exit and allow free movement of traffic on adjacent streets. The entrance road connecting the park streets with a public street or road shall have minimum road pavement width of 41 feet where parking is permitted on both sides, or a minimum road pavement width of 31 feet where parking is limited to one side. When primary entrance road is more than 100 feet long and does not provide access to abutting mobile home lots within such distance, the minimum road pavement width may be 24 feet; with parking limited to one side, 31 feet; with parking permitted on both sides, 41 feet.

(18) Required standards for roadways, parking, and traffic shall be as follows:

VEHICLE PARKING	TRAFFIC USE	MINIMUM PAVEMENT WIDTH
No Parking Allowed	2-Way Road	25 feet
Parallel Parking (1 Side Only)	1-Way Road	30 feet
No Parking Allowed	1-Way Road	25 feet
Parallel Parking (2 Sides)	2-Way Road	40 Feet

- (19) If any dead-end place or court is more than 250 feet in length, it shall terminate in an open space, preferably circular having a minimum dimension of 100 feet. Except in unusual instances, no dead-end street or place shall exceed 600 feet in length.
- (20) All streets of a mobile home park providing ingress and egress from an abutting public street or road shall have the location and design of intersection with said public street or road approved by the City and by any other governmental agency exercising control over such streets or roads.
- (21) All parks shall be furnished with lighting units spaced and equipped with approved fixtures, placed at mounting heights that will provide the following average maintained levels of illumination for safe movement of pedestrians and vehicles at night; all parts of the park street system 0.6 foot-candle, with a minimum of 2.5 foot-candles; potentially hazardous locations, such as major street intersections and steps or stepped ramps, individually illuminated with a minimum of 0.4 foot-candle.
- (22) All streets intended for general public use shall be dedicated as a public right-of-way and subject to such improvements as may be required by the City.
- (23) All streets intended primarily for use of park occupants, guests and services shall be owned and maintained by the mobile home park owner. Private streets shall be constructed with either hot mix asphaltic concrete or Portland cement concrete to provide for drainage and shall be constructed to specifications approved by the City. Street surfaces shall be maintained free of cracks, holes and other hazards.
- (24) Grades of all streets shall be sufficient to insure adequate surface drainage, and shall have prior approval of the City before commencing with construction.
- (25) Streets shall be at approximately right angles within 50 feet of an intersection. A distance of at least 100 feet shall be maintained between center line of off-set intersecting streets unless specifically approved by the City. Intersections of more than two streets at one point shall be avoided.
- (26) The limits of each mobile home site shall be clearly marked on the ground by permanent steel or iron rods driven into the ground with the top of said rods flush with the finished lot grade.
- (27) Location of lot limits on the ground shall be approximately the same as shown on the approved plans. The degree of accuracy obtainable by working with a scale on the plan and then a tape on the ground is acceptable. Precise engineering of lot limits is not required either on the plans or on the ground. This is not to be construed as permitting lots of a lesser size than the required minimum or permitting lesser yard or setback dimensions than set forth elsewhere in this chapter.

(28) No mobile home shall be connected to water, sewer or electrical service unless the mobile home complies with the standards and requirements prescribed by *Standards for Mobile Homes*, USAS A119.1, 1963, and amendments thereto, published by the United States of America Standards Institute as applicable, which publication is hereby adopted and by reference made a part of this chapter, a copy of which is and shall remain on file in the office of the Zoning Officer. Compliance with these standards shall be determined by the Zoning Officer. A certificate, if issued by the manufacturer of the mobile home, shall be permanently affixed on a readily visible location on the exterior of the mobile home as prima facie evidence of such compliance.

(29) The maximum ground coverage of the mobile home park shall be seventy percent (70%) with the remaining thirty percent (30%) reserved for landscaping.

[The next page is 1017]

**165.12 “B-1” NEIGHBORHOOD BUSINESS DISTRICT.** This district is designed to provide residential areas of higher density than is allowed in the “R-1” and “R-2” Districts.

1. Permitted Uses. Unless provided elsewhere in this chapter, only the following structures and uses shall be permitted in the “B-1” Neighborhood Business District.

- A. Residential Uses.
  - Single-Family Residential
  - Duplex Residential
- B. Commercial Uses.
  - Administrative and Business Offices
  - Health Services
  - Professional Offices
- C. Industrial Uses. None
- D. Civic Uses.
  - Administrative Services
  - Day Care Services (Limited)
  - Park and Recreation Services

2. Special Exception Uses. The following uses and structures may be allowed in the “B-1” Neighborhood Business District subject to review and approval of the Board of Adjustment.

- A. Residential Uses.
  - Two Family Residential
- B. Commercial Uses. None
- C. Industrial Uses. None
- D. Civic Uses.
  - Day Care Services (General)
  - Local Utility Services
  - Primary Educational Facility
  - College and University Facility
  - Secondary Educational Facility

3. Development Regulations. Each development in the “B-1” Neighborhood Business District shall be subject to the following minimum site development regulations.

- Lot Area: .....7,500 square feet for single-family unit  
15,000 square feet for 2 dwelling unit.
- Lot Width: .....75 feet.
- Front Yard Setback: .....20 feet.
- Rear Yard Setback: .....35 feet.
- Side Yard Setback: .....8 feet for single story structure  
10 feet for 2 or more stories.

Street Side Yard Setback:..... 20 feet.

Maximum Height: ..... 35 feet.

Maximum Lot Coverage: ..... 40% including principal and accessory buildings.

Foundation:..... All principal use structures shall be erected on a foundation constructed in a manner so as to be impervious to frost. The base of any foundation must be, at a minimum, 42 inches below ground level.

Minimum Building Width: ..... All principal use buildings shall have a minimum width of 22 feet.

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**165.13 “B-2” COMMERCIAL DISTRICT.**

1. Principal Permitted Uses. Within the B-2 Commercial District, unless otherwise provided in this chapter, no building or land shall be used for other than one or more of the following purposes:

A. Commercial Uses.

Agricultural Sales and Service  
 Administrative and Business Offices  
 Building Maintenance Services  
 Business Support Services  
 Business or Trade School  
 Indoor Sports & Recreation  
 Outdoor Sports & Recreation  
 Indoor Entertainment  
 Construction Sales and Services  
 Consumer Repair Services  
 Financial Services  
 Food Sales  
 Funeral Services  
 General Retail Sales  
 Health Services  
 Laundry Services  
 Personal Improvement Services  
 Personal Services  
 Professional Offices  
 Research Services  
 Restaurant (Convenience)  
 Restaurant (General)  
 Hotel / Motel  
 Bed and Breakfast Inn  
 Commercial Off-Street Parking  
 Veterinary Services, not including animal hospitals

B. Civic Uses.

Administrative Services  
 Club or Lodge  
 Cultural Services  
 Day Care Services (Limited)  
 Day Care Services (General)  
 Guidance Services  
 Local Utility Services  
 Park & Recreation Services  
 Postal Facility  
 Public Assembly  
 Safety Services  
 Primary Educational Facility  
 Religious Assembly

- C. Industrial Uses.
    - Custom Manufacturing
    - Limited Warehousing and Distribution
    - Light Manufacturing
2. Special Exception Uses. The following uses and structures may be permitted in the B-2 Commercial District subject to review and approval of the Board of Adjustment:

- A. Residential Uses.
  - Single-Family Residential
  - Duplex Residential
  - Condominium Residential
  - Multiple Family Residential
  - Group Residential
  - Two-Family Residential
- B. Commercial Uses.
  - Automotive Washing
  - Service Station
  - Automotive Rentals
  - Automotive Sales
  - Equipment Sales
  - Automotive Repair Services
  - Equipment Repair Services
  - Vehicle Storage
  - Cocktail Lounge
  - Outdoor Entertainment
  - Communication Services
  - Convenience Storage
  - Convenience Store
  - Liquor Sales
  - Pet Services
- C. Civic Uses.
  - College & University Facility
  - Convalescent Services
  - Hospital Services
  - Maintenance & Service Facility
  - Primary Educational Facility
  - Religious Assembly
  - Residential Care Services
  - Secondary Educational Facility
  - Transportation Terminals
- D. Industrial Uses.
  - General Warehousing & Distribution

3. Site Development Regulations. Unless otherwise provided in this chapter, each development in the B-2 Commercial District shall be subject to the following regulations:

Minimum Lot Area:..... None.

- Minimum Lot Width: .....None.
- Maximum Height: .....75 feet.
- Front Yard Setback: .....None.
- Side Yard Setback: .....None, except that when a lot in the B-2 district abuts the R-1 or R-2 district the side yard setback along the abutting side shall be 5 feet.
- Rear Yard Setback: .....None, except that when a lot in the B-2 district abuts a lot in the R-1 or R-2 district, the rear yard setback shall be 25 feet.
- Street Side Yard Setback:.....10 feet.

[The next page is 1031]

**165.14 “I-1” LIGHT INDUSTRIAL DISTRICT.**

1. Principal Permitted Uses. Within the I-1 Industrial District, unless otherwise provided in this chapter, no building or land shall be used for other than one or more of the following uses:

- A. Residential Uses. None
- B. Commercial Uses.
  - Agricultural Sales & Service
  - Service Station
  - Automotive Rentals
  - Automotive Washing
  - Automotive Sales
  - Equipment Sales
  - Automotive Repair Services
  - Equipment Repair Services
  - Indoor Vehicle Storage
  - Building Maintenance Services
  - Business Support Services
  - Consumer Repair Services
  - Convenience Storage
  - Kennels
  - Veterinary Services, not including Animal Hospitals
  - Laundry Services
  - Transportation Terminals
  - Research Services
- C. Civic Uses.
  - Club or Lodge
  - Local Utility Services
  - Maintenance & Service Facility
  - Military Installation
  - Park & Recreation Services
  - Public Assembly
  - Safety Services
  - Transportation Terminals
- D. Industrial Uses.
  - Custom Manufacturing
  - Light Manufacturing
  - Limited Warehousing & Distribution
  - Railroad Siding

2. Special Exception Uses. The following structures and uses may be permitted in the I-1 Industrial District subject to review and approval of the Board of Adjustment:

- A. Residential Uses. None
- B. Commercial Uses.
  - Business or Trade School

Communication Services  
Veterinary Services  
Hotel/Motel

C. Civic Uses.

College & University Facility  
Detention Facility  
Major Utility Facility  
Railroad Facility

D. Industrial Uses.

General Warehousing and Distribution

3. Site Development Regulations. Unless otherwise provided in this chapter, each development in the I-1 Industrial District shall be subject to the following regulations:

Minimum Lot Area:..... 1 acre. The ground floor of buildings shall not exceed 50% of the total area of the lot.

Minimum Lot Width: ..... None.

Maximum Height: ..... 35 feet.

Front Yard Setback:..... 40 feet.

Side Yard Setback: ..... None, except that lots in the I-1 District which abut the R-1 or R-2 District shall have a side yard setback of 5 feet.

Rear Yard Setback:..... None, except that lots in the I-1 District which abut the R-1 or R-2 District shall have a rear yard setback of 25 feet.

Street Side Yard Setback:..... 10 feet.

Enclosed Structure:..... All uses shall be conducted within an enclosed structure with no open storage of raw, in process, or finished material and supplies or waste material.

Main Plant Buildings:..... All main plant buildings shall be of concrete, structural steel, or masonry construction, unless otherwise approved as provided by this chapter.

Parking and Loading Space:..... Adequate parking and loading space shall be provided off the street for all employees and traffic to the plant.

Loading Operations: ..... Loading operations shall be conducted at the side or rear of buildings.

Parking Prohibited:..... No parking shall be permitted in the required front yard setback.

Landscaping of Front Yard: ..... The required front yard shall be landscaped with trees, grass, shrubs or pedestrian walks

and maintained in a neat and attractive condition.

Fences: .....All fencing shall have a uniform and durable character, with the decorative side facing away from the lot. All fencing shall be properly maintained.

Accessory Signs: .....Accessory signs and structures shall be permitted, but no sign shall extend more than 10 feet above the roof line of the building and all signs in excess of 100 square feet in area shall be attached flush against the wall of the building.

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**165.15 “I-2” MEDIUM INDUSTRIAL DISTRICT.**

1. Principal Permitted Uses. Within the I-2 Industrial District, unless otherwise provided in this chapter, no building or land shall be used for other than one or more of the following uses:

- A. Residential Uses. None
- B. Commercial Uses.
  - Agricultural Sales and Service
  - Automotive Washing
  - Service Station
  - Automotive Rentals
  - Automotive Sales
  - Equipment Sales
  - Automotive Repair Services
  - Equipment Repair Services
  - Indoor Vehicle Storage
  - Building Maintenance Services
  - Business Support Services
  - Consumer Repair Services
  - Convenience Storage
  - Kennels
  - Laundry Services
  - Research Services
- C. Civic Uses.
  - Club or Lodge
  - Local Utility Services
  - Maintenance and Service Facility
  - Military Installation
  - Park and Recreation Services
  - Public Assembly
  - Safety Services
  - Transportation Terminals
- D. Industrial Uses.
  - Custom Manufacturing
  - Light Manufacturing
  - Railroad Facilities
  - Limited Warehousing & Distribution
  - General Warehousing and Distribution
  - Railroad Siding

2. Special Exception Uses. The following structures and uses may be permitted in the I-2 Industrial District subject to review and approval of the Board of Adjustment:

- A. Residential Uses. None
- B. Commercial Uses.
  - Business or Trade School

Communication Services  
Veterinary Services  
Hotel/Motel

C. Civic Uses.

College and University Facility  
Detention Facility  
Major Utility Facility  
Railroad Facility

3. Site Development Regulations. Unless otherwise provided in this chapter, each development in the I-2 Industrial District shall be subject to the following regulations:

Minimum Lot Area:..... 1 acre. The ground floor of buildings shall not exceed fifty percent (50%) of the total area of the lot.

Minimum Lot Width: ..... None.

Maximum Height: ..... 35 feet.

Front Yard Setback:..... 40 feet.

Side Yard Setback: ..... None, except that lots in the I-2 district which abut the R-1 or R-2 district shall have a side yard setback of 5 feet.

Rear Yard Setback:..... None, except that lots in the I-2 district which abut the R-1 or R-2 district shall have a rear yard setback of 25 feet.

Street Side Yard Setback:..... 10 feet.

Enclosed Structure:..... All uses shall be conducted within an enclosed structure with no open storage of raw, in process, or finished material and supplies or waste material.

Main Plant Buildings:..... All main plant buildings shall be of concrete, structural steel, or masonry construction, unless otherwise approved as provided by this chapter.

Parking and Loading Space:..... Adequate parking and loading space shall be provided off the street for all employees and traffic to the plant.

Loading Operations: ..... Loading operations shall be conducted at the side or rear of buildings.

Parking Prohibited:..... No parking shall be permitted in the required front yard setback.

Landscaping of Front Yard: ..... The required front yard shall be landscaped with trees, grass, shrubs or pedestrian walks and maintained in a neat and attractive condition.

Fences: .....All fencing shall have a uniform and durable character, with the decorative side facing away from the lot. All fencing shall be properly maintained.

Accessory Signs: .....Accessory signs and structures shall be permitted, but no sign shall extend more than 10 feet above the roof line of the building and all signs in excess of 100 square feet in area shall be attached flush against the wall of the building.

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**165.16 "I-3" HEAVY INDUSTRIAL DISTRICT.**

1. Principal Permitted Uses. Within the I-3 Industrial District, unless otherwise provided in this chapter, no building or land shall be used for other than one or more of the following uses:

- A. Residential Uses. None
- B. Commercial Uses.
  - Agricultural Sales & Service
  - Automotive Washing
  - Service Station
  - Automotive Rentals
  - Automotive Sales
  - Equipment Sales
  - Automotive Repair Services
  - Equipment Repair Services
  - Vehicle Storage
  - Building Maintenance Services
  - Business Support Services
  - Consumer Repair Services
  - Convenience Storage
  - Kennels
  - Laundry Services
  - Research Services
- C. Civic Uses.
  - Local Utility Services
  - Maintenance & Service Facility
  - Military Installation
  - Park & Recreation Services
  - Public Assembly
  - Safety Services
  - Transportation Terminals
- D. Industrial Uses.
  - Basic Industry
  - Custom Manufacturing
  - Light Manufacturing
  - Railroad Facilities
  - Limited Warehousing & Distribution
  - General Warehousing and Distribution
  - Railroad Siding

2. Special Exception Uses. The following structures and uses may be permitted in the I-3 Industrial District subject to review and approval of the Board of Adjustment:

- A. Residential Uses. None
- B. Commercial Uses.
  - Communication Services

Veterinary Services

C. Civic Uses.

Major Utility Facility

Railroad Facility

3. Site Development Regulations. Unless otherwise provided in this chapter, each development in the I-3 Industrial District shall be subject to the following regulations:

Minimum Lot Area:..... 1 acre. The ground floor of buildings shall not exceed forty percent (40%) of the total area of the lot.

Minimum Lot Width: ..... None.

Maximum Height: ..... 30 feet.

Front Yard Setback:..... 40 feet.

Side Yard Setback: ..... None, except that lots in the I-2 district which abut the R-1 or R-2 district shall have a side yard setback of 5 feet.

Rear Yard Setback:..... None, except that lots in the I-2 district which abut the R-1 or R-2 district shall have a rear yard setback of 25 feet.

Street Side Yard Setback:..... 10 feet.

Enclosed Structure:..... All uses shall be conducted within an enclosed structure with no open storage of raw, in process, or finished material and supplies or waste material.

Main Plant Buildings:..... All main plant buildings shall be of concrete, structural steel, or masonry construction, unless otherwise approved as provided by this chapter.

Parking and Loading Space:..... Adequate parking and loading space shall be provided off the street for all employees and traffic to the plant.

Loading Operations:..... Loading operations shall be conducted at the side or rear of buildings.

Parking Prohibited in

Front Yard: ..... No parking shall be permitted in the required front yard setback.

Landscaping of Front Yard: ..... The required front yard shall be landscaped with trees, grass, shrubs or pedestrian walks and maintained in a neat and attractive condition.

Fences:..... All fencing shall have a uniform and durable character, with the decorative side facing

away from the lot. All fencing shall be properly maintained.

Accessory Signs: .....Accessory signs and structures shall be permitted, but no sign shall extend more than 10 feet above the roof line of the building and all signs in excess of 100 square feet in area shall be attached flush against the wall of the building.

4. Additional Regulations. The following uses having accompanying hazards such as fire, explosion, noise, vibration, dust or the emission of smoke, odor, or toxic gases may, if not in conflict with any law or ordinance in the City or the State, be located in the I-3 district only after the location of such use has been approved by the Council after public hearing and report of the Commission provided in this chapter. The Council shall review the plans and statements and shall not permit such buildings, structures, or uses until it has been shown that the public health, safety, morals and general welfare will be properly protected, and that necessary safeguards will be provided for the protection of surrounding property and persons. The Council in reviewing the plans and statements shall consult with other agencies created for the promotion of the public health and safety:

A. Chemicals, Petroleum, Coal and Allied Products: acid and derivatives; acetylene; ammonia; carbide; caustic soda; cellulose and cellulose storage; chlorine; coke oven products (including fuel gas) and coke and oven products storage; creosote; distillation, manufacture, or refining of coal, tar asphalt, wood and bones; explosives (including ammunition and fireworks,) and explosives storage; fertilizer (organic); fish oils and meals; glue (gelatin); hydrogen and oxygen; lamp black, carbon black, and bone black; nitrating of cotton or other materials; nitrates (manufactured and natural) of an explosive nature, and storage; petroleum, gasoline, and lubricating oil refining, and wholesale storage; plastic materials and synthetic resins; potash; pyroxylin; rendering and storage of dead animals, offal, garbage, or waste products; turpentine and resin; wells, gas and oil;

B. Clay, Stone and Glass Products: brick, firebrick, refractories, and clay products (coal fired); cement, lime, gypsum or plaster of paris;

C. Minerals and Earth: quarrying, extracting, grinding, crushing, and processing;

D. Food and Beverage: fat rendering; fish curing, packing and storage; slaughtering of animals, starch manufacture;

E. Metals and Metal Products: aluminum powder and paint manufacture; blast furnace, cupolas; blooming mill; metal and metal areas, reduction, refining, smelting, and alloying; scrap metal reduction; steel works and rolling mill (ferrous);

F. Wood and Paper Products: match manufacture; wood pulp and fiber, reduction and processing;

G. Unclassified Industries and Uses: hair, hides, and raw fur, curing, tanning, dressing, dyeing, and storage; stockyard or commercial feed lot.

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**165.17 ADDITIONAL AREA AND HEIGHT REGULATIONS.** The regulations set forth in this section qualify, supplement or modify the area and height regulations set forth elsewhere in this chapter.

1. Lot Area and Width. Any lot of record at the time of passage of these Zoning Regulations having less area or width than herein required may be used for a single-family dwelling where such uses are permitted as provided in this chapter and subject to the required setbacks and further provisions of this chapter.
2. Yards.
  - A. Buildings on through lots shall provide the required front yard on both streets.
  - B. The required side yard on the street side of a corner lot shall be the same as the required front yard on such street and no accessory building shall project beyond the required front yard on either street.
  - C. On a corner lot in any district, except the General Commercial District, no fence, wall, hedge, tree or other planting or structure that will obstruct vision between a height of 2 feet and 10 feet above the centerline grade of the intersecting streets shall be erected, placed or maintained within the triangular area formed, by connecting the right-of-way lines at points which are 25 feet distant from the intersection of the right-of-way lines, and measured along the right-of-way lines.
  - D. The ordinary projection from buildings including eaves, sills, cornices, or other similar architectural features may project or extend not more than 2 feet into a required yard.
  - E. An air conditioning compressor may not encroach into the required side yard.
  - F. Carports, bay windows, cantilevered projections, chimneys and structures may not project into the required yards.
  - G. Steps providing access to the ground level of a dwelling may encroach no more than 3 feet into any required yard. Steps may encroach no more than 6 feet into any required front or rear yard.
3. Fences and Hedges. Fences or hedges in the R-1 and R-2 residential districts shall not exceed 6 feet in height in any required front yard, and shall not exceed 6 feet in height in any required side or rear yard; and in other residential districts shall not exceed 6 feet in height in any required side or rear yard; and in other residential districts shall not exceed 6 feet in height in any required front yard, and shall be subject to the further restriction of subsection 2 above. Fences in excess of 6 feet will be allowed in the cases of tennis courts and swimming pools. Fences shall not be closer than 2 feet to any property line. Hedges and permanent planting shall not be planted closer than 2.5 feet to any property line. Fences shall be erected and maintained with the decorative finish side facing to the outside of the lot, away from the lot interior. Fences shall be constructed so as to be reasonably aesthetic in appearance and which are not injurious to the senses. Some suggested materials are: wood, chain-link, PVC/resin, stone or masonry materials. Wood fences shall utilize standard building lumber only.

4. Buildings To Have Access. Every principal use building hereafter erected or structurally altered, shall be on a lot or parcel having frontage on a public street or road.
5. Use Of Public Right-Of-Way: No portion of the public road, street or alley right-of-way shall be used, or occupied by an abutting use of land or structure for storage or display purposes, or to provide any parking or loading space required by this chapter.
6. Temporary Building: Temporary buildings with construction work may be permitted in any district during the period that the construction work is in progress, but such temporary buildings shall be removed within thirty (30) days after completion or abandonment of the construction work.
7. Accessory Buildings: Accessory buildings and uses customarily incidental to that of the main building may be erected or established as permitted, provided they comply with the following:
  - A. No accessory buildings shall be erected in any required front or side yard.
  - B. There shall be a maximum of one detached accessory building with a building square footage of over 200 square feet in area under the following conditions:
    - (1) Under no circumstances shall the square footage of the accessory building exceed the ground level square footage of the principal building on the lot.
    - (2) The maximum size allowed shall be 1,000 square feet. A special exception for an accessory building with an area in excess of 1,000 square feet may be allowed by the Board of Adjustment provided that the square footage of the accessory building does not exceed 40% of the square footage of the principal building. The special exception shall be evaluated under the special exception procedures set forth in Section 165.27.
    - (3) The maximum building height shall be twenty-two feet to the peak of the roof or two-thirds of the height of the main building, whichever is lower.
  - C. All accessory buildings larger than 200 square feet located within a residential district shall be constructed in a manner consistent with the residential character of the district and shall:
    - (1) Have a permanent floor located within the structure. Dirt and/or rock floors are prohibited.
    - (2) Be covered with siding commonly used for residential structures, compatible with the siding used on the principal building on the lot and shall not be sided or covered with galvanized steel, painted steel or tin or aluminum sheeting as is commonly used on agricultural and commercial buildings.
    - (3) Be constructed with the same type of roofing materials used for residential structures and compatible in composition and

appearance with the roofing material used on the principal building on the lot.

- D. No detached accessory building in any district shall:
- (1) Be erected within 10 feet of any main (principal) building;
  - (2) Be erected within 5 feet of any property line or 30 feet of the traveled portion of any street (but not alley), whichever is greater;
  - (3) Be erected within a required lot line easement;
  - (4) Be erected within 4 feet from any rear property line.
- E. In the R-1 Residential District, no detached accessory building is permitted within the limits of a front yard.
- F. No accessory building shall be used as a dwelling unit for periods exceeding thirty (30) days and shall not be operated as a commercial rental property.
- G. For the purposes of this chapter, a gasoline dispensing pump shall not be classified as an accessory structure.

8. Building Height.

A. Except in the B-2 Commercial District, no building shall exceed a height of 35 feet, unless otherwise provided.

B. The height regulations shall not apply to television and radio towers, church spires, belfries, monuments, farm buildings, tanks, water and fire towers, stage towers or scenery lofts, cooling towers, grain elevators, ornamental towers and spires, chimneys, elevator bulkheads, drilling rigs, conveyors, flagpoles and other pertinent mechanical apparatus which may be erected to any height not in conflict with any other applicable regulations.

C. Public, semi-public or private service buildings, hospitals, institutions, churches and schools, when permitted in a district, may be erected to exceed height limits specified for the district, provided all required yards are increased by one foot for each foot of building height above the specified height limit.

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**165.18 OFF-STREET PARKING.** After the effective date of the ordinances codified in this chapter, in all districts except the “B-2” Commercial District, there shall be provided at the time any new building or structure is erected off-street parking spaces in accordance with the requirements set forth herein:

1. General Provisions.
  - A. All buildings and structures erected and all uses of land in all districts established after the effective date of this chapter shall provide accessory parking facilities as required under this section unless a building permit has been issued and construction is begun at least two (2) months prior to the effective date of this chapter.
  - B. The provisions of this section do not apply to areas in the Commercial District (B-2).
  - C. All off-street parking spaces required by this chapter shall be located on the lot of the use it serves or within 300 feet of the principal use lot.
  - D. Owners of two (2) or more uses or parcels of land may agree to jointly utilize the same parking spaces provided that satisfactory legal evidence is presented in the form of deeds, leases, or contract documents to establish such a joint area of use.
  - E. Off-street parking spaces may occupy required yards except that access to groups of three or more spaces shall be by common driveways with curb cuts approved by the City Administrator so that parking and un-parking maneuvers can be accomplished off the street. Direct access to parking spaces from alleys shall be permitted. Parking shall be allowed only on all weather surfaces maintained for such purposes and shall not be allowed on unimproved portions of the premises such as lawns.
  - F. A plan, drawn to scale, indicating how the off-street parking and loading requirements are to be fulfilled, shall accompany an application for a building certificate. The plan shall show all elements necessary to indicate that the requirements are being fulfilled.
  - G. Whenever a building or use constructed or established after the effective date of this chapter is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise, to create a need for an increase of ten percent (10%) or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change. Whenever a building or use existing prior to the effective date of this chapter is enlarged to the extent of fifty percent (50%) or more in floor area or in the area used, said building or use shall then and thereafter comply with the parking requirements set forth herein.
2. Off-Street Parking Requirements. At the time of construction, alteration, moving into, enlargement of a structure or building, or change in the use of the land, off-street parking spaces and loading areas shall be provided, constructed, and maintained for all uses as follows:

Single-Family Residential: .....2 spaces.

Multi-Family Residential: .....2 spaces per dwelling unit.

- Mobile Home Park: ..... 2 spaces per mobile home unit.
- Hotel / Motel and  
Bed & Breakfast Inn..... 1 space per room.
- Hospital: ..... 1 space for each four hospital beds, and 1  
space for each two employees on the major  
shift.
- Places of public assembly  
such as auditoriums, theaters,  
stadiums, churches, community  
halls, etc..... 1 space for each six seats.
- Bowling Alleys:..... 5 spaces per alley.
- Skating rinks or dance halls: ..... 1 space for each 100 square feet of skating or  
dance floor area.
- Retail sales and service uses:..... 1 space for each 300 square feet of gross  
floor area.
- Restaurants: ..... 1 space for each four (4) seats plus 1 space  
for each two employees.
- Taverns, bars, cocktail lounges: 1 space for each two (2) seats.
- Elementary / Junior High: ..... 1 space per classroom or 1 space for every  
six seats in the largest facility for public  
assembly, whichever is the greater.
- High Schools / Colleges: ..... 1 space per ten (10) students or 1 space for  
every six seats in the largest facility for  
public assembly, whichever is the greater.
- Manufacturing or industry:..... 1 space for every two (2) employees on the  
largest working shift.

3. Computation of Spaces.

- A. In the case of any building, structure or premises, the use of which is not specifically mentioned herein, the provisions for a use which is so mentioned and to which said use is similar, shall apply, as determined by the Board of Adjustments.
- B. Where fractional spaces occur, the parking space required shall be construed to the next largest whole number.
- C. In the case of mixed or joint uses, the parking spaces required shall equal the sum of the requirements of the various uses in computed separately.

4. Off-Street Loading. At the time of construction, alteration, or enlargement of a structure or building having a gross floor area of 5,000 square feet or more, off-street loading areas shall be provided and maintained for all uses as follows:

Loading Area	Gross Floor Area
One 250 square foot area with a minimum width of 10 feet	For 5,000 to 20,000 square feet
One 250 square foot area with a minimum width of 10 feet	For each additional 20,000 square feet or fraction thereof

All loading and unloading must be conducted on private property and cannot be conducted on the public right-of-way.

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**165.19 NONCONFORMITIES.** It is the intent of this section to permit legal nonconforming lots, structures, or uses to continue until they are removed but not to encourage their survival. It is recognized that there exist within the districts established by this chapter and subsequent amendments, lots, structures, and uses of land and structures which were lawful before this chapter was passed or amended which would be prohibited, regulated or restricted under the terms of this chapter or future amendments. Such uses are declared by this chapter to be incompatible with permitted uses in the districts involved. It is further the intent of this section that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of structures and land in combination shall not be extended or enlarged after passage of this chapter by attachment on a building or premises of additional signs intended to be seen from off the premises, or by addition of other uses of a nature which would not be permitted generally in the district involved. To avoid undue hardship, nothing in this section shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this chapter and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of existing building has been substantially begun preparatory to rebuilding such demolition or removal shall be deemed to be actual construction, providing that work shall be diligently carried on until completion of the building involved.

1. Nonconforming Uses of Land: Where at the effective date of adoption or amendment of this chapter, lawful use of land exists that is made no longer permissible under the terms of this chapter as enacted or amended such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:
  - A. No such nonconforming use shall be enlarged or increased, or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter.
  - B. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this chapter.
  - C. If such nonconforming use of land ceases for any reason for a period of more than one year, any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located.
  - D. Any lot of record, in existence at the time of adoption or amendment of this chapter which does not meet the minimum lot area requirements, but otherwise is a permitted use, may be utilized for the construction of a single-family residential dwelling so long as the required setbacks are observed.
  - E. Any existing nonconforming single family use may be permitted to have up to two detached accessory structures not to exceed 900 s.f. This shall be exclusive of non-building structures such as pools, trampolines, swing sets, etc. Additions to the main structure for accessory uses or the later conversion of accessory structures to primary nonconforming uses shall not be permitted.

2. Nonconforming Structures. Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. No such structure may be enlarged or altered in a way which increases its nonconformity. Such structures may be enlarged or altered in a way which does not increase its nonconformity.

B. Should such structure be destroyed by any means to an extent of more than sixty percent (60%) of its replacement costs, exclusive with the foundation, it shall be reconstructed only in conformity with the provisions of this chapter.

C. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

3. Nonconforming Use of Structures and Land: Where a lawful use of a structure, or of a structure and land in combination exists at the effective date of adoption or amendment of this chapter that would not be permitted in the district under the terms of this chapter, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. An existing structure devoted to a use not permitted by this chapter in the district in which it is located shall not be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

B. Any nonconforming use may be extended throughout any parts of a building which was manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of this chapter, but no such use shall be extended to occupy any land outside such building.

C. If no structural alterations are made, any nonconforming use of structure, or structure and land in combination, may be changed to another nonconforming use of the same or a more restricted classification provided that the Board of Adjustment by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Adjustment may require conditions and safeguards in accord with the purpose and intent of this chapter. Where such nonconforming use of a structure, land, or structure and land in combination is hereafter changed to a more conforming use, it shall not thereafter be changed to a less conforming use.

D. A structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.

E. When a nonconforming use of a structure, or structures and land in combination, is discontinued or ceases to exist for a period of more than one year, the structure, or structure and land in combination, shall not thereafter be

used except in conformance with the regulations of the district in which it is located.

F. Where nonconforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

4. **Repairs and Maintenance.** On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) months on ordinary repairs, to an extent not exceeding fifty percent (50%) of the replacement costs of the building, provided that the cubic content of the building as it existed at the time of passage or amendment of this chapter shall not be increased. Nothing in this section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by an official charged with the protecting the public safety upon orders of such official.

5. **Uses Under Exception Provisions Not Nonconforming Uses.** Any use for which a special exception is permitted as provided in this chapter shall not be deemed a nonconforming use, but shall without further action, be deemed a conforming use in such district.

6. **Changes of Tenancy or Ownership.** There may be a change of tenancy, ownership, or management of any existing nonconforming uses of land, of structures, or of structures and land in combination.

**165.20 ACCESSORY USES.** The purpose of these provisions is to establish the relationship among principal and accessory uses and to establish provisions governing the conduct of accessory uses.

1. **Principal Use Includes Accessory Use.** Principal uses specified as permitted uses or special exception uses for a district by the District Regulations shall be deemed to include accessory uses and activities identified by these regulations and such other accessory uses that are necessary and customarily associated with and are appropriate, incidental, and subordinate to such principal uses. Accessory uses shall be subject to the same regulations as apply to principal uses in each district, except as otherwise provided in these regulations.

2. **Gardens Permitted.** Home gardens and the growing of crops shall be an accessory use permitted in any district. However, gardening and the growing of crops shall be subject to the restrictions applicable to home occupations.

**165.21 TEMPORARY USES.** Provisions authorizing temporary uses are intended to permit occasional, temporary uses and activities when consistent with the purposes of the Zoning Regulations and when compatible with other nearby uses.

1. **Temporary Use Types.** The following types of temporary uses may be authorized subject to specific limitations herein and such additional conditions as may be established by the Zoning Administrator.

A. Contractor's office, storage yard, and equipment parking and servicing on the site of an active construction project.

B. Religious, patriotic, or historic assemblies, displays, or exhibits.

C. Circuses, carnivals, rodeos, fairs, or similar transient amusement or recreational activities not closer than 200 feet from an existing dwelling.

- D. Outdoor art and craft shows and exhibits.
  - E. Christmas tree sales lots.
  - F. Mobile home residence for occupancy by supervisory or security personnel on the site of an active construction project.
  - G. Outdoor special sales, including swap meets, flea markets, parking lot sales, or similar activities, limited to locations in commercial or industrial districts, and when operated not more than three (3) days in the same week or more than five (5) days in the same month.
  - H. Temporary use of mobile trailer units or similar portable structures for nonresidential uses, located in districts where the use is a permitted use, and limited to a maximum period of six (6) months.
  - I. Seasonal retail sale of agricultural or horticultural products raised or produced off-premises, when located not closer than 200 feet to an existing dwelling.
  - J. Additional temporary uses determined to be similar to the foregoing by the Zoning Administrator.
  - K. Temporary signs relating to temporary uses.
2. Required Conditions of Temporary Uses.
- A. Each site occupied by a temporary use shall be left free of debris, litter, or other evidence of the temporary use upon completion or removal of the use.
  - B. A temporary use conducted in a parking facility shall not occupy or remove from availability more than twenty-five percent (25%) of the spaces required for the permanent use.
  - C. The Zoning Administrator may establish such additional conditions as such official deems necessary to ensure land use compatibility and to minimize potential impacts on nearby uses, including but not limited to time and frequency of operation, temporary arrangements for parking and traffic circulation, requirements for screening or enclosure, and guarantees for site restoration and cleanup following the temporary use.
3. Determinations. The Zoning Administrator may authorize a temporary use only when, in said official's judgment, the following determinations can be made:
- A. The temporary use will not impair the normal, safe, and effective operation of a permanent use on the same site.
  - B. The temporary use will be compatible with nearby uses in the general vicinity.
  - C. The temporary use will not impact public health, safety, or convenience or create traffic hazards or congestion, or otherwise interrupt or interfere with the normal conduct of uses and activities in the vicinity.
4. Application and Authorization.
- A. Application to conduct a temporary use shall be made to the Zoning Administrator, and shall include a site plan and description of the use, and

such additional information as the Zoning Administrator may require to evaluate the use and to make the determination required by these provisions.

B. Application shall be made prior to commencement of the temporary use, and the Zoning Administrator shall make a determination whether to approve, approve conditionally, or to deny the temporary use within five (5) days after the date of application.

C. Authorization of a temporary use shall be by issuance of a zoning permit or a certificate of occupancy.

5. Extension. Authorization for a temporary use may be renewed by the Zoning Administrator, upon request of the applicant, provided temporary use shall not be authorized or continued for a period of more than one year except upon a new application and authorization.

**165.22 ZONING OF ANNEXED AREAS.** Any land annexed to the City after the effective date of this chapter shall automatically assume the City of Hawarden Zoning District classification which corresponds to the Sioux County zoning classification which applied prior to the annexation.

**165.23 GOVERNMENTAL BODIES.** All municipal, County, and State agencies, subdivisions or governmental units must comply with all of these zoning regulations. All such agencies, governmental units and subdivisions thereof must follow the same procedures in applying for any building permit, variance or any other request where the zoning laws of the City are applicable.

**165.24 HOME OCCUPATIONS.** A home occupation is an accessory use conducted entirely within a dwelling unit, which is clearly incidental to the use of the structure for residential purposes and does not change the residential character of the site. Home occupations accessory to the residential use are subject to the following limitations:

1. The residential character of the building must be maintained.
2. Only one unrelated person living outside the residence and members of the immediate family may be employed in the home occupation.
3. The use must be conducted as a secondary use and in such a manner as not to give an outward appearance or manifest any characteristics of a business in the ordinary meaning of the term. The occupation must be conducted entirely within the dwelling which is a bona fide residence of the practitioners, or within an attached garage.
4. The use must not infringe upon the right of neighboring residents to enjoy peaceful and healthy occupancy of their home for which purpose the residential district was created and primarily intended.
5. The occupation shall not produce external noise, vibration, smoke, dust, odor, heat, glare, fumes, electrical interference or waste run-off outside the dwelling unit or on the property surrounding the dwelling unit.
6. The premises shall have no exterior display, no exterior storage of materials, and no other exterior indication of the home occupation or variation from the residential character of the principal building.

7. May have no more than one, flush mounted, non-illuminated sign not exceeding six (6) square feet.
8. The home occupation shall not generate customer related vehicular traffic substantially in excess of the normal anticipated residential traffic.
9. No more than thirty percent (30%) of the total floor area of the principal building may be utilized by the home occupation. However, this regulation does not apply to day care services.
10. No equipment or materials associated with the home occupation shall be displayed or stored where visible from anywhere off the premises.
11. Nothing herein shall be construed to allow the following businesses or occupations as home occupations: animal hospitals, animal breeding, clinics, hospitals, contractor's yards, junk yards, restaurants, rental outlet, vehicle repair shops or massage parlors.

**165.25 BED AND BREAKFAST ESTABLISHMENTS.** A bed and breakfast establishment is a form of hotel/motel that is designed to blend in with the residential character of an area by utilizing a previous residence for overnight boarding of guests for short durations. It is not a group home, commune or other collective living residence.

1. Limitations. The limitations described in subsections 1, 4, 5, 6, 7 and 8 of Section 165.24 of this chapter shall apply except as specifically modified herein.
2. There shall be no more than five (5) overnight rooms utilized as guest rooms.
3. The length of stay in the bed and breakfast for any person (excluding the manager) shall be limited to no more than 21 days cumulatively in any 90-day period beginning with the first night the occupant stays at the facility.
4. The bed and breakfast shall be properly licensed in the State of Iowa and shall be compliance with any such standards.
5. The location of such a facility shall be limited to historic, 2-story houses built prior to 1945.
6. Approval of the conditional use shall be subject to the Commission's approval of a satisfactory site plan demonstrating adequately developed off-street parking space on site and an interior plan demonstrating how the facility will be laid out demonstrating that adequate facilities exist and that fire and life measures such as smoke detectors, extinguisher and exits have been adequately addressed.
7. In addition to a 6-square-foot non-illuminated wall sign, a ground sign (less than 4 feet tall) not exceeding 8 square feet shall be permitted. The location of such sign shall be at least 10 feet from any property line.
8. The owner or a resident manager operator of the facility must physically reside on site during all periods that the facility is open to the public and that guests are housed on site.
9. Any other conditions that are deemed by the Commission to ensure the use blends well with the adjoining neighborhood.

**165.26 RECREATIONAL VEHICLE (RV) SITES.** The following regulations are adopted governing recreation vehicle sites:

1. **Site Size and Vehicle Density.** The minimum size of the plot of ground intended to accommodate a recreational vehicle or other individual camping unit shall be a minimum of 1,500 square feet and shall not exceed 15 camp/RV sites per acre. Each site shall be a minimum of 15 feet wide.
2. **Site Improvements.** A graveled vehicle parking pad of at least 12 x 30 feet shall be provided for each RV site. A minimum of 1 1/2 parking spaces shall be provided per site, with at least one parking space at the site. All required parking shall be graveled. In addition, a 12-foot wide graveled path shall be provided from the road to the pad and parking.
3. **Screening.** The site shall be screened with a 6-foot opaque screen from all other adjoining uses on site. Additionally a lower hedge and landscaping shall be added along any portion of the sites facing the street.
4. **Utilities.** Electrical, water, sewer and solid waste facilities shall be provided at a minimum to each site. In addition, common toilets and showers shall also be installed for any sites that will allow RV's without toilet and shower facilities internal to the vehicle. All utilities and health facilities shall be installed and conform to engineering, building and health regulations.
5. **Occupancy.** The maximum length of stay for occupants shall be no more than 180 days.
6. **Permanent Structures.** No permanent structures shall be attached to the RV or installed on the RV site other than accessory uses limited to park management and recreation.
7. **Other.** Any other conditions that are deemed by the Commission to ensure the use blends well with the adjoining neighborhood.

**165.27 SPECIAL EXCEPTION PROCEDURES.**

1. **Procedures and Requirements.** Allowable special exception uses may be permitted, enlarged, or altered upon application for a special use permit in accordance with the rules and procedures of the Board of Adjustment. The Board of Adjustment will grant or deny a special use permit in accordance with the standards set forth herein and with the intent and purpose of this chapter. In granting a special use permit, the Board of Adjustment will authorize the issuance of a special use permit and may prescribe and impose appropriate conditions, safeguards, and a specified time limit for the performance of the special use permit.
2. **Application For Special Exception Permit.** A request for a special use permit for a special use or modification of a special use may be initiated by a property owner or his or her authorized agent by filing an application with the Zoning Administrator upon forms prescribed for the purpose. The application shall be accompanied by a site plan and other such plans and data showing dimensions, arrangements, descriptive data, and other materials constituting a record essential to an understanding of the proposed use and proposed modification in relation to the standards set forth herein. The application shall also be accompanied by a fee as determined by resolution of the City Council.

3. Procedures. A special exception shall not be granted by the Board of Adjustment unless and until the following procedures have been fulfilled:

A. The Zoning Administrator shall provide a copy of the application for special exception for review and comment to the Planning and Zoning Commission.

B. The Commission shall provide the Board of Adjustment with their recommendations within thirty (30) days after receipt of the application.

C. After receipt of the Commission's recommendations, the Board of Adjustment shall schedule a public hearing in relation to the special exception request. Notice shall be given of the public hearing as required by State Statute by publication in a newspaper of general circulation in the City. Notice shall be given to the owners of property within three hundred (300) feet of the property in question.

D. The Board of Adjustment shall determine that it is empowered under this chapter to grant the special exception as described in the application, and that the granting of the special exception will not adversely affect the public interest pursuant to testimony presented at the public hearing and the review by the Commission.

E. In granting any special exception, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the special exception is granted, shall be deemed a violation of this chapter.

F. The concurring vote of three members of the Board of Adjustment grants a special use permit. No order of the Board of Adjustment granting a special use permit shall be valid for a period longer than one (1) year from the date of such order, unless the Board of Adjustment specifically grants a longer period of time or a building permit is obtained within the one (1) year period and construction is commenced.

4. Standards. No special exception permit shall be granted by the Board of Adjustment unless such Board shall find:

A. The establishment, maintenance, or operation of the special use will not be substantially detrimental to or endanger the public health, safety, morals, comfort, or general welfare of the community.

B. The special use will not be substantially injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, or substantially diminish and impair property values within the neighborhood.

C. In the case of existing relocated single-family dwellings, the proposed use shall aesthetically blend in with the neighboring existing permitted uses and special attention shall be given to the architectural style, size and quality of construction of the proposed use.

D. The establishment of the special use will not impede the normal and orderly development in improvement of the surrounding property for uses permitted in the district.

- E. Adequate utilities, access roads, drainage, parking, and/or necessary facilities have been or will be provided.
- F. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- G. The use shall not include any activity involving the use or storage of flammable, or explosive material unless protected by adequate firefighting and fire suppression equipment and by such safety devices as are normally used in the handling of any such material.
- H. The use shall not include noise which is objectionable due to volume, frequency, or beat unless muffled or otherwise controlled.
- I. The use shall not include vibration which is discernable without instruments on any adjoining lot or property.
- J. The use shall not involve any malodorous gas or matter which is discernable on any adjoining property.
- K. The use shall not involve any pollution of the air by fly-ash, dust vapors, or other substance which is harmful to health, animals, vegetation or other property or which causes soiling, discomfort or irritation.
- L. The use shall not involve any excessive direct or reflected glare onto any adjoining property or any public street, road, or highway.
- M. The use shall not involve any activity substantially increasing the movement of traffic on public streets unless procedures are instituted to limit traffic hazards and congestion.
- N. The use shall not involve any activity substantially increasing the burden on any public utilities or facilities unless provisions are made for any necessary adjustments.
- O. The use will not be in conflict with the Comprehensive City plan.
- P. The use will not unreasonably interfere with the use or enjoyment of neighboring permitted uses. If such interference is found provisions must be made for increased setbacks from property lines or screening of incompatible use by the use of fences, hedges or other means.
- Q. The ground coverage shall be such that no additional dust or storm run-off is generated by the special exception use.
- R. The use shall not create a hazard to vehicular traffic. If any such hazard is determined, provisions must be made to increase the required setback in regard to open air storage.
- S. The use shall cause no permanent, irreparable damage to the environment or to adjacent uses of land.

#### **165.28 ENFORCEMENT.**

1. Administrator. The purpose of this chapter is to confirm the existing Zoning Administrative Officer, and it shall be the duty of said officer to enforce this chapter. Such officer may be a person holding other appointive office in the City, or in another governmental agency.

2. Zoning Administrative Officer. No land shall be occupied or used, and no building hereafter erected or structurally altered shall be occupied or used in whole or in part for any purpose whatsoever, until a permit is issued by the Zoning Administrator, stating that the building and use comply with the provisions of this chapter. No change of use shall be made in any building or part thereof, now or hereafter erected or structurally altered, without a permit being issued therefor by the Zoning Administrative Officer. No permit shall be issued to make a change unless the changes are in conformity with provisions of this chapter. Nothing in this part shall prevent the continuance of a nonconforming use as herein authorized, unless a discontinuance is necessary for the safety of life or property.
3. Application For Compliance Permit. Compliance permits shall be obtained from the Zoning Administrative Officer before starting or proceeding with the erection, construction, moving into, or the structural alteration of a building or structure, including billboards. Permits shall be kept on file by the Zoning Administrator, and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building affected.
4. Plats. Each application for a compliance permit shall be accompanied by a plat in duplicate drawn to scale, showing the actual dimensions of the lot to be built upon, the size, shape and location of the existing buildings and the building to be erected, the dimensions of the required yards, parking and open spaces, the percentage of lot coverage prior to and after the construction of the proposed building, and such other information as may be necessary to provide for the enforcement of this chapter.
5. Construction and Use To Be As Provided In Application, Plans and Permit. Compliance permits issued on the basis of plans and applications, approved by the Zoning Administrative Officer, authorize only that use, arrangement and construction. Use, arrangement and construction at variance with that authorized shall be deemed a violation of this chapter.
6. Fees. Before receiving a compliance permit the owner or owner's agent shall pay to the City the permit fee as provided by resolution of the Council. City, County, State and Federal governments shall be exempt from paying said fees.
7. Special Exceptions. A compliance permit for a special exception may be issued by the Administrative Officer after review by the Commission and upon order of the Board of Adjustment.
8. Restraining Order. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure or land is used in violation of this chapter, the City Attorney, in addition to other remedies, may institute any proper action or proceed in the name of the City to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, conduct, business or use in or about said premises.

**165.29 BOARD OF ADJUSTMENT.**

1. Confirmation of Existing Board of Adjustment: The five (5) members of the existing Board of Adjustment are hereby confirmed to continue their appointed terms of office. Future members of the Board of Adjustment shall be appointed by the City Council for a term of five (5) years. Members of the Board of Adjustment may be removed from office by the Council for cause upon written charges and after public hearing. Vacancies shall be filled by the Council for the unexpired term of the resigning member.
2. Proceedings of the Board Of Adjustment. The Board of Adjustment shall adopt rules necessary to the conduct of its affairs, and in keeping with the provisions of this chapter. Meetings shall be held at the call of the Chairperson and at such other times as the Board may determine. The Chairperson, or in his/her absence the acting Chairperson, may administer oaths and compel attendance of witnesses. All meetings shall be open to the public. The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examination and other official actions, all of which shall be a public record and be immediately filed in the office of the Board. The presence of three (3) members shall constitute a quorum.
3. Hearings, Appeals, Notice. Appeals to the Board of Adjustment concerning interpretation or administration of this chapter may be taken by any person aggrieved or by any officer or bureau of the City affected by a decision of the Administrative Officer. Such appeals should be taken within a reasonable time, not to exceed sixty (60) days, by filing with the Administrative Officer and with the Board of Adjustment, a notice of appeal specifying the grounds thereof. The Administrative Officer shall forthwith transmit to the Board all papers constituting the record from which the action appealed was taken. The Board of Adjustment shall fix a reasonable time for the hearing of appeal, give public notices thereof, as well as due notice to the parties of interest, and decide the same within a reasonable time. At the hearing any party may appear in person or by agent or attorney. A fee to be determined by resolution of the Council shall be paid to the Administrative Officer at the time the notice of appeal is filed, which the Administrative Officer shall forthwith pay to the credit of the General Revenue Fund of the City.
4. Stay of Proceedings. An appeal stays all proceedings in furtherance of the action which was appealed, unless the Administrative Officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal is filed with such officer, that by reason of facts stated in the certificate, a stay would, in the opinion of the officer, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Adjustment or by a court of record on the application, on notice to the Administrative Officer from whom the appeal is taken and on due cause shown.
5. Powers and Duties. The Board of Adjustment shall have the following powers and duties:
  - A. Administrative Review. To hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination made by the Administrative Administrator in the enforcement of this chapter.

B. Special Exceptions. To hear and decide only such exceptions as the Board of Adjustment is specifically authorized to pass on by the terms of this chapter, and as provided for in Section 165.19.

C. Variances. To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest where, owing to the special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship. A variance from the terms of this chapter shall not be granted by the Board of Adjustments unless and until:

(1) A written application for a variance is submitted demonstrating that:

a. The granting of the variance would not have the effect of allowing a use not permitted in the zoning district;

b. The granting of the variance will not be contrary to the public interest;

c. Owing to special conditions, the literal enforcement of the provisions of the chapter will result in unnecessary hardship.

d. The difficulty complained of is not the result of a willful act of the Petitioner or other person maintaining an interest in the property or their immediate successor in interest.

(2) Notice of public hearing shall be given.

(3) The public hearing shall be held. Any party may appear in person or by agent or attorney.

(4) The Board of Adjustment shall make findings that the requirements of this section have been met by the applicant for a variance.

(5) The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.

(6) The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

(7) The application for a variance shall be accompanied by a fee to be determined by resolution of the Council.

In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this chapter. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter.

6. Decisions of the Board of Adjustment. In exercising the above mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the

terms of this chapter, reverse or affirm, wholly or partly, or may modify order, requirements, decision, or determination as ought to be made and to that end shall have powers of the Administrative Officer from whom the appeal is taken. The concurring vote of three members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Administrative Officer, or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect any variation in application of this chapter.

7. Appeals From the Board of Adjustment: Any person or persons, or any board, taxpayer, department, board or bureau of the community aggrieved by any decision of the Board of Adjustment may seek review of such decision of the Board of Adjustment by a court of record in the manner provided by the laws of the State of Iowa and particularly by Chapter 414, *Code of Iowa*.

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**165.30 CHANGES AND AMENDMENTS.**

1. Changes Authorized. This chapter and the district map created by this chapter may be amended from time to time. However, no amendment shall become effective unless it shall have been proposed by or shall have been first submitted to the Planning and Zoning Commission for review and recommendation. The Commission shall have forty-five (45) days in which to submit its report to the Council. If the Commission fails to submit a report within the 45-day period, it shall be deemed to have approved the proposed amendment. A public hearing shall be held by the City Council before adoption of any proposed amendment to this chapter. A notice of such public hearing shall be published not less than seven (7) or more than twenty (20) days prior to the date established for such hearing. Such notice shall include the time and place for the public hearing. At no times shall the required public hearing be held sooner than the next regularly scheduled City Council meeting. In case the Commission does not approve the change, or in a case of a protest filed with the Council against a change in district boundaries signed by the owners of twenty percent (20%) or more either of the area of the lots included in such proposed change, or of those immediately adjacent thereto and within 200 feet of the boundaries thereof, such amendment shall not be passed except by the favorable vote of three-fourths (3/4) of all the members of the Council.

2. Application For Change In Zoning District Boundaries. Any person may submit to the Council, an application requesting a change in the zoning district boundaries as shown on the official zoning map.

A. Such application shall be filed with the Administrative Officer accompanied by a fee as determined by resolution by the City Council and shall contain the following information:

- (1) The legal description and local address of the property.
- (2) The present zoning classification and the zoning classification requested for the property.
- (3) The existing use and proposed use of the property.
- (4) The names and addresses of the owners of all property within 200 feet of the property for which the change is requested.
- (5) A statement of the reasons why the applicant feels the present zoning classification is no longer appropriate.
- (6) A plat showing existing and proposed locations, dimensions and use of the applicant's property and all property within 200 feet thereof, including streets, alleys, railroads, and other physical features.

All fees shall be deposited to the General Revenue Fund of the City. Failure to approve the requested change shall not be deemed cause to refund the fee to the applicant.

B. Upon receipt of the application by the Administrative Officer a copy shall be forwarded immediately to the Commission for study and recommendation. The Commission shall, prior to making a recommendation, determine the following:

- (1) Whether or not the current district classification of the property to be rezoned is valid.
- (2) Whether there is a need for additional land zoned for the purpose requested.
- (3) Whether the proposed change is consistent with the current land use plan, considering such factors as:
  - a. Whether the rezoning would result in a population density or development which would in turn cause demand for services and utilities in excess of the capacity planned for the area;
  - b. Whether the rezoning would result in the generating of traffic in excess of the capacity of existing or planned streets in the vicinity.
- (4) Whether there is an intent on the part of the applicant to develop the property to be rezoned diligently and within a reasonable time.

C. The Commission shall report its determinations and recommendations to the Council within forty-five (45) days from receipt of the application, except that when no report is issued within that time, the application will be deemed approved by the Commission. The Council shall then hold a public hearing as provided herein.

<b>EDITOR'S NOTE</b>			
The following ordinances have been adopted amending the Official Zoning Map described in Section 165.05 of this chapter and have not been included as a part of this Code of Ordinances but have been specifically saved from repeal and are in full force and effect.			
<b>ORDINANCE NO.</b>	<b>DATE ADOPTED</b>	<b>ORDINANCE NO.</b>	<b>DATE ADOPTED</b>
538	November 15, 1993		
559	May 18, 1998		
563	June 7, 1999		
604	July 15, 2002		
611	October 21, 2002		
675	August 22, 2012		

[The next page is 1101]

## CHAPTER 170

# FLOOD PLAIN REGULATIONS

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**170.01 PURPOSE.** It is the purpose of this chapter to protect and preserve the rights, privileges and property of the City and its residents and to preserve and improve the peace, safety, health, welfare and comfort and convenience of its residents by minimizing flood losses with provisions designed to:

1. Reserve sufficient flood plain area for the conveyance of flood flows so that flood heights and velocities will not be increased substantially.
2. 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.
3. Require that uses vulnerable to floods, including public utilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.
4. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.
5. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

**170.02 DEFINITIONS.** Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

1. “Base flood” means the flood having one percent (1%) chance of being equaled or exceeded in any given year. (See 100-year flood.)
2. “Basement” means any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see “lowest floor.”
3. “Development” means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.
4. “Existing construction” means any structure for which the “start of construction” commenced before the effective date of the community’s Flood Insurance Rate Map. May also be referred to as “existing structure.”

5. “Existing factory-built home park or subdivision” means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the effective date of these flood plain management regulations.
6. “Expansion of existing factory-built home park or subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
7. “Factory-built home” means any structure designed for residential use which is wholly or in substantial part made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation on a building site. For the purpose of this chapter, factory-built homes include mobile homes, manufactured homes and modular homes and also includes “recreational vehicles” which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.
8. “Factory-built home park” means a parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.
9. “Flood” means a general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.
10. “Flood elevation” means the elevation floodwaters would reach at a particular site during the occurrence of a specific flood. For instance, the 100-year flood elevation is the elevation of floodwaters related to the occurrence of the 100-year flood.
11. “Flood Insurance Rate Map (FIRM)” means the official map prepared as part of (but published separately from) the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.
12. “Flood plain” means any land area susceptible to being inundated by water as a result of a flood.
13. “Flood plain management” means an overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of flood plains, including but not limited to emergency preparedness plans, flood control works, floodproofing and flood plain management regulations.
14. “Floodproofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities which will reduce or eliminate flood damage to such structures.
15. “Floodway” means the channel of a river or stream and those portions of the flood plains adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one foot.

16. “Floodway fringe” means those portions of the flood plain, other than the floodway, which can be filled, leveed, or otherwise obstructed without causing substantially higher flood levels or flow velocities.
17. “Historic structure” means any structure that is:
- A. Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing in 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.
18. “Lowest floor” means the floor of the lowest enclosed area in a building including a basement except when all the following criteria are met:
- A. The enclosed area is designed to flood to equalize hydrostatic pressure during floods with walls or openings that satisfy the provisions of Section 170.11(4)(A); and
  - B. The enclosed area is unfinished (not carpeted, drywalled, etc.) and used solely for low damage potential uses such as building access, parking or storage; and
  - C. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one foot above the 100-year flood level; and
  - D. The enclosed area is not a “basement” as defined in this section.

In cases where the lowest enclosed area satisfies criteria A, B, C and D above, the lowest floor is the floor of the next highest enclosed area that does not satisfy the criteria above.

19. “New construction” (new buildings, factory-built home parks) means those structures or development for which the start of construction commenced on or after the effective date of the Flood Insurance Rate Map.

20. “New factory-built home park or subdivision” means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of these flood plain management regulations.

21. “100-Year Flood” means a flood, the magnitude of which has a one percent (1%) 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.
22. “Recreational vehicle” means a vehicle which is:
- A. Built on a single chassis;
  - B. Four hundred (400) square feet or less when measured at the largest horizontal projection;
  - C. Designed to be self-propelled or permanently towable by a light duty truck; and
  - D. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.
23. “Special flood hazard area” means the land within a community subject to the “100-year flood.” This land is identified as Zone A on the Flood Insurance Rate Map.
24. “Start of construction” includes substantial improvement, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement or permanent construction of a structure on a site, such as pouring of a slab or footings, the installation of pile, the construction of columns, or any work beyond the stage of excavation; or the placement of a factory-built home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.
25. “Structure” means anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factory-built homes, storage tanks and other similar uses.
26. “Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.
27. “Substantial improvement” means any improvement to a structure which satisfies either of the following criteria:
- A. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) 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 comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe conditions for the existing use. 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.”

B. Any addition which increases the original floor area of a building by twenty-five percent (25%) or more. All additions constructed after the effective date of the Flood Insurance Rate Map, shall be added to any proposed addition in determining whether the total increase in original floor space would exceed twenty-five percent.

28. “Variance” means a grant of relief by a community from the terms of the flood plain management regulations.

29. “Violation” means the failure of a structure or other development to be fully compliant with this chapter.

**170.03 LANDS TO WHICH CHAPTER APPLIES.** The provisions of this chapter shall apply to all lands within the jurisdiction of the City shown on the Official Flood Plain Zoning Map as being within the boundaries of the Floodway, Floodway Fringe, General Flood Plain and Shallow Flooding (Overlay) Districts. The Flood Boundary and Floodway Map(s) prepared as part of the Flood Insurance Study for the City, dated January 16, 1981, are hereby adopted by reference and declared to be the Official Flood Plain Zoning Map. The flood profiles and all explanatory material contained with the Flood Insurance Study and the Flood Insurance Rate Maps are also declared to be a part of this chapter.

**170.04 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES.** The boundaries of the zoning district areas shall be determined by scaling distances on the Official Flood Plain Zoning Map. When an interpretation is needed as to the exact location of a boundary, the Zoning Administrator shall make the necessary interpretation. The Zoning Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Administrator in the enforcement or administration of this chapter.

**170.05 COMPLIANCE.** No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations which apply to uses within the jurisdiction of this chapter.

**170.06 ABROGATION AND GREATER RESTRICTIONS.** It is not intended by this chapter to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provision of this chapter shall prevail. Any ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.

**170.07 INTERPRETATION.** In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

**170.08 WARNING AND DISCLAIMER OF LIABILITY.** The standards required by this chapter are considered reasonable for regulatory purposes. This chapter does not imply that areas outside the designated Flood Plain (Overlay) District areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City or any

officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

**170.09 ESTABLISHMENT OF ZONING (OVERLAY) DISTRICTS.** The flood plain areas within the jurisdiction of this chapter are hereby divided into the following districts:

1. Floodway District (FW)
2. Floodway Fringe District (FF)
3. General Flood Plain District (FP)
4. Shallow Flooding District (SF).

The boundaries are as shown on the Official Flood Plain Zoning Map. Within these districts all uses not allowed as permitted uses or permissible as conditional uses are prohibited unless a variance to the terms of this chapter is granted after due consideration by the Board of Adjustment.

**170.10 FLOODWAY (OVERLAY) DISTRICT - FW.**

1. Permitted Uses. The following uses shall be permitted within the Floodway District to the extent they are not prohibited by any other ordinance (or underlying zoning district) and provided they do not include placement of structures, factory-built homes, fill or other obstruction, the storage of material or equipment, excavation or alteration of a watercourse.
  - A. Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming, and wild crop harvesting.
  - B. Industrial-commercial uses such as loading areas, parking areas, airport landing strips.
  - C. Private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails.
  - D. Residential uses such as lawns, gardens, parking areas and play areas.
  - E. Such other open-space uses similar in nature to the above uses.
2. Conditional Uses. The following uses which involve structures (temporary or permanent), fill, storage of materials or equipment, excavation or alteration of a watercourse may be permitted only upon issuance of a conditional use permit by the Board of Adjustment as provided for in Section 170.19. Such uses must also meet the applicable provisions of the Floodway District Performance Standards.
  - A. Uses or structures accessory to open-space uses.
  - B. Circuses, carnivals, and similar transient amusement enterprises.
  - C. Drive-in theaters, new and used car lots, roadside stands, signs, and billboards.
  - D. Extraction of sands, gravel, and other materials.
  - E. Marinas, boat rentals, docks, piers, and wharves.

- F. Utility transmission lines and underground pipelines.
  - G. Other uses similar in nature to uses described in subsection 1 and in this subsection which are consistent with the provisions of subsection 3 and the general spirit and purpose of this chapter.
3. Performance Standards. All Floodway District uses allowed as a permitted or conditional use shall meet the following standards:
- A. No use shall be permitted in the Floodway District that would result in any increase in the 100-year flood level. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.
  - B. All uses within the Floodway 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.
  - C. No use shall affect the capacity or conveyance of the channel or floodway of any tributary to the main stream, drainage ditch or any other facility or system.
  - D. Structures, buildings and sanitary and utility systems, if permitted, shall meet the applicable performance standards of the Floodway Fringe District and shall be constructed or aligned to present the minimum possible resistance to flood flows.
  - E. Buildings, if permitted, shall have a low flood damage potential and shall not be for human habitation.
  - F. Storage of materials or equipment that are buoyant, flammable, explosive or injurious to human, animal or plant life is prohibited. Storage of other material may be allowed if readily removable from the Floodway District within the time available after flood warning.
  - G. Watercourse alterations or relocations (channel changes and modifications) must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.
  - H. Any fill allowed in the floodway must be shown to have some beneficial purpose and shall be limited to the minimum amount necessary.
  - I. Pipeline river or stream crossings shall be buried in the streambed and banks or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering or due to the action of flood flows.

**170.11 FLOODWAY FRINGE (OVERLAY) DISTRICT - FF.** All uses within the Floodway Fringe District shall be permitted to the extent that they are not prohibited by any other ordinance (or underlying zoning district) and provided they meet applicable performance standards of the Floodway Fringe District. All uses must be consistent with the need to minimize flood damage and shall meet the following applicable performance standards.

1. All structures shall:
  - A. Be adequately anchored to prevent flotation, collapse or lateral movement of the structure.
  - B. Use construction materials and utility equipment that are resistant to flood damage.
  - C. Use construction methods and practices that will minimize flood damage.
2. Residential Buildings. All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one foot above the 100-year flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than one foot above the 100-year flood level and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers) may be allowed, subject to favorable consideration by the 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.
3. Nonresidential Buildings. All new or substantially improved non-residential buildings shall have the lowest floor (including basement) elevated a minimum of one foot above the 100-year flood level, or together with attendant utility and sanitary systems, be 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 National Geodetic Vertical Datum) to which any structures are floodproofed shall be maintained by the Administrator.
4. All new and substantially improved structures.
  - A. Fully enclosed areas below the "lowest floor" (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:
    - (1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
    - (2) The bottom of all openings shall be no higher than one foot above grade.
    - (3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

Such areas shall be used solely for parking of vehicles, building access and low damage potential storage.

B. New and substantially improved structures must be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

C. New and substantially improved structures must be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

5. Factory-Built Homes.

A. All factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one (1) foot above the 100-year flood level.

B. All factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

6. Utility and Sanitary Systems.

A. On-site waste disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.

B. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one foot above the 100-year flood elevation.

C. New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities (other than on-site systems) shall be provided with a level of protection equal to or greater than one foot above the 100-year flood elevation.

D. Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.

7. Storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one foot above the 100-year flood level. Other material and equipment must either be similarly elevated or (i) not 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.

8. 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 feet of design

freeboard and shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the Department of Natural Resources.

9. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.

10. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals (including the installation of public utilities) shall meet the applicable performance standards of this chapter. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the 100-year flood. Proposals for subdivisions greater than five (5) acres or fifty (50) lots (whichever is less) shall include 100-year flood elevation data for those areas located within the Flood Plain (Overlay) District.

11. Accessory Structures.

A. Detached garages, sheds, and similar structures accessory to a residential use are exempt from the 100-year flood elevation requirements where the following criteria are satisfied:

- (1) The structure shall not be used for human habitation.
- (2) The structure shall be designed to have low flood damage potential.
- (3) The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.
- (4) The structure shall be firmly anchored to prevent flotation which may result in damage to other structures.
- (5) The structure's service facilities such as electrical and heating equipment shall be elevated or floodproofed to at least one foot above the 100-year flood level.

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

12. Recreational Vehicles.

A. Recreational vehicles are exempt from the requirements of Section 170.11(5) of this chapter regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.

- (1) The recreational vehicle shall be located on the site for less than 180 consecutive days, and,
- (2) The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

B. Recreational vehicles that are located on the site for more than 180 consecutive days or are not ready for highway use must satisfy requirements

of Section 170.11(5) of this chapter regarding anchoring and elevation of factory-built homes.

13. Pipeline river and stream crossings shall be buried in the stream bed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.

#### **170.12 GENERAL FLOOD PLAIN (OVERLAY) DISTRICT - FP.**

1. Permitted Uses. The following uses shall be permitted within the General Flood Plain District to the extent they are not prohibited by any other ordinance (or underlying zoning district) and provided they do not include placement of structures, factory-built homes, fill or other obstructions; the storage of materials or equipment; excavation or alteration of a watercourse.

- A. Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming, and wild crop harvesting.

- B. Industrial-commercial uses such as loading areas, parking areas, and airport landing strips.

- C. Private and public recreation uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails.

- D. Residential uses such as lawns, gardens, parking areas and play areas.

2. Conditional Uses. Any use which involves placement of structures, factory-built homes, fill or other obstructions; the storage of materials or equipment; excavation or alteration of a watercourse may be allowed only upon issuance of a conditional use permit by the Board of Adjustment as provided for in Section 170.19. All such uses shall be reviewed by the Department of Natural Resources to determine (i) whether the land involved is either wholly or partly within the floodway or floodway fringe and (ii) the 100-year flood level. The applicant shall be responsible for providing the Department of Natural Resources with sufficient technical information to make the determination.

3. Performance Standards.

- A. All conditional uses, or portions thereof, to be located in the floodway as determined by the Department of Natural Resources shall meet the applicable provisions and standards of the Floodway (Overlay) District (Section 170.10).

- B. All conditional uses, or portions thereof, to be located in the floodway fringe as determined by the Department of Natural Resources shall meet the applicable standards of the Floodway Fringe (Overlay) District (Section 170.11).

**170.13 SHALLOW FLOODING (OVERLAY) DISTRICT - SF.** All uses within the Shallow Flooding District shall be permitted to the extent that they are not prohibited by any other ordinance (or underlying zoning district) and provided they meet the applicable performance standards of the Shallow Flooding District. The performance standards for the

Shallow Flooding District shall be the same as the performance standards for the Floodway Fringe District with the following exceptions:

1. In shallow flooding areas designated as an AO Zone on the Flood Insurance Rate Map, the minimum floodproofing/flood protection elevation shall be equal to the number of feet as specified on the Flood Insurance Rate Map (or a minimum of 2.0 feet if no number is specified) above the highest natural grade adjacent to the structure.
2. In shallow flooding areas designated as an AH Zone on the Flood Insurance Rate Map, the minimum floodproofing/flood protection elevation shall be equal to the elevation as specified on the Flood Insurance Rate Map.

**170.14 ADMINISTRATION.** The Zoning Administrator shall administer and enforce this chapter and will herein be referred to as the Administrator. The duties and responsibilities of the Administrator include, but are not necessarily limited to, the following:

1. Review all flood plain development permit applications to assure that the provisions of this chapter will be satisfied.
2. Review all flood plain development permit applications to assure that all necessary permits have been obtained from Federal, State or local governmental agencies including approval when required from the Department of Natural Resources for flood plain construction.
3. Record and maintain a record of (i) the elevation (in relation to National Geodetic Vertical Datum) of the lowest floor (including basement) of all new or substantially improved structures or (ii) the elevation to which new or substantially improved structures have been floodproofed.
4. Notify adjacent communities and/or countries and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.
5. Keep a record of all permits, appeals, and such other transactions and correspondence pertaining to the administration of this chapter.
6. Submit to the Federal Insurance Administrator an annual report concerning the community's participation, utilizing the annual report form supplied by the Federal Insurance Administrator.
7. Notify the Federal Insurance Administration of any annexations or modifications to the community's boundaries.
8. Review subdivision proposals to insure such proposals are consistent with the purpose of this chapter and advise the Council of potential conflicts.

**170.15 FLOOD PLAIN DEVELOPMENT PERMIT REQUIRED.** A Flood Plain Development Permit issued by the Administrator shall be secured prior to any flood plain development (any manmade change to improved or 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.

**170.16 APPLICATION FOR PERMIT.** Application for a Flood Plain Development Permit shall be made on forms supplied by the Administrator and shall include the following information.

1. Description of the work to be covered by the permit for which application is to be made.
2. Description of the land on which the proposed work is to be done (i.e., lot, block, tract, street address or similar description) that will readily identify and locate the work to be done.
3. Indication of the use or occupancy for which the proposed work is intended.
4. Elevation of the 100-year flood.
5. Elevation (in relation to National Geodetic Vertical Datum) of the lowest floor (including basement) of buildings or of the level to which a building is to be floodproofed.
6. For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.
7. Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this chapter.

**170.17 ACTION ON PERMIT APPLICATION.** The Administrator shall, within a reasonable time, make a determination as to whether the proposed flood plain development meets the applicable standards of this chapter and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefor. The Administrator shall not issue permits for variances except as directed by the Board of Adjustment.

**170.18 CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATION AND PLANS.** Flood Plain Development Permits issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State of Iowa, that the finished fill, building floor elevations, floodproofing or other flood protection measures were accomplished in compliance with the provisions of this chapter, prior to the use or occupancy of any structure.

**170.19 CONDITIONAL USES, APPEALS AND VARIANCES.** The Board of Adjustment shall hear and decide (i) applications for conditional uses upon which the Board is authorized to pass under this chapter; (ii) appeals, and (iii) requests for variances to the provisions of this chapter; and shall take any other action which is required of the Board.

1. **Conditional Uses.** Requests for conditional uses shall be submitted to the Administrator, who shall forward such to the Board of Adjustment for consideration. Such requests shall include information ordinarily submitted with applications as well as any additional information deemed necessary by the Board of Adjustment.
2. **Appeals.** Where it is alleged there is any error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this chapter, the aggrieved party may appeal such action. The notice of appeal shall be filed with the Board of Adjustment and with the official from whom the appeal is taken and shall set forth the specific reason for the appeal. The official from whom the appeal is taken shall transmit to the Board of Adjustment all the documents constituting the record upon which the action appealed from was taken.

3. Variances. The Board of Adjustment may authorize upon request in specific cases such variances from the terms of this chapter that will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this chapter will result in unnecessary hardship. Variances granted must meet the following applicable standards.

A. Variances shall only be granted upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.

B. Variances shall not be issued within any designated floodway if any increase in flood levels during the 100-year flood would result. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.

C. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

D. In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this chapter, the applicant shall be notified in writing over the signature of the Administrator that (i) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction increases risks to life and property.

E. All variances granted shall have the concurrence or approval of the Department of Natural Resources.

4. Hearings and Decisions of the Board of Adjustment.

A. Hearings. Upon the filing with the Board of Adjustment of an appeal, an application for a conditional use or a request for a variance, the Board shall hold a public hearing. The Board shall fix a reasonable time for the hearing and give public notice thereof, as well as due notice to parties in interest. At the hearing, any party may appear in person or by agent or attorney and present written or oral evidence. The Board may require the appellant or applicant to provide such information as is reasonably deemed necessary and may request the technical assistance and/or evaluation of a professional engineer or other expert person or agency, including the Department of Natural Resources.

B. Decisions. The Board shall arrive at a decision on an appeal, conditional use or variance within a reasonable time. In passing upon an appeal, the Board may, so long as such action is in conformity with the provisions of this chapter, reverse or affirm wholly or in part, or modify the order, requirement, decision, or determination appealed from, and it shall make its decision, in writing, setting forth the findings of fact and the reasons for its decision. In granting a conditional use or variance, the Board shall consider such factors as contained in this section and all other relevant

sections of this chapter and may prescribe such conditions as contained in Section 170.21.

**170.20 FACTORS UPON WHICH THE DECISION TO GRANT VARIANCES IS BASED.** In passing upon applications for variances, the Board shall consider all relevant factors specified in other sections of this chapter and:

1. The danger to life and property due to increased flood heights or velocities caused by encroachments.
2. The danger that materials may be swept on to other land or downstream to the injury of others.
3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
5. The importance of the service provided by the proposed facility to the City.
6. The requirements of the facility for a flood plain location.
7. The availability of alternate locations not subject to flooding for the proposed use.
8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
9. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
10. The safety of access to the property in times of flood for ordinary and emergency vehicles.
11. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.
12. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical and water systems), facilities, streets and bridges.
13. Such other factors which are relevant to the purpose of this chapter.

**170.21 CONDITIONS ATTACHED TO VARIANCES.** Upon consideration of the factors listed above, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purpose of this chapter. Such conditions may include, but not necessarily be limited to:

1. Modification of waste disposal and water supply facilities.
2. Limitation on periods of use and operation.
3. Imposition of operational controls, sureties, and deed restrictions.
4. Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purpose of this chapter.

5. Floodproofing measures designed to be consistent with the flood protection elevation for the particular area, flood velocities, durations, rate of rise, hydrostatic and hydrodynamic forces, and other factors associated with the regulatory flood. The Board of Adjustment shall require that the applicant submit a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

**170.22 APPEALS TO THE COURT.** Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of illegality. Such petition shall be presented to the court within thirty days after the filing of the decision in the Hawarden City Offices and the mailing of a copy of the decision to the applicant.

**170.23 NONCONFORMING USES.**

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this chapter but which is not in conformity with the provisions of this chapter may be continued subject to the following conditions:

A. If such use is discontinued for twelve (12) consecutive months, any future use of the building premises shall conform to this chapter.

B. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.

C. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty percent (50%) of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this chapter.

2. Except as provided in subsection B above, any use which has been permitted as a conditional use or variance shall be considered a conforming use.

**170.24 AMENDMENTS.** The regulations and standards set forth in this chapter may from time to time be amended, supplemented, changed, or repealed. No amendment, supplement, change, or modification shall be undertaken without prior approval of the Department of Natural Resources.

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**CHAPTER 175**  
**SUBDIVISION REGULATIONS**

[Reserved for Future Use]

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