

**CODE OF ORDINANCES**

**OF THE**

**CITY OF**

**ESSEX, IOWA**

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

***Adopted May 21, 2020, by Ordinance No. 2020-01***

## SUPPLEMENT RECORD

[illegible]

# **CODE OF ORDINANCES**

## **CITY OF ESSEX, IOWA**

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# CHAPTER 1

## CODE OF ORDINANCES

1.01 Title  
1.02 Definitions  
1.03 City Powers  
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1.05 Personal Injuries  
1.06 Rules of Construction  
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1.08 Amendments  
1.09 Catchlines and Notes  
1.10 Altering Code  
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1.12 Warrants  
1.13 General Standards for Action  
1.14 Standard Penalty

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

**1.02 DEFINITIONS.** Where words and phrases used in this Code of Ordinances are defined in the *Code of Iowa*, such definitions apply to their use in this Code of Ordinances unless such construction would be inconsistent with the manifest intent of the Council or repugnant to the context of the provision. Other words and phrases used herein have the following meanings, unless specifically defined otherwise in another portion of this Code of Ordinances or unless such construction would be inconsistent with the manifest intent of the Council or repugnant to the context of the provision:

1. “Alley” means a public right-of-way, other than a street, affording secondary means of access to abutting property.
2. “City” means the City of Essex, Iowa.
3. “Clerk” means the city clerk of Essex, 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 Essex, Iowa.
6. “Council” means the city council of Essex, Iowa.
7. “County” means Page 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 Essex, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.
13. “Person” means an individual, firm, partnership, domestic or foreign corporation, company, association or joint stock association, trust or other legal entity,

and includes a trustee, receiver, assignee, or similar representative thereof, but does not include a governmental body.

14. “Public way” includes any street, alley, boulevard, parkway, highway, sidewalk, or other public thoroughfare.

15. “Shall” imposes a duty.

16. “Sidewalk” means that surfaced portion of the street between the edge of the traveled way, surfacing, or curb line and the adjacent property line, intended for the use of pedestrians.

17. “State” means the State of Iowa.

18. “Statutes” or “laws” means the latest edition of the *Code of Iowa*, as amended.

19. “Street” or “highway” means the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular traffic.

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

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

*(Code of Iowa, Sec. 364.1)*

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

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

damage, as to the liability of the City to the plaintiff in the first named action, and as to the amount of the damage or injury. The City may maintain an action against the person notified to recover the amount of the judgment together with all the expenses incurred by the City in the suit.

*(Code of Iowa, Sec. 364.14)*

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

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

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

*(Code of Iowa, Sec. 380.2)*

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

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

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

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

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

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

**1.14 STANDARD PENALTY.** Unless another penalty is expressly provided by this Code of Ordinances for violation of any particular provision, section, or chapter, any person failing to perform a duty required by this Code of Ordinances or otherwise violating any provision of this Code of Ordinances or any rule or regulation adopted herein by reference shall, upon conviction, be subject to a fine of at least \$65.00 but not to exceed \$625.00.<sup>†</sup>

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

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

## CHAPTER 2

# CHARTER

2.01 Title

2.02 Form of Government

2.03 Powers and Duties of City Officers

2.04 Number and Term of Council

2.05 Term of Mayor

2.06 Copies on File

**2.01 TITLE.** This chapter may be cited as the charter of the City of Essex, 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. 104 adopting a charter for the City was passed and approved by the Council on September 11, 1973, and was published on September 20, 1973.

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## CHAPTER 3

# MUNICIPAL INFRACTIONS

3.01 Municipal Infraction  
3.02 Environmental Violation  
3.03 Penalties

3.04 Civil Citations  
3.05 Alternative Relief  
3.06 Alternative Penalties

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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## CHAPTER 5

### OPERATING PROCEDURES

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

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

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

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

*(Code of Iowa, Sec. 63.1)*

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

*(Code of Iowa, Sec. 63.10)*

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

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

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

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

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

*(Code of Iowa, Sec. 64.13)*

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

*(Code of Iowa, Sec. 64.19)*

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

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

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

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

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 21.4)*

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

*(Code of Iowa, Sec. 21.3)*

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

*(Code of Iowa, Sec. 21.3)*

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

*(Code of Iowa, Sec. 21.5)*

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

*(Code of Iowa, Sec. 21.7)*

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

*(Code of Iowa, Sec. 21.8)*

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

*(Code of Iowa, Sec. 362.5)*

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

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

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

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

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

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

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

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

5. Newspaper. The designation of an official newspaper.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 372.15)*

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

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

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

## **5.12 REMOVAL OF ELECTED OFFICERS.**

1. Causes for Removal of Elected Officers. Any City officer elected by the people may be removed from office after hearing as hereinafter provided, if such officer:

A. Grossly neglects or refuses to serve by failure to attend all official meetings for a period of three months or more, excusable illness or emergencies excepted, or to sign papers, carry out duties clearly incumbent upon the officer, or otherwise exhibits failure to serve;

B. Is unable to attend any official meetings or carry out duties due to physical or mental infirmities that appear, upon careful inquiry, to be of such severe or chronic character as to preclude rendering necessary services expected of the officer for six months or more;

C. By such mental or physical incapacity, is unable to properly exercise official duties even when present or on the job;

D. Commits such acts as would be a cause which would be grounds for an equitable action for removal in the District Court.

2. Council Hearing. The Council, upon adopting a motion setting a public hearing, shall cause notice to be given by certified mail to the officer for whom removal is sought. Such notice shall be mailed not less than ten or more than 20 days before said hearing. In the case of severe physical or mental disability, said notice may be given to said person's attorney or to a person holding the power of attorney, or to the next of kin if there is no known attorney, if notice to the person would not be of practical effect. Refusal by the person to accept notice, inability to deliver notice because of frequent absence from said person's usual place of abode for extended periods, or other cause of failure to complete notice may be noted at hearing, but shall not bar the proceedings if notice has been diligently tried (and the efforts recited in the record).

3. Presentation of Case for Removal. The Council shall constitute the hearing body for other than Council members, but when a Council member is sought to be removed, the remaining members of the Council shall constitute the hearing body. The Council, at the time of making motion to hold a hearing for considering the removal of an elected officer, shall designate the president of the hearing, who shall be the Mayor in all cases except that if the Mayor is the one sought to be removed, it shall be the Mayor Pro Tem. The Council shall name one of its members to present the cause for removal, and municipal officers possessing pertinent facts shall provide such data upon request, including attendance record and testimony of negligent acts or of disabilities. All charges shall be in writing and the above data shall be represented as written affidavits. If medical or other professional evaluations are needed, depositions may be taken and presented unless personal testimony of such authorities is deemed necessary to more fully understand the circumstances.

4. Declaration of Vacancy. If it appears from the facts established at the hearing that grounds for removal exist, the Council may order removal of the person from office and declare the office vacant, but only upon a two-thirds vote of the entire Council. Said removal shall take effect two days after said vote and order unless the person has within said time appealed to the District Court under the provisions of Chapter 66, Code of Iowa. Where removal is consummated, the vacancy shall be filled promptly in the manner prescribed by law for filling vacancies in positions filled by election by the people. The record of the hearing shall be entered in the proceedings of the Council and the written charges, data and affidavits be safely filed with the municipal records.

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## CHAPTER 6

### CITY ELECTIONS

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

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

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

*(Code of Iowa, Sec. 376.3)*

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

*(Code of Iowa, Sec. 45.1)*

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

*(Code of Iowa, Sec. 45.2)*

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

*(Code of Iowa, Sec. 45.3, 45.5 & 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	7.06 Budget Amendments
7.02 Finance Officer	7.07 Accounting
7.03 Cash Control	7.08 Financial Reports
7.04 Fund Control	7.09 Credit Card Use
7.05 Operating Budget Preparation	

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- A. The amount of the expenses of disbursements for operating and maintaining the utility or enterprise for the preceding three months; and

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

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

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 384.18)*

1. Program Increase. Any increase in the amount appropriated to a program must be prepared, adopted, and subject to protest in the same manner as the original budget.  
(IAC, 545-2.2[384, 388])

2. Program Transfer. Any transfer of appropriation from one program to another must be prepared, adopted, and subject to protest in the same manner as the original budget.  
(IAC, 545-2.3[384, 388])

3. Activity Transfer. Any transfer of appropriation from one activity to another activity within a program must be approved by resolution of the Council.  
(IAC, 545-2.4[384, 388])

4. Administrative Transfers. The finance officer shall have the authority to adjust, by transfer or otherwise, the appropriations allocated within a specific activity without prior Council approval.  
(IAC, 545-2.4[384, 388])

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

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

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

3. Checks. Checks shall be prenumbered and signed by the Clerk and either the Mayor or a Council member following Council approval, except as provided by subsection 5 hereof.

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

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

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

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

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

*(Code of Iowa, Sec. 384.22)*

**7.09 CREDIT CARD USE.** No City official or employee or any person acting under color of such office or employment shall obtain goods or services on credit unless in compliance with Council resolution granting such authority, and then only within the guidelines established by said resolution.

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## **CHAPTER 8**

# **URBAN RENEWAL**

### **EDITOR'S NOTE**

Ordinance No. 219, adopted September 12, 2006, established the Johnson Subdivision Urban Renewal Area for the City. This ordinance, not codified herein, is specifically saved from repeal.

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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, give direction to department heads concerning the functions of the departments, and have the power to examine all functions of the municipal departments, their records and to call for special reports from department heads at any time.

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

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

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

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

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

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

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

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

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

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

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

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

**15.03 APPOINTMENTS.** The Mayor and Council shall make a good faith effort to appoint a qualified person to fill a vacancy on a board, commission, committee, or council in accordance with *Code of Iowa* 69.16A(2) entitled Gender Balance. They shall make a good faith effort and utilize a fair and unbiased method of selecting the best qualified appointees to boards with not more than one-half of the membership being of one gender. The Mayor shall appoint the following officials:

*(Code of Iowa, Sec. 372.4)*

1. Mayor Pro Tem
2. Library Board of Trustees
3. Zoning Administrative Officer
4. Essex Youth Sports Executive Board and Chairperson, with the approval of the Council.

**15.04 COMPENSATION.** The salary of the Mayor is \$40 for each meeting attended, payable annually.

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

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

*(Code of Iowa, Sec. 372.4)*

## CHAPTER 16

### MAYOR PRO TEM

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

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

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

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

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

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

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

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

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

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

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## CHAPTER 17

### CITY COUNCIL

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

17.04 Council Meetings  
17.05 Appointments  
17.06 Compensation

**17.01 NUMBER AND TERM OF COUNCIL.** The Council consists of five Council members elected at large for 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])*

A. If any City employee or official is injured while participating in City duties or is injured from activities outside of City duties, that individual shall not return to City duties until and unless safe to do so. A letter shall be required of any City employee or official from a doctor acceptable to the City. This does not apply to hiring, only to return to duty following an injury.

B. It is the purpose of this limitation to enhance the safety and care of City employees and officials and to prevent them from engaging in City duties when not safe.

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 \$100,000.00 on a public improvement project, or to accept public improvements and facilities upon their completion. Each Council member's vote on a measure must be recorded. A measure that fails to receive sufficient votes for passage shall be considered defeated.

*(Code of Iowa, Sec. 380.4)*

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

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

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

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

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

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

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

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

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

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

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

E. If the Mayor takes no action on an ordinance, amendment or resolution, a resolution becomes effective 14 days after the date of passage, and an



ordinance or amendment becomes law when the ordinance or a summary of the ordinance is published, but not sooner than 14 days after the date of passage, unless a subsequent effective date is provided within the ordinance or amendment.

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

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

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

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

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

**17.05 APPOINTMENTS.** The Mayor and Council shall make a good faith effort to appoint a qualified person to fill a vacancy on a board, commission, committee, or council in accordance with *Code of Iowa* 69.16A(2) entitled Gender Balance. They shall make a good faith effort and utilize a fair and unbiased method of selecting the best qualified appointees to boards with not more than one-half of the membership being of one gender. The Council shall appoint the following officials and prescribe their powers, duties, compensation, and term of office:

1. City Clerk
2. City Attorney
3. Public Works Director
4. Street Superintendent
5. Planning and Zoning Commission
6. Zoning Board of Adjustment
7. Low Rent Housing Board

**17.06 COMPENSATION.** The salary of each Council member is \$30.00 for each meeting of the Council attended, payable annually.

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

[The next page is 83]

## CHAPTER 18

### CITY CLERK

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

18.08 Records  
18.09 Attendance at Meetings  
18.10 Licenses and Permits  
18.11 Notification of Appointments  
18.12 Elections  
18.13 City Seal

**18.01 APPOINTMENT AND COMPENSATION.** At its first meeting in January following the regular City election, the Council shall appoint by majority vote a City Clerk to serve for a term of one year. The Clerk shall receive such compensation as established by resolution of the Council.

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 362.3)*

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

Essex City Hall, 412 Iowa Avenue  
Lied Public Library, 508 Iowa Avenue  
United States Post Office, 610 Iowa Avenue

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

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

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

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

*(Code of Iowa, Sec. 380.11)*

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

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

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

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

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

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

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

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

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

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

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

**18.09 ATTENDANCE AT MEETINGS.** The Clerk shall attend all regular and special Council meetings and, at the direction of the Council, the Clerk shall attend meetings of

committees, boards, and commissions. The Clerk shall record and preserve a correct record of the proceedings of such meetings.

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

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

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

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

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

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

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

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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 a term of one year. The City Attorney shall receive such compensation as established by resolution of the Council.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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## CHAPTER 21

### LIBRARY BOARD OF TRUSTEES

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

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

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

**21.03 QUALIFICATIONS OF TRUSTEES.** All resident members of the Board shall be bona fide citizens and residents of the City. The nonresident member of the Board shall be a bona fide citizen and resident of the unincorporated County. Members shall be over the age of 18 years.

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

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

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

1. Officers. To meet and elect from its members a President, a Secretary, and such other officers as it deems necessary
2. Physical Plant. To have charge, control and supervision of the Library, its appurtenances, fixtures and rooms containing the same.

3. Charge of Affairs. To direct and control all affairs of the Library.
4. Hiring of Personnel.
  - A. 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.
  - B. To contract for services with contractors such as Janitorial Contractors and others, for services needed in the charge, control and supervision of the Library, its appurtenances, fixtures and rooms containing the same, said contracts shall be handled in the same manner as described in paragraph A.
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.
13. County Historical Association. To have authority to make agreements with the local County historical association where such exists, and to set apart the necessary room and to care for such articles as may come into the possession of the association. The Trustees are further authorized to purchase necessary receptacles and materials for

the preservation and protection of such articles as are in their judgment of a historical and educational nature and pay for the same out of funds allocated for Library purposes.

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

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

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

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

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

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 716.1)*

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

*(Code of Iowa, Sec. 714.1)*

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

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

*(Code of Iowa, Sec. 714.5)*

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

*(Code of Iowa, Sec. 808.12)*

**ORDINANCE NO. 2019 - 4****AN ORDINANCE AMENDING THE LIBRARY ORDINANCE FORMERLY TITLE IV- CULTURE AND RECREATION ADOPTED 1990 AND NOW CHAPTER 21 LIBRARY BOARD OF TRUSTEES ADOPTED IN 2008**

**BE IT ENACTED** by the City Council of the City of Essex, Iowa:

**SECTION 1. SECTION MODIFIED.** Chapter 21 Section 21.02 last sentence thereof is amended to read as follows:

The nonresident members are appointed by the County Board of Supervisors.

Chapter 21 Section 21.04 1. First sentence is modified to read as follows:

All appointments of resident members of the Board shall be for six (6) years, except to fill vacancies.

The balance of Section 21.02 and 21.04 1. Shall remain the same and unchanged. Essex City Council accepts all actions by the library board under the previous ordinance.

**Section 2. SEVERABILITY CLAUSE.** If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

**Section 3. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

**PASSED** by the Council 13th day of November 2019, and **APPROVED** this 13<sup>th</sup> day of November 2019.

## CHAPTER 22

### PLANNING AND ZONING COMMISSION

22.01 Planning and Zoning Commission  
22.02 Term of Office  
22.03 Vacancies

22.04 Compensation  
22.05 Powers and Duties

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

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

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

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

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 414.6)*

4. Recommendations on Improvements. 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 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 that 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 and disbursements and the progress of its work during the preceding fiscal year.

*(Code of Iowa, Sec. 392.1)*

## ORDINANCE NO. 2023 – 3

AN ORDINANCE AMENDING CHAPTER 22 SECTION 22.01 OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF ESSEX, IOWA.

**SECTION 1.** Chapter 22 Section 22.01 Planning and Zoning Commission is modified by the removal of the word “seven” and is replaced with the word “five”.

The balance of the Section 22.01 is to remain the same and in full force.

**SECTION 2. SEVERABILITY CLAUSE.** If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

**SECTION 3. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

**PASSED** by the Council the 12<sup>th</sup> day of July, 2023, and **APPROVED** this 12<sup>th</sup> day of July, 2023.

**CHAPTER 23**

**LOW RENT HOUSING AGENCY  
BOARD OF COMMISSIONERS**

**23.01 Establishment**  
**23.02 Compensation**

**23.03 Duties and Responsibilities**

**23.01 ESTABLISHMENT.** The Essex Low Rent Housing Agency Board of Commissioners consists of five members appointed by the Council for staggered terms of two years.

**23.02 COMPENSATION.** Members of the Board serve without compensation.

**23.03 DUTIES AND RESPONSIBILITIES.** The Board shall meet once per quarter, or as needed, and shall exercise all powers of a municipal housing agency as provided in Section 403A.5 of the *Code of Iowa*.

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## CHAPTER 24

### ESSEX YOUTH SPORTS BOARD

24.01 Purpose	24.07 Meetings
24.02 Appointment of Executive Board Members	24.08 Chairperson
24.03 Terms of Office	24.09 Duties and Powers
24.04 Vacancies	24.10 Gifts and Donations
24.05 Removal	24.11 Penalties
24.06 Compensation	24.12 Transportation

**24.01 PURPOSE.** The purpose of this chapter is to establish, pursuant to Section 392.1 of the Code of Iowa, an administrative agency of the City to be known as the Parks and Recreation Board, hereinafter referred to as the Board. The Board shall plan, develop and promote City programs and encourage other programs for the leisure time of the Community's residents of all ages.

**24.02 APPOINTMENT OF EXECUTIVE BOARD MEMBERS.** The Board shall consist of members at large and an Executive Board. The governing body of the Board shall be the Board of Directors. The Board of Directors shall consist of an Executive Board. Executive Board shall consist of seven members, at least 18 years of age, appointed by the Mayor with the approval of the Council. All members of the Executive Board shall be residents within the Essex Community School District or have children enrolled in the Essex Community School District. The Mayor, with approval of the Council, shall appoint a Chairperson. The Chairperson shall appoint a Vice Chairperson.

**24.03 TERMS OF OFFICE.** The regular full term of office for members of the Board shall be staggered terms of three years and shall expire on December 31 of the third year.

**24.04 VACANCIES.** If the office of a member of the Board becomes vacant prior to the normal expiration of its fixed term because of resignation, removal, death, disqualification or any other reason, a member shall be appointed by the Mayor, with the approval of the Council, to fill such vacancy for the unexpired term.

**24.05 REMOVAL.** A member of the Board may be removed from office upon written order filed by the Mayor with the Clerk and sent by certified mail to the person removed, subject to and in accordance with Section 372.15 of the Code of Iowa. A member of the Board who fails to attend three consecutive regular meetings of the Board may be removed from office by reason thereof by written resolution adopted on a vote by a majority of the whole members of the Board within 70 days after such failure occurs.

**24.06 COMPENSATION.** All members of the Board shall serve without compensation, but may be reimbursed for actual expenses, including travel expenses, incurred in performing any duty described in this chapter, subject to the approval of the Council.

**24.07 MEETINGS.** The Board shall hold regular monthly meetings at a date, time and place as determined by the Board. Special meetings may be called by the Chairperson. All meetings shall be open to the public. A quorum shall consist of a majority of the members. The Board shall keep a record of its proceedings.

**24.08 CHAIRPERSON.** The Chairperson shall be the presiding officer and decide on all points of order and procedure. In the absence of the Chairperson, the Vice Chairperson shall be the presiding officer and assume all responsibilities of the Chairperson.

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

1. To develop, administer and review policies, rules, regulations and budgets relating to parks, playgrounds, recreational centers and cultural functions and activities;
2. To review relevant ordinances periodically and make recommendations about present and proposed ordinances to the Council as the Board deems appropriate;
3. To recommend to the Council a budget including the operating expenses, capital improvements and user fees of the parks and recreation department;
4. To authorize the expenditures, through the office of the Clerk, of all funds specifically allocated to the Board by the Council;
5. To recommend to the Council a long-term capital improvements program for parks and recreation facilities and the department;
6. To make written reports to the Council of its activities from time to time as the Board deems advisable or upon request of the Council;
7. When requested by the Council, to consider, investigate, make findings on, report and make recommendations concerning any special matter or question to the Board by the Council;
8. To have supervision of the improvements and use of the municipal parks and recreational facilities;
9. To promote parks and recreation activities which will benefit all the residents of the community;
10. To promote cooperation with the Essex School District, other local boards and commissions, civic groups and businesses to expand and improve its programs at a minimum cost to the residents of the community.

**24.10 GIFTS AND DONATIONS.** All grants, gifts and donations which are received by the City and subsequently designated to be used for parks and recreation purposes only shall be placed in a special parks and recreation fund to be expended in a manner recommended by the Board and authorized by the Council.

**24.11 PENALTIES.** Violation of a Board rule which has been approved by the Council and adopted by ordinance may be cause for denial of use of a facility or participation in a program, but such denial which extends for more than one day may be appealed to the Board or to the Council for a hearing. The violation may be prosecuted as a simple misdemeanor if it is a violation of this Code of Ordinances.

**24.12 TRANSPORTATION.** No parent, coach or volunteer shall transport children of others to or from any activities in any vehicle other than that of the parent of the child being transported or unless transportation is in an Essex School vehicle and fully in compliance with Essex Community School transportation rules and requirements.

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## CHAPTER 25

### BOARD OF CEMETERY TRUSTEES

25.01 Establishment of City as Permanent Trustee  
25.02 Establishment of Board of Cemetery Trustees  
25.03 Organization of Board  
25.04 Responsibility of Clerk  
25.05 Cemetery Rules

25.06 Trusteeship  
25.07 Establishment of Trust Fund  
25.08 Sale of Interment Rights  
25.09 Perpetual Care Registry

**25.01 ESTABLISHMENT OF CITY AS PERMANENT TRUSTEE.** The City shall act as the permanent Trustee for the perpetual maintenance of Essex Cemetery<sup>†</sup> property. The Council may receive and invest all moneys donated and that portion of cemetery lot sales which have been set aside in perpetual care fund. The interest therefrom shall be paid to the Cemetery Fund to be used in caring for or maintaining the individual property of the donor in the cemetery or interment spaces, all in accordance with the terms of the donation, bequest or the terms of the sale or purchase of an interment space.

**25.02 ESTABLISHMENT OF BOARD OF CEMETERY TRUSTEES.** There is hereby established a Board of Cemetery Trustees to advise and recommend rules to the City for the use, care, control, management, restriction and protection of the cemetery, as necessary for the proper conduct of the business of the cemetery, including, but not limited to, the use, care, and transfer of any interment space or right of interment, and as more fully set forth in Iowa Code Sections 523I.304 (2) through (6).

**25.03 ORGANIZATION OF BOARD.** The Board of Cemetery Trustees shall consist of five members, one of whom shall be an Essex City Council member or the Mayor.

**25.04 RESPONSIBILITY OF CLERK.** The City Clerk shall serve as the contact person for the Essex Cemetery and shall perform and have the following duties and responsibilities:

1. Take and receive inquiries from members of the public regarding lot sales, purchases, assignments and rights and responsibilities relating thereto.
2. Keep and provide copies of cemetery rules, with information on opening and closing services including the name and contact of providers and fees.
3. Contract for the sale of lots, collect monies in accordance with the duties and responsibilities of Trustee of the Perpetual Maintenance Fund in accordance with the responsibilities of the City as Perpetual Trustee.
4. Perform such other duties and responsibilities as the Council may direct from time to time.

**25.05 CEMETERY RULES.** The Cemetery Board of Trustees shall advise and recommend rules to the City for the City's adoption for the use, care, control, management, restrictions and protection of the cemetery as necessary as permanent Trustee for the proper conduct of the business of the cemetery, including, but not limited to, the use, care and transfer of any interment space and right of interment all in accordance with Iowa Code 523I.

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<sup>†</sup> The Essex Cemetery includes only the cemetery owned by the City of Essex and does not include the adjoining church cemetery commonly referred to as the St. John's Lutheran Cemetery of Essex.

**25.06 TRUSTEESHIP.** Pursuant to section 523I.502 of the Code of Iowa, the City of Essex hereby states its willingness and intention to act as the trustees for the perpetual maintenance of interment spaces in the Essex Cemetery.

**25.07 ESTABLISHMENT OF TRUST FUND.** A perpetual trust is hereby established for the Essex Cemetery in accordance with Iowa Code chapter 523I, the Iowa Cemetery Act. A restricted fund is created, to be known and designated as the “perpetual care cemetery fund”, which shall be funded by the deposit of an amount equal to 50% of the gross selling price for each sale of lots within the cemetery. The fund shall be administered in accordance with the purposes and provisions of Iowa Code chapter 523I. The perpetual care cemetery fund shall be maintained separate from all operating funds of the cemetery and the principal of the fund shall not be reduced voluntarily except as specifically permitted by the Iowa Cemetery Acts and applicable administrative regulations.

**25.08 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 the Iowa Cemetery Act, including the amount of percentage of money to be placed in the perpetual care cemetery fund.

**25.09 PERPETUAL CARE REGISTRY.** The cemetery shall maintain a registry of individuals who have purchased interment rights in the cemetery subject to the care fund requirements of the Iowa Cemetery Act, including the amount deposited in the perpetual care cemetery fund.



**ORDINANCE NO. 2022 – 09****AN ORDINANCE AMENDING CHAPTER 25 BOARD OF CEMETERY TRUSTEES SECTION 25.07 ESTABLISHMENT OF TRUST FUND AND SECTION 25.08 SALE OF INTERMENT RIGHTS AND SECTION 25.09 PERPETUAL CARE REGISTRY.**

**BE IT ENACTED** by the City Council of Essex, Iowa:

**SECTION 1. SECTION MODIFIED.** Section 25.07, 25.08 and 25.09 of the City Ordinance are amended as follows:

1. Section 25.07 is hereby amended by changing a required deposit in perpetual fund from 50% of the purchase price to \$50.00 or twenty percent of the gross selling price received by the cemetery for each sale of interment right whichever is more.
2. Section 25.08 provides no provision for the cemetery to buy back interment rights. The Essex Cemetery will not repurchase interment rights. The sale or transfer of interment rights in the cemetery shall be evidenced by a certificate of interment rights with a deed no longer the mechanism for transfer. In order to cover administrative costs the cemetery will charge \$50.00 for any transfer of ownership of an interment interest including responses to service providers at time of death.
3. Section 25.09 Perpetual Care Registry provides that the cemetery will provide a registry of individuals who have purchased interment rights and requires that only acceptable mechanism for transfer and tracking of cemetery interment space is by interment agreement.

**SECTION 2. SEVERABILITY CLAUSE.** If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

**SECTION 3. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

**PASSED** by the Council the 14<sup>th</sup> day of September 2022, and **APPROVED** this 14<sup>th</sup> day of September 2022.

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

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

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

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

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

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

**30.06 PEACE OFFICERS APPOINTED.** The Mayor shall appoint and dismiss the Police Chief subject to the consent of a majority of the Council. The Mayor shall select, subject to the approval of Council, the other members of the department.  
*(Code of Iowa, Sec. 372.4)*

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

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

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

*(Code of Iowa, Sec. 321.266)*

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 804.17)*

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

*(Code of Iowa, Sec. 804.18)*

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

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

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## CHAPTER 35

### FIRE DEPARTMENT

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

35.09 Constitution  
35.10 Accidental Injury Insurance  
35.11 Liability Insurance  
35.12 Calls Outside Fire District  
35.13 Mutual Aid  
35.14 Authority to Cite Violations  
35.15 Emergency Ambulance Service

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

*(Code of Iowa, Sec. 364.16)*

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

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

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

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

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 102.2)*

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

*(Code of Iowa, Sec. 102.2)*

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

*(Code of Iowa, Sec. 102.3)*

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

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

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

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

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

*(Code of Iowa, Sec. 100.12)*

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

*(Code of Iowa, Sec. 100.13)*

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

12. Records. Cause to be kept records of the Fire Department personnel, firefighting equipment, depreciation of all equipment and apparatus, the number of

responses to alarms, their cause, and location, and an analysis of losses by value, type and location of buildings.

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

14. Safety. Prohibit any individual of the Fire Department, including the Fire Chief, from participating in any Fire Department activity as described 35.01 set forth above unless such activity would be safe. If any member of the Fire Department is injured while participating in Fire Department activities or is injured from activities outside of Fire Department activities, that individual shall not return to Fire Department activities until and unless safe to do so. A letter shall be required of any member of the Fire Department from a doctor acceptable to the City. This does not apply to application to join the Fire Department but applies only to return to Fire Department activities following an injury. It is the purpose of this limitation to enhance the safety and care of members of the Fire Department and to prevent members of the Fire Department from engaging in Fire Department activities when it is not safe.

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

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

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

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 100.41)*

**35.15 EMERGENCY AMBULANCE SERVICE.** The department is authorized to provide transfers, emergency and non-emergency medical services, and the accidental injury and liability insurance provided for herein shall include such operation.

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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])*

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

*(Code of Iowa, Sec. 708.1)*

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

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

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

*(Code of Iowa, Sec. 708.7)*

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

*(Code of Iowa, Sec. 708.7)*

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

*(Code of Iowa, Sec. 708.7)*

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

*(Code of Iowa, Sec. 708.7)*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 723.5)*

**40.04 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)*

**ORDINANCE NO. 2021 - 01**

**AN ORDINANCE AMENDING CHAPTER 40 OF THE CODE OF ORDINANCE OF THE CITY OF ESSEX, IOWA BY REPEALING CHAPTER 40 SECTION 40.03 2 AND SUBSTITUTING NOISE CONTROL ORDINANCE THEREBY CHANGING THE LOUD AND RAUCOUS NOISE WHICH CAUSES UNREASONABLE DISTRESS STANDARD TO A DECIBEL BASED STANDARD**

**BE IT ENACTED** by the City Council of the City of Essex, Iowa:

**SECTION 1. SECTION MODIFIED.** Section 40.03 Paragraph 2 Code of Ordinances of the City of Essex, Iowa, is amended as follows:

40.03 2 is deleted  
and is replaced by  
Noise Control Resolution 2020-34 approved on 3<sup>rd</sup> reading on March 10, 2021.

A copy of the Noise Control Ordinance can be obtained by pick up at City Hall.

**Section 2. SEVERABILITY CLAUSE.** If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

**Section 3. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

**PASSED AND APPROVED** by the Council this 10<sup>th</sup> day of March 2021.

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**Durfey, Mayor**

\_\_\_\_\_  
**Marian V.**

**ATTEST:**

\_\_\_\_\_  
**Mary A. Ohnmacht, City Clerk**

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## CHAPTER 41

### PUBLIC HEALTH AND SAFETY

- |  |  |
|--|--|
| 41.01 Distributing Dangerous Substances                              | 41.09 Antenna and Radio Wires  |
| 41.02 False Reports to or Communications with Public Safety Entities | 41.10 Barbed Wire and Electric Fences  |
| 41.03 Providing False Identification Information                     | 41.11 Discharging Weapons  |
| 41.04 Refusing to Assist Officer                                     | 41.12 Throwing and Shooting  |
| 41.05 Harassment of Public Officers and Employees                    | 41.13 Urinating and Defecating   |
| 41.06 Interference with Official Acts                                | 41.14 Fireworks  |
| 41.07 Removal of an Officer's Communication or Control Device        | 41.15 Facilities for Storage of Gasoline, Diesel, Oil, Propane, Kerosene, LP and Any Other Fuels |
| 41.08 Abandoned or Unattended Refrigerators                          | 41.16 Posting of Signs Notifying of Drug-Free Zones  |

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

*(Code of Iowa, Sec. 727.1)*

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

*(Code of Iowa, Sec. 718.6)*

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

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

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

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

*(Code of Iowa, Sec. 719.2)*

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

*(Code of Iowa, Sec. 718.4)*

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

*(Code of Iowa, Sec. 719.1)*

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

*(Code of Iowa, Sec. 708.12)*

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

*(Code of Iowa, Sec. 727.3)*

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

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

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

**41.11 DISCHARGING WEAPONS.**

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

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

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

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

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

**41.14 FIREWORKS.**

*(Code of Iowa, Sec. 727.2)*

1. Definitions. For purposes of this section:
  - A. “Consumer fireworks” means the following fireworks, as described in Chapter 3 of the American Pyrotechnics Association (“APA”) Standard 87-1:
    - (1) First-class consumer fireworks:
      - a. Aerial shell kits and reloadable tubes;
      - b. Chasers;
      - c. Helicopters and aerial spinners;
      - d. Firecrackers;
      - e. Mine and shell devices;
      - f. Missile-type rockets;
      - g. Roman candles;
      - h. Sky rockets and bottle rockets;
      - i. Multiple tube devices under this paragraph which are manufactured in accordance with APA Standard 87-1, Section 3.5.
    - (2) Second-class consumer fireworks:
      - a. Cone fountains;
      - b. Cylindrical fountains;
      - c. Flitter sparklers;
      - d. Ground and hand-held sparkling devices, including multiple tube ground and hand-held sparkling devices that are manufactured in accordance with APA Standard 87-1, Section 3.5;
      - e. Ground spinners;
      - f. Illuminating torches;
      - g. Toy smoke devices that are not classified as novelties pursuant to APA Standard 87-1, Section 3.2;
      - h. Wheels;



- i. Wire or dipped sparklers that are not classified as novelties pursuant to APA Standard 87-1, Section 3.2.
  - B. “Display fireworks” includes any explosive composition, or combination of explosive substances, or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation, and includes fireworks containing any explosive or flammable compound, or other device containing any explosive substance. “Display fireworks” does not include novelties or consumer fireworks enumerated in Chapter 3 of the APA Standard 87-1.
  - C. “Novelties” includes all novelties enumerated in Chapter 3 of the APA Standard 87-1, and that comply with the labeling regulations promulgated by the United States Consumer Product Safety Commission.
2. Regulations. It is lawful for any person to offer for sale, expose for sale, sell at retail, or use or explode any fireworks.
3. Display Fireworks. The City may, upon application in writing, grant a permit for the display of fireworks by a City agency, fair associations, amusement parks and other organizations or groups of individuals approved by City authorities when such fireworks display will be handled by a competent operator. No permit shall be granted hereunder unless the operator or sponsoring organization has filed with the City evidence of insurance in the following amounts:
  - A. Personal Injury: .....\$1,000,000.00 per person
  - B. Property Damage: .....\$1,000,000.00
  - C. Total Exposure: .....\$2,000,000.00  
(Code of Iowa Section 727.2 as modified by Senate File 489)
4. The Essex Fire Chief shall have authority to make the determination regarding usage where there is a fire safety or other threat to public safety.
5. The City of Essex shall charge a registration fee for any wholesaler or retailer within the City limits and the charge therefore shall be \$25.00. Every wholesaler or retailer must obtain a permit from the City.
6. The City of Essex shall prohibit the wholesale or retail storage of fireworks in any building with a party wall or common wall, in any building or lot in a residential or multifamily zoned area and in any building or lot in the central business district within the block on either side of Iowa Avenue between Highway 48 to Motley Street. There shall be no sale, wholesale or retail, or use of fireworks on any public property including Parks, Cemetery, Ball Parks, or any property owned or operated by the City.
7. The City of Essex shall prohibit the use or exploding of fireworks except during the days and hours as follows, all dates inclusive:
  - A. July 1 through July 3 until 10:00 P.M. and on July 4 until 11:00 P.M.
  - B. December 31 [New Year’s Eve] only until 1:00 A.M. [January 1].
8. The City refers to and relies on State Law for all other aspects of Fireworks Regulation.

**ORDINANCE NO. 2024 – 05****AN ORDINANCE AMENDING CHAPTER 41 SECTION 41.14 of the Code of Ordinance of the City of Essex, Iowa.**

**BE IT ENACTED** by the City Council of Essex, Iowa:

**SECTION 1. SECTION MODIFIED.** Section 41.14 Code of Ordinances of the City of Essex, Iowa, is amended as follows:

41.14 is deleted

shall be replaced by the State Code of Iowa 727.3 Fireworks as its fireworks ordinance in place of Essex's existing fireworks ordinance.

A copy of the State Code of Iowa 727.3 Fireworks can be obtained by pick up at City Hall.

**SECTION 2. SEVERABILITY CLAUSE.** If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

**SECTION 3. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

PASSED and APPROVED this 22<sup>nd</sup> day of June, 2024

727.2 Fireworks. 1. Definitions. For purposes of this section: a. "Consumer fireworks" includes first-class consumer fireworks and second-class consumer fireworks as those terms are defined in section 10A.519, subsection 1. "Consumer fireworks" does not include novelties enumerated in chapter 3 of the American pyrotechnics association's standard 87-1 or display fireworks enumerated in chapter 4 of the American pyrotechnics association's standard 87-1. b. "Display fireworks" includes any explosive composition, or combination of explosive substances, or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation, and includes fireworks containing any explosive or flammable compound, or other device containing any explosive substance. "Display fireworks" does not include novelties or consumer fireworks enumerated in chapter 3 of the American pyrotechnics association's standard 87-1. c. "Novelties" includes all novelties enumerated in chapter 3 of the American pyrotechnics association's standard 87-1, and that comply with the labeling regulations promulgated by the United States consumer product safety commission. 2. Display fireworks. a. A person, firm, partnership, or corporation who offers for sale, exposes for sale, sells at retail, or uses or explodes any display fireworks, commits a simple misdemeanor, punishable by a fine of not less than two hundred fifty dollars. However, a city council of a city or a county board of supervisors may, upon application in writing, grant a permit for the display of display fireworks by municipalities, fair associations, amusement parks, and other organizations or groups of individuals approved by the city or the county board of supervisors when the display fireworks will be handled by a competent operator, but no such permit shall be required for the display of display fireworks at the Iowa state fairgrounds by the Iowa state fair board, at incorporated county fairs, or at district fairs receiving state aid. Sales of display fireworks for such display may be made for

that purpose only. b. (1) A person who uses or explodes display fireworks while the use of such devices is prohibited or limited by an ordinance or resolution adopted by the county or city in which the firework is used commits a simple misdemeanor, punishable by a fine of not less than two hundred fifty dollars. (2) A person who uses or explodes display fireworks while the use of such devices is suspended by an order of the director of the department of inspections, appeals, and licensing pursuant to section 10A.511, subsection 6, commits a simple misdemeanor, punishable by a fine of not less than two hundred fifty dollars. 3. Consumer fireworks and novelties. a. A person or a firm, partnership, or corporation may possess, use, or explode consumer fireworks in accordance with this subsection and subsection 4. b. A person, firm, partnership, or corporation who sells consumer fireworks to a person who is less than eighteen years of age commits a simple misdemeanor, punishable by a fine of not less than two hundred fifty dollars. A person who is less than eighteen years of age who purchases consumer fireworks commits a simple misdemeanor, punishable by a fine of not less than two hundred fifty dollars. c. (1) A person who uses or explodes consumer fireworks or novelties while the use of such devices is prohibited or limited by an ordinance adopted by the county or city in which the fireworks are used commits a simple misdemeanor, punishable by a fine of not less than two hundred fifty dollars. (2) A person who uses or explodes consumer fireworks or novelties while the use of such devices is suspended by an order of the director of the department of inspections, appeals, and licensing pursuant to section 10A.511, subsection 6, commits a simple misdemeanor, punishable by a fine of not less than two hundred fifty dollars. d. Any retailer or community group offering for sale at retail any consumer fireworks shall do so in accordance with the national fire protection association standard 1124, published in the code for the manufacture, transportation, storage, and retail sales of fireworks and pyrotechnic articles, 2006 edition, and shall not be subject to any other standards or Sat Dec 23 12:32:45 2023 Iowa Code 2024, Section 727.2 (20, 4) §727.2, HEALTH, SAFETY, AND WELFARE 2 requirements unless provided for by the director of the department of inspections, appeals, and licensing under section 10A.519. 4. Limitations. a. A person shall not use or explode consumer fireworks on days other than June 1 through July 8 and December 10 through January 3 of each year, all dates inclusive. b. A person shall not use or explode consumer fireworks at times other than between the hours of 9:00 a.m. and 10:00 p.m., except that on the following dates consumer fireworks shall not be used at times other than between the hours specified: (1) Between the hours of 9:00 a.m. and 11:00 p.m. on July 4 and the Saturdays and Sundays immediately preceding and following July 4. (2) Between the hours of 9:00 a.m. on December 31 and 12:30 a.m. on the immediately following day. (3) Between the hours of 9:00 a.m. and 11:00 p.m. on the Saturdays and Sundays immediately preceding and following December 31. c. A person shall not use consumer fireworks on real property other than that person's real property or on the real property of a person who has consented to the use of consumer fireworks on that property. d. A person who violates this subsection commits a simple misdemeanor. A court shall not order imprisonment for violation of this subsection. 5. Applicability. a. This section does not prohibit the sale by a resident, dealer, manufacturer, or jobber of such fireworks as are not prohibited by this section, or the sale of any kind of fireworks if they are to be shipped out of the state, or the sale or use of blank cartridges for a show or the theater, or for signal purposes in athletic sports or by railroads or trucks, for signal purposes, or by a recognized military organization. b. This section does not apply to any substance or composition prepared and sold for medicinal or fumigation purposes. c. Unless specifically provided otherwise, this section does not apply to novelties.

**41.15 FACILITIES FOR STORAGE OF GASOLINE, DIESEL, OIL, PROPANE, KEROSENE, LP AND ANY OTHER FUELS.** No person shall erect, construct, build, assemble or in any way facilitate the storage or holding of gasoline, diesel, oil, propane, kerosene, LP or any other fuels except up to a 30 lb. tank used for grills, heaters, recreational vehicles and comparable uses.

1. This restriction shall apply within any and all residential zoned areas and within 300 feet of any residential zoned area or dwelling unit.
2. This restriction shall apply to both underground and above ground tanks and storage.
3. Compliance with Iowa State Fire Marshall Division. Flammable and Combustible Liquid Codes shall in no manner imply or support tanks or storage in residential areas or within 300 feet of residential areas.
4. Compliance with Iowa State Fire Marshall Division. Flammable and Combustible Liquid Codes shall be in addition to the City of Essex local jurisdiction and ordinances as set forth above.

**41.16 POSTING OF SIGNS NOTIFYING OF DRUG-FREE ZONES.** Signs notifying the public of enhanced penalties for distribution of controlled substances or counterfeit substances listed in Chapter 124 of the *Code of Iowa* shall be posted upon the public right-of-way as near as possible to 1,000 feet in each direction from each school building and from each public park located within the City. It is intended that the posting of these signs facilitate the enforcement of the enhanced penalty provisions for distribution of controlled substances and counterfeit controlled substances set forth at Sections 124.401A and 124.406 of the *Code of Iowa*.

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## CHAPTER 42

### PUBLIC AND PRIVATE PROPERTY

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

42.05 Fraud  
42.06 Theft  
42.07 Other Public Property Offenses

#### 42.01 TRESPASSING.

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

*(Code of Iowa, Sec. 716.8)*

2. Definitions. For purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. Specific Exceptions. "Trespass" does not mean either of the following:  
(*Code of Iowa, Sec. 716.7[2b]*)

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

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

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

(*Code of Iowa, Sec. 716.1*)

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

(*Code of Iowa, Sec. 716.1*)

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

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

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

*(Code of Iowa, Sec. 714.8)*

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

*(Code of Iowa, Sec. 714.1)*

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

1. Chapter 21 – Library
  - A. Section 21.10 – Injury to Books or Property
  - B. Section 21.11 – Theft of Library Property
2. Chapter 105 – Solid Waste Control and Recycling
  - A. Section 105.07 – Littering Prohibited
3. Chapter 135 – Street Use and Maintenance
  - A. Section 135.01 – Removal of Warning Devices
  - B. Section 135.02 – Obstructing or Defacing
  - C. Section 135.03 – Placing Debris On
  - D. Section 135.04 – Playing In
  - E. Section 135.05 – Traveling on Barricaded Street or Alley
  - F. Section 135.08 – Burning Prohibited
  - G. Section 135.12 – Dumping of Snow
4. Chapter 136 – Sidewalk Regulations
  - A. Section 136.11 – Interference with Sidewalk Improvements
  - B. Section 136.15 – Fires or Fuel on Sidewalks
  - C. Section 136.16 – Defacing
  - D. Section 136.17 – Debris on Sidewalks
  - E. Section 136.18 – Merchandise Display
  - F. Section 136.19 – Sales Stands



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## CHAPTER 45

# ALCOHOL CONSUMPTION AND INTOXICATION

45.01 Persons Under Legal Age

45.02 Public Consumption or Intoxication

45.03 Open Containers in Motor Vehicles

45.04 Social Host

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

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

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

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

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

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

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

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

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

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

D. “School” means a public or private school or that portion of a public or private school that provides teaching for any grade from kindergarten through grade twelve.

2. Open Containers Prohibited Outside Licensed Premises. It is unlawful for any person or for any licensee or permittee or agents or employees of a licensee or permittee to permit any persons to carry from a licensed premises any open container of alcoholic beverages, except when carry out is related to and necessary for maintenance or employment purposes of the licensee or permittee.

3. Possession Prohibited. It is unlawful for any person to possess any open or unsealed receptacle containing an alcoholic beverage on any public street, ground,

highway, sidewalk, alley or public right-of-way in the City, except with permission of an authorized entity on an authorized site as defined in this section. This subsection shall not be construed to apply to lawful possession and use of alcoholic beverage in City parks as provided in this Code of Ordinances.

4. Public Consumption of Alcoholic Beverage. It is unlawful for any person to consume any alcoholic beverages on any public street, ground, highway, sidewalk, alley, or other public right-of-way in the City, except as permitted by an authorized entity licensed by the City upon authorized site, as those terms are defined in this section. Alcoholic beverage as used herein is defined as wine or beer and not liquor.

5. City Agreement Authorizing Consumption and Possession of Alcoholic Beverages on Public Street, Ground, Highway, Sidewalk, Alley, or Other Public Right-of-Way. The City may enter into a written agreement with an authorized entity that allows for the possession and consumption of alcoholic beverages upon an authorized site within the City upon satisfaction by the authorized entity of the conditions following in this subsection and any additional administrative rules determined by the City Administrator in the City Administrator's discretion necessary to protect the public.

A. Indemnification. The authorized entity shall agree to pay on behalf of the City all amounts which the City shall become obligated to pay by reason of liability imposed upon the City for damages of any kind resulting from use, possession or consumption of alcoholic beverages on the authorized site, suffered by any person or persons, caused intentionally, negligently, recklessly, or by accident or otherwise and shall defend at its own expense all claims against the city arising out of the grant of license and use of the authorized site or use, possession or consumption of alcoholic beverages on the authorized site.

B. Inspection. City staff, including City Police Officers, may periodically inspect the authorized site without any prior notice to the authorized entity, for the purpose of enforcing the terms of the agreement and license granted.

C. License. Either the authorized entity shall obtain a license to sell or furnish alcoholic beverages at the authorized site valid for the term of the agreement respecting use, possession and consumption of alcoholic beverages on public property with the City, or the authorized entity holding a lawful license to furnish alcohol, shall grant permission to persons to use, possess and consume the persons' own alcoholic beverages at the authorized site.

D. Premises Insurance. The authorized entity shall provide to the City in advance of the use of the authorized site certificate of general liability insurance with an aggregate limit in the amount of \$100,000 but only for activity that the City's liability insurance would not cover. The certificate of insurance shall name the City as an additional insured.

6. Definitions.

A. "Authorized entity" shall mean a community organization, for profit or nonprofit, whether existing or established for the particular event.

B. "Community organization" shall mean a local community organization or family gathering from and within surrounding counties. Any public or private school related is a prohibited organization.

C. “Authorized site” shall mean a precisely described and marked area on a public right-of-way or other public area where alcoholic beverages may be used, possessed or consumed over with the authorized entity has an established control, for specified hours on specified days, pursuant to a written agreement respecting use, possession and consumption of alcoholic beverages on public property with the City. The City park (Nebraska Ave. on the south, Denison on the west, Illinois Ave. on the north and Motley St. on the east) is considered an authorized site.

7. 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.

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

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

*(Code of Iowa, Sec. 123.46)*

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

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

*(Code of Iowa, Sec. 123.47)*

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## CHAPTER 46

### MINORS

#### 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 17 years.
  - D. “Nonsecured custody” means custody in an unlocked multipurpose area, such as a lobby, office or interrogation room that is not designed, set aside, or used as a secure detention area, and the person arrested is not physically secured during the period of custody in the area; the person is physically accompanied by a law enforcement officer or a person employed by the facility where the person arrested is being held; and the use of the area is limited to providing nonsecured custody only while awaiting transfer to an appropriate juvenile facility or to court, for contacting of and release to the person’s parents or other responsible adult or for other administrative purposes; but not for longer than six hours without the oral or written order of a judge or magistrate authorizing the detention. A judge shall not extend the period of time in excess of six hours beyond the initial six-hour period.
  - E. “Public place” includes stores, parking lots, parks, playgrounds, streets, alleys, and sidewalks dedicated to public use and also includes such parts of buildings and other premises, whether publicly or privately owned, that are used by the general public or to which the general public is invited commercially for a fee or otherwise; or in or on which the general public is permitted without specific invitation; or to which the general public has access. For purposes of this section, a vehicle or other conveyance is considered to be a public place when in the areas defined above.

- F. “Responsible adult” means a parent, guardian or other adult specifically authorized by law or authorized by a parent or guardian to have custody or control of a minor.
2. Curfew Established. A curfew applicable to minors is established and shall be enforced. Unless accompanied by a responsible adult, no minor 17 years of age or younger shall be in any public place from 11:00 pm - 5:00 am.
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 18 years of age to smoke, use, possess, purchase, or attempt to purchase any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes. Possession of tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes by a person under 18 years of age shall not constitute a violation of this section if said person possesses the tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes as part of the person's

employment and said person is employed by a person who holds a valid permit under Chapter 453A of the *Code of Iowa* or who lawfully offers for sale or sells cigarettes or tobacco products.

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

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

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

## CHAPTER 47

### PARK REGULATIONS

47.01 Purpose	47.05 Fires
47.02 Anderson Park	47.06 Littering
47.03 Naming a City Park "Essex Memorial Park"	47.07 Parks Closed
47.04 Use of Drives Required	47.08 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 ANDERSON PARK.** The City park located in the 700 Block of Nebraska and Illinois Avenues in the City is hereby named "Anderson Park" in honor of Tom Anderson, City employee of 42 years.

**47.03 NAMING A CITY PARK "ESSEX MEMORIAL PARK".** The City park located in the 500 Block of Iowa Avenue , the south 60 feet of lots 468, 469, 470 & the west 21 feet of lot 471 in Essex, Iowa, is hereby named "Essex Memorial Park" in honor of the numerous community volunteers and leaders and in memory of the men and women who have served in the United States Armed Forces.

**47.04 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.

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

**47.06 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.

**47.07 PARKS CLOSED.** No person shall enter or remain within any park between the hours of 11:00 p.m. and 6:00 a.m.

**47.08 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

### DRUG PARAPHERNALIA

#### 48.01 Purpose

#### 48.02 Controlled Substance Defined

#### 48.03 Drug Paraphernalia Defined

#### 48.04 Determining Factors

#### 48.05 Possession of Drug Paraphernalia

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

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

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

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

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

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

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

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

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

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

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

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## CHAPTER 50

# NUISANCE ABATEMENT PROCEDURE

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

50.05 Nuisance Abatement  
50.06 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. Nuisances Defined.

A. Privy. Any privy, unless it has connection with the public sewer. Privies that emit or cause an offensive or noxious or disagreeable smell or odor.

B. Odors and Offensive Annoyances. The erecting or using of any building or other place for exercise of any trade, employment or manufacture, which, by occasioning noxious exhalations, offensive smells or other annoyances, becomes injurious and dangerous to the health, comfort or property of individuals or the public.

C. Various Materials and Deposits. Putrid, filthy and offensive substances, materials, deposits or things left deposited or existing in or upon any street, alley, sidewalk, park, public place, vacant or occupied lot or building, or upon any pond or pool of water which are or may be injurious, offensive, dangerous, deleterious to the health of the City or its inhabitants.

D. Animal and Vegetable Matter. Carcasses of animals remaining exposed and unburied six hours after death. Green or slated hides left or deposited in any open or public places.

E. Slaughter Houses. Slaughter houses which are kept in such a condition as to be offensive or annoying to the public.

F. Obstructing Streets, Sidewalks, Parkings and Drains. The unlawful obstructing or impeding of any street, alley, sidewalk, parking, gutter, drainage ditch, sewer or catch basin.

G. Deposits on Parking. The deposit or storage of any garbage or refuse containers, brush, rubbish, grass, rocks, building materials, incinerators, or any other debris or materials on the parking or area between the sidewalk and the curb on any street, except for a period not to exceed five days while awaiting removal by garbage or refuse haulers.

H. Signs. Billboards and signs whether erected or constructed on public or private property, which so obstruct and impair the view of any portion or part of a street or alley, or of a railroad track, as to render dangerous the use thereof.

I. Any business, trade, manufacture or other operation or condition of property, which gives rise to noxious or offensive odors, gases, vapors, smoke, dust, pollen, or fumes which injure or threaten the health or safety of individuals or the public.

J. The storage, collection, discharge or depositing of any liquid waste, offal, filth, garbage, refuse, dead animals or contaminated material in any private or public place so as to threaten the health, safety or is offensive to the senses of any individual or the public, or to be conducive to the breeding and harborage of flies, rats or other vermin.

K. The presence of rats, flies or other vermin in or upon any premises.

L. The discharge or depositing of any liquid waste, offal, filth, refuse, garbage, dead animals, contaminated material or other polluting material into any stream, river, lake or other body of water, so as to render the water, shore, channel, bottom or other feature thereof dangerous or unsafe for the uses to which they are put or so as to otherwise injure or threaten the health and safety or individuals or the public.

M. The exposure of any person to any communicable disease by unlawful act or practice.

N. The unlawful manufacture, formulation, sale, distribution and/or use of drugs, medication, devices, materials and/or chemicals.

O. The disposal of dead animals by means other than by rendering or by burying at least three feet under the surface of the ground.

P. Failure to secure areas, buildings, or places against unauthorized access where such access threatens the health or safety of individuals, or is an attractive nuisance to children.

Q. Debris, Refuse, Rubbish, Trash. Accumulations of unused boards, bricks, concrete or rocks, animal or vegetable products or matter, appliances, ashes, barrels (excluding burn barrels and solid waste collection barrels awaiting City pickup), bones, bottles, boxes, broken glass, brush, cans, cartons, cinders, coal, crates, pallets, decayed fruits or vegetables, dirt, dust, excrement, fence wire, filth, firewood not piled or stacked neatly or systematically (must be in rear yard), flammable materials, foliage and shrub clippings or cuttings, garbage, gasoline, grass, household furniture, discarded or broken or abandoned toys, iron and other metals, junk, kegs, leaves, logs, lumber not piled or stacked neatly and systematically (must have nails removed and be in rear yard; untreated lumber must be stacked), lumber scraps, manure, nails, offal, oil, old wearing apparel, paint, paper, piled brush and fallen tree limbs or debris, plaster, plastic (discarded containers or wrappers), plumbing fixtures, putrid fish or meat entrails, rags, rank growth of vegetation, roof shingles, rubber, sawdust, slag, slop, soot, straw, sweepings, tacks, tarpaulin not in good repair, tire(s) (mounted or unmounted), toilets, tubs, vehicle parts, weeds, wire, wood or metal shavings, any type of solid or yard waste (bagged or unbagged), or any

condition or item that would prohibit the routine maintenance of the property or adversely affect the use and habitability of nearby property and of property within the City as a whole.

R. Furniture, Fixtures and Appliances Outdoors. Any furniture, fixture and appliances, including sofas, divans, recliners, toilets, bathtubs, sinks and similar objects which are not designed for outdoor use but which are maintained or located on any porch, lawn, parking lot, driveway or public right-of-way.

S. Miscellaneous. Any act done or committed or suffered to be done or committed by any person or any substance or thing kept, maintained, placed or found in or on any public or private place which is annoying or damaging or injurious or dangerous to the public health or welfare or safety and every act or thing done, permitted, maintained, allowed or continued on any property, public or private, by any person, which is liable to or does endanger, annoy, damage or injure any person or inhabitant of the City or property of said person or inhabitant.

T. The open storage on private property which is residentially zoned of any two or more vehicle parts, including (but not limited to) bumpers, engines, exhaust pipes, doors, fenders, hoods, mufflers, seats, windshields or windows, wheels, or any other structural, mechanical, or decorative vehicle parts.

U. Weeds, Brush. Dense growth of all weeds, vines, brush or other vegetation in the City so as to constitute a health, safety or fire hazards, or which otherwise constitute a nuisance under this chapter. For purposes of this paragraph, all growths of grass or weeds in excess of six inches in height shall be deemed to be a nuisance. Exempt from this paragraph are growths used primarily for educational and/or research purposes, so long as the growths are controlled.

V. The storage of anything on an unenclosed (a tarp shall not be considered enclosed) trailer, pickup or truck box or like vehicles shall be treated in the same manner as storage outside of an enclosed structure.

W. Other Nuisances. Any matter, thing, substance, or condition within the City deemed to be a nuisance in Chapter 657 of the Code of Iowa, or defined as a public nuisance in Chapter 657A of the Code of Iowa, or the successor provisions of either of the chapters, or existing by reason of any violation of Chapter 50 or Chapter 51 of this Code of Ordinances.

2. Penalty. Sections 1.14 and 3.03 through 3.06 of this Code of Ordinances are adopted and shall apply to this section, and such penalty clauses are herewith adopted and made applicable to all violations of this section.

3. Abatement. All nuisances shall be subject to abatement provisions of the Iowa Code and this Code of Ordinances and to such other remedies applicable to nuisances.

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

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

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

*(Code of Iowa, Sec. 657.3)*

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

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

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

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

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

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

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

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 \$500.00, the City may permit the assessment to be paid in up to 10 annual installments, to be paid in the same manner and with the same interest rates provided for assessments against benefited property under State law.

*(Code of Iowa, Sec. 364.13)*

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

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

## ORDINANCE NO. 2022 - 07

**AN ORDINANCE AMENDING CHAPTER 50 NUISANCE ABATEMENT WITH THE ADDITION OF PARAGRAPH X IN SECTION 50.02 NUISANCES ENUMERATED**

SECTION 1. Chapter Modified. Chapter 50 Nuisance abatement procedure Section 50.02 is modified with the following addition:

The City limits of the City of Essex, Iowa encompasses open spaces including agricultural usage. The community remains desirous of growth and development of the Town of Essex, Iowa throughout the corporate city limits. The community is desirous of all opportunities for growth and development particularly to maintain a residential base. The community is aware of the large wind generator towers and support facilities, Wellheads, Zones of Sensitivity, Solar, Mini houses, and horizontal property regime in accordance with Iowa Code 499B could be considered for placement on the above referenced open spaces. The large wind generator towers and support facilities, Wellheads, Zones of Sensitivity, Solar, Mini houses, and horizontal property regime in accordance with Iowa Code 499B may obstruct and impair the view of community members. The large wind generator towers and support facilities, Wellheads, Zones of Sensitivity, Solar, Mini houses, and horizontal property regime in accordance with Iowa Code 499B may adversely affect the use and habitability of nearby property and of property within the City as a whole. In addition to the abatement procedures set forth in Chapter 50 the requirements of this chapter may also be enforced under the procedures applicable to municipal infractions as set forth in Chapter 3 of this Code of Ordinances.

The City of Essex has adopted Extraterritorial Jurisdiction as permitted under Iowa Code 354.9 and Code 499B.

Large wind generator towers and support facilities, Wellheads, Zones of Sensitivity, Solar, Mini Houses and Horizontal property regime issues are not conducive to the residential nature of the City of Essex, Iowa. Large wind generator towers and support facilities, Wellheads, Zones of Sensitivity, Solar, Mini Houses and Horizontal property regime issues may be considered as adversely affecting use and facilities of nearby properties within the City, and within the extraterritorial jurisdiction as permitted under Iowa Code 354.8.5. Large wind generator towers and support facilities, Wellheads, Zones of Sensitivity, Solar, Mini Houses and Horizontal property regime issues may be considered annoying, damaging, injurious and dangerous to the public health of City inhabitants. Large wind generator towers and support facilities, Wellheads, Zones of Sensitivity, Solar, Mini Houses and Horizontal property regime issues may have an adverse effect on visibility, view, noise, and bird population, and adversely affect use and habitability of the City of Essex, Iowa. Large wind generator towers and support facilities, Wellheads, Zones of Sensitivity, Solar, Mini Houses and Horizontal property regime issues within City limits are not compatible with urban population nor are they compatible with the future development of the City of Essex, Iowa. This ordinance does not pertain to small individual residence or business wind generators that are regulated and controlled by other portions of Essex City Ordinance.

SECTION 2. SEVERABILITY CLAUSE. If any section, provisions or parts of this ordinance shall be adjusted invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

PASSED AND APPROVED by the Council this 8 day of June, 2022.

[The next page is 253]





## CHAPTER 51

# JUNK AND JUNK VEHICLES

### 51.01 Definitions

### 51.02 Junk and Junk Vehicles Prohibited

### 51.03 Junk and Junk Vehicles a Nuisance

### 51.04 Authority to Enforce

### 51.05 Duty of Owner to Remove or Repair

### 51.06 Exceptions

### 51.07 Notice to Abate

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

1. “Abandoned vehicle” as defined in 80.01(1)
2. “Demolisher” as defined in 80.01(2)
3. “Junk” means all old or scrap copper, brass, lead, or any other non-ferrous metal; old or discarded rope, rags, batteries, paper, trash, rubber, debris, waste or used lumber, or salvaged wood; dismantled vehicles, machinery and appliances or parts of such vehicles, machinery or appliances; iron, steel or other old or scrap ferrous materials; old or discarded glass, tinware, plastic or old or discarded household goods or hardware. Neatly stacked firewood located on a side yard or a rear yard is not considered junk.
4. “Junk vehicle” means any vehicle legally placed in storage with the County Treasurer or unlicensed and having any of the following characteristics:
  - A. Broken Glass. Any vehicle with a broken or cracked windshield, window, headlight or tail light, or any other cracked or broken glass.
  - B. Broken, Loose, or Missing Part. Any vehicle with a broken, loose, or missing fender, door, bumper, hood, steering wheel or trunk lid.
  - C. Habitat for Nuisance Animals or Insects. Any vehicle that has become the habitat for rats, mice, snakes, or any other vermin or insects.
  - D. Flammable Fuel. Any vehicle that contains gasoline or any other flammable fuel.
  - E. Inoperable. Any motor vehicle that lacks an engine or two or more wheels or other structural parts, rendering said motor vehicle totally inoperable, or that cannot be moved under its own power or has not been used as an operating vehicle for a period of 30 days or more.
  - F. Defective or Obsolete Condition. Any other vehicle that, because of its defective or obsolete condition, in any other way constitutes a threat to the public health and safety.

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

5. “Private property” means any real property within the City which is not public property as defined in this section.
6. “Public property” means any street, alley or right-of-way open to the public for the purpose of vehicular travel.

7. “Unlicensed vehicle” means any type of self-propelled device, or part thereof, that is moved by power, other than human power, is designed to travel along the ground, is located on private property located outside of an enclosed structure and does not have showing a current State license plate, or is improperly registered or licensed pursuant to any State or local laws or regulations. Any type of self-propelled device, or part thereof, shall include, but not be limited to, automobiles, motorcycles, trailers (car trailers, flatbeds and utility trailers) and trucks. An unregistered or unlicensed vehicle shall not be allowed to exist on private property outside of an enclosed structure.

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

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

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

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

**51.04 AUTHORITY TO ENFORCE.** The Mayor or other police authority may upon obtaining proper Court Order or search warrant enter upon private property for the purpose of enforcing the restrictions of this chapter to examine vehicles or parts thereof, photograph same, and to obtain information as to identify and ownership of vehicles. Thereafter, and upon proper notice and opportunity for hearing to the owner(s) both of the property sought to be declared a nuisance and the property upon which was found, may bring such action as may be proper to obtain removal of the offending property and abatement of the nuisance in any manner permitted pursuant to the Code of Ordinances or Iowa Law.

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

**51.05 DUTY OF OWNER TO REMOVE OR REPAIR.** The owner of the property upon which a junk vehicle is stored in violation of the provisions of this section shall within 21 days after receipt of the notice to abate from the Mayor or other police authority, remove the motor vehicle or machinery to a lawful place of storage, or repair the defects that cause such motor vehicle or machinery to violate the provisions of this chapter, including licensing in the case of a motor vehicle not currently licensed.

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

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

1. A vehicle contained within an enclosed building, which building must have at least four walls completely enclosing the exterior space supported by a roof wholly covering the structure so as to permit no view of the interior from outside.

2. A vehicle on the premises of a business enterprise operated in a district properly zoned therefor, as authorized under the zoning ordinance or restricted residence district of the City, when necessary to the operation of said business enterprise.
3. A vehicle in an appropriate storage space or impound facility maintained by the City.
4. A stock car covered with a manufactured car cover.

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

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

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## CHAPTER 55

# ANIMAL PROTECTION AND CONTROL

55.01 Definitions	55.10 Rabies Vaccination
55.02 Animal Neglect	55.11 Owner's Duty
55.03 Livestock Neglect	55.12 Confinement
55.04 Abandonment of Cats and Dogs	55.13 At Large: Impoundment
55.05 Livestock	55.14 Disposition of Animals
55.06 At Large Prohibited	55.15 Impounding Costs
55.07 Damage or Interference	55.16 Pet Awards Prohibited
55.08 Annoyance or Disturbance	55.17 Sanitation
55.09 Vicious Dogs and Prohibited Animals	

**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" shall mean any licensed or unlicensed animal found off the premises of the owner and not under the physical control of a competent person, restrained within a motor vehicle, housed in a veterinary hospital or kennel, or on a leash.
4. "Business" means any enterprise relating to any of the following:
  - A. The sale or offer for sale of goods or services.
  - B. A recruitment for employment or membership in an organization.
  - C. A solicitation to make an investment.
  - D. An amusement or entertainment activity.
5. "Fair" means any of the following:
  - A. The annual fair and exposition held by the Iowa State Fair Board pursuant to Chapter 173 of the *Code of Iowa* or any fair event conducted by a fair under the provisions of Chapter 174 of the *Code of Iowa*.
  - B. An exhibition of agricultural or manufactured products.
  - C. An event for operation of amusement rides or devices or concession booths.
6. "Game" means a "game of chance" or "game of skill" as defined in Section 99B.1 of the *Code of Iowa*.
7. "Livestock" means an animal belonging to the bovine, caprine, equine, ovine or porcine species, ostriches, rheas and emus; farm deer as defined in Section 170.1 of the *Code of Iowa*; or poultry.  
*(Code of Iowa, Sec. 717.1)*
8. "Owner" means any person owning, keeping, sheltering or harboring an animal.
9. "Pet" means a living dog, cat, or an animal normally maintained in a small tank or cage in or near a residence, including but not limited to a rabbit, gerbil, hamster,

mouse, parrot, canary, mynah, finch, tropical fish, goldfish, snake, turtle, gecko, or iguana.

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

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

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

*(Code of Iowa, Sec. 717.2)*

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

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

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

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

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

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

**55.09 VICIOUS DOGS AND PROHIBITED ANIMALS.** It is unlawful for any person to harbor or keep a vicious dog within the City. A dog 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. A person shall not own, possess a wild or dangerous animal as defined in *Code of Iowa 717F*.

**55.10 RABIES VACCINATION.**

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

*(Code of Iowa, Sec. 351.33)*

2. Any other animal of the order Mammalia (mammal) four months of age or over is required to be immunized or re-immunized against rabies by a licensed veterinarian in accordance with recommendations in the current National Association of State Public Health Veterinarians (NASPHV).

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

*(Code of Iowa, Sec. 351.38)*

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

*(Code of Iowa, Sec. 351.39)*

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

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

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

**55.15 IMPOUNDING COSTS.** Impounding costs include boarding fees to the impounding facility and a \$15.00 pickup fee payable to the City.

**55.16 PET AWARDS PROHIBITED.**

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

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

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

**55.17 SANITATION.** It is unlawful for any owner, keeper, or walker of any animal to permit said animal to discharge said animal's feces upon any public or private property within the City, other than the property of the owner of the animal, if such owner, keeper, or walker does not immediately thereafter remove and/or cleanup said animal's feces from the public or private property. It shall be the duty of each person in control of an animal to be in possession of materials to remove feces left by an animal. In addition, it is unlawful for the owner or person in charge of any dog, cat, or other animal to fail to keep the premises where the animal is kept in a clean and sanitary condition at all times. Failure to comply will result in the standard penalty defined in Chapter 1 Section 14 in the Essex Code of Ordinances.



**ORDINANCE NO. 2020 - 03****AN ORDINANCE AMENDING CHAPTER 55 SECTION 55.05 OF THE CODE OF ORDINANCES OF THE CITY OF ESSEX, IOWA**

**BE IT ENACTED** by the City Council of the City of Essex, Iowa:

**SECTION 1. SECTION MODIFIED.** Chapter 55 Section 55.05 of the Code of Ordinances of the City of Essex, Iowa, is amended as follows:

Second and subsequent paragraphs of 55.05 is to read as –

The Council is receptive of granting written consent in a limited manner and to a limited degree for a period of one school year with consent by the City Council to be requested annually by the School District.

The Essex City Council hereby provides written consent subject to the following conditions:

- a. Consent is limited to the specific livestock listed above that being two lambs, two goats, less than a dozen chickens and two ducks and nothing more.
- b. Consent is limited to the Essex Community School District and no other organization or person.
- c. Consent is limited to the above livestock and to the above described school district.
- d. Consent is limited to the above described livestock and school district with livestock no closer than 200 feet from any residence.
- e. Consent is limited to no other operator and no other location than that described above for a period of one school year with no animals present until after Labor Day.
- f. The location of the small farm school is proposed to be generally at the backside of the school toward the north and no livestock will be present until after Labor Day; and
- g. Failure to contain or avoid odors are reasons that future consent will be withheld.

**Section 2. SEVERABILITY CLAUSE.** If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

**Section 3. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

**PASSED** by the Council 8th day of July, 2020, and **APPROVED** this 8th day of July, 2020.

## ORDINANCE NO. 2021 – 04

## AN ORDINANCE AMENDING CHAPTER 55 BY ADDING SECTION 55.18

BE IT ENACTED by the City Council of the City of Essex, Iowa:

SECTION 1. Section Modified. Chapter 55 Section 55.18 is added to read as follows:

1. Any animal which is suspected of being vicious, dangerous, neglected or distressed may be seized by a peace officer or the Animal Control Officer and impounded in the animal shelter. Contemporaneously with such seizure, the owner of the animal shall be charged with the appropriate violation of this chapter.
2. If the owner is ultimately found not guilty of violating this chapter, the animal involved shall be returned to the owner, and the owner shall bear no costs of the confinement.
3. If the owner is found or pleads guilty of violating this chapter, the animal shall be returned to the owner, only upon full payment of the confinement expenses. In the case of a vicious or dangerous animal, the owner shall also make provision to have the animal removed from the corporate limits of the City, or the animal shall not be released. The Animal Control Officer may destroy any vicious, abused or dangerous animal if appropriate conditions or provisions cannot be met or made to allow release of said animal, after notice and hearing to the owner or person harboring or maintaining the animal.
4. If after the conclusion of the court case, the owner does not redeem the animal, it will be taken to animal control shelter with owner responsible for costs.

If an owner refuses the officer entry upon property to view an animal suspected of being vicious, dangerous, neglected or distressed, the officer may request a search warrant from a magistrate. Such request shall detail the reason why the warrant is necessary and why the officer has reason to believe a violation of this chapter exists.

“Distress” is defined in several ways. First, excessive panting or difficulty breathing. Second, panting constantly or faster than normal. Third, dehydration includes dry nose, visible tiredness, excessive panting, and sunken eyes. Fourth, excessive drooling lots of drool, or drool that is thicker and stickier than usual. Fifth, fever, dog’s nose is dry and hot instead of wet and cool. Sixth, body temperature above 103°F. Seventh, bright red, gray, purple or bluish gums or a different color than normal. Lack of urine, pet has trouble producing urine. Eighth, rapid pulse. Ninth muscle tremors, shivering or shaking regardless of outside temperature. Tenth, lethargy or weakness, nap more than normal or having trouble standing up or walking. Eleventh, vomiting or diarrhea. Twelfth, dizziness trouble walking in a straight line or keeps bumping into furniture, or lightheaded from dehydration or heat exhaustion.

“Cold weather Distress” when the animal(s) temperature falls far below its normal body temperature, its temperature falls between 95 to 99 degrees. “Frostbite” is another risk associated with cold weather.

The balance and remainder of Chapter 55 Animal Protection and Control remains unchanged.

**SECTION 2. SEVERABILITY CLAUSE.** If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

**SECTION 3. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

**PASSED AND APPROVED** by the Council this 13<sup>th</sup> day of October, 2021.

## ORDINANCE NO. 2023 – 1

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF ESSEX, IOWA BY AMENDING CHAPTER 55 ANIMAL PROTECTION BY ADDING SECTION 55.18 TO ESTABLISH SCHEDULED CIVIL PENALTY. FOR VIOLATION OF ORDINANCE AND ZONING ORDINANCE 223 SECTION 11.4 THAT REQUIRES ACCEPTABLE BARRIERS INCLUDING FENCES, WALLS, OR COVERS OF IN GROUND, ABOVE GROUND AND ON GROUND SWIMMING POOLS, HOT TUBS AND SPACE WITH A WATER DEPTH IN EXCESS OF 24 INCHES.

SECTION 1. Chapter Modified. Chapter 55 of Code of Ordinances of the City of Essex, Iowa and Zoning Ordinance No. 223 Section 11.4 is modified as follows:

The City of Essex, IA hereby establishes a schedule civil penalty for the violation of Chapter 55 Section 55.02 through 55.11, 55.16 and 55.17 as listed:

55.02 ANIMAL NEGLECT

55.03 LIVESTOCK NEGLECT

55.04 ABANDONMENT OF CATS AND DOGS

55.05 LIVESTOCK

55.06 AT LARGE PROHIBITED

55.07 DAMAGE OR INTERFERENCE

55.08 ANNOYANCE OR DISTURBANCE

55.09 VICIOUS DOGS AND PROHIBITED ANIMALS

55.10 RABIES VACCINATION

55.11 OWNER'S DUTY

55.16 PET AWARDS PROHIBITED

55.17 SANITATION

ORDINANCE NO. 223 Section 11.4 of the Essex Zoning Ordinance that requires acceptable barriers including fences, wall or covers of in ground, above ground and on ground swimming pools, hot tubs and spas with a water depth in excess of 24 inches.

The City of Essex, IA is desirous of establishing a scheduled civil penalty for the violation of Chapter 55 Section 55.02 through 55.11, 55.16 and 55.17 by the amendment of section 55 by adding section 55.18 and existing Ordinance 223 as follows:

The following civil penalties are deemed appropriate:

First time offense on Chapter 55 Sections 55.02 through 55.11, 55.16 and 55.17 and Ordinance 223     \$125.00

Second time offense on Chapter 55 Sections 55.02 through 55.11, 55.16 and 55.17 and Ordinance 223 \$250.00

Third time offense on Chapter 55 Sections 55.02 through 55.11, 55.16 and 55.17 and Ordinance 223     \$350.00

The violation of Section 55.02 through 55.11, 55.16 and 55.17 and Ordinance 223 may be charged upon a simple notice of a fine payable at the office of the City Clerk. The simple notice of a fine shall be in the amounts set forth immediately above.

Failure to pay the simple notice of a fine hereunder within thirty (30) days, shall cause the fine to be increased by \$100.00 for delayed payment.

Failure to pay the simple notice of a fine and delay increase within 60 days shall be grounds for the filing of a complaint in District Court.

The City of Essex, IA hereby establishes a scheduled civil penalty for the violation of Chapter 55 Section 55.02 through 55.11, 55.16 and 55.17 by the amendment of Section 55 by adding section 55.18 and existing Ordinance 223 as follows:

The following civil penalty is scheduled as follows:

First time offense on Chapter 55 Sections 55.02 through 55.11, 55.16 and 55.17 and Ordinance 223 \$125.00

And if not paid within 30 days \$225.00

Second time offense on Chapter 55 Sections 55.02 through 55.11, 55.16 and 55.17 and Ordinance 223 \$250.00

And if not paid within 30 days \$350.00

Third time offense on Chapter 55 Sections 55.02 through 55.11, 55.16 and 55.17 and Ordinance 223 \$350.00

And if not paid within 30 days \$450.00

Failure to pay the simple notice of a scheduled fine and delayed payment addition shall be grounds for the filing of a complaint in District Court for the scheduled civil penalty of first time offense on Chapter 55 Sections 55.02 through 55.11, 55.16 and 55.17 and Ordinance 223 \$225.00, second time \$350.00 and third and each time thereafter \$450.00.

SECTION 2. SEVERABILITY CLAUSE. If any section, provisions or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

PASSED AND APPROVED by the Council this 8<sup>th</sup> day of March 2023.

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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 Reports of Traffic Accidents  
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 "Essex Traffic Code" (and are referred to herein as the "Traffic Code.")

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

*(Code of Iowa, Sec. 321.1)*

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

11. “Vehicle” means every device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, street, or alley.

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

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

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

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

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

*(Code of Iowa, Sec. 321.273)*

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

*(Code of Iowa, Sec. 321.492)*

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

*(Code of Iowa, Sec. 321.229)*

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

1. Definition. “Parade” means any march or procession of persons or vehicles organized for marching or moving on the streets in an organized fashion or manner or any march or procession of persons or vehicles represented or advertised to the public as a parade.
2. Permit Required. No parade shall be conducted without first obtaining a written permit from the Council. Such permit shall state the time and date for the parade to be held and the streets or general route therefor. Such written permit granted to the person organizing or sponsoring the parade shall be permission for all participants therein to parade when such participants have been invited by the permittee to participate therein. No fee shall be required for such permit.
3. Parade Not a Street Obstruction. Any parade for which a permit has been issued as herein required, and the persons lawfully participating therein, shall not be deemed an obstruction of the streets notwithstanding the provisions of any other ordinance to the contrary.



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

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## CHAPTER 61

### TRAFFIC CONTROL DEVICES

61.01 Installation  
61.02 Crosswalks  
61.03 Traffic Lanes

61.04 Standards  
61.05 Compliance

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

*(Code of Iowa, Sec. 321.255)*

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

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

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

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

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

*(Code of Iowa, Sec. 321.255)*

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

*(Code of Iowa, Sec. 321.256)*

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## CHAPTER 62

# GENERAL TRAFFIC REGULATIONS

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

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

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

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

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

- 54. Section 321.298 – Meeting and turning to right.
- 55. Section 321.299 – Overtaking a vehicle.
- 56. Section 321.302 – Overtaking and passing.
- 57. Section 321.303 – Limitations on overtaking on the left.
- 58. Section 321.304 – Prohibited passing.
- 59. Section 321.306 – Roadways laned for traffic.
- 60. Section 321.307 – Following too closely.
- 61. Section 321.308 – Motor trucks and towed vehicles; distance requirements.
- 62. Section 321.309 – Towing.
- 63. Section 321.310 – Towing four-wheel trailers.
- 64. Section 321.312 – Turning on curve or crest of grade.
- 65. Section 321.313 – Starting parked vehicle.
- 66. Section 321.314 – When signal required.
- 67. Section 321.315 – Signal continuous.
- 68. Section 321.316 – Stopping.
- 69. Section 321.317 – Signals by hand and arm or signal device.
- 70. Section 321.318 – Method of giving hand and arm signals.
- 71. Section 321.319 – Entering intersections from different highways.
- 72. Section 321.320 – Left turns; yielding.
- 73. Section 321.321 – Entering through highways.
- 74. Section 321.322 – Vehicles entering stop or yield intersection.
- 75. Section 321.323 – Moving vehicle backward on highway.
- 76. Section 321.323A – Approaching certain stationary vehicles.
- 77. Section 321.324 – Operation on approach of emergency vehicles.
- 78. Section 321.324A – Funeral processions.
- 79. Section 321.329 – Duty of driver; pedestrians crossing or working on highways.
- 80. Section 321.330 – Use of crosswalks.
- 81. Section 321.332 – White canes restricted to blind persons.
- 82. Section 321.333 – Duty of drivers approaching blind persons.
- 83. Section 321.340 – Driving through safety zone.
- 84. Section 321.341 – Obedience to signal indicating approach of railroad train or railroad track equipment.
- 85. Section 321.342 – Stop at certain railroad crossings; posting warning.
- 86. Section 321.343 – Certain vehicles must stop.
- 87. Section 321.344 – Heavy equipment at crossing.

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



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

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

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

*(Code of Iowa, Sec. 321.255)*

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

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

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

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

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

**62.08 ENGINE AND COMPRESSION BRAKES.**

1. For use in this section the term “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, except authorized emergency vehicles.
2. It is unlawful for any person in any part of the City to make or cause to be made loud or disturbing noises with any mechanical device operated by compressed air and used for the purpose of assisting braking on any vehicle. The City shall cause notices to be posted or signs to be erected indicating such prohibition.

3. Violation of this section shall be considered a civil offense. Violators shall be punished by a civil penalty as follows:

- A. First Offense - up to \$750.00
- B. Second Offense - up to \$1,000.00
- C. Each additional repeat offense - up to \$1,000.00

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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 – 20 miles per hour.
2. Residence or School District – 25 miles per hour.
3. Suburban District – 45 miles per hour.

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

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

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

*(Code of Iowa, Sec. 321.290)*

1. Special 20 MPH Speed Zones. A speed in excess of 20 miles per hour is unlawful on any of the following designated streets or parts thereof.
  - A. On Forbes Street<sup>†</sup> from Nebraska Avenue to 470 feet north of California Avenue.
2. Special 35 MPH Speed Zones. A speed in excess of 35 miles per hour is unlawful on any of the following designated streets or parts thereof.
  - A. On Highway 48 from 160 ft. south of Nebraska Avenue to 350 ft. north of North Avenue;

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<sup>†</sup> Forbes Street is also known as D Avenue

- B. On South Avenue from Victory Street to east corporate limits;
  - C. On Forbes Street from California Avenue to south corporate limits;
  - D. On Forbes Street from North Avenue to north corporate limits.
3. Special 45 MPH Speed Zones. A speed in excess of 45 miles per hour is unlawful on any of the following designated streets or parts thereof.
- A. On Highway 48 from 350 ft. north of North Avenue traveling 800 ft. north;
  - B. On Highway 48 from 75 ft. south of Hooker Road traveling to 160 ft. south of Nebraska Avenue.

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

*(Code of Iowa, Sec. 321.294)*

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## CHAPTER 64

### TURNING REGULATIONS

64.01 Turning at Intersections  
64.02 U-Turns

64.03 Left Turn for Parking

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

*(Code of Iowa, Sec. 321.311)*

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

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

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

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

1. At the intersection of Iowa Avenue and Central Street.

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

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## CHAPTER 65

### STOP OR YIELD REQUIRED

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

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

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

*(Code of Iowa, Sec. 321.345)*

1. North Avenue. Vehicles traveling on North Avenue shall stop at Highway No. 48;
2. North Avenue. Vehicles traveling west on North Avenue shall stop at Forbes Street<sup>†</sup>;
3. Prairie Avenue. Vehicles traveling west on Prairie Avenue shall stop at Central Street;
4. Prairie Avenue. Vehicles traveling east on Prairie Avenue shall stop at Highway No. 48;
5. Burlington Avenue. Vehicles traveling on Burlington Avenue shall stop at Denison Street;
6. Burlington Avenue. Vehicles traveling on Burlington Avenue shall stop at Central Street;
7. Burlington Avenue. Vehicles traveling west on Burlington Avenue shall stop at Highway No. 48;
8. Iowa Avenue. Vehicles traveling west on Iowa Avenue shall stop at Central Street;
9. Iowa Avenue. Vehicles traveling west on Iowa Avenue shall stop at Highway No. 48;
10. Iowa Avenue. Vehicles traveling east on Iowa Avenue shall stop at Brooks Street;
11. Illinois Avenue. Vehicles traveling west on Illinois Avenue shall stop at Forbes Street;
12. Illinois Avenue. Vehicles traveling east on Illinois Avenue shall stop at East Street;
13. Nebraska Avenue. Vehicles traveling on Nebraska Avenue shall stop at East Street;
14. Nebraska Avenue. Vehicles traveling on Nebraska Avenue shall stop at Denison Street;

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<sup>†</sup> Forbes Street is also known as D Avenue

15. Nebraska Avenue. Vehicles traveling on Nebraska Avenue shall stop at Forbes Street;
16. Nebraska Avenue. Vehicles traveling west on Nebraska Avenue shall stop at Highway No. 48;
17. Omaha Avenue. Vehicles traveling west on Omaha Avenue shall stop at Forbes Street;
18. Omaha Avenue. Vehicles traveling east on Omaha Avenue shall stop at East Street;
19. South Avenue. Vehicles traveling west on South Avenue shall stop at Motley Street;
20. South Avenue. Vehicles traveling west on South Avenue shall stop at Forbes Street;
21. South Avenue. Vehicles traveling east on South Avenue shall stop at East Street;
22. California Avenue. Vehicles traveling west on California Avenue shall stop at Highway No. 48;
23. California Avenue. Vehicles traveling east on California Avenue shall stop at Forbes Street;
24. Victory Street. Vehicles traveling south on Victory Street shall stop at South Avenue;
25. Alice Street. Vehicles traveling south on Alice Street shall stop at South Avenue;
26. Alice Street. Vehicles traveling north on Alice Street shall stop at Nebraska Avenue;
27. East Street. Vehicles traveling south on East Street shall stop at Iowa Avenue;
28. Bancroft Street. Vehicles traveling on Bancroft Street shall stop at Iowa Avenue;
29. Motley Street. Vehicles traveling on Motley Street shall stop at Iowa Avenue;
30. Denison Street. Vehicles traveling on Denison Street shall stop at Iowa Avenue;
31. Central Street. Vehicles traveling on Central Street shall stop at Iowa Avenue;
32. Central Street. Vehicles traveling on Central Street shall stop at Omaha Avenue;
33. Central Street. Vehicles traveling north on Central Street shall stop at Highway No. 48;
34. Brooks Street. Vehicles traveling on Brooks Street shall stop at Omaha Avenue;
35. Brooks Street. Vehicles traveling north on Brooks Street shall stop at Iowa Avenue;
36. Forbes Street. Vehicles traveling on Forbes Street shall stop at Nebraska Avenue;

37. Forbes Street. Vehicles traveling north on Forbes Street shall stop at South Avenue;
38. Forbes Street. Vehicles traveling north on Forbes Street shall stop at Highway No. 48;
39. 150<sup>th</sup> Avenue. Vehicles traveling east on 150<sup>th</sup> Street shall stop at Forbes Street;
40. North Avenue. Vehicles traveling east on North Avenue shall stop at E Avenue;
41. East Railroad Street. Vehicles traveling on East Railroad Street between Burlington Avenue and Iowa Avenue shall stop at Highway No. 48;
42. Omaha Avenue. Vehicles traveling on Omaha Avenue shall stop at Brooks Street;
43. South Avenue. Vehicles traveling on South Avenue shall stop at Central Street;
44. South Avenue. Vehicles traveling east on South Avenue shall stop at Motley Street;
45. Central Street. Vehicles traveling south on Central Street shall stop at South Avenue.
46. Sunset Avenue. Vehicles traveling on Sunset Avenue shall stop at California Avenue.
47. Bancroft Street. Vehicles traveling south on Bancroft Street shall stop at South Avenue.

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

*(Code of Iowa, Sec. 321.345)*

1. Intersection of Omaha Avenue and Brooks Street.
2. Intersection of Nebraska Avenue and Forbes Street.

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

*(Code of Iowa, Sec. 321.345)*

1. North Avenue. Vehicles traveling east on North Avenue shall yield at East Street;
2. Prairie Avenue. Vehicles traveling on Prairie Avenue shall yield at Denison Street;
3. Prairie Avenue. Vehicles traveling on Prairie Avenue shall yield at Motley Street;
4. Prairie Avenue. Vehicles traveling on Prairie Avenue shall yield at Bancroft Street;
5. Prairie Avenue. Vehicles traveling east on Prairie Avenue shall yield at East Street;
6. Burlington Avenue. Vehicles traveling on Burlington Avenue shall yield at Motley Street;

7. Burlington Avenue. Vehicles traveling on Burlington Avenue shall yield at Bancroft Street;
8. Burlington Avenue. Vehicles traveling east on Burlington Avenue shall yield at East Street;
9. Illinois Avenue. Vehicles traveling on Illinois Avenue shall yield at Brooks Street;
10. Illinois Avenue. Vehicles traveling on Illinois Avenue shall yield at Central Street;
11. Illinois Avenue. Vehicles traveling on Illinois Avenue shall yield at Denison Street;
12. Nebraska Avenue. Vehicles traveling on Nebraska Avenue shall yield at Brooks Street;
13. Nebraska Avenue. Vehicles traveling on Nebraska Avenue shall yield at Central Street;
14. Nebraska Avenue. Vehicles traveling on Nebraska Avenue shall yield at Motley Street;
15. Bancroft Street. Vehicles traveling on Bancroft Street shall yield at Illinois Avenue;
16. Bancroft Street. Vehicles traveling on Bancroft Street shall yield at Nebraska Avenue;
17. Bancroft Street. Vehicles traveling on Bancroft Street shall yield at Omaha Avenue;
18. Bancroft Street. Vehicles traveling north on Bancroft Street shall yield at North Avenue;
19. Motley Street. Vehicles traveling on Motley Street shall yield at Illinois Avenue;
20. Motley Street. Vehicles traveling on Motley Street shall yield at Omaha Avenue;
21. Motley Street. Vehicles traveling north on Motley Street shall yield at North Avenue;
22. Denison Street. Vehicles traveling on Denison Street shall yield at Omaha Avenue;
23. Denison Street. Vehicles traveling south on Denison Street shall yield at South Avenue;
24. Denison Street. Vehicles traveling north on Denison Street shall yield at North Avenue;
25. Brooks Street. Vehicles traveling south on Brooks Street shall yield at South Avenue.

**65.04 SCHOOL STOPS.** At the following school crossing zones every driver of a vehicle approaching said zone shall bring the vehicle to a full stop at a point 10 feet from the approach side of the crosswalk marked by an authorized school stop sign and thereafter proceed in a

careful and prudent manner until the vehicle shall have passed through such school crossing zone.

*(Code of Iowa, Sec. 321.249)*

1. Intersection of Omaha Avenue and Forbes Street.

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

*(Code of Iowa, Sec. 321.353)*

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

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

*(Code of Iowa, Sec. 321.327)*

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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

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

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

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

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

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

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

- NONE -

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## **CHAPTER 67**

### **PEDESTRIANS**

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

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

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

*(Code of Iowa, Sec. 321.326)*

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

*(Code of Iowa, Sec. 321.331)*

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

*(Code of Iowa, Sec. 321.328)*

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

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## CHAPTER 68

### ONE-WAY TRAFFIC

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

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

-NONE-

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## CHAPTER 69

# PARKING REGULATIONS

69.01 Park Adjacent to Curb  
69.02 Parking on One-Way Streets  
69.03 Angle Parking  
69.04 Manner of Angle Parking  
69.05 Parking for Certain Purposes Illegal  
69.06 Parking Prohibited

69.07 Persons with Disabilities Parking  
69.08 No Parking Zones  
69.09 Truck Parking Limited  
69.10 Prohibited Parking During Snow Removal  
69.11 Snow Removal Parking Restricted  
69.12 Fire Lanes

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

*(Code of Iowa, Sec. 321.361)*

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

*(Code of Iowa, Sec. 321.361)*

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

*(Code of Iowa, Sec. 321.361)*

1. Iowa Avenue, on the north side from East Railroad Street to Denison Street;
2. Iowa Avenue, on the south side from East Railroad Street to Central Street.

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

*(Code of Iowa, Sec. 321.361)*

**69.05 PARKING FOR CERTAIN PURPOSES ILLEGAL.** No person shall park a vehicle upon public property for more than 72 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.

ORDINANCE NO. 2025- 04\_\_\_\_\_

AN ORDINANCE AMENDING THE CODE OF ORDINANCE OF THE CITY OF ESSEX by amending Section 69.05 by deleting Section 69.05 in its entirety with the replace as follows:

69.05 Parking for Certain Purposes Illegal.

No person or legal entity shall park a vehicle upon public property outside of the business zoned district for more than seventy-two (72) hours or for any of the following principal purposes:

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.
5. Restricted parking
  - a. No overnight parking within the business district between 600 block on the east and highway 48 on the west at any time between 2:00 am and 5:00 am.
  - b. The provisions of this section shall apply to all streets in business district within the city limits between the 600 block on the east and highway 48 on the west.
6. This section shall not apply to:
  - a. Vehicles with a valid overnight parking permit issued by the City.
  - b. Emergency vehicles.
  - c. Vehicles actively engaged in the delivery or receiving of merchandise or cargo, provided they are parked in a manner that does not impede traffic.
  - d. Other specific exemptions as deemed necessary by the City Council.
  - e. Residential occupancy.
7. Violations of the parking restrictions imposed by this Code of Ordinance may be charged upon the notice of a civil penalty payable at the office of the City Clerk. The simple notice of a fine shall be in the amount of three hundred dollars (\$300.00) for violations. Failure to pay the \$300.00 fine within 30 days shall cause the civil penalty to increase by \$100 and if not paid within 60 days, shall cause the civil penalty to increase an additional \$100 and not paid within 90 days and an additional \$100 shall be added to the citation. Failure to pay the \$600 within 90 days shall be grounds for the City to file a municipal complaint in District Court (small claims division).

BE IT ENACTED by the City Council of the City of Essex, Iowa:

**SECTION 1. SECTION MODIFIED.** The Code of Ordinance of the City of Essex, Iowa is amended by replacing 65.05 Parking for Certain Purposes Illegal as set forth above.

**SECTION 2. SEVERABILITY CLAUSE.** If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

**SECTION 3. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

**PASSED** by the Council 12<sup>th</sup> day of November, 2025, and **APPROVED** this 12<sup>th</sup> day of November, 2025

**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 20 feet on either side of a mailbox that is so placed and so equipped as to permit the depositing of mail from vehicles on the roadway.  
*(Code of Iowa, Sec. 321.236[1])*
4. Sidewalks. On or across a sidewalk.  
*(Code of Iowa, Sec. 321.358[1])*
5. Driveway. In front of a public or private driveway.  
*(Code of Iowa, Sec. 321.358[2])*
6. Intersection. Within an intersection or within 10 feet of an intersection of any street or alley.  
*(Code of Iowa, Sec. 321.358[3])*
7. Fire Hydrant. Within five feet of a fire hydrant.  
*(Code of Iowa, Sec. 321.358[4])*
8. Stop Sign or Signal. Within 10 feet upon the approach to any flashing beacon, stop or yield sign, or traffic control signal located at the side of a roadway.  
*(Code of Iowa, Sec. 321.358[6])*
9. Railroad Crossing. Within 50 feet of the nearest rail of a railroad crossing, except when parked parallel with such rail and not exhibiting a red light.  
*(Code of Iowa, Sec. 321.358[8])*
10. Fire Station. Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of said entrance when properly sign posted.  
*(Code of Iowa, Sec. 321.358[9])*

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

*(Code of Iowa, Sec. 321.360)*

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

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

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

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

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

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

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

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

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

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



- A. Use by an operator of a vehicle not displaying a persons with disabilities parking permit.
  - B. Use by an operator of a vehicle displaying a persons with disabilities parking permit but not being used by a person issued a permit or being transported in accordance with Section 321L.2[1b] of the *Code of Iowa*.
  - C. Use by a vehicle in violation of the rules adopted under Section 321L.8 of the *Code of Iowa*.
3. Wheelchair Parking Cones. No person shall use or interfere with a wheelchair parking cone in violation of the following:
- A. A person issued a persons with disabilities parking permit must comply with the requirements of Section 321L.2A[1] of the *Code of Iowa* when utilizing a wheelchair parking cone.
  - B. A person shall not interfere with a wheelchair parking cone that is properly placed under the provisions of Section 321L.2A[1] of the *Code of Iowa*.
4. Zones Established. The following zones, or such parts thereof as are located within the City limits, are hereby declared to be persons with disabilities parking zones. The City shall post signs giving notice of this fact on public streets where the zones exist within the City:
- A. Alice Street in front of the Faith Covenant Church on the east side of the street, extending south from the sidewalk - two parallel parking spaces.
  - B. Iowa Avenue from Brooks Street to Central Street on the south side of the street - one parking space in front of 508 Iowa Avenue; and on the north side of the street - two parking spaces in front of 527 Iowa Avenue.
  - C. Iowa Avenue from Central Street to Denison Street on the north side of the street - one parking space in front of 615 Iowa Avenue.

**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. North Avenue on the south side from Highway No. 48 to East Street;
- 2. Prairie Avenue on the south side from Central Street to East Street;
- 3. Burlington Avenue on the north side from Central Street to Motley Street;
- 4. Burlington Avenue on the south side from East Railroad to Central Street, restricted as posted;
- 5. The alley on the north and south sides between Iowa Avenue and Burlington Avenue;
- 6. Iowa Avenue on the north side from Brooks Street to Denison Street, restricted as posted;
- 7. Iowa Avenue on the south side from East Railroad Street to Denison Street, restricted as posted;
- 8. Iowa Avenue on the north and south sides from Denison Street to East Street;

9. Illinois Avenue on the north side from Bancroft Street to East Street, restricted as posted;
10. Illinois Avenue on the south side from Central Street to East Street;
11. Nebraska Avenue on the north side from Highway No. 48 to Victory Street;
12. Nebraska Avenue on the south side from Bancroft Street to East Street, restricted as posted;
13. Nebraska Avenue on the south side from East Street to Alice Street, restricted as posted;
14. Omaha Avenue on the north side from Bancroft Street to East Street, restricted as posted;
15. Omaha Avenue on the south side from Brooks Street to East Street;
16. South Avenue on the north and south sides from Forbes Street to Victory Street;
17. Forbes Street on the east side from South Avenue to Nebraska Avenue;
18. Forbes Street on the east side from South Avenue south one block, as posted;
19. Brooks Street on the east side from Illinois Avenue to Omaha Avenue;
20. Central Street on the east side from Iowa Avenue one-half block north to alley;
21. East Street on the west side from South Avenue to North Avenue;
22. East Street on the east side from South Avenue to Iowa Avenue, restricted as posted;
23. Alice Street on the west side from South Avenue to Nebraska Avenue;
24. Alice Street on the east side from South Avenue to Nebraska Avenue, restricted as posted;
25. Forbes Street on the east side from Nebraska Avenue to Iowa Avenue;
26. Nebraska Avenue on the south side from Highway 48 to Forbes Street;
27. Omaha Avenue on the north side from Forbes Street to Brooks Street;
28. Central Street on the west side from Illinois Avenue to Omaha Avenue;
29. Burlington Avenue on the north side from Bancroft Street to East Street;
30. Forbes Street on the west side from Omaha Avenue to Nebraska Avenue, restricted as posted;
31. Bancroft Street on the east side from South Avenue to Omaha Avenue.
32. Forbes Street on the west side from Nebraska Avenue to Iowa Avenue.
33. Victory Street on the west side from South Avenue to Nebraska Avenue, restricted as posted.
34. California Avenue on the north side from Highway 48 to Forbes Street.

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

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

1. R-1 Residential Zone and C-1 Central Business District. Except only when such vehicles are actually engaged in the delivery or receiving of merchandise or cargo within the prohibited area, no person shall park or leave unattended such vehicle, on any streets within the R-1 or C-1 Zones. When actually receiving or delivering merchandise or cargo such vehicle shall be stopped or parked in a manner which will not interfere with other traffic.
2. All Night. No such vehicle shall be left unattended or parked upon any of the following designated streets or alleys for a period of time longer than one hour between the hours of 2:00 a.m. and 6:00 a.m. of any day.
  - A. Iowa Avenue, on both sides from Forbes Street to Denison Street.
3. Noise. No such vehicle shall be left standing or parked upon any street, alley, public or private parking lot, or drive of any service station between the hours of 12:00 a.m. and 6:00 a.m. with the engine, auxiliary engine, air compressor, refrigerating equipment or other device in operation giving off audible sounds excepting only the drive of a service station when actually being serviced, and then in no event for more than 30 minutes.
4. Livestock. No such vehicle containing livestock shall be parked on any street, alley, or highway for a period of time of more than 30 minutes.

#### **69.10 PROHIBITED PARKING DURING SNOW REMOVAL.**

1. Whenever the Mayor, or the Mayor's designated representative, finds, on the basis of falling snow, sleet, or freezing rain, or on the basis of a forecast by the United States Weather Bureau or other weather service of snow, sleet, or freezing rain that weather conditions will make it necessary that motor vehicle traffic be expedited and that parking on City streets be prohibited or restricted for snow plowing and other purposes, the Mayor, or the Mayor's designated representative, shall put into effect a parking prohibition.
2. Such parking prohibition shall automatically go into effect when there has been an accumulation of snow and ice of two inches or more.
3. Once in effect, a prohibition under this section shall remain in effect until terminated by announcement of the Mayor, or the Mayor's designated representative, in accordance with this section, except that any street area which has become substantially clear of snow and ice from curb to curb for the length of the entire block shall be automatically excluded therefrom. While the prohibition is in effect, no person shall park or allow to remain parked any vehicle on any portion of a street.

**69.11 SNOW REMOVAL PARKING RESTRICTED.** No parking shall be permitted on and along the following locations between the hours of 2:00 a.m. and 6:00 a.m.:

1. Iowa Avenue between U.S. Highway 48 and Denison Street.

**69.12 FIRE LANES.** No person shall stop, stand, or park a vehicle in a fire lane as provided herein.

*(Code of Iowa, Sec. 321.236)*

1. Fire Lanes Established. The Fire Department may designate fire lanes on any private road or driveway where deemed necessary to assure access to property or premises by authorized emergency vehicles.
  2. Signs and Markings. Wherever a fire lane has been designated, the Fire Department shall cause appropriate signs and markings to be placed identifying such fire lanes and the parking prohibition established by this section.
- Exception. The provisions of this section do not apply to authorized emergency vehicles.

ORDINANCE NO. 2024 – 01

AN ORDINANCE AMENDING CHAPTER 69 PARKING REGULATIONS SECTION 69.07 4.B BY REDUCING THE NUMBER OF SPACES DEDICATED TO PERSONS WITH DISABILITIES PARKING STATUS FROM TWO TO ONE AND CHANGING THE PRESENT TWO SPACES TO ONE ANGLE PARKING SPACE ON THE NORTH SIDE OF THE 500 BLOCK OF IOWA AVE. IN FRONT OF 529 IOWA AVE.

BE IT ENACTED by the City Council of the City of Essex, Iowa:

**SECTION 1. SECTION MODIFIED.** Chapter 69 Parking Regulations Section 69.07 4.B of the Code of Ordinances of the City of Essex, Iowa is amended as follows:

Chapter 69 Parking Regulations Section 69.07 4.B. is amended by removing the last half of the paragraph by changing “and on the north side of the street-two parking spaces in front of 527 Iowa Ave.” to And on the north side of the street one angle parking for persons with disabilities space in front of 529 Iowa Ave.

The balance of said paragraph remains the same.

**SECTION 2. SEVERABILITY CLAUSE.** If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

**SECTION 3. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

**PASSED** by the Council 10<sup>th</sup> day of January, 2024, and **APPROVED** this 10<sup>th</sup> day of January, 2024.

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

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

**70.03 PARKING VIOLATIONS: ALTERNATE.** Uncontested violations of parking restrictions imposed by this Code of Ordinances shall be charged upon a simple notice of a fine payable at the office of the City Clerk. The fine for each violation charged under a simple notice of a fine shall be in the amount of \$25.00 for all violations except improper use of a persons with disabilities parking permit. If such fine is not paid within 30 days, it shall be increased by \$5.00. The fine for improper use of a persons with disabilities parking permit is \$100.00.

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

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

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

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

**70.06 IMPOUNDING VEHICLES.** A peace officer is hereby authorized to remove, or cause to be removed, a vehicle from a street, public alley, public parking lot or highway to the

nearest garage or other place of safety, or to a garage designated or maintained by the City, under the circumstances hereinafter enumerated:

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

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

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

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

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

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

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

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

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

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## CHAPTER 75

# ALL-TERRAIN VEHICLES AND SNOWMOBILES

75.01 Purpose

75.02 Definitions

75.03 General Regulations

75.04 Operation of Snowmobiles

75.05 Operation of All-Terrain Vehicles

75.06 Negligence

75.07 Accident Reports

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

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

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

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

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

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

3. “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.

4. “Snowmobile” means a motorized vehicle that weighs less than 1,000 pounds, that uses sled-type runners or skis, endless belt-type tread with a width of 48 inches or less, or any combination of runners, skis, or tread, and is designed for travel on snow or

ice. "Snowmobile" does not include an all-terrain vehicle that has been altered or equipped with runners, skis, belt-type tracks, or treads.

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

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

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

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

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

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

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

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

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

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

(1) The crossing is made at an angle of approximately 90 degrees to the direction of the street and at a place where no obstruction prevents a quick and safe crossing;

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

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

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

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

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

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

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

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

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



the City. A snowmobile shall not be operated on any City land without a snow cover of at least one-tenth of one inch.

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

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

1. Streets. ATVs 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.”

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

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

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

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

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

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

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

or highway designated as an all-terrain vehicle trail by a State agency, county, or city.

**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 \$1,500.00 or more, either the operator or someone acting for the operator shall immediately notify a law enforcement officer and shall file an accident report, in accordance with State law.

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

## **ORDINANCE NO 2022 - 02**

### **AN ORDINANCE AMENDING CERTAIN REQUIREMENTS FOR THE OPERATION OF ALL-TERRAIN VEHICLES AND OFF-ROAD UTILITY VEHICLES AND THE REQUIREMENTS OF CHAPTER 75 ALL-TERRAIN VEHICLES AND SNOWMOBILES AND SECTIONS 75.03 AND SECTION 75.05**

SECTION 1. Chapter Modified Chapter 75 Section 75.03 of the Code of Ordinance of the City of Essex, Iowa is modified with the addition of the following:

ATVs and UTVs are required to comply with Permit Requirements as follows: Permits. No person shall operate a ATV-UTV on any public street or alley for any purpose unless the operator possesses a City permit to operate a ATV-UTV on City street, issued by the city or authorized designee.

- A. ATV-UTV owners may apply for a permit from the City on forms provided by the City;
- B. The City shall not issue a permit until the owner/operator has provided the following:
  - 1. Evidence that the operator is 18 years of age and possesses a valid driver's license.
  - 2. Proof that the owner/operator has liability insurance covering operation of ATV-UTV on City streets, in minimum amount of \$100,000.
- C. The Applicant for a permit to operate ATV-UTV on the City streets, as a part of the Application, shall verify the ATV-UTV complies with State Law and the provisions of this Chapter.

- D. The operator of ATV-UTV shall prominently display the City permit on a rear fender or similar component of the ATV-UTV.
- E. All permits issued shall uniquely identify the name and address of the owner/operator of the ATV-UTV.
- F. The fee for a permit to operate ATV-UTV on City streets and alleys shall be \$25.00 annually with permit term to be for 1 year commencing January 1<sup>st</sup> and ending December 31<sup>st</sup> of the each year.

Each ATV-UTV shall have operating lights including headlights and taillights.

SECTION 2. Chapter Modified Chapter 75 Section 74.05 of the Code of Ordinance of the City of Essex is modified with the addition of the following:

Any change to Section 75.03 that is in conflict with 75.05 shall prevail over Section 75.05 and amended in accordance therewith. The remainder of Chapter 75 shall remain unchanged.

SEVERABILITY CLAUSE. If any section, provisions or parts of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

PASSED AND APPROVED by the Council this 13<sup>th</sup> day of April, 2022.

### **ORDINANCE NO 2022 – 03**

#### **AN ORDINANCE AMENDING THE CODE OF ORDINANCE OF THE CITY OF ESSEX, IOWA by Amending Chapter 82 Golf Carts**

SECTION 1. Chapter Modified Chapter 82 Section 82.04 11 B (1) changed the at least eighteen (18) years of age to at least sixteen (16) years of age

SECTION 2. SEVERABILITY CLAUSE. If any section, provisions or parts of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

PASSED AND APPROVED by the Council this 13<sup>th</sup> day of April, 2022.

ORDINANCE NO. 2025- 05

AN ORDINANCE AMENDING THE CODE OF ORDINANCE OF THE CITY OF ESSEX by amending Section 82.04 8 B. of Chapter 82 by changing height and type of flag to read “any flag and any height” with the remainder of Section 82.04 to remain unchanged.

BE IT ENACTED by the City Council of the City of Essex, Iowa:

**SECTION 1. SECTION MODIFIED.** The Code of Ordinance of the City of Essex, Iowa is amended by replacing 82.04 8 B. “A bicycle safety flag the top of which shall be a minimum of 5 feet from the ground level; if cart has a canopy the flag must be above the canopy” with “any flag and any height” the remainder of 82.04 to stay and remain unchanged.

**SECTION 2. SEVERABILITY CLAUSE.** If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

**SECTION 3. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

**PASSED** by the Council 12<sup>th</sup> day of November, 2025, and **APPROVED** this 12<sup>th</sup> day of November, 2025.

## CHAPTER 76

### BICYCLE REGULATIONS

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

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

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

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

*(Code of Iowa, Sec. 321.234)*

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

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

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

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

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

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

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

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

**76.07 CARRYING ARTICLES.** No person operating a bicycle shall carry any package, bundle or article that prevents the rider from keeping at least one hand upon the handlebars.

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

**76.08 RIDING ON SIDEWALKS.** The following provisions apply to riding bicycles on sidewalks:

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

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

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

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

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

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

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

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

**76.11 PARKING.** No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the bicycle or against a building or at the curb, in such a manner as to afford the least obstruction to pedestrian traffic.

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

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

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

*(Code of Iowa, Sec. 321.397)*

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

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

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

## CHAPTER 80

### ABANDONED VEHICLES

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

**80.01 DEFINITIONS.** For use in this chapter, the following terms are defined:  
(*Code of Iowa, Sec. 321.89[1] & Sec. 321.90*)

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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# CHAPTER 81

## RAILROAD REGULATIONS

81.01 Definitions  
81.02 Obstructing Streets

81.03 Crossing Maintenance  
81.04 Speed

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

1. “Operator” means any individual, partnership, corporation or other association that owns, operates, drives, or controls a railroad train.
2. “Railroad train” means an engine or locomotive, with or without cars coupled thereto, operated upon rails.

*(Code of Iowa, Sec. 321.1)*

**81.02 OBSTRUCTING STREETS.** Operators shall not operate any train in such a manner as to prevent vehicular use of any highway, street or alley for a period of time in excess of 10 minutes except:

*(Code of Iowa, Sec. 327G.32)*

1. Comply with Signals. When necessary to comply with signals affecting the safety of the movement of trains.
2. Avoid Striking. When necessary to avoid striking any object or person on the track.
3. Disabled. When the train is disabled.
4. Safety Regulations. When necessary to comply with governmental safety regulations including, but not limited to, speed ordinances and speed regulations.
5. In Motion. When the train is in motion except while engaged in switching operations.
6. No Traffic. When there is no vehicular traffic waiting to use the crossing.

An employee is not guilty of a violation of this section if the employee’s action was necessary to comply with the direct order or instructions of a railroad corporation or its supervisors. Guilt is then with the railroad corporation.

**81.03 CROSSING MAINTENANCE.** Operators shall construct and maintain good, sufficient, and safe crossings over any street traversed by their rails.

*(Bourett vs. Chicago & N.W. Ry. 152 Iowa 579, 132 N.W. 973 [1943])*

*(Code of Iowa, Sec. 364.11)*

**81.04 SPEED.** It is unlawful to operate any railroad train through any street crossing within the platted areas of the City at a speed greater than 25 miles per hour.

*(Girl vs. United States R. Admin., 194 Iowa 1382, 189 N.W. 834, [1923])*

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## CHAPTER 82

# GOLF CARTS

### 82.01 Purpose

### 82.02 Operation of Golf Carts Permitted

### 82.03 Prohibited Streets and Other Restricted Areas of Operation

### 82.04 Operation

### 82.05 Motor Vehicle Law

### 82.06 Golf Cart Insurance

### 82.07 Violation and Penalty

**82.01 PURPOSE.** The purpose of this chapter is to permit the operation of golf carts on certain streets in the City, as authorized by Section 321.247, *Code of Iowa*, as amended. This Chapter shall be applicable whenever a golf cart is operated on any street or alley, within the City as provided in this chapter.

**82.02 OPERATION OF GOLF CARTS PERMITTED.** Golf carts may be operated upon City streets, by persons possessing a valid Iowa operator's license and at 18 years of age, except as otherwise prohibited by this chapter or the *Code of Iowa*. As used herein the term golf cart shall include utility vehicle but shall not include "ATV". A utility vehicle shall be subject to all the requirements and restrictions of a golf cart.

**82.03 PROHIBITED STREETS AND OTHER RESTRICTED AREAS OF OPERATION.** Golf carts shall not be operated upon a City street which is a primary road extension through the City. Primary road extensions are those streets that are also a State Highway. Golf carts are also prohibited from traveling on the following streets within the City:

1. Highway 48;
2. County Road M 41 west of town;
3. South Avenue east of Victory Street.

### 82.04 OPERATION.

1. Traffic Code. Any person operating a golf cart, including those for which a City permit has been issued, shall adhere to all traffic signs and signals, and all other traffic rules and regulations and shall obey the orders and direction of any law enforcement officer authorized to direct or regulate traffic or the direction of a fire department officer during a fire.
2. Speed. No golf cart shall be operated at a speed in excess of the lesser of 25 miles per hour or a posted speed limit, nor shall any golf cart be operated at a speed greater than is reasonable and proper for the existing conditions.
3. Trails. Golf carts shall not be operated on any recreational, bike or walking trails, unless the trail is specifically designed to allow use of motor vehicles. A golf cart may be driven directly across a recreational, bike or walking trail only at an established crossing.
4. Sidewalks. Golf carts shall not be operated upon sidewalks.
5. Parking. Golf carts shall not be operated upon that portion of a street right-of-way between the curb or edge of street paving and the sidewalk, referred to as "the parking".

6. Direct Crossing. Golf carts may make a direct crossing of a prohibited street provided:
  - A. The crossing is made at an angle of approximately 90° to the direction of the street and at a place where no obstruction prevents a quick and safe crossing;
  - B. The golf cart is brought to a complete stop before crossing the street;
  - C. The driver/operator yields the right-of-way to all on-coming traffic which constitutes an immediate hazard.
7. Parks. Golf carts shall not be operated within City parks and other land owned by the City, unless for a special event authorized by the City Council and the operator possesses a valid permit issued by the City.
8. Equipment. Golf carts operated upon streets within the City shall be equipped with at least the following:
  - A. Slow moving vehicle sign;
  - B. A bicycle safety flag, the top of which shall be a minimum of five feet from ground level; if cart has a canopy the flag must be above the canopy.
  - C. Adequate brakes.
9. Hours of Operation. Golf carts may be operated on City streets only from sunrise to sunset between March 1, and October 31.
10. Riding on Golf Carts. A person operating a golf cart shall not ride other than on a permanent seat which is designed to be a part of the golf cart and permanently attached thereto. No golf cart shall be used to carry more persons at one time than the number for which it is designed and equipped. All riders are requested to be seated.
11. Permits. No person shall operate a golf cart on any public street or alley for any purpose unless the operator possesses a City permit to operate a golf cart on City streets, issued by the Police Chief or authorized designee.
  - A. Golf cart owners may apply for a permit from the Police Chief on forms provided by the City;
  - B. The Police Chief shall not issue a permit until the owner/operator has provided the following:
    - (1) Evidence that the operator is at 18 years of age and possesses a valid driver's license.
    - (2) Proof that the owner/operator has liability insurance covering operation of golf carts on City streets, in minimum amount of \$100,000.
  - C. The Applicant for a permit to operate a golf cart on the City streets, as a part of the Application, shall verify the golf cart complies with State law and the provisions of this Chapter;
  - D. The operator of a golf cart shall prominently display the City permit on a rear fender or similar component of the golf cart;
  - E. All permits issued shall uniquely identify the name and address of the owner/operator of the golf cart;

F. The fee for a permit to operate a golf cart on the City streets and alleys shall be \$25.00 annually.

**82.05 MOTOR VEHICLE LAW.** Persons authorized to operate golf carts pursuant to this Chapter shall obey all statutes and ordinances governing the operation of motor vehicles to the extent practically applicable.

**82.06 GOLF CART INSURANCE.** Financial responsibility required. The owner/operator of every golf cart being operated upon the streets and alleys of the City, shall have in effect liability insurance covering operation of the golf cart in the same limits, as required of automobiles by the financial responsibility provision of Section 321A, *Code of Iowa*.

**82.07 VIOLATION AND PENALTY.**

1. Any person guilty of violating the provisions herein shall be guilty of a misdemeanor and shall be subject to a fine of \$100.00 and revocation of the City permit for a period of two months.
2. Any person guilty of violating this chapter two times in a 12 month period shall be subject to a fine of \$200.00 and revocation of the City permit for a period of 2 years.
3. Any person guilty of violating this chapter three times shall be subject to a fine of \$300.00 and permanent revocation of the City permit.

**ORDINANCE NO 2022 – 03****AN ORDINANCE AMENDING THE CODE OF ORDINANCE OF THE CITY OF ESSEX, IOWA by Amending Chapter 82 Golf Carts**

SECTION 1. Chapter Modified Chapter 82 Section 82.04 11 B (1) changed the at least eighteen (18) years of age to at least sixteen (16) years of age

SECTION 2. SEVERABILITY CLAUSE. If any section, provisions or parts of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

PASSED AND APPROVED by the Council this 13<sup>th</sup> day of April, 2022.



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## CHAPTER 90

# WATER SERVICE SYSTEM

90.01 Definitions	90.11 Installation of Water Service Pipe
90.02 Superintendent's Duties	90.12 Responsibility for Water Service Pipe
90.03 Mandatory Connections	90.13 Failure to Maintain
90.04 Abandoned Connections	90.14 Curb Valve
90.05 Permit	90.15 Interior Valve
90.06 Fee for Permit and Connection Charge	90.16 Inspection and Approval
90.07 Compliance with Plumbing Code	90.17 Completion by the City
90.08 Plumber Required	90.18 Shutting Off Water Supply
90.09 Excavations	90.19 Operation of Curb Valve and Hydrants
90.10 Tapping Mains	

**90.01 DEFINITIONS.** The following terms are defined for use in the chapters in this Code of Ordinances pertaining to the Water Service System:

1. "Combined service account" means a customer service account for the provision of two or more utility services.
2. "Customer" means, in addition to any person receiving water service from the City, the owner of the property served, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.
3. "Superintendent" means the Superintendent of the City water system or any duly authorized assistant, agent or representative.
4. "Water main" means a water supply pipe provided for public or community use.
5. "Water service pipe" means the pipe with all moving parts including, but not limited to, all valves from the water main to the building served.
6. "Water system" or "water works" means all public facilities for securing, collecting, storing, pumping, treating, and distributing water.

**90.02 SUPERINTENDENT'S DUTIES.** The Superintendent shall supervise the installation of water service pipes and their connection to the water main and enforce all regulations pertaining to water services in the City in accordance with this chapter. This chapter shall apply to all replacements of existing water service pipes as well as to new ones. The Superintendent shall make such rules, not in conflict with the provisions of this chapter, as may be needed for the detailed operation of the water system, subject to the approval of the Council. In the event of an emergency the Superintendent may make temporary rules for the protection of the system until due consideration by the Council may be had.

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

**90.03 MANDATORY CONNECTIONS.** Water connections are required in accordance to the following.

1. All residences and business establishments within the City limits intended or used for human habitation, occupancy or shelter shall be connected to the public water

system, if it is reasonably available and if the building is not furnished with pure and wholesome water from some other source.

2. Any premises on which there is a building used or occupied for residence purposes shall be provided with a properly functioning sanitary toilet. No cesspools, dry toilet, privy vaults, or outside water closets shall be used in the City. A properly functioning sanitary toilet is not one where a bucket or other water container is filled and then emptied into the toilet tank to permit flushing.

3. Every sink, toilet, bathtub, shower, water closet, or other plumbing fixture shall be properly connected to either a public water system or to an approved private water system. All kitchen sinks, bathtubs, and showers shall be supplied with hot and cold running water in sufficient volume and at pressures adequate to enable the fixtures to function properly, safely, and free from defects and leaks.

4. Penalty. Failure to maintain a properly functioning sanitary toilet that is properly connected to the public water system or an approved private water system is a public health hazard constituting a nuisance and is a municipal infraction. The penalties for municipal infraction are provided in Chapter 3.

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

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

**90.06 FEE FOR PERMIT AND CONNECTION CHARGE.** Before any permit is issued the person who makes the application shall pay \$10.00 to the Clerk to cover the cost of issuing the permit and supervising, regulating, and inspecting the work. In addition there shall be a connection charge in the amount of \$35.00 paid before issuance of a permit to reimburse the City for costs borne by the City in making water service available to the property served.

*(Code of Iowa, Sec. 384.84)*

**90.07 COMPLIANCE WITH PLUMBING CODE.** The installation of any water service pipe and any connection with the water system shall comply with all pertinent and applicable provisions, whether regulatory, procedural or enforcement provisions, of the *State Plumbing Code*.

**90.08 PLUMBER REQUIRED.** All installations of water service pipes and connections to the water system shall be made by a State-licensed plumber.

**90.09 EXCAVATIONS.** All trench work, excavation, and backfilling required in making a connection shall be performed in accordance with the *State Plumbing Code* and the provisions of Chapter 135 of this Code of Ordinances.

**90.10 TAPPING MAINS.** All taps into water mains shall be made by or under the direct supervision of the Superintendent and in accordance with the following:

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

1. Independent Services. No more than one house, building, or premises shall be supplied from one tap unless special written permission is obtained from the Superintendent and unless provision is made so that each house, building, or premises may be shut off independently of the other.
2. Sizes and Location of Taps. All mains six inches or less in diameter shall receive no larger than a three-fourths inch tap. All mains of over six inches in diameter shall receive no larger than a one-inch tap. Where a larger connection than a one-inch tap is desired, two or more small taps or saddles shall be used, as the Superintendent shall order. All taps in the mains shall be made in the top half of the pipe, at least 18 inches apart. No main shall be tapped nearer than two feet of the joint in the main.
3. Corporation Stop. A brass corporation stop, of the pattern and weight approved by the Superintendent, shall be inserted in every tap in the main. The corporation stop in the main shall be of the same size as the service pipe.
4. Location Record. An accurate and dimensional sketch showing the exact location of the tap shall be filed with the Superintendent in such form as the Superintendent shall require.

**90.11 INSTALLATION OF WATER SERVICE PIPE.** Water service pipes from the main to the meter setting shall be Type K copper. The use of any other pipe material for the service line shall first be approved by the Superintendent. Pipe must be laid sufficiently waving, and to such depth, as to prevent rupture from settlement or freezing.

**90.12 RESPONSIBILITY FOR WATER SERVICE PIPE.** All costs and expenses incident to the installation, connection, and maintenance of the water service pipe from the main to the building served shall be borne by the owner. Installation, connection, and maintenance shall include repairs and replacements of broken or nonperforming moving parts in the water service pipe as well as removal and replacement of lead pipe or any portion of the water service pipe prohibited by state law. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation or maintenance of said water service pipe.

**90.13 FAILURE TO MAINTAIN.** When any portion of the water service pipe which is the responsibility of the property owner becomes defective or creates a nuisance and the owner fails to correct such nuisance, the City may do so and assess the costs thereof to the property.

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

**90.14 CURB VALVE.** There shall be installed within the public right-of-way a main shut-off valve on the water service pipe of a pattern approved by the Superintendent. The shut-off valve shall be constructed to be visible and even with the pavement or ground.

**90.15 INTERIOR VALVE.** There shall be installed a shut-off valve on every service pipe inside the building as close to the entrance of the pipe within the building as possible and so located that the water can be shut off conveniently. Where one service pipe supplies more than one customer within the building, there shall be separate valves for each such customer so that service may be shut off for one without interfering with service to the others.

**90.16 INSPECTION AND APPROVAL.** All water service pipes and their connections to the water system must be inspected and approved in writing by the Superintendent before they are covered, and the Superintendent shall keep a record of such approvals. If the Superintendent refuses to approve the work, the plumber or property owner must proceed immediately to correct the work. Every person who uses or intends to use the municipal water system shall permit the Superintendent to enter the premises to inspect or make necessary alterations or repairs at all reasonable hours and on proof of authority.

**90.17 COMPLETION BY THE CITY.** Should any excavation be left open or only partly refilled for 24 hours after the water service pipe is installed and connected with the water system, or should the work be improperly done, the City shall have the right to finish or correct the work, and the Council shall assess the costs to the property owner or the plumber. If the plumber is assessed, the plumber must pay the costs before receiving another permit. If the property owner is assessed, such assessment may be collected with and in the same manner as general property taxes.

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

**90.18 SHUTTING OFF WATER SUPPLY.** The Superintendent may shut off the supply of water to any customer because of any violation of the regulations contained in these Water Service System chapters that is not being contested in good faith. The supply shall not be turned on again until all violations have been corrected and the Superintendent has ordered the water to be turned on.

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

**90.20 FIRE HYDRANTS.** No person, unless specifically authorized by the City, shall open or attempt to draw water from any fire hydrant for any purpose whatsoever.

**ORDINANCE NO. 2019 - 2****AN ORDINANCE AMENDING CHAPTER 90 SECTION 90.01 5. and 90.12 OF THE CODE OF ORDINANCES OF THE CITY OF ESSEX, IOWA**

**BE IT ENACTED** by the City Council of the City of Essex, Iowa:

**SECTION 1. SECTION MODIFIED.** Chapter 90 Sections 90.01 5. and 90.12 of the Code of Ordinances of the City of Essex, Iowa, is amended as follows:

Section 90.01 5. to read as follows:

5. “Water service pipe” means the pipe with all moving parts including, but not limited to all valves from the water main to the building served.

And

Section 90.12 a sentence is added to Section 90.12 to read as follows:

Installation, connection and maintenance shall include repairs and replacements of broken or nonperforming moving parts in the water service pipe as well as removal and replacement of lead pipe or any portion of the water service pipe prohibited by state law.

**Section 2. SEVERABILITY CLAUSE.** If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

**Section 3. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

**PASSED** by the Council 10<sup>th</sup> day of July, 2019, and **APPROVED** this 10<sup>th</sup> day of July, 2019.

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## CHAPTER 91

### WATER METERS

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

**91.01 PURPOSE.** The purpose of this chapter is to encourage the conservation of water and facilitate the equitable distribution of charges for water service among customers.

**91.02 WATER USE METERED.** All water furnished customers shall be measured through meters furnished by the City and installed by the City.

**91.03 FIRE SPRINKLER SYSTEMS; EXCEPTION.** Fire sprinkler systems may be connected to water mains by direct connection without meters under the direct supervision of the Superintendent. No other open, unmetered connection shall be incorporated in the system, and there shall be no valves except a main control valve at the entrance to the building which must be sealed open.

**91.04 LOCATION OF METERS.** All meters shall be so located that they are easily accessible to meter readers and repairmen and protected from freezing.

**91.05 METER SETTING.** The property owner shall provide all necessary piping and fittings for proper setting of the meter including a valve on the discharge side of the meter. Meter pits may be used only upon approval of the Superintendent and shall be of a design and construction approved by the Superintendent.

**91.06 METER COSTS.** The full cost of any meter larger than that required for a single-family residence shall be paid to the City by the property owner or customer prior to the installation of any such meter by the City, or, at the sole option of the City, the property owner or customer may be required to purchase and install such meter in accordance with requirements established by the City.

**91.07 METER REPAIRS.** Whenever a water meter owned by the City is found to be out of order the Superintendent shall have it repaired. If it is found that damage to the meter has occurred due to the carelessness or negligence of the customer or property owner, or the meter is not owned by the City, then the property owner shall be liable for the cost of repairs.

**91.08 RIGHT OF ENTRY.** The Superintendent shall be permitted to enter the premises of any customer at any reasonable time to read, remove, or change a meter.

**91.09 ADDITIONAL METER INSTALLATION.** Additional water meters for a residence or business shall be the responsibility of the owner. Owners shall assume the cost of the meter and installation.

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## CHAPTER 92

### WATER RATES

92.01 Service Charges  
92.02 Rates For Service  
92.03 Billing for Water Service  
92.04 Service Discontinued  
92.05 Lien for Nonpayment

92.06 Lien Exemption  
92.07 Lien Notice  
92.08 Customer Deposits  
92.09 Temporary Vacancy

**92.01 SERVICE CHARGES.** Each customer shall pay for water service provided by the City based upon use of water as determined by meters provided for in Chapter 91. Each location, building, premises or connection shall be considered a separate and distinct customer whether owned or controlled by the same person or not.

*(Code of Iowa, Sec. 384.84)*

**92.02 RATES FOR SERVICE.** Water service shall be furnished at the following monthly rates within the City:

*(Code of Iowa, Sec. 384.84)*

Gallons Used Per	Rate
First 2,000	\$15.50 (minimum bill)
All over 2,000	\$8.00 per 1,000 gallons

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

*(Code of Iowa, Sec. 384.84)*

1. **Bills Issued.** The Clerk shall prepare and issue bills for combined service accounts on or before the first day of each month. If a delinquent amount is owed by an account holder for a utility service associated with a prior property or premises, the City may withhold service from the same account holder at any new property or premises until such time as the account holder pays the delinquent amount owing on the account associated with the prior property or premises. The City shall not accept a service account for the property upon which there is an outstanding balance, unless a subsequent owner has obtained fee simple title and such delinquent amount has been certified in a timely manner to the County Treasurer prior to the new title holder having taken title, or if no new owner, that the delinquent amount has been certified to the County Treasurer, or in process thereof. A service account shall not be opened for water or combined service until and unless all bills for service to that property have been paid current or certified to the County Treasurer, or certification is in process where ownership of the property remains unchanged. Neither the Superintendent nor any City employee of the water department shall turn on the water at a property where there is an unpaid combined bill outstanding to the City, unless there is a new fee simple title owner and the delinquent amount has not been certified to the County Treasurer or if no new owner that the delinquent amount has been certified to the County Treasurer, or in process thereof. Any amount that has been turned over timely for certification to County Treasurer shall remain as an outstanding balance unless paid current with the

addition of a \$25.00 administrative fee for the removal of the claim from the records of the County Treasurer.

2. Bills Payable. Bills for combined service accounts shall be due and payable at the office of the Clerk by the 10th day of the same month.

3. Late Payment Penalty. Bills not paid by the 20<sup>th</sup> day of the month shall be subject to a \$10.00 late payment fee except the second and subsequent bills not paid by the 20<sup>th</sup> day of the month during each calendar year shall be subject to a \$25.00 late payment fee and shall be considered delinquent.

**92.04 SERVICE DISCONTINUED.** Water service to delinquent customers shall be discontinued or disconnected in accordance with the following:

*(Code of Iowa, Sec. 384.84)*

1. Notice. The Clerk shall notify each delinquent customer that service will be discontinued or disconnected if payment of the combined service account, including late payment charges, is not received by the date specified in the notice of delinquency. Such notice shall be sent by ordinary mail to the customer in whose name the delinquent charges were incurred and shall inform the customer of the nature of the delinquency and afford the customer the opportunity for a hearing prior to the discontinuance or disconnection.

2. Notice to Landlords. If the customer is a tenant, and if the owner or landlord of the property or premises has made a written request for notice, the notice of delinquency shall also be given to the owner or landlord. If the customer is a tenant and requests a change of name for service under the account, such request shall be sent to the owner or landlord of the property if the owner or landlord has made a written request for notice of any change of name for service under the account to the rental property.

3. Hearing. If a hearing is requested by the date of the next regular Council meeting, the Council shall conduct an informal hearing and shall make a determination as to whether the disconnection is justified. If the Council finds that disconnection is justified, then such disconnection shall be made, unless payment has been received.

4. 24 Hour Door Hanger Notice. An on-premises notice (door hanger) of any impending water service shutoff may be posted 24 hours in advance of such water service shutoff. A fee of \$1- shall be applied when notices are printed.

5. Fees. A turn-off fee of \$25.00 shall be charged whenever service is discontinued to a delinquent customer and a turn-on fee of \$25.00 shall be charged before service is restored during working hours, \$40.00 after working hours, on holidays or weekends to a delinquent customer. A turn-on fee or service fee of \$40.00 shall be charged for each change in occupancy of property. It shall be unlawful for any officer of the City or any employee of the water department to extend credit to any customer.

**92.05 LIEN FOR NONPAYMENT.** The owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for water service charges to the premises. Water service charges remaining unpaid and delinquent shall constitute a lien upon the property or premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

*(Code of Iowa, Sec. 384.84)*

**92.06 LIEN EXEMPTION.**

*(Code of Iowa, Sec. 384.84)*

1. **Water Service Exemption.** The lien for nonpayment shall not apply to charges for water service to a residential or commercial rental property where water service is separately metered and the rates or charges for the water service are paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential or commercial rental property and that the tenant is liable for the rates or charges. The City may require a deposit not exceeding the usual cost of 90 days of such services to be paid to the City. When the tenant moves from the rental property, the City shall refund the deposit if all service charges are paid in full. The lien exemption does not apply to delinquent charges for repairs related to any of the services.
2. **Other Service Exemption.** The lien for nonpayment shall also not apply to the charges for any of the services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal for a residential rental property where the charge is paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential rental property and that the tenant is liable for the rates or charges for such service. The City may require a deposit not exceeding the usual cost of 90 days of such services to be paid to the City. When the tenant moves from the rental property, the City shall refund the deposit if all service charges are paid in full. The lien exemption does not apply to delinquent charges for repairs related to any of the services.
3. **Written Notice.** The landlord's written notice shall contain the name of the tenant responsible for charges, the address of the residential or commercial rental property that the tenant is to occupy, and the date that the occupancy begins. Upon receipt, the City shall acknowledge the notice and deposit. A change in tenant for a residential rental property shall require a new written notice to be given to the City within 30 business days of the change in tenant. A change in tenant for a commercial rental property shall require a new written notice to be given to the City within 10 business days of the change in tenant. A change in the ownership of the residential rental property shall require written notice of such change to be given to the City within 30 business days of the completion of the change of ownership. A change in the ownership of the commercial rental property shall require written notice of such change to be given to the City within 10 business days of the completion of the change of ownership.
4. **Mobile Homes, Modular Homes, and Manufactured Homes.** A lien for nonpayment of utility services described in subsections 1 and 2 of this section shall not be placed upon a premises that is a mobile home, modular home, or manufactured home if the mobile home, modular home, or manufactured home is owned by a tenant of and located in a mobile home park or manufactured home community and the mobile home park or manufactured home community owner or manager is the account holder, unless the lease agreement specifies that the tenant is responsible for payment of a portion of the rates or charges billed to the account holder.

**92.07 LIEN NOTICE.** A lien for delinquent water service charges shall not be certified to the County Treasurer unless prior written notice of intent to certify a lien is given to the customer in whose name the delinquent charges were incurred. If the customer is a tenant and if the owner or landlord of the property or premises has made a written request for notice, the notice shall

also be given to the owner or landlord. The notice shall be sent to the appropriate persons by ordinary mail not less than 30 days prior to certification of the lien to the County Treasurer.

*(Code of Iowa, Sec. 384.84)*

**92.08 CUSTOMER DEPOSITS.** There shall be required from every customer or prospective customer a deposit, as set by resolution of the Council, intended to guarantee the payment of bills for service. Deposits of customers having established acceptable credit records for one year shall be returned to the customer. An occurrence or recurrence of a bad payment record shall be occasion for the Clerk to hold the deposit until an acceptable credit record has been maintained.

*(Code of Iowa, Sec. 384.84)*

**92.09 TEMPORARY VACANCY.** A property owner may request water service be temporarily discontinued and shut off at the curb valve when the property is expected to be vacant for an extended period of time. There shall be a \$10.00 fee collected for restoring service. During a period when service is temporarily discontinued as provided herein there shall be no minimum service charge. The City will not drain pipes or pull meters for temporary vacancies.

**ORDINANCE NO. 2019 - 1****AN ORDINANCE AMENDING CHAPTER 92 SECTION 92.03 OF THE CODE OF ORDINANCE OF THE CITY OF ESSEX, IOWA**

**BE IT ENACTED** by the City Council of the City of Essex, Iowa:

**SECTION 1. SECTION MODIFIED.** Chapter 92, Section 92.03 of the Code of Ordinances of the City of Essex, Iowa, is amended as follows:

3. Late Payment Penalty. Bills not paid by the 20<sup>th</sup> day of the month shall be subject to a (\$10.00) late payment fee except the second and subsequent bills not paid by the 20<sup>th</sup> day of the month during each calendar year shall be subject to a (\$25.00) late payment fee and shall be considered delinquent.

**Section 2. SEVERABILITY CLAUSE.** If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

**Section 3. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

**PASSED** by the Council 10<sup>th</sup> day of April, 2019, and **APPROVED** this 10<sup>th</sup> day of April, 2019.

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**Marian V. Durfey, Mayor**

**ATTEST:**

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**Mary A. Ohnmacht, City Clerk**

**ORDINANCE NO. 2020 - 02****AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF ESSEX, IOWA CHAPTER 92 SECTION 92.01 AND CHAPTER 99 SECTION 99.01**

**BE IT ENACTED** by the City Council of the City of Essex, Iowa:

**SECTION 1. SECTION MODIFIED.**

Chapter 92 Section 92.01 shall have the following added:

Each water account will be charged a \$5.00 monthly surcharge to be used to improve infrastructure.

Chapter 99 Section 99.01 shall have the following added:

Each sewer account will be charged a \$5.00 monthly surcharge to be used to improve infrastructure.

**Section 2. REPEALER.** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**Section 3. SEVERABILITY CLAUSE.** If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

**Section 4. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

**PASSED** by the Council 10th day of June, 2020, and **APPROVED** this 10<sup>th</sup> day of June, 2020.

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**ATTEST:**

**Marian V. Durfey, Mayor**

\_\_\_\_\_  
**Mary A. Ohnmacht, City Clerk**



**ORDINANCE NO. 2023 – 4****AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF ESSEX, IOWA, 2008, BY AMENDING PROVISIONS PERTAINING TO WATER SERVICE CHARGES**

**BE IT ENACTED** by the City Council of the City of Essex, Iowa:

**SECTION 1. SECTION MODIFIED.** Section 92.02 of the Code of Ordinances of the City of Essex, Iowa, is repealed and the following adopted in lieu thereof:

**92.02 RATES FOR SERVICE.** Water service shall be furnished at the following monthly rates within the City:

(Code of Iowa, Sec. 384.84)

Gallons Used Per Month	Rate
First 2,000	\$28.50 (minimum bill)
All over 2,000	\$10.00 per 1,000 gallons

Late Payment Penalty. Bills not paid by the 20<sup>th</sup> day of the month shall be subject to a \$20 late fee except the second and subsequent bills not paid by the 20<sup>th</sup> day of the month during each calendar year shall be subject to a \$45 late payment fee and shall be considered delinquent.

**92.04 SERVICE DISCONTINUED.**

Fees. A turn-off fee of \$50 shall be charged whenever service is discontinued to a delinquent customer and a turn-on fee of \$50 shall be charged before service is restored during working hours,

**SECTION 2. SEVERABILITY CLAUSE.** If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

**SECTION 3. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval and publication as provided by law on September 1, 2023.

Passed and approved by the Council this 9<sup>th</sup> day of August, 2023.

**ORDINANCE NO. 2024 – 2****AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF ESSEX, IOWA, 2008, BY AMENDING PROVISIONS PERTAINING TO WATER SERVICE CHARGES**

**BE IT ENACTED** by the City Council of the City of Essex, Iowa:

**SECTION 1. SECTION MODIFIED.** Section 92.02 of the Code of Ordinances of the City of Essex, Iowa, is repealed and the following adopted in lieu thereof:

**92.02 RATES FOR SERVICE.** Water service shall be furnished at the following monthly rates within the City:

(Code of Iowa, Sec. 384.84)

Gallons Used Per Month	Rate
First 2,000	\$34.00 (minimum bill)
All over 2,000	\$10.00 per 1,000 gallons

Late Payment Penalty. Bills not paid by the 20<sup>th</sup> day of the month shall be subject to a \$20 late fee except the second and subsequent bills not paid by the 20<sup>th</sup> day of the month during each calendar year shall be subject to a \$45 late payment fee and shall be considered delinquent.

**92.04 SERVICE DISCONTINUED.**

Fees. A turn-off fee of \$50 shall be charged whenever service is discontinued to a delinquent customer and a turn-on fee of \$50 shall be charged before service is restored during working hours,

**SECTION 2. SEVERABILITY CLAUSE.** If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

**SECTION 3. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval and publication as provided by law on July 1, 2024.

Passed and approved by the Council this 12<sup>th</sup> day of June, 2024.

**ORDINANCE NO. 2025 – 01****AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF ESSEX, IOWA, 2008, BY AMENDING PROVISIONS PERTAINING TO WATER SERVICE CHARGES**

**BE IT ENACTED** by the City Council of the City of Essex, Iowa:

**SECTION 1. SECTION MODIFIED.** Section 92.02 of the Code of Ordinances of the City of Essex, Iowa, is repealed and the following adopted in lieu thereof:

**92.02 RATES FOR SERVICE.** Water service shall be furnished at the following monthly rates within the City:

(Code of Iowa, Sec. 384.84)

Gallons Used Per Month	Rate
First 2,000	\$37.00 (minimum bill)
All over 2,000	\$11.00 per 1,000 gallons

Late Payment Penalty. Bills not paid by the 20<sup>th</sup> day of the month shall be subject to a \$20 late fee except the second and subsequent bills not paid by the 20<sup>th</sup> day of the month during each calendar year shall be subject to a \$45 late payment fee and shall be considered delinquent.

**92.04 SERVICE DISCONTINUED.**

Fees. A turn-off fee of \$50 shall be charged whenever service is discontinued to a delinquent customer and a turn-on fee of \$50 shall be charged before service is restored during working hours,

**SECTION 2. SEVERABILITY CLAUSE.** If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

**SECTION 3. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval and publication as provided by law on July 1, 2024.

Passed and approved by the Council this 14<sup>th</sup> day of May, 2025.

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## CHAPTER 93

# WATER WELL PROTECTION

93.01 Definitions  
93.02 Application  
93.03 Exception  
93.04 Nonconforming Uses

93.05 Private Wells – Permit Required  
93.06 Drinking Water Wells and Non-Drinking  
Water Well Restrictions

**93.01 DEFINITIONS.** The following terms are defined as used in this chapter:

1. “Aquifer” means a rock formation, group of rock formations, or part of a rock formation that contains enough saturated permeable materials to yield significant quantities of water.
2. “Contamination” means the presence of any harmful or deleterious substances in the water supply.
3. “Deep public well” means a public well located and constructed in such a manner that there is a continuous layer of low permeability soil or rock at least five feet thick located at least 25 feet below the normal ground surface and above the aquifer from which the water is drawn.
4. “Shallow public well” means a public well located and constructed in such a manner that there is not a continuous layer of low permeability soil or rock at least five feet thick located at least 25 feet below the normal ground surface and above the aquifer from which the water is drawn.
5. “Well” means a pit or hole sunk into the earth to reach a resource supply such as water.

**93.02 APPLICATION.** No structure or facility of the enumerated types set out in the following Table A shall be located within the distances set forth in said Table from public wells within the City.

**TABLE A: SEPARATION DISTANCES**

SOURCE OF CONTAMINATION	REQUIRED MINIMUM DISTANCE FROM WELL, IN FEET	
	Deep Well <sup>1</sup>	Shallow Well <sup>1</sup>
<b>WASTEWATER STRUCTURES:</b>		
Point of Discharge to Ground Surface		
Sanitary and industrial discharges	400	400
Water treatment plant wastes	50	50
Well house floor drains	5	5
<b>Sewers and Drains<sup>2</sup></b>		
Sanitary and storm sewers, drains	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer pipe	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer main pipe
Sewer force mains	0 – 75 feet: prohibited 75 – 400 feet if water main pipe 400 – 1,000 feet if water main or sanitary sewer pipe	0 – 75 feet: prohibited 75 – 400 feet if water main pipe 400 – 1,000 feet if water main or sanitary sewer main pipe
Water plant treatment process wastes that are treated onsite	0 – 5 feet: prohibited 5 – 50 feet if sanitary sewer pipe	0 – 5 feet: prohibited 5 – 50 feet if sanitary sewer main pipe
Water plant wastes to sanitary sewer	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer pipe	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer main pipe
Well house floor drains to sewers	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer pipe	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer main pipe
Well house floor drains to surface	0 – 5 feet: prohibited 5 – 50 feet if sanitary sewer pipe	0 – 5 feet: prohibited 5 – 50 feet if sanitary sewer main pipe
<b>Land Disposal of Treated Wastes</b>		
Irrigation of wastewater	200	400
Land application of solid wastes <sup>3</sup>	200	400
<b>Other</b>		
Cesspools and earth pit privies	200	400
Concrete vaults and septic tanks	100	200
Lagoons	400	1,000
Mechanical wastewater treatment plants	200	400
Soil absorption fields	200	400

SOURCE OF CONTAMINATION	REQUIRED MINIMUM DISTANCE FROM WELL, IN FEET	
	Deep Well <sup>1</sup>	Shallow Well <sup>1</sup>
<b>CHEMICALS:</b>		
Chemical application to ground surface	100	200
Chemical & mineral storage above ground	100	200
Chemical & mineral storage on or under ground	200	400
Transmission pipelines (such as fertilizer, liquid petroleum, or anhydrous ammonia)	200	400
<b>ANIMALS:</b>		
Animal pasturage	50	50
Animal enclosure	200	400
Earthen silage storage trench or pit	100	200
<b>Animal Wastes</b>		
Land application of liquid or slurry	200	400
Land application of solids	200	400
Solids stockpile	200	400
Storage basin or lagoon	400	1,000
Storage tank	200	400
<b>MISCELLANEOUS:</b>		
Basements, pits, sumps	10	10
Cemeteries	200	200
Cisterns	50	100
Flowing streams or other surface water bodies	50	50
Railroads	100	200
Private wells	200	400
Solid waste landfills and disposal sites <sup>4</sup>	1,000	1,000

<sup>1</sup> Deep and shallow wells, as defined in IAC 567-40.2(455B): A deep well is a well located and constructed in such a manner that there is a continuous layer of low permeability soil or rock at least five feet thick located at least 25 feet below the normal ground surface and above the aquifer from which water is to be drawn. A shallow well is a well located and constructed in such a manner that there is not a continuous layer of low permeability soil or rock (or equivalent retarding mechanism acceptable to the department) at least five feet thick, the top of which is located at least 25 feet below the normal ground surface and above the aquifer from which water is to be drawn.

<sup>2</sup> The separation distances are dependent upon two factors: the type of piping that is in the existing sewer or drain, as noted in the table, and that the piping was properly installed in accordance with the standards.

<sup>3</sup> Solid wastes are those derived from the treatment of water or wastewater. Certain types of solid wastes from water treatment processes may be land-applied within the separation distance on an individual, case-by-case basis.

<sup>4</sup> 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.

**93.03 EXCEPTION.** Proscriptions set forth in Table A apply to all public water wells existing within the City except public water wells formerly abandoned for use by resolution of the Council.

**93.04 NONCONFORMING USES.** The use of structures or facilities existing as of September 12, 1995 may be continued even though such use may not conform to the regulations in this chapter; in other words, such uses may be located within the distances set forth. However, such structure or facility that is not in conformance with the terms of this chapter may not be enlarged, extended, reconstructed, or substituted subsequent to the such date.

**93.05 PRIVATE WELLS – PERMIT REQUIRED.**

1. No person shall install or maintain a private drinking or non-drinking water well after February 22, 2001, or own or use a private or non-drinking water well after such date unless a permit has been issued for the well by the County Department of Public Health, or its successor agency. The permit process shall be governed by the County Department of Public Health and shall be completed on forms provided by that agency or its successor.
2. The permit applicant must provide the County Department of Public Health data concerning the presence of groundwater contamination in the particular application site.
3. The installation or maintenance of a water well is prohibited where public water is readily available within the City except cisterns and wells in use on February 22, 2001, which may continue in use until removed from service, or thereafter on application and approval of the Public Works Director in accordance with subsection 7 of this section.
4. If the County Department of Public Health determines that a private well application should be granted, the City shall notify the Iowa Department of Natural Resources Leaking Underground Storage Tank Section of the permit application and grant.
5. “Drinking water well” means any groundwater well used as a source for drinking water by humans and groundwater wells used primarily for the final production of food or medicine for human consumption in facilities characterized with the Standard Industrial Codes (SIC) group 283 for drugs and 20 for foods.
6. “Non-drinking water well” means any groundwater well (except an extraction well used as a part of a remediation system) not defined as drinking water well, including a groundwater well which is not properly plugged in accordance with department rules in 367 - Chapter 39 and 49.
7. The Council, upon recommendation of the Public Works Director, may consider a variance or exception to this section on application. The use of any private drinking or non-drinking water well not permitted to continue under this section shall cease and the same shall be plugged in accordance with Rules of the Iowa Department of Natural Resources no later than July 1, 2001.

**93.06 DRINKING WATER WELLS AND NON-DRINKING WATER WELL RESTRICTIONS.** No person shall install or maintain a drinking water well or non-drinking water well within a 1,000 ft. radius from groundwater (MW3 and MW5) and soil (172408 and SB4) sources as identified and resulting from underground storage tank registration #198600815 at the former Sheridan 66 Site, 401 Iowa Avenue.



## CHAPTER 94

### WATER DROUGHT/EMERGENCY

94.01 Purpose  
94.02 Stage 1  
94.03 Stage 2  
94.04 Stage 3

94.05 Stage 4  
94.06 Municipal Infraction  
94.07 Reduction In Flow of Water to Person

**94.01 PURPOSE.** The purpose of this chapter is to provide for a progressive water supply conservation program and the implementation of voluntary and mandatory water conservation measures throughout the City in the event such measures are declared necessary by the governing body of the City. In the event the City's designated official determines that the City's water supply may be subject to a shortage in supply or the governing body of the City determines there is need for conservation of the City's water resources for any reason, the City may begin the progressive four stage water conservation program. In times of need and/or duress, the governing body of the City may choose to declare any section of the program in effect at any time. Each stage shall remain in effect until such time as the drawdown has improved to the previous stage level and remained as such for at least 30 days.

**94.02 STAGE 1.** Water well levels have been measured and there is an indication that without wise usage of water, a shortage could occur. Indicators, of the need to impose a Stage 1 condition, would be a drawdown of the City well(s) of one foot, below average.

1. Conscientious use of water will be encouraged as described below.
  - A. Water lawns early in the morning, between the hours of 5:00 a.m. - 9:00 a.m., to take advantage of the coolest times when the evaporation rate is less. Irrigating in the evening may result in potential fungus development on the lawn.
  - B. Check the interior plumbing for faucet or toilet leaks, and make the necessary repairs.
  - C. Clean outside surfaces such as patios, driveways, and sidewalks using a broom rather than a hose.
  - D. Wash vehicles with a bucket and a hose that has a shut-off nozzle, rather than continuously running hose.
  - E. Fill sinks with water for tasks such as washing dishes and preparing food. Shave or brush teeth without leaving the water run.
  - F. Suggest installing water-saving devices in showers.
  - G. Use automatic dishwashers and washing machines with only full loads whenever possible.
  - H. Store a container of drinking water in the refrigerator rather than running water from the faucet to cool it.
  - I. Encourage wise use of water during outdoor play, e.g., playing in the sprinkler, water toys, and swimming pools.
  - J. Encourage shorter shower times.

- K. Refrain from using the toilet as a wastebasket or ashtray.
- L. Refrain from using water to fill private pools, children's wading pools, reflection pools or other outdoor pool or pond.
- 2. Suspend Water Department/Fire Department hydrant flushing program.
- 3. Request City officials to minimize water usage activities such as street flushing.
- 4. After 30 days or less, if the drawdown of the wells continues, and there is still an indication that a water shortage could occur, proceed to Stage 2.

**94.03 STAGE 2.** Water well levels have been measured and there is an indication that the drawdown of the City well(s) continues. Indicators of the need to impose a Stage 2 condition would be a drawdown of the City well(s) of two feet, below average.

- 1. Further encourage voluntary activities to reduce consumption as follows:
  - A. Request residential areas to water on alternate days, e.g., even numbered addresses may water on even days of the month, and odd numbered addresses may water on odd numbered days of the month. Suggest watering between 8:00 p.m. and 6:00 a.m. during the weekdays. Weekend watering could be conducted at any time.
  - B. Restate voluntary measures of Stage 1.
- 2. Contact public agencies (City, County, State) to request assistance in implementing measures to conserve usage associated with their operations (to serve as an example for citizens) such as:
  - A. Consider closing recreational facilities with known water wastes, e.g. leaking pools and running drinking fountains.
  - B. Suspend the operation of decorative fountains.
- 3. Discuss with elected officials that the water shortage structure should be upgraded to Stage 3.
- 4. After 30 days or less, if the drawdown of the wells continue, and there is still an indication that a water shortage could occur, proceed to Stage 3.

**94.04 STAGE 3.** Water well levels have been measured and there is an indication that the drawdown of the City well(s) continues. Indicators of the need to impose a Stage 3 condition would be a drawdown of the City well(s) of four feet, below average.

- 1. Mandatory measures will be implemented as follows:
  - A. Discontinue outdoor water usage (including filling pools, watering lawns, hose-washing of paved surfaces, etc.).
  - B. Discontinued public agency watering activities (including landscapes, flower beds, grasses, and annual plantings).
- 2. Implement a water shortage rate structure.
  - A. In addition to the water rate duly enacted by the Council, all residential users shall pay a premium rate of \$5.00 per 100 gallons consumed in excess of the allocation.

- B. The allocation of water for residential use shall be not more than 3,665 gallons per household per billing period (June average used).
  - C. For nonresidential users, the base allocation shall be established as 80 percentage of the average water use during the previous time frame described as: previous twelve month average after throwing out the high usage month and the low usage month and dividing by 10.
3. After 30 days or less, if the drawdown of well(s) continues, and there still is an indication that a water shortage could occur, proceed to Stage 4.

**94.05 STAGE 4.** Water well levels have been measured and there is an indication that the drawdown of the City well(s) continues. Indicators of the need to impose Stage 4 condition would be a drawdown of City well(s) of six feet, below average.

- 1. Further promote conservative water usage as follows:
  - A. Any new customers applying for water service at this time will be notified that the conservation plan is in effect of the restrictions involved. Through a message on their water bills, customers will be made aware of their usage and its relationship to the maximum allowable usage.
  - B. The allocation of water for residential use shall be not more than 3,000 gallons per household per billing period.
  - C. The allocation of water for nonresidential use shall be not more than 50% of their maximum allowed gallons in Stage 3 above.
- 2. If necessary, the water may be suspended or restricted, by category of use, in the following order:
  - A. Water used primarily for recreational or aesthetic purposes (if not already restricted under Stage 3).
  - B. Use of water for all irrigation purposes.
  - C. Use of water for nonresidential usage.
- 3. Any other measures deemed necessary by the Essex Water Works and City of Essex Elected officials.
- 4. The following penalties will be assessed in the event of violation of the mandatory measures:
  - A. The first violation will result in written warning, re-emphasizing ways to conserve usage, and a notice of intent to impose a surcharge effective with the next water bill if the violation condition persists.
  - B. The second violation will result in the imposition of a flat surcharge of \$100.00 which will be assessed for open violation of mandatory measures stated in Stage 3, Item 1 and 2. The charge for violation Stage 4, Items 1, 2, or 3 shall be \$10.00 per 100 gallons used in excess of the respective allotments for residential and nonresidential users. Normal collection practices and procedures will be imposed on all customers who fail to pay the charge.
- 5. Any customer aggrieved by the application procedures, including any person disputing the amount of any surcharge or validity of any violation, may request a hearing before an appeals board committee. The committee shall consist of the Mayor, the Superintendent of the water system, and three representatives of the community who

shall be appointed by the Mayor with the approval of the City Council. The Water Appeal Board shall hear appeals of any action taken pursuant to a Water Drought/Emergency Ordinance; except that, if a customer is charged with a municipal infraction relating to this chapter, that proceeding shall be conducted pursuant to Iowa Code Section 364.22. Any person may file an appeal with the Water Appeal Board to adjust the base allocation amount. The Water Appeal Board may grant an adjustment to the appellant based upon the following criteria:

- A. For residential use, the base allocation may be increased by 1,000 gallons per person per billing period for all individuals residing at the appellant's residence for a period of more than 30 days.
- B. For nonresidential users, the base allocation may be increased based on factors appropriate to the individual customer.
- C. Such hearing shall be held as soon as reasonably practical. The committee shall review the issue as presented by the customer.

**94.06 MUNICIPAL INFRACTION.** A second or subsequent violation of the water 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 Water Appeal Board for adjustment of the base allocation or premium charges, intentionally provides false or incorrect statements or information commits a municipal infraction.

**94.07 REDUCTION IN FLOW OF WATER TO PERSON.** The Superintendent 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 ordinance during a water warning or water emergency.

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## CHAPTER 95

# SANITARY SEWER SYSTEM

95.01 Purpose  
95.02 Definitions  
95.03 Superintendent  
95.04 Prohibited Acts  
95.05 Sewer Connection Required

95.06 Service Outside the City  
95.07 Right of Entry  
95.08 Use of Easements  
95.09 Special Penalties

**95.01 PURPOSE.** The purpose of the chapters of this Code of Ordinances pertaining to Sanitary Sewers is to establish rules and regulations governing the treatment and disposal of sanitary sewage within the City in order to protect the public health, safety, and welfare.

**95.02 DEFINITIONS.** For use in these chapters, unless the context specifically indicates otherwise, the following terms are defined:

1. "B.O.D." (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees C, expressed in milligrams per liter or parts per million.
2. "Building drain" means that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (one and one-half meters) outside the inner face of the building wall.
3. "Building sewer" means that part of the horizontal piping from the building wall to its connection with the main sewer or the primary treatment portion of an on-site wastewater treatment and disposal system conveying the drainage of one building site.
4. "Combined sewer" means a sewer receiving both surface run-off and sewage.
5. "Customer" means any person responsible for the production of domestic, commercial, or industrial waste that is directly or indirectly discharged into the public sewer system.
6. "Garbage" means solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage, and sale of produce.
7. "Industrial wastes" means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.
8. "Inspector" means the person duly authorized by the Council to inspect and approve the installation of building sewers and their connections to the public sewer system; and to inspect such sewage as may be discharged therefrom.
9. "Natural outlet" means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.
10. "On-site wastewater treatment and disposal system" means all equipment and devices necessary for proper conduction, collection, storage, treatment, and disposal of wastewater from four or fewer dwelling units or other facilities serving the equivalent of 15 persons (1,500 gpd) or less.

11. “pH” means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
12. “Public sewer” means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
13. “Sanitary sewage” means sewage discharging from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories, or institutions, and free from storm, surface water, and industrial waste.
14. “Sanitary sewer” means a sewer that carries sewage and to which storm, surface, and ground waters are not intentionally admitted.
15. “Sewage” means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.
16. “Sewage treatment plant” means any arrangement of devices and structures used for treating sewage.
17. “Sewage works” or “sewage system” means all facilities for collecting, pumping, treating, and disposing of sewage.
18. “Sewer” means a pipe or conduit for carrying sewage.
19. “Sewer service charges” means any and all charges, rates or fees levied against and payable by customers, as consideration for the servicing of said customers by said sewer system.
20. “Slug” means any discharge of water, sewage, or industrial waste that in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration or flows during normal operation.
21. “Storm drain” or “storm sewer” means a sewer that carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.
22. “Superintendent” means the Superintendent of sewage works and/or of water pollution control of the City or any authorized deputy, agent, or representative.
23. “Suspended solids” means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and that are removable by laboratory filtering.
24. “Watercourse” means a channel in which a flow of water occurs, either continuously or intermittently.

**95.03 SUPERINTENDENT.** The Superintendent shall exercise the following powers and duties:

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

1. Operation and Maintenance. Operate and maintain the City sewage system.
2. Inspection and Tests. Conduct necessary inspections and tests to assure compliance with the provisions of these Sanitary Sewer chapters.
3. Records. Maintain a complete and accurate record of all sewers, sewage connections and manholes constructed showing the location and grades thereof.

**95.04 PROHIBITED ACTS.** No person shall do, or allow, any of the following:

1. Damage Sewer System. Maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment that is a part of the sewer system.

*(Code of Iowa, Sec. 716.1)*

2. Surface Run-Off or Groundwater. Connect a roof downspout, sump pump, exterior foundation drain, areaway drain, or other source of surface run-off or groundwater to a building sewer or building drain that is connected directly or indirectly to a public sanitary sewer.

3. Manholes. Open or enter any manhole of the sewer system, except by authority of the Superintendent.

4. Objectionable Wastes. Place or deposit in any unsanitary manner on public or private property within the City, or in any area under the jurisdiction of the City, any human or animal excrement, garbage, or other objectionable waste.

5. Septic Tanks. Construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage except as provided in these chapters.

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

6. Untreated Discharge. Discharge to any natural outlet within the City, or in any area under its jurisdiction, any sanitary sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of these chapters.

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

**95.05 SEWER CONNECTION REQUIRED.** The owners of any houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right-of-way in which there is now located, or may in the future be located, a public sanitary or combined sewer, are hereby required to install, at such owner's expense, suitable toilet facilities therein and a building sewer connecting such facilities directly with the proper public sewer, and to maintain the same all in accordance with the provisions of these Sanitary Sewer chapters, such compliance to be completed within 60 days after date of official notice from the City to do so provided that said public sewer is located within 200 feet of the property line of such owner and is of such design as to receive and convey by gravity such sewage as may be conveyed to it. Billing for sanitary sewer service will begin the date of official notice to connect to the public sewer.

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

*(IAC, 567-69.1[3])*

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

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

**95.07 RIGHT OF ENTRY.** The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of these Sanitary Sewer chapters. The Superintendent or representatives shall

have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

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

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

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



## CHAPTER 96

### BUILDING SEWERS AND CONNECTIONS

96.01 Permit  
96.02 Permit Fee and Connection Charge  
96.03 Plumber Required  
96.04 Excavations  
96.05 Connection Requirements

96.06 Interceptors Required  
96.07 Sewer Tap  
96.08 Inspection Required  
96.09 Property Owner's Responsibility  
96.10 Abatement of Violations

**96.01 PERMIT.** No unauthorized person shall uncover, make any connection with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City. The application for the permit shall set forth the location and description of the property to be connected with the sewer system and the purpose for which the sewer is to be used, and shall be supplemented by any plans, specifications, or other information considered pertinent. The permit shall require the owner to complete construction and connection of the building sewer to the public sewer within 60 days after the issuance of the permit, except that when a property owner makes sufficient showing that due to conditions beyond the owner's control or peculiar hardship, such time period is inequitable or unfair, an extension of time within which to comply with the provisions herein may be granted. Any sewer connection permit may be revoked at any time for a violation of these chapters.

**96.02 PERMIT FEE AND CONNECTION CHARGE.** The person who makes the application shall pay a fee in the amount of \$10.00 to the Clerk to cover the cost of issuing the permit and supervising, regulating, and inspecting the work. In addition, there shall be a connection charge in the amount of \$25.00 paid to reimburse the City for costs borne by the City in making sewer service available to the property served.

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

**96.04 EXCAVATIONS.** All trench work, excavation, and backfilling required for the installation of a building sewer shall be performed in accordance with the provisions of the *State Plumbing Code* and the provisions of Chapter 135 of this Code of Ordinances.

**96.05 CONNECTION REQUIREMENTS.** Any connection with a public sanitary sewer must be made under the direct supervision of the Superintendent and in accordance with the following:

1. **Old Building Sewers.** Old building sewers may be used in connection with new buildings only when they are found, on examination and test conducted by the owner and observed by the Superintendent, to meet all requirements of this chapter.
2. **Separate Building Sewers.** A separate and independent building sewer shall be provided for every occupied building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. In such cases the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

3.      **Installation.** The installation and connection of the building sewer to the public sewer shall conform to the requirements of the *State Plumbing Code* and applicable rules and regulations of the City. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.
4.      **Water Lines.** When possible, building sewers should be laid at least 10 feet horizontally from a water service. The horizontal separation may be less, provided the water service line is located at one side and at least 12 inches above the top of the building sewer.
5.      **Size.** Building sewers shall be sized for the peak expected sewage flow from the building with a minimum building sewer size of four inches.
6.      **Alignment and Grade.** All building sewers shall be laid to a straight line to meet the following:
  - A.      Recommended grade at one-fourth inch per foot.
  - B.      Minimum grade of one-eighth inch per foot.
  - C.      Minimum velocity of two feet per second with the sewer half full.
  - D.      Any deviation in alignment or grade shall be made only with the written approval of the Superintendent and shall be made only with approved fittings.
7.      **Depth.** Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. The depth of cover above the sewer shall be sufficient to afford protection from frost.
8.      **Sewage Lifts.** In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer.
9.      **Pipe Specifications.** Building sewer pipe shall be free from flaws, splits, or breaks. Materials shall be as specified in the *State Plumbing Code* except that the building sewer pipe, from the property line to the public sewer, shall comply with the current edition of one of the following:
  - A.      Clay sewer pipe – A.S.T.M. C-700 (extra strength).
  - B.      Extra heavy cast iron soil pipe – A.S.T.M. A-74.
  - C.      Ductile iron water pipe – A.W.W.A. C-151.
  - D.      P.V.C. – SDR26 – A.S.T.M. D-3034.
10.     **Bearing Walls.** No building sewer shall be laid parallel to or within three feet of any bearing wall that might thereby be weakened.
11.     **Jointing.** Fittings, type of joint and jointing material shall be compatible with the type of pipe used, subject to the approval of the Superintendent. Solvent-welded joints are not permitted.
12.     **Unstable Soil.** No sewer connection shall be laid so that it is exposed when crossing any watercourse. Where an old watercourse must of necessity be crossed or where there is any danger of undermining or settlement, cast iron soil pipe or vitrified clay sewer pipe thoroughly encased in concrete shall be required for such crossings. Such encasement shall extend at least six inches on all sides of the pipe. The cast iron pipe or encased clay pipe shall rest on firm, solid material at either end.

13. Preparation of Basement or Crawl Space. No connection for any residence, business or other structure with any sanitary sewer shall be made unless the basement floor is poured, or in the case of a building with a slab or crawl space, unless the ground floor is installed with the area adjacent to the foundation of such building cleared of debris and backfilled. The backfill shall be well compacted and graded so that the drainage is away from the foundation. Prior to the time the basement floor is poured, or the first floor is installed in buildings without basements, the sewer shall be plugged and the plug shall be sealed by the Superintendent. Any accumulation of water in any excavation or basement during construction and prior to connection to the sanitary sewer shall be removed by means other than draining into the sanitary sewer.

**96.06 INTERCEPTORS REQUIRED.** Grease, oil, sludge and sand interceptors shall be provided by gas and service stations, convenience stores, car washes, garages, and other facilities when, in the opinion of the Superintendent, they are necessary for the proper handling of such wastes that contain grease in excessive amounts or any flammable waste, sand or other harmful ingredients. Such interceptors shall not be required for private living quarters or dwelling units. When required, such interceptors shall be installed in accordance with the following:

1. Design and Location. All interceptors shall be of a type and capacity as specified in the *State Plumbing Code*, to be approved by the Superintendent, and shall be located so as to be readily and easily accessible for cleaning and inspection.
2. Construction Standards. The interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers that shall be gastight and watertight.
3. Maintenance. All such interceptors shall be maintained by the owner at the owner's expense and shall be kept in continuously efficient operations at all times.

**96.07 SEWER TAP.** Connection of the building sewer into the public sewer shall be made at the "Y" branch, if such branch is available at a suitable location. If no properly located "Y" branch is available, a saddle "Y" shall be installed at the location specified by the Superintendent. The public sewer shall be tapped with a tapping machine and a saddle appropriate to the type of public sewer shall be glued or attached with a gasket and stainless steel clamps to the sewer. At no time shall a building sewer be constructed so as to enter a manhole unless special written permission is received from the Superintendent and in accordance with the Superintendent's direction if such connection is approved.

**96.08 INSPECTION REQUIRED.** All connections with the sanitary sewer system before being covered shall be inspected and approved, in writing, by the Superintendent. As soon as all pipe work from the public sewer to inside the building has been completed, and before any backfilling is done, the Superintendent shall be notified and the Superintendent shall inspect and test the work as to workmanship and material; no sewer pipe laid underground shall be covered or trenches filled until after the sewer has been so inspected and approved. If the Superintendent refuses to approve the work, the plumber or owner must proceed immediately to correct the work.

**96.09 PROPERTY OWNER'S RESPONSIBILITY.** All costs and expenses incident to the installation, connection, and maintenance of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

**96.10 ABATEMENT OF VIOLATIONS.** Construction or maintenance of building sewer lines, whether located upon the private property of any owner or in the public right-of-way, which construction or maintenance is in violation of any of the requirements of this chapter, shall be corrected, at the owner's expense, within 30 days after date of official notice from the Council of such violation. If not made within such time, the Council shall, in addition to the other penalties herein provided, have the right to finish and correct the work and assess the cost thereof to the property owner. Such assessment shall be collected with and in the same manner as general property taxes.

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

## CHAPTER 97

### USE OF PUBLIC SEWERS

97.01 Storm Water  
97.02 Surface Waters Exception  
97.03 Prohibited Discharges  
97.04 Restricted Discharges

97.05 Restricted Discharges; Powers of Superintendent  
97.06 Special Facilities  
97.07 Control Manholes  
97.08 Testing of Wastes

**97.01 STORM WATER.** No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof run-off, sub-surface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Storm water and all other unpolluted drainage shall be discharged to such sewers that are specifically designated as combined sewers or storm sewers or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged on approval of the Superintendent, to a storm sewer, combined sewer, or natural outlet.

**97.02 SURFACE WATERS EXCEPTION.** Special permits for discharging surface waters to a public sanitary sewer may be issued by the Council upon recommendation of the Superintendent where such discharge is deemed necessary or advisable for purposes of flushing, but any permit so issued shall be subject to revocation at any time when deemed to the best interests of the sewer system.

**97.03 PROHIBITED DISCHARGES.** No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

1. Flammable or Explosive Material. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
2. Toxic or Poisonous Materials. Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two milligrams per liter as CN in the wastes as discharged to the public sewer.
3. Corrosive Wastes. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
4. Solid or Viscous Substances. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
5. Excessive B.O.D., Solids or Flow.
  - A. Any waters or wastes: (i) having a five-day biochemical oxygen demand greater than 300 parts per million by weight; or (ii) containing more than 350 parts per million by weight of suspended solids; or (iii) having an

average daily flow greater than two percent of the average sewage flow of the City, shall be subject to the review of the Superintendent.

B. Where necessary in the opinion of the Superintendent, the owner shall provide, at the owner's expense, such preliminary treatment as may be necessary to: (i) reduce the biochemical oxygen demand to 300 parts per million by weight; or (ii) reduce the suspended solids to 350 parts per million by weight; or (iii) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent and no construction of such facilities shall be commenced until said approvals are obtained in writing.

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

1. High Temperature. Any liquid or vapor having a temperature higher than 150 degrees F (65 degrees C).
2. Fat, Oil, Grease. Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 milligrams per liter or 600 milligrams per liter of dispersed or other soluble matter.
3. Viscous Substances. Water or wastes containing substances that may solidify or become viscous at temperatures between 32 degrees F and 150 degrees F (0 degrees to 65 degrees C).
4. Garbage. Any garbage that has not been properly shredded, that is, to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.
5. Acids. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solution whether neutralized or not.
6. Toxic or Objectionable Wastes. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.
7. Odor or Taste. Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits that may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of State, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

8. Radioactive Wastes. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or federal regulations.
9. Excess Alkalinity. Any waters or wastes having a pH in excess of 9.5.
10. Unusual Wastes. Materials that exert or cause:
  - A. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
  - B. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
  - C. Unusual B.O.D., chemical oxygen demand or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
  - D. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.
11. Noxious or Malodorous Gases. Any noxious or malodorous gas or other substance that, either singly or by interaction with other wastes, is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.
12. Damaging Substances. Any waters, wastes, materials, or substances that react with water or wastes in the sewer system to release noxious gases, develop color of undesirable intensity, form suspended solids in objectionable concentration or create any other condition deleterious to structures and treatment processes.
13. Untreatable Wastes. Waters or wastes containing substances that are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

**97.05 RESTRICTED DISCHARGES; POWERS OF SUPERINTENDENT.** If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 97.04 and which in the judgment of the Superintendent may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

1. Rejection. Reject the wastes by requiring disconnection from the public sewage system;
2. Pretreatment. Require pretreatment to an acceptable condition for discharge to the public sewers;
3. Controls Imposed. Require control over the quantities and rates of discharge; and/or
4. Special Charges. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Chapter 99.

**97.06 SPECIAL FACILITIES.** If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent and subject to the requirements of all applicable codes, ordinances, and laws. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.

**97.07 CONTROL MANHOLES.** When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at the owner's expense, and shall be maintained by the owner so as to be safe and accessible at all times.

**97.08 TESTING OF WASTES.** All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of *Standard Methods for the Examination of Water and Wastewater*, published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, B.O.D. and suspended solids analyses are obtained from 24-hour composites of all outfalls whereas pH's are determined from periodic grab samples).



## CHAPTER 98

### ON-SITE WASTEWATER SYSTEMS

98.01 When Prohibited  
98.02 When Required  
98.03 Compliance with Regulations  
98.04 Permit Required

98.05 Discharge Restrictions  
98.06 Maintenance of System  
98.07 Systems Abandoned  
98.08 Disposal of Septage

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

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

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

*(IAC, 567-69.1[3])*

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

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

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

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

*(IAC, 567-69.1[3])*

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

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

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

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

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## CHAPTER 99

### SEWER SERVICE CHARGES

99.01 Sewer Service Charges Required  
99.02 Special Rates  
99.03 Private Water Systems  
99.04 Payment of Bills

99.05 Lien for Nonpayment  
99.06 Special Agreements Permitted  
99.07 Sewer User Fee Adjustments

**99.01 SEWER SERVICE CHARGES REQUIRED.** Each customer shall pay sewer service charges for the use of and for the service supplied by the municipal sanitary sewer system based upon the amount of water consumed as follows:

*(Code of Iowa, Sec. 384.84)*

1. Customer Service Charge. A customer service charge of \$15.00 per month for the first 2,000 gallons (minimum) of water used per month.
2. Usage Charge. A usage charge of \$6.50 for each 1,000 gallons of water used per month over the minimum.

In no case shall the minimum service charge be less than \$15.00 per month.

**99.02 SPECIAL RATES.** Where, in the judgment of the Superintendent and the Council, special conditions exist to the extent that the application of the sewer charges provided in Section 99.01 would be inequitable or unfair to either the City or the customer, a special rate shall be proposed by the Superintendent and submitted to the Council for approval by resolution.

*(Code of Iowa, Sec. 384.84)*

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

*(Code of Iowa, Sec. 384.84)*

**99.04 PAYMENT OF BILLS.** All sewer service charges are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.03 of this Code of Ordinances. Sewer service may be discontinued or disconnected in accordance with the provisions contained in Section 92.04 if the combined service account becomes delinquent, and the provisions contained in Section 92.07 relating to lien notices shall also apply in the event of a delinquent account.

**99.05 LIEN FOR NONPAYMENT.** Except as provided for in Section 92.06 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for sewer service charges to the premises. Sewer service charges remaining unpaid and delinquent shall constitute a lien upon the property or premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

*(Code of Iowa, Sec. 384.84)*

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

**99.07 SEWER USER FEE ADJUSTMENTS.** The Mayor and City Clerk may grant a onetime adjustment to sewer service charges for water leaks that have resulted in an unusually high sewer service fee, provided that the adjustment meets the following criteria:

1. The amount of the adjustment shall equal the sum of the sewer bill that exceeds the average monthly sewer fee for the most recent three month period , up to a maximum adjustment of \$500.
2. The customer can demonstrate the following:
  - A. The excessive sewer fee was the result of a leak in the plumbing system on their property.
  - B. The leak has been completely repaired.
  - C. The leak was not caused by the owner's negligence.
3. The adjustment is limited to the sewer user fee bill for only one month.
4. The business or customer and spouse have not been granted any previous adjustment on either a residential account or commercial account during the previous 10 years as a customer of the City.
5. This policy shall not apply to charges for water services.

**ORDINANCE NO. 2020 - 02****AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF ESSEX, IOWA CHAPTER 92 SECTION 92.01 AND CHAPTER 99 SECTION 99.01**

**BE IT ENACTED** by the City Council of the City of Essex, Iowa:

**SECTION 1. SECTION MODIFIED.**

Chapter 92 Section 92.01 shall have the following added:

Each water account will be charged a \$5.00 monthly surcharge to be used to improve infrastructure.

Chapter 99 Section 99.01 shall have the following added:

Each sewer account will be charged a \$5.00 monthly surcharge to be used to improve infrastructure.

**Section 2. REPEALER.** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**Section 3. SEVERABILITY CLAUSE.** If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

**Section 4. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

**PASSED** by the Council 10th day of June, 2020, and **APPROVED** this 10<sup>th</sup> day of June, 2020.

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**Marian V. Durfey, Mayor**

**ATTEST:**

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**Mary A. Ohnmacht, City Clerk**

**ORDINANCE NO. 2022 – 01****AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF ESSEX, IOWA, BY AMENDING PROVISIONS PERTAINING TO SEWER SERVICE CHARGES**

**BE IT ENACTED** by the City Council of Essex, Iowa:

**SECTION 1. SECTION MODIFIED.** Section 99.02 of the Code of Ordinances of the City of Essex, Iowa, is repealed and the following adopted in lieu thereof:

**RATE. 99.02 RATE.** Each customer shall pay sewer service charges for the use of and for the service supplied by the municipal sanitary sewer system at the following rates:

1. Customer Service Charge. A customer service charge of \$21.75 per month for the first 2000 gallons (minimum) of water used per month.
2. Usage Charge. A usage charge of \$6.50 for each 1,000 gallons of water used per month over the minimum.

*(Code of Iowa, Sec. 384.84)*

**SECTION 2. SEVERABILITY CLAUSE.** If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

**SECTION 3. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed by the Council the 9<sup>th</sup> day of February, 2022 and approved this 9<sup>th</sup> day of February, 2022.

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**Calvin L. Kinney, Mayor**

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**Mary A. Ohnmacht, City Clerk**

**ORDINANCE NO. 2024 – 03****AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF ESSEX, IOWA, BY AMENDING PROVISIONS PERTAINING TO SEWER SERVICE CHARGES**

**BE IT ENACTED** by the City Council of Essex, Iowa:

**SECTION 1. SECTION MODIFIED.** Section 99.02 of the Code of Ordinances of the City of Essex, Iowa, is repealed and the following adopted in lieu thereof:

**RATE. 99.02 RATE.** Each customer shall pay sewer service charges for the use of and for the service supplied by the municipal sanitary sewer system at the following rates:

1. Customer Service Charge. A customer service charge of \$30.00 per month for the first 2000 gallons (minimum) of water used per month.
2. Usage Charge. A usage charge of \$8.50 for each 1,000 gallons of water used per month over the minimum.

*(Code of Iowa, Sec. 384.84)*

**SECTION 2. SEVERABILITY CLAUSE.** If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

**SECTION 3. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed by the Council the 12<sup>th</sup> day of June, 2024 and approved this 12<sup>th</sup> day of June, 2024.

**ORDINANCE NO. 2025 – 02**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF ESSEX, IOWA, BY AMENDING PROVISIONS PERTAINING TO SEWER SERVICE CHARGES**

**BE IT ENACTED** by the City Council of Essex, Iowa:

**SECTION 1. SECTION MODIFIED.** Section 99.02 of the Code of Ordinances of the City of Essex, Iowa, is repealed and the following adopted in lieu thereof:

**RATE. 99.02 RATE.** Each customer shall pay sewer service charges for the use of and for the service supplied by the municipal sanitary sewer system at the following rates:

1. Customer Service Charge. A customer service charge of \$32.00 per month for the first 2000 gallons (minimum) of water used per month.
2. Usage Charge. A usage charge of \$8.50 for each 1,000 gallons of water used per month over the minimum.

*(Code of Iowa, Sec. 384.84)*

**SECTION 2. SEVERABILITY CLAUSE.** If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

**SECTION 3. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed by the Council the 14<sup>th</sup> day of May, 2025 and approved this 14<sup>th</sup> day of May, 2024.

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## CHAPTER 105

# SOLID WASTE CONTROL

105.01 Purpose  
105.02 Definitions  
105.03 Sanitary Disposal Required  
105.04 Health and Fire Hazard  
105.05 Open Burning Restricted  
105.06 Separation of Yard Waste Required  
105.07 Littering Prohibited

105.08 Toxic and Hazardous Waste  
105.09 Waste Storage Containers  
105.10 Prohibited Practices  
105.11 Sanitary Disposal Project Designated  
105.12 Dumping at City Operated Burn Site  
and Compost Site

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

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

1. “Collector” means any person authorized to gather solid waste from public and private places.

2. “Discard” means to place, cause to be placed, throw, deposit, or drop.  
*(Code of Iowa, Sec. 455B.361[1])*

3. “Dwelling unit” means any room or group of rooms located within a structure and forming a single habitable unit with facilities that are used or are intended to be used for living, sleeping, cooking, and eating.

4. “Garbage” means all solid and semisolid, putrescible animal and vegetable waste resulting from the handling, preparing, cooking, storing, serving and consuming of food or of material intended for use as food, and all offal, excluding useful industrial by-products, and includes all such substances from all public and private establishments and from all residences.

*(IAC, 567-100.2)*

5. “Landscape waste” means any vegetable or plant waste except garbage. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, and yard trimmings.

*(IAC, 567-20.2[455B])*

6. “Litter” means any garbage, rubbish, trash, refuse, waste materials, or debris not exceeding 10 pounds in weight or 15 cubic feet in volume. Litter includes but is not limited to empty beverage containers, cigarette butts, food waste packaging, other food or candy wrappers, handbills, empty cartons, or boxes.

*(Code of Iowa, Sec. 455B.361[2])*

7. “Owner” means, in addition to the record titleholder, any person residing in, renting, leasing, occupying, operating or transacting business in any premises, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.

8. “Refuse” means putrescible and non-putrescible waste, including but not limited to garbage, rubbish, ashes, incinerator residues, street cleanings, market and industrial solid waste and sewage treatment waste in dry or semisolid form.

*(IAC, 567-100.2)*

9. “Residential premises” means a single-family dwelling and any multiple-family dwelling.

10. “Residential waste” means any refuse generated on the premises as a result of residential activities. The term includes landscape waste grown on the premises or deposited thereon by the elements, but excludes garbage, tires, trade wastes and any locally recyclable goods or plastics.

*(IAC, 567-20.2[455B])*

11. “Rubbish” means non-putrescible solid waste consisting of combustible and non-combustible waste, such as ashes, paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, or litter of any kind.

*(IAC, 567-100.2)*

12. “Sanitary disposal” means a method of treating solid waste so that it does not produce a hazard to the public health or safety or create a nuisance.

*(IAC, 567-100.2)*

13. “Sanitary disposal project” means all facilities and appurtenances (including all real and personal property connected with such facilities) that are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the Director of the State Department of Natural Resources. “Sanitary disposal project” does not include a pyrolysis or gasification facility as defined in Section 455B.301 of the *Code of Iowa*.

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

14. “Solid waste” means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined by Section 321.1 of the *Code of Iowa*. Solid waste does not include any of the following:

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

A. Hazardous waste regulated under the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6921-6934.

B. Hazardous waste as defined in Section 455B.411 of the *Code of Iowa*, except to the extent that rules allowing for the disposal of specific wastes have been adopted by the State Environmental Protection Commission.

C. Source, special nuclear, or by-product material as defined in the Atomic Energy Act of 1954, as amended to January 1, 1979.

D. Petroleum contaminated soil that has been remediated to acceptable State or federal standards.

E. Steel slag which is a product resulting from the steel manufacturing process and is managed as an item of value in a controlled manner and not as a discarded material.

F. Material that is legitimately recycled pursuant to Section 455D.4A of the *Code of Iowa*.

G. Post-use polymers or recoverable feedstocks that are any of the following:

- (1) Processed at a pyrolysis or gasification facility.
- (2) Held at a pyrolysis or gasification facility prior to processing to ensure production is not interrupted.

**105.03 SANITARY DISPOSAL REQUIRED.** It is the duty of each owner to provide for the sanitary disposal of all refuse accumulating on the owner's premises before it becomes a nuisance. Any such accumulation remaining on any premises for a period of more than 30 days shall be deemed a nuisance and the City may proceed to abate such nuisances in accordance with the provisions of Chapter 50 or by initiating proper action in district court.

*(Code of Iowa, Ch. 657)*

**105.04 HEALTH AND FIRE HAZARD.** It is unlawful for any person to permit to accumulate on any premises, improved or vacant, or on any public place, such quantities of solid waste that constitute a health, sanitation or fire hazard.

**105.05 OPEN BURNING RESTRICTED.** No person shall allow, cause or permit open burning of combustible materials where the products of combustion are emitted into the open air without passing through a chimney or stack, except that open burning is permitted in the following circumstances:

*(IAC, 567-23.2[455B] and 567-100.2)*

1. Disaster Rubbish. The open burning of rubbish, including landscape waste, for the duration of the community disaster period in cases where an officially declared emergency condition exists, provided that the burning of any structures or demolished structures is conducted in accordance with 40 CFR Section 61.145.

*(IAC, 567-23.2[3a])*

2. Trees and Tree Trimmings. The open burning of trees and tree trimmings at a City-operated burning site, provided such burning is conducted in compliance with the rules established by the State Department of Natural Resources.

*(IAC, 567-23.2[3b])*

3. Flare Stacks. The open burning or flaring of waste gases, provided such open burning or flaring is conducted in compliance with applicable rules of the State Department of Natural Resources.

*(IAC, 567-23.2[3c])*

4. Landscape Waste. The disposal by open burning of landscape waste originating on the premises, only between the hours of 8:00 a.m. and 8:00 p.m., Monday through Saturday. However, the burning of landscape waste produced in clearing, grubbing and construction operations shall be limited to areas located at least one-fourth mile from any building inhabited by other than the landowner or tenant conducting the open burning. Rubber tires shall not be used to ignite landscape waste.

*(IAC, 567-23.2[3d])*

5. Recreational Fires. Open fires for cooking, heating, recreation, and ceremonies, provided they comply with the limits for emission of visible air

contaminants established by the State Department of Natural Resources. Rubber tires shall not be burned in a recreational fire.

*(IAC, 567-23.2[3e])*

6. 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])*

12. Restricted Burning Permitted During Burning Ban. Declaration of a ban on open burning shall not prohibit a supervised, controlled burn for which a permit has been issued by the Fire Chief or designated officer of the Fire Department of the City, the use of outdoor fireplaces, barbecue grills, properly supervised landfills or the burning of substances permitted under this section in incinerators or trash burners made of metal, concrete, masonry or heavy one-inch wire mesh, with no openings greater than one square inch.

*(Code of Iowa, Sec. 100.40)*

**105.06 SEPARATION OF YARD WASTE REQUIRED.** All yard waste shall be separated by the owner or occupant from all other solid waste accumulated on the premises and shall be composted or burned on the premises or placed in acceptable containers and set out for collection. As used in this section, "yard waste" means any debris such as grass clippings, leaves, garden waste, brush, and trees. Yard waste does not include tree stumps.

**105.07 LITTERING PROHIBITED.** No person shall discard any litter onto or in any water or land, except that nothing in this section shall be construed to affect the authorized collection and discarding of such litter in or on areas or receptacles provided for such purpose. When litter

is discarded from a motor vehicle, the driver of the motor vehicle shall be responsible for the act in any case where doubt exists as to which occupant of the motor vehicle actually discarded the litter.

*(Code of Iowa, Sec. 455B.363)*

**105.08 TOXIC AND HAZARDOUS WASTE.** No person shall deposit in a solid waste container or otherwise offer for collection any toxic or hazardous waste. Such materials shall be transported and disposed of as prescribed by the Director of the State Department of Natural Resources. As used in this section, “toxic and hazardous waste” means waste materials, including (but not limited to) poisons, pesticides, herbicides, acids, caustics, pathological waste, flammable or explosive materials, and similar harmful waste that requires special handling and that must be disposed of in such a manner as to conserve the environment and protect the public health and safety.

*(IAC, 567-100.2)*

*(IAC, 567-102.13[2] and 400-27.14[2])*

**105.09 WASTE STORAGE CONTAINERS.** Every person owning, managing, operating, leasing, or renting any premises, dwelling unit or any place where refuse accumulates shall provide and at all times maintain in good order and repair portable containers for refuse in accordance with the following:

1. Container Specifications. Waste storage containers shall comply with the following specifications:

A. Residential. Residential waste containers, whether they be reusable, portable containers or heavy-duty disposable garbage bags, shall be of sufficient capacity, and shall drain. The total weight of any container and contents shall not exceed 50 pounds. Containers shall be securely fastened, and reusable containers shall be fitted with a fly-tight lid which shall be kept in places 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. Any container over the weight limit will not be picked up at the discretion of the City staff. No metal barrels are permitted. Two 32 gallon containers shall be permitted per residence.

B. Commercial. Every person owning, managing, operating, leasing or renting any commercial premises where an excessive amount of refuse accumulates and where its storage in portable containers as required above is impractical, shall maintain metal bulk storage containers approved by the City.

2. Storage of Containers. Residential solid waste containers shall be stored upon the residential premises. Commercial solid waste containers shall be stored upon private property, unless the owner has been granted written permission from the City to use public property for such purposes. The storage site shall be well drained and fully accessible to collection equipment, public health personnel, and fire inspection personnel. All owners of residential and commercial premises shall be responsible for proper storage of all garbage and yard waste to prevent materials from being blown or scattered around neighboring yards and streets.

3. Location of Containers for Collection. Containers for the storage of solid waste awaiting collection shall be placed outdoors at some easily accessible place by the owner or occupant of the premises served.

4. Nonconforming Containers. Solid waste placed in containers that are not in compliance with the provisions of this section will not be collected.

**105.10 PROHIBITED PRACTICES.** It is unlawful for any person to:

1. Unlawful Use of Containers. Deposit refuse in any solid waste containers not owned by such person without the written consent of the owner of such containers.
2. Interfere with Collectors. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the City, or those of any other authorized waste collection service.
3. Incinerators. Burn rubbish or garbage except in incinerators designed for high temperature operation, in which solid, semisolid, liquid, or gaseous combustible refuse is ignited and burned efficiently, and from which the solid residues contain little or no combustible material, as acceptable to the Environmental Protection Commission.
4. Scavenging. Take or collect any solid waste that has been placed out for collection on any premises, unless such person is an authorized solid waste collector.

**105.11 SANITARY DISPOSAL PROJECT DESIGNATED.** The sanitary landfill facilities operated by Page County Landfill Association are hereby designated as the official "Public Sanitary Disposal Project" for the disposal of solid waste produced or originating within the City.

**105.12 DUMPING AT CITY OPERATED BURN SITE AND COMPOST SITE.**

1. No person other than a current resident of the City or the City itself, shall dump at the City operated burn site and compost site.
2. There shall be no dumping at the City operated burn site and compost site other than "Landscape waste", or as otherwise posted at the burn site and compost site from time to time, by the City.
3. The violation of either of the above shall be a municipal infraction punishable by a civil penalty of not more than \$750 for each violation or if the infraction is a repeat offense, a civil penalty not to exceed \$1000 for each repeat offense. *Code of Iowa Section 364.22.*

**ORDINANCE NO. 2019 - 3****AN ORDINANCE AMENDING CHAPTER 105 SECTION 105.10 OF THE CODE OF ORDINANCE OF THE CITY OF ESSEX, IOWA**

**BE IT ENACTED** by the City Council of the City of Essex, Iowa:

**SECTION 1. SECTION MODIFIED.** Chapter 105 Section 105.10 of the Code of Ordinances of the City of Essex, Iowa, is amended as follows:

Section 105.10 1. A now reads as follows:

- A. Residential. Residential waste containers, whether they be reusable, portable containers or heavy-duty disposable garbage bags, shall be of sufficient capacity, and shall drain. The total weight of any container and contents shall not exceed 50 pounds. Containers shall be securely fastened, and reusable containers shall be fitted with a fly-tight lid which shall be kept in places except when depositing or removing the contents of the container. Reusable containers shall also be lightweight and of sturdy construction and having suitable lifting devices. Any container over the weight limit will not be picked up at the discretion of the city staff. No metal barrels are permitted. Two 32 gallon containers shall be permitted per residence.

**Section 2. SEVERABILITY CLAUSE.** If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

**Section 3. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

**PASSED** by the Council 10<sup>th</sup> day of July, 2019, and **APPROVED** this 10<sup>th</sup> day of July, 2019.

**ORDINANCE NO. 2019 - 5****AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF ESSEX, IOWA CHAPTER 105 SOLID WASTE CONTROL SECTION 105.05 4. LANDSCAPE WASTE.**

**BE IT ENACTED** by the City Council of the City of Essex, Iowa:

**SECTION 1. SECTION MODIFIED.** Chapter 105 Section 105.05 4. first sentence thereof is amended to read as follows:

Landscape Waste. The disposal by open burning of landscape waste originating on the premises, only between the hours of 8:00 a.m. and 8:00 p.m., Monday through Saturday.

All other remaining portion of 105.05 4. shall remain the same.

**Section 2. SEVERABILITY CLAUSE.** If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

**Section 3. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

**PASSED** by the Council 11 day of September, 2019, and **APPROVED** this 11th day of September, 2019.



**ORDINANCE NO. 2022 – 08****AN ORDINANCE AMENDING CHAPTER 106 COLLECTION OF SOLID WASTE SECTION 106.07 COLLECTION FEES BY THE ADDITION OF E TO SECTION 106.07.01 SCHEDULE OF FEES.**

**BE IT ENACTED** by the City Council of Essex, Iowa:

**SECTION 1. SECTION MODIFIED.** Section 106.07.01 is amended to read as follows:

Section 106.07.01 E. Each solid waste collection customer is required to pay \$5.00 per month as a fuel surcharge with said amount added to the customer's monthly billing.

The fuel charge will be reviewed at the December 2022 regular city council meeting to determine whether it should be continued, decreased, increased or adjusted as appropriate.

**SECTION 2. SEVERABILITY CLAUSE.** If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

**SECTION 3. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

**PASSED** by the Council the 10<sup>th</sup> day of August 2022, and **APPROVED** this 10<sup>th</sup> day of August 2022.

## CHAPTER 106

# COLLECTION OF SOLID WASTE

106.01 Collection Service  
106.02 Collection Vehicles  
106.03 Loading  
106.04 Frequency of Collection

106.05 Bulky Rubbish  
106.06 Right of Entry  
106.07 Collection Fees  
106.08 Lien for Nonpayment

**106.01 COLLECTION SERVICE.** The City shall provide for the collection of all solid waste except bulky rubbish as provided in Section 106.05 within the City.

**106.02 COLLECTION VEHICLES.** Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste or solid waste containing such materials shall be leak-proof, durable and of easily cleanable construction. They shall be cleaned to prevent nuisances, pollution, or insect breeding and shall be maintained in good repair.

*(IAC, 567-104.9[455B])*

**106.03 LOADING.** Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such a manner that the contents will not fall, leak, or spill therefrom, and shall be covered to prevent blowing or loss of material. Where spillage does occur, the material shall be picked up immediately by the collector or transporter and returned to the vehicle or container and the area properly cleaned.

**106.04 FREQUENCY OF COLLECTION.** All solid waste shall be collected from residential premises at least once each week and from commercial, industrial and institutional premises as frequently as may be necessary, but not less than once each week.

**106.05 BULKY RUBBISH.** Bulky rubbish that is too large or heavy to be collected in the normal manner of other solid waste may be collected by the collector upon request in accordance with procedures established by the Council.

**106.06 RIGHT OF ENTRY.** Solid waste collectors are hereby authorized to enter upon private property for the purpose of collecting solid waste, as required by this chapter; however, solid waste collectors shall not enter dwelling units or other residential buildings.

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

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

1. Schedule of Fees. The fees for solid waste collection and disposal service, used or available, are:
  - A. Residential - \$19.00 per month minimum per residential unit for two thirty gallon cans or equivalent once per week; Town & Country Apartments and Southview Village \$13.00 per month minimum per apartment unit.
  - B. Business - \$19.00 per month minimum per business unit for two thirty gallon cans or equivalent per week; \$31.00 per month minimum per business unit for a dumpster (defined as solid waste container with a lid and 4 wheels)

for once per week pick-up; \$43.00 per month minimum per business unit with a dumpster for twice per week pick-up.

C. Rural - \$64.00 per quarter minimum per residential unit drop-off for two thirty gallon cans or equivalent per week.

D. Other Collections - \$2.00 per bag over the two thirty-gallon cans limit per week; \$2.00 minimum per return trip; \$2.00 per car/pickup tire; \$7.00 per truck tire; \$30 per tractor tire; other additional charges as stated in Table "A".

2. Payment of Bills. All fees are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.03 of this Code of Ordinances. Solid waste collection service may be discontinued in accordance with the provisions contained in Section 92.04 if the combined service account becomes delinquent, and the provisions contained in Section 92.07 relating to lien notices shall also apply in the event of a delinquent account.

**106.08 LIEN FOR NONPAYMENT.** Except as provided for in Section 92.06 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof are jointly and severally liable for fees for solid waste collection and disposal. Fees remaining unpaid and delinquent shall constitute a lien upon the property or premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

*(Code of Iowa, Sec. 384.84)*

**ORDINANCE NO. 2021 - 02**  
**AN ORDINANCE AMENDING CHAPTER 106 COLLECTION OF SOLID WASTE SECTION 106.07 1. E. DUMPSTER RENTAL**

**BE IT ENACTED** by the City Council of Essex, Iowa:

**SECTION 1. SECTION MODIFIED.** Section 106.07 1 is amended by the addition of paragraph E to read as follows:

E. One and one half yard dumpster rental from the City of Essex shall be as follows:

- i. \$10 to set and \$10 to retrieve a dumpster.
- ii. After 2 weeks the rental will be \$1.00 per day
- iii. The renter shall be responsible for the landfill charges at \$75.00 per ton or \$18.75 1½ yard full dumpster and estimated on partially filled, such as ½ of \$18.75 for half full dumpster.
- iv. The day the renter receives the dumpster is the start day for two weeks.
- v. Renter must make contact with the City to have the dumpster picked up and the day after the request is the stop date for the day count unless picked up on the day of the request.
- vi. The charge for the dumpster rental shall be billed on the monthly water/sewer billing and payable under the same timeframe.

The balance of Chapter 106 remains unchanged.

**SECTION 2. SEVERABILITY CLAUSE.** If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

**SECTION 3. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

**PASSED** by the Council the 9<sup>th</sup> day of June 2021, and **APPROVED** this 9<sup>th</sup> day of June, 2021.

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**Marian Durfey, Mayor**

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**Mary Ohnmacht, City Clerk**

**ORDINANCE NO. 2023 – 5****AN ORDINANCE AMENDING CHAPTER 106 THE CODE OF ORDINANCES OF THE CITY OF ESSEX, IOWA, BY AMENDING PROVISIONS PERTAINING TO COLLECTION FEES FOR THE COLLECTION AND DISPOSAL OF SOLID WASTE**

**Be it Enacted** by the City Council of the City of Essex, Iowa:

**SECTION 1. SECTION MODIFIED.** Sections 106.07[A-C] of the Code of Ordinances of the City of Essex, Iowa, is repealed and the following adopted in lieu thereof:

**106.07 COLLECTION FEES.**

1. Schedule of Fees. The fee for solid waste collection and disposal service, used or available, shall be:
  - A. Residential - \$21.00 per month minimum per residential unit for two (2) thirty gallon cans or equivalent once per week; Town & Country Apartments and Southview Village \$15.00 per month minimum per apartment unit.
  - B. Business - \$21.00 per month minimum per business unit for two (2) thirty gallon cans or equivalent per week; \$33.00 per month minimum per business unit for a dumpster (*defined as solid waste container with a lid and 4 wheels*) for once per week pick-up; \$47.00 per month minimum per business unit with a dumpster for twice per week pick-up.
  - C. Rural - \$70.00 per quarter minimum per residential unit drop-off for two (2) thirty gallon cans or equivalent per week.

**SECTION 2. SEVERABILITY CLAUSE.** If any Section, provision or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any Section, provision or part thereof not adjudged invalid or unconstitutional.

**SECTION 3. WHEN EFFECTIVE.** This Ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed by the Council the 9<sup>th</sup> day of August, 2023, and approved this 9<sup>th</sup> day of August, 2023.

**ORDINANCE NO. 2024 – 4****AN ORDINANCE AMENDING CHAPTER 106 THE CODE OF ORDINANCES OF THE CITY OF ESSEX, IOWA, BY AMENDING PROVISIONS PERTAINING TO COLLECTION FEES FOR THE COLLECTION AND DISPOSAL OF SOLID WASTE**

**Be it Enacted** by the City Council of the City of Essex, Iowa:

**SECTION 1. SECTION MODIFIED.** Sections 106.07[A-C] of the Code of Ordinances of the City of Essex, Iowa, is repealed and the following adopted in lieu thereof:

**106.07 COLLECTION FEES.**

2. Schedule of Fees. The fee for solid waste collection and disposal service, used or available, shall be:
  - D. Residential - \$23.00 per month minimum per residential unit for two (2) thirty gallon cans or equivalent once per week; Town & Country Apartments and Southview Village \$17.00 per month minimum per apartment unit.
  - E. Business - \$23.00 per month minimum per business unit for two (2) thirty-two gallon cans or equivalent per week; \$35.00 per month minimum per business unit for a dumpster (*defined as solid waste container with a lid and 4 wheels*) for once per week pick-up; \$51.00 per month minimum per business unit with a dumpster for twice per week pick-up; \$128 per month minimum business unit with a dumpster for five times per week pick-up.
  - F. Rural - \$76.00 per quarter minimum per residential unit drop-off for two (2) thirty gallon cans or equivalent per week.

**SECTION 2. SEVERABILITY CLAUSE.** If any Section, provision or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any Section, provision or part thereof not adjudged invalid or unconstitutional.

**SECTION 3. WHEN EFFECTIVE.** This Ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed by the Council the 12<sup>th</sup> day of June, 2023, and approved this 12<sup>th</sup> day of June, 2024.

**ORDINANCE NO. 2025 – 03****AN ORDINANCE AMENDING CHAPTER 106 THE CODE OF ORDINANCES OF THE CITY OF ESSEX, IOWA, BY AMENDING PROVISIONS PERTAINING TO COLLECTION FEES FOR THE COLLECTION AND DISPOSAL OF SOLID WASTE**

**Be it Enacted** by the City Council of the City of Essex, Iowa:

**SECTION 1. SECTION MODIFIED.** Sections 106.07[A-C] of the Code of Ordinances of the City of Essex, Iowa, is repealed and the following adopted in lieu thereof:

**106.07 COLLECTION FEES.**

3. Schedule of Fees. The fee for solid waste collection and disposal service, used or available, shall be:

- G. Residential - \$25.00 per month minimum per residential unit for two (2) thirty gallon cans or equivalent once per week; Town & Country Apartments and Southview Village \$19.00 per month minimum per apartment unit.
- H. Business - \$25.00 per month minimum per business unit for two (2) thirty-two gallon cans or equivalent per week; \$37.00 per month minimum per business unit for a dumpster (*defined as solid waste container with a lid and 4 wheels*) for once per week pick-up; \$55.00 per month minimum per business unit with a dumpster for twice per week pick-up; \$138 per month minimum business unit with a dumpster for five times per week pick-up.
- I. Rural - \$82.00 per quarter minimum per residential unit drop-off for two (2) thirty gallon cans or equivalent per week.

**SECTION 2. SEVERABILITY CLAUSE.** If any Section, provision or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any Section, provision or part thereof not adjudged invalid or unconstitutional.

**SECTION 3. WHEN EFFECTIVE.** This Ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed by the Council the 14<sup>th</sup> day of May, 2025, and approved this 14<sup>th</sup> day of May, 2025.

[The next page is 499]





## CHAPTER 110

### NATURAL GAS FRANCHISE

110.01 Grant of Franchise  
110.02 State Code Restrictions and Limitations  
110.03 Excavations  
110.04 Relocation of Property  
110.05 Restoration of Property

110.06 Indemnification  
110.07 Extension of System  
110.08 Standards of Operation  
110.09 Police Regulations

**110.01 GRANT OF FRANCHISE.** There is hereby granted to MidAmerican Energy Company, an Iowa corporation, hereinafter called “Company,” and to its successors and assigns the right and franchise to acquire, construct, erect, maintain and operate in the City a gas distribution system, to furnish natural gas along, under and upon the streets, avenues, alleys and public places to serve customers within and without the City and to furnish and sell natural gas to the City and its inhabitants. This franchise shall be effective for a twenty-five (25) year period from and after the effective date of the ordinance codified in this chapter.<sup>†</sup>

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

**110.03 EXCAVATIONS.** The Company shall have the right to excavate in any public street for the purpose of laying, re-laying, repairing or extending gas pipes, mains, conduits, and other facilities provided that the same shall be so placed as not to interfere with the construction of any water pipes, drain or sewer or the flow of water therefrom, which have been or may hereafter be located by authority of the City.

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

**110.05 RESTORATION OF PROPERTY.** In making excavations in any streets, avenues, alleys and public places for the installation of gas pipes, conduits or apparatus, Company shall not unreasonably obstruct the use of the streets and shall replace the surface, restoring the original condition as nearly as practicable.

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<sup>†</sup> **EDITOR’S NOTE:** Ordinance No. 181, adopting a natural gas franchise for the City, was passed and adopted on December 8, 1998.

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

**110.07 EXTENSION OF SYSTEM.** The Company shall extend its mains and pipes and operate and maintain the system in accordance with the applicable regulations of the Iowa Utilities Board or its successors.

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

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

## ORDINANCE NO. 2023 – 6

AN ORDINANCE GRANTING TO MIDAMERICAN ENERGY COMPANY, ITS SUCCESSORS AND ASSIGNS, THE RIGHT AND NON-EXCLUSIVE FRANCHISE TO ACQUIRE, CONSTRUCT, ERECT, MAINTAIN AND OPERATE IN THE CITY OF ESSEX, IOWA, A **NATURAL GAS SYSTEM** AND TO FURNISH AND SELL NATURAL GAS TO THE CITY AND ITS INHABITANTS AND AUTHORIZING THE CITY TO COLLECT FRANCHISE FEES FOR A PERIOD OF 25 YEARS.

BE IT ENACTED by the City Council of the City of Essex, Iowa:

**Section 1.** There is hereby granted to MidAmerican Energy Company, an Iowa corporation, (hereinafter called “Company,”) and to its successors and assigns the right and non-exclusive franchise to acquire, construct, erect, maintain and operate in the City of Essex, Iowa, (hereinafter called the “City,”) a gas distribution system, to furnish natural gas along, under and upon the right-of-way, streets, avenues, alleys and public places to serve customers within and without the City and to furnish and sell natural gas to the City and its inhabitants. For the term of this franchise, the Company is granted the right of eminent domain, the exercise of which is subject to City Council approval upon application by the Company. This franchise shall be effective for a twenty-five (25) year period from and after the effective date of this ordinance.

**Section 2.** The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the Code of Iowa 2023, or as subsequently amended or changed.

**Section 3.** Company shall have the right to excavate in any public street for the purpose of laying, relaying, repairing or extending gas pipes, mains, conduits, and other facilities provided that the same shall be so placed as not to unreasonably interfere with any above or below-ground utility services or facilities which have been or may hereafter be located by or under authority of the City.

**Section 4.** The Company shall, excluding facilities located in private easements or public utility easements (whether titled in Company exclusively or in Company and other entities), in accordance with Iowa law including Company’s tariff on file with and made effective by the Iowa Utilities Board as may subsequently be amended (“Tariff,”) at its cost and expense, locate and relocate its existing facilities or equipment in, on, over or under any public street or alley in the City in such a manner as the City may reasonably require for the purposes of facilitating the construction reconstruction, maintenance or repair of the street or alley. The Company shall not be required to pay any City permits as needed as a result of City required relocation. Relocation expenses for other hard surfaces, including pedestrian and non-motorized vehicle pathways, will be paid by the City. If the City has a reasonable alternative route for the

street, alley or public improvements or an alternative construction method, which would not cause the relocation of the Company installations, the City shall select said alternative route, or construction method. The City shall be responsible for surveying and staking the right-of-way for City projects that require the Company to relocate Company facilities. If requested the City shall provide, at no cost to the Company, copies of its relocation plan and profile and cross section drawings. If tree and vegetation removal must be completed by the City as part of the City's project and are necessary whether or not utility facilities must be relocated, the City at its own cost shall be responsible for said removals. If the timing of the tree/vegetation removal does not coincide with the Company facilities relocation schedule and Company must remove trees/vegetation that are included in the City's portion of the project, the City shall either remove the material at its cost or reimburse the Company for the expenses incurred to remove said vegetation or trees. If project funds from a source other than the City are available to pay for the relocation of utility facilities, the City shall attempt to secure said funds and provide them to the Company to compensate the Company for the costs of relocation.

**Section 5.** In making excavations in any streets, avenues, alleys and public places for the installation of gas pipes, conduits or apparatus, Company shall not unreasonably obstruct the use of the streets and shall replace the surface, restoring it to the condition as existed immediately prior to excavation. Company agrees any replacement of road surface shall conform to current City code regarding its depth and composition. The Company shall not be required to restore or modify public right of way, sidewalks or other areas in or adjacent to the Company project to a condition superior to its immediate previously existing condition or to a condition exceeding its previously existing condition to the extent any alterations are required for the City to comply with city, state or federal rules, regulations or laws.

**Section 6.** The City's vacating a street, avenue, alley, public ground or public right-of-way shall not deprive the Company of its right to operate and maintain existing facilities on, below, above, or beneath the vacated property. Prior to the City abandoning or vacating any street, avenue, alley or public ground where the Company has facilities in the vicinity, the City shall provide Company with not less than sixty (60) days advance notice of the city's proposed action and, upon request grant the Company a utility easement covering existing and future facilities and activities. If the City fails to grant the Company a utility easement for said facilities prior to abandoning or vacating a street, avenue, alley or public ground, the City shall at its cost and expense obtain easements for the existing Company facilities.

**Section 7.** The Company shall not be required to relocate, at its cost and expense, Company facilities in the public right of way that have been relocated at Company expense at the direction of the City at any time during the previous ten (10) years.

**Section 8.** Pursuant to relocation of Company facilities as may be required here under, if the City orders or requests the Company to relocate its existing facilities or equipment in order to directly or indirectly facilitate the project of a commercial or private developer or other non-public entity, City shall reimburse or the City shall require the developer or non-public entity to reimburse the Company for the cost of such relocation as a precondition to relocation. The Company shall not be required to relocate in order to facilitate such private project at its expense.

**Section 9.** The Company shall indemnify and save harmless the City from any and all claims, suits, losses, damages, costs or expenses, on account of injury or damage to any person or property, to the extent caused or occasioned by the Company's negligence in construction, reconstruction, excavation, operation or maintenance of the natural gas facilities authorized by this franchise; provided, however, that the Company shall not be obligated to defend, indemnify and save harmless the City for any costs or damages to the extent arising from the negligence of the City, its officers, employees or agents.

**Section 10.** Upon reasonable request, the Company shall provide the City, on a project specific basis, information indicating the horizontal location, relative to boundaries of the right of way, of all equipment which it owns or over which it has control that is located in the public right of way, including documents, maps and other information in paper or electronic or other forms ("Information"). The Company and City recognize the Information may in whole or part be considered a confidential record under state or federal law or both. Upon receipt of a request from a third party for information concerning information about the Company's facilities within the City, the City will promptly submit same to Company. If the Company believes any of the information requested constitutes a trade secret which may otherwise be protected from public disclosure by state or federal law, or otherwise exempt from disclosure under the provisions of the Freedom of Information Act, the Federal Energy Regulatory Commission Critical Energy Infrastructure requirements pursuant to 18 CFR 388.112 and 388.113, or Chapter 22 of the Code of Iowa, as such statutes and regulations may be amended from time to time, then the Company shall provide the City with a written explanation of the basis for such assertion of confidentiality or exemption from disclosure within ten (10) days.

**Section 11.** The Company shall extend its mains and pipes and operate, and maintain the system in accordance with the applicable regulations of the Iowa Utilities Board or its successors and Iowa law.

**Section 12.** During the term of this franchise, the Company shall furnish natural gas in the quantity and quality consistent and in accordance with the applicable regulations of the Iowa Utilities Board the Company's tariff made effective by the Iowa Utilities Board or its successors and Iowa law.

**Section 13.** All reasonable and proper police regulations shall be adopted and enforced by the City for the protection of the facilities of the Company.

**Section 14.** A franchise fee of Zero (0) percent is imposed upon, and shall be collected from, the natural gas customers of the Company receiving service and located within the corporate limits of the City. The franchise fee shall be imposed upon the gross receipts, minus uncollectible accounts, generated from sales of natural gas and distribution service with the following conditions.

**A.** The franchise fee shall be remitted by the Company to the City on or before the last business day of the calendar quarter following the close of the calendar quarter in which the franchise fee is charged.

**B.** City agrees to modify the level of franchise fees imposed only once in any 24-month period.

**C.** The Company will commence collecting franchise fees on or before the first Company billing cycle of the first calendar month following ninety (90) days of receipt of information required of the City to implement the franchise fee, including the City's documentation of customer classes subject to or exempted from City-imposed franchise fee.

**D.** City shall be solely responsible for identifying customer classes subject to or exempt from paying the City imposed franchise fee. The Company shall have no obligation to collect franchise fees from customers in annexed areas until and unless such ordinances have been provided to the Company by certified mail. The Company shall commence collecting franchise fees in the annexed areas no sooner than sixty (60) days after receiving annexation ordinances from the City.

**E.** Company shall not, under any circumstances be required to return or refund any franchise fees that have been collected from customers and remitted to the City. In the event the Company is required to provide data or information in defense of the City's imposition of franchise fees or the Company is required to assist the City in identifying customers or calculating any franchise fee refunds for groups of or individual customers the City shall reimburse the Company for the expenses incurred by the Company to provide such data or information.

**G.** With respect to the distribution or transportation by the Company of natural gas sold to the customer by a third-party supplier of the commodity, the percentage of gross receipts shall be applied to the customer's full cost of gas delivered within the City, including all costs of acquisition, ownership, and transportation whereof, wherever incurred. In determining the amount of the fee, the Company may presume that the customer's commodity cost of gas is the same as if the gas were sold by the Company, unless a different cost is provided.

**Section 15.** Upon implementation of a franchise fee, the City shall not, pursuant to Chapter 480A.6 of the Code of Iowa, impose or charge Company right of way management fees for permits for Company construction, maintenance, repairs, excavation, pavement cutting or inspections of Company work sites and projects or related matters.

**Section 16.** Either City or Company ("party") may terminate this franchise if the other party shall be materially in breach of its provisions. Upon the occurrence of a material breach, the non-breaching party shall provide the breaching party with notification by certified mail specifying the alleged breach. The breaching party shall have sixty (60) days to cure the breach, unless it notifies the non-breaching party, and the parties agree upon a shorter or longer period for cure. If the breach is not cured within the cure period, the non-breaching party may terminate this franchise. A party shall not be considered to be in breach of this franchise if it has operated in compliance with state or federal law. A party shall not be considered to have breached this franchise if the alleged breach is the result of the actions of a third party or the other party.

**Section 17.** If any section, provision, or part of this ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

**Section 18.** To the fullest extent permitted by law, each of the parties hereto waives any right it may have to a trial by jury in respect of litigation directly or indirectly arising out of, under or in connection with this Agreement. Each party further waives any right to consolidate any action in which a jury trial has been waived with any other action in which a jury trial cannot be or has not been waived.

**Section 19.** This ordinance and the rights and privileges herein granted shall become effective and binding upon its approval and passage in accordance with Iowa law and the written acceptance by the Company. The City shall provide Company with an original signed and sealed copy of this ordinance within ten (10) days of its final passage. The Company shall, within thirty (30) days after the City Council approval of this ordinance, file in the office of the clerk of the City, its acceptance in writing of all the terms and provisions of this ordinance.

Following City Council approval, this ordinance shall be published in accordance with the Code of Iowa. The effective date of this ordinance shall be the date of publication. In the event that the Company does not file written acceptance of this ordinance within thirty (30) days after its approval by the City Council this ordinance shall be void and of no effect.

**Section 20.** Upon the effective date of this ordinance, all prior natural gas franchises granted to the Company to furnish natural gas to the City and its inhabitants are hereby repealed and all other ordinances or parts of ordinances in conflict herewith are also hereby repealed.

PASSED AND APPROVED this 13<sup>th</sup> day of December 2023.



## CHAPTER 111

# ELECTRIC FRANCHISE

111.01 Grant of Franchise  
111.02 State Code Restrictions and Limitations  
111.03 Excavations; Trimming Trees  
111.04 Relocation of Property  
111.05 Restoration of Property

111.06 Indemnification  
111.07 Extension of System  
111.08 Standards of Operation  
111.09 Police Regulations

**111.01 GRANT OF FRANCHISE.** There is hereby granted to MidAmerican Energy Company, an Iowa corporation, hereinafter called “Company,” and to its successors and assigns the right and franchise to acquire, construct, erect, maintain and operate in the City a system for the transmission and distribution of electric energy and communications signals along, under, over and upon the streets, avenues, alleys and public places to serve customers within and without the City and to furnish and sell electric energy to the City and its inhabitants. This franchise shall be effective for a twenty-five (25) year period from and after the effective date of the ordinance codified in this chapter.<sup>†</sup>

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

**111.03 EXCAVATIONS; TRIMMING TREES.** The Company shall have the right to erect all necessary poles and to place thereon the necessary wires, fixtures and accessories, as well as to excavate and bury conductors for the distribution of electric energy and communications signals to support only the monitoring and usage of energy service usage in and through the City, but all said conduits and poles shall be placed as not to interfere with the construction of any water pipes, drain or sewer, or the flow of water therefrom, which have been or may hereafter be located by authority of the City. The Company is authorized and empowered to cut and trim at its expense any trees extending into any street, alley or public ground so as to prevent limbs or branches from interfering with the wires and facilities of the Company.

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

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<sup>†</sup> **EDITOR’S NOTE:** Ordinance No. 180, adopting an electric franchise for the City, was passed and adopted on December 8, 1998.

**111.05 RESTORATION OF PROPERTY.** In making excavations in any streets, avenues, alleys and public places for the excavation of conduits or the erection of poles and wires or other appliances, the Company shall not unreasonably obstruct the use of the streets and shall replace the surface, restoring the original condition as nearly as practicable.

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

**111.07 EXTENSION OF SYSTEM.** The Company shall extend its mains and pipes and operate, and maintain its facilities in accordance with the applicable regulations of the Iowa Utilities Board or its successors.

**111.08 STANDARDS OF OPERATION.** During the term of this franchise, the Company shall furnish electric energy in the quantity and quality consistent with applicable Iowa laws and regulations.

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

## ORDINANCE NO. 2023 – 7

AN ORDINANCE GRANTING TO MIDAMERICAN ENERGY COMPANY, ITS SUCCESSORS AND ASSIGNS, THE RIGHT AND NON-EXCLUSIVE FRANCHISE TO ACQUIRE, CONSTRUCT, ERECT, MAINTAIN AND OPERATE IN THE CITY OF ESSEX, IOWA, AN **ELECTRIC SYSTEM** AND COMMUNICATIONS FACILITIES AND TO FURNISH AND SELL ELECTRIC ENERGY TO THE CITY AND ITS INHABITANTS AND AUTHORIZING THE CITY TO COLLECT FRANCHISE FEES FOR A PERIOD OF 25 YEARS.

BE IT ENACTED by the City Council of the City of Essex, Iowa:

**Section 1.** There is hereby granted to MidAmerican Energy Company, an Iowa corporation, (hereinafter called “Company,”) and its successors and assigns, the right and non-exclusive franchise to acquire, construct, erect, maintain and operate in the City of Essex, Iowa, (hereinafter called the “City,”) a system for the transmission and distribution of electric energy and communications signals along, under, over and upon the streets, avenues, rights of way and alleys to serve customers within the City, and to furnish and sell electric energy to the City and its inhabitants. The Company is granted the right to exercise of powers of eminent domain, subject to City Council approval. This franchise shall be effective for a twenty-five (25) year period from and after the effective date of this ordinance.

**Section 2.** The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the Code of Iowa 2023 or as subsequently amended or changed.

**Section 3.** The Company shall have the right to erect all necessary poles and to place thereon the necessary wires, fixtures and accessories as well as to excavate and bury conduits or conductors for the distribution of electric energy and communications signals in and through the City, provided the same shall be placed in accord with this franchise and City code regulations of the City, regarding the placement of structures, facilities, accessories or other objects in the right of way, including ordinances which assign corridors or other placements to users of the right of way and requirements which may be adopted regarding separation of structures, facilities, accessories or other objects.

**Section 4.** The Company shall, excluding facilities located in private easements or public utility easements (whether titled in Company exclusively or in Company and other entities), in accordance with Iowa law including Company’s Tariff on file with and made effective by the Iowa Utilities Board as may subsequently be amended (“Tariff”), at its cost and expense, locate and relocate its existing installations located in, on, over or under the right-of-way

of any public street, right of way or alley in the City in such a manner as the City may require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street right of way or alley. The Company shall not be required to pay any City permits as needed as a result of City required relocation. If the City has a reasonable alternative route for the street, right of way or alley or an alternative construction method, which would not cause the relocation of Company installations or would minimize the cost or expense of relocation of Company installations, the City and Company shall work together to consider said alternative route or construction method. The City shall, in the extension or modification of streets and roads, make provision for the placement of company service lines and facilities on City-owned right of way without charge to Company. In planning for the extension or modification of streets, the City shall, to the extent practicable design such changes to limit the need for relocation of Company facilities. The City shall be responsible for surveying and staking the right-of-way for City projects that require the Company to relocate Company facilities. If requested, the City shall provide, at no cost to the Company, copies of the relocation plan and profile and cross section drawings. If vegetation and tree removals must be completed by the City as part of the City's project and are necessary whether or not utility facilities must be relocated, the City at its own cost shall be responsible for said removals. If the timing of vegetation and tree removals does not coincide with Company's facilities relocation schedule and the Company must remove vegetation and trees that are included in the City's portion of the project, the City shall either remove them or reimburse the Company for the expenses incurred to remove said materials. If project funds from a source other than the City are available to pay for the relocation of utility facilities, the City shall use its best efforts to secure said funds and provide them to the Company to compensate the Company for the costs of relocation.

**Section 5.** In making excavations in any streets, avenues and public places for the installation, maintenance or repair of conductor, conduits or the erection of poles and wires or other appliances, the Company shall not unreasonably obstruct the use of the streets. The Company in making such excavations shall, if required by ordinance, obtain a City permit therefore and provide City representatives with advance notice prior to the actual commencement of the work, and shall comply with all provisions and requirements of the City in its regulation of the use of City right of way in performing such work. In emergencies which require immediate excavation, the Company may proceed with the work without first applying for or obtaining the permit, provided, however, that Company shall apply for and obtain the excavation permit as soon as possible after commencing such emergency work. The Company shall comply with all provisions and requirements of the City in its regulation of the use of City

right of way in performing such work. The Company shall comply with all City ordinances regarding paving cuts, placement of facilities and restoration of pavement and other public infrastructure. The Company shall replace the surface, restoring the condition as existed prior to the Company's excavation but shall not be required to improve or modify the public right of way, sidewalks or other areas in or adjacent to the Company project to a condition superior to its immediate previously existing condition. Company shall complete all repairs in a timely manner. Company agrees any replacement of road surface shall conform to current City ordinances regarding its depth and composition.

**Section 6.** Vacating a street, avenue, alley, public ground or public right-of-way shall not deprive the Company of its right to operate and maintain existing facilities and their replacements on, below, above, or beneath the vacated property. Prior to the City abandoning or vacating any street, avenue, alley or public ground where the Company has electric facilities, the City shall grant the Company a utility easement for said facilities. If the City fails to grant the Company a utility easement for said facilities prior to abandoning or vacating a street, avenue, alley or public ground, the City shall at its cost and expense obtain easements for the existing Company facilities.

**Section 7.** The Company shall not be required to relocate, at its cost and expense, Company facilities in the public right of way that have been relocated at Company expense at the direction of the City in the previous ten (10) years.

**Section 8.** Pursuant to relocation of Company facilities, if the City orders or requests the Company to relocate its existing facilities or equipment in order to directly facilitate a project for the primary benefit of a commercial or private developer or other non-public entity, the City shall require the developer or non-public entity to reimburse the Company for the cost of such relocation as a precondition to relocation of its existing facilities or equipment. The Company shall not be required to relocate in order to facilitate such private project at its expense.

**Section 9.** The Company shall indemnify, save and hold harmless the City from any and all claims, suits, losses, damages, costs or expenses, on account of injury or damage to any person or property, to the extent caused or occasioned by the Company's negligence in construction, reconstruction, excavation, operation or maintenance of the electric facilities authorized by this franchise; provided, however, that the Company shall not be obligated to defend, indemnify and save harmless the City for any costs or damages to the extent arising from the negligence of the City, its officers, employees or agents.

**Section 10.** The pruning and removal of vegetation and trees shall be done in accordance with current nationally accepted safety and utility industry standards and federal and

state law, rules and regulations. The Company is authorized and empowered to prune or remove at Company expense, any tree extending into any street, avenue, right of way, alley, public place or public grounds to maintain electric reliability, safety, to restore utility service and to prevent limbs, branches, or trunks from interfering with the wires and facilities of the Company. The pruning and removal of vegetation and trees shall be completed in accordance with nationally accepted safety and utility standards, NSI Z133.1-2012, American National Standard for Arboricultural Operations-Safety Requirements, and ANSI A300(part 1) – 2008 Pruning, (Revision of ANSI A300 part 1-2001) American National Standard for Tree, Shrub, and other Woody Plant Management – Standard of Practices (Pruning) or subsequent revisions to these standards, and City ordinances regarding the pruning of trees that incorporate by reference that standard.

**Section 11.** Upon reasonable request, the Company shall provide the City, on a project specific basis, information indicating the horizontal location, relative to boundaries of the right of way, of all equipment which it owns or over which it has control that is located in City right of way, including documents, maps and other information in paper or electronic or other forms (“Information.”) The Company and City recognize the Information may in whole or part be considered a confidential record under state or federal law or both. Therefore, City shall not release any Information without prior consent of the Company and shall return the Information to Company upon request. City recognizes that Company claims the Information may constitute a trade secret or is otherwise protected from public disclosure by state or federal law on other grounds, and agrees to retain the Information in its non-public files. Furthermore, the City agrees that no documents, maps or other Information provided to the City by the Company shall be made available to the public or other entities if such documents or Information are exempt from disclosure under the provisions of the Freedom of Information Act, the Federal Energy Regulatory Commission Critical Energy Infrastructure requirements pursuant to 18 CFR 388.112 and 388.113, or Chapter 22 of the Code of Iowa, as such statutes and regulations may be amended from time to time. In the event any action at law, in equity or administrative is brought against the City regarding disclosure of any document which the Company has designated as a trade secret or as otherwise protected from disclosure, the Company shall assume, upon request of the City, the defense of said action and reimburse the City any and all costs, including attorney fees and penalties to the extent allowed by law.

**Section 12.** The Company shall construct, operate and maintain its facilities in accordance with the applicable regulations of the Iowa Utilities Board or its successors and Iowa law. During the term of this franchise, the Company shall furnish electric energy in the

quantity and quality consistent with and in accordance with the applicable regulations of the Iowa Utilities Board, the Company's tariff and made effective by the Iowa Utilities Board or its successors and Iowa law.

**Section 13.** There is hereby imposed upon the customers a franchise fee of zero (0) percent upon the gross revenues, minus uncollectible accounts, generated from sales of electricity and distribution service, pursuant to the Tariff, by the Company within the corporate limits of the City. The franchise fee shall be remitted by the Company to the City on or before the last business day of the calendar quarter following the close of the calendar quarter in which the franchise fee is charged.

**A.** City agrees to modify the level of franchise fees imposed only once in any 24-month period.

**B.** Company will commence collecting franchise fees on or before the first Company billing cycle of the first calendar month following ninety (90) days of receipt of information required of the City to implement the franchise fee, including the City's documentation of customer classes subject to or exempted from City-imposed franchise fee.

**C.** City shall be solely responsible for identifying customer classes subject to or exempt from paying the City imposed franchise fee. The Company shall have no obligation to collect franchise fees from customers in annexed areas until and unless such ordinances have been provided to the Company by certified mail. The Company shall commence collecting franchise fees in the annexed areas no sooner than sixty (60) days after receiving annexation ordinances from the City.

**D.** Company shall not, under any circumstances be required to return or refund any franchise fees that have been collected from customers and remitted to the City. In the event the Company is required to provide data or information in defense of the City's imposition of franchise fees or the Company is required to assist the City in identifying customers or calculating any franchise fee refunds for groups of or individual customers the City shall reimburse the Company for the expenses incurred by the Company to provide such data or information.

**Section 14.** The City shall not, pursuant to Chapter 480A.6 of the Code of Iowa, impose or charge right of way management fees upon the Company or fees for permits for Company construction, maintenance, repairs, excavation, pavement cutting or inspections of Company work sites and projects or related matters.

**Section 15.** This franchise shall apply to and bind the City and Company and their successors and assigns.

**Section 16.** Either City or Company (“party”) may terminate this franchise if the other party shall be materially in breach of its provisions. Upon the occurrence of a material breach, the non-breaching party shall provide the breaching party with notification by certified mail specifying the alleged breach. The breaching party shall have sixty (60) days to cure the breach, unless it notifies the non-breaching party, and the parties agree upon a longer period for cure. If the breach is not cured within the cure period, the non-breaching party may terminate this franchise. A party shall not be considered to be in breach of this franchise if it has operated in compliance with state or federal law. A party shall not be considered to have breached this franchise if the alleged breach is the result of the actions of a third party or the other party.

**Section 17.** If any of the provisions of this franchise ordinance are for any reason declared to be illegal or void, the lawful provisions of this franchise ordinance, which are severable from said unlawful provisions, shall be and remain in full force and effect, the same as if the franchise ordinance contained no illegal or void provisions.

**Section 18.** To the fullest extent permitted by law, each of the parties hereto waives any right it may have to a trial by jury in respect of litigation directly or indirectly arising out of, under or in connection with this Agreement. Each party further waives any right to consolidate any action in which a jury trial has been waived with any other action in which a jury trial cannot be or has not been waived.

**Section 19.** This ordinance and the rights and privileges herein granted shall become effective and binding upon its approval and passage in accordance with Iowa law and the written acceptance by the Company. The City shall provide Company with an original signed and sealed copy of this ordinance within 10 days of its final passage. The Company shall, within thirty (30) days after the City Council approval of this ordinance, file in the office of the clerk of the City, its acceptance in writing of all the terms and provisions of this ordinance. Following City Council approval, this ordinance shall be published in accordance with the Code of Iowa. The effective date of this ordinance shall be the date of publication. In the event Company does not file its written acceptance of this ordinance within thirty (30) days after its approval by the City Council, this ordinance shall be void and of no effect.



**Section 20.** Upon the effective date of this ordinance, all prior franchises granted to the Company to furnish electric service to the City and its inhabitants are hereby repealed and all other ordinances or parts of ordinances in conflict herewith are also hereby repealed.

PASSED AND APPROVED this 13<sup>th</sup> day of December, 2023.



## CHAPTER 112

# TELEPHONE FRANCHISE

112.01 Grant of Franchise  
112.02 Grantee's Rights and Privileges  
112.03 Temporary Removal of Facilities  
112.04 Equipment Furnished to City

112.05 Indemnification  
112.06 Grantee Subject to City Ordinances  
112.07 Property of Grantee

**112.01 GRANT OF FRANCHISE.** Farmers Telephone Company, a corporation, its successors and assigns (hereinafter referred to as "Grantee"), are hereby granted a franchise for a period of twenty-five (25) years from the effective date of the ordinance codified in this chapter<sup>†</sup> to acquire, construct, reconstruct, maintain, extend and operate such telephone plant or system and such facilities thereof, including lines, poles, wires, stubs, anchors, cables, vaults, laterals, conduits and other fixtures and equipment in, upon, through, over, under, along and across the public streets, alleys, highways and other passageways or public grounds of or in the corporate limits of the City, as now or hereafter established, as may be necessary and/or convenient for supplying to the citizens of the City, to adjacent rural areas and to the public at large, telephone service, local and long distance and communication by telephone or other electric signals, and for the conduct of a general telephone business therein.

**112.02 GRANTEE'S RIGHTS AND PRIVILEGES.** Grantee's rights and privileges in the public ways and grounds of the City shall be exercised as follows:

1. Locations of its existing system are hereby approved; changes of location, additions or extensions thereto affecting public grounds or ways shall be under the supervision of City's street committee or such other officer or officers as may be designated by the Mayor and Council for that purpose.
2. The installations of Grantee shall be so placed and the servicing and operation thereof so performed as to not unreasonably interfere with ordinary travel on the public ways or with ingress to or egress from public or private property.
3. Grantee may make excavations in public grounds or ways, and may take up such portions of pavement or sidewalk as it deems necessary for the installation, maintenance, replacement or removal of its facilities. Excavations so made shall be refilled and surfacing thus disturbed shall be restored to as reasonably good condition as before.
4. Grantee shall permit the City to attach to its poles, its fire and/or police wires and apparatus incident thereto; such attachments shall be made under the direction and supervision of Grantee and so made and maintained as not to interfere with Grantee's use of said poles.

**112.03 TEMPORARY REMOVAL OF FACILITIES.** Grantee shall accommodate public or private necessity to move along or across public ways or grounds of the City vehicles or structures, other than parade components, of such height or size as to interfere with its poles

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<sup>†</sup> **EDITOR'S NOTE:** Ordinance No. 182, adopting a telephone franchise for the City, was passed and adopted on December 8, 1998.

and/or wires erected hereunder and shall temporarily remove or adjust the same to permit such passage provided:

1. Written notice thereof shall be served upon Grantee's agent or manager at Essex, Iowa, not less than forty-eight (48) hours in advance of the time set for the proposed passage.
2. Grantee shall be paid in advance the actual cost of such accommodation.

**112.04 EQUIPMENT FURNISHED TO CITY.** The City shall at all times during the existence of the privilege hereby granted have from the Grantee, its successors and assigns, the use, free of charge, of one individual telephone line for local exchange service connected with the telephone system of the City, to be placed at such point within the City limits as the Council may designate, and to be kept and maintained in good repair and working condition by the Grantee, its successors or assigns.

**112.05 INDEMNIFICATION.** Grantee shall indemnify the City against, and assume all liabilities for, damages which may arise or accrue to the City from any injury to persons or property from the doing of any work herein authorized, or the neglect of said Grantee or any of its employees to comply with any ordinance relative to the use of the streets of the City and the acceptance by the Grantee of the franchise shall be an agreement by it to pay to the City any sum of money for which the City may become liable from or by reason of such injury.

**112.06 GRANTEE SUBJECT TO CITY ORDINANCES.** The Grantee shall at all times be subject to any City ordinances which may hereafter be passed relative to the use of the public streets by telephone and telegraph.

**112.07 PROPERTY OF GRANTEE.** It is unlawful for any person to injure, destroy or deface any property of Grantee lawfully installed and maintained hereunder or to post bills or signs thereon.

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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 that does not conform to the applicable law and ordinances, resolutions, and regulations of the City.

*(Code of Iowa, Sec. 123.30)*

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

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

**120.05 PROHIBITED SALES AND ACTS.** A person holding a liquor license or retail wine or beer permit and the person's agents or employees shall not do any of the following:

1. Sell, dispense, or give to any intoxicated person, or one simulating intoxication, any alcoholic beverage.

*(Code of Iowa, Sec. 123.49[1])*

2. Sell or dispense any alcoholic beverage on the premises covered by the license or permit, or permit its consumption thereon between the hours of 2:00 a.m. and 6:00 a.m. on a weekday, and between the hours of 2:00 a.m. on Sunday and 6:00 a.m. on the following Monday; however, a holder of a liquor control license or retail wine or beer permit granted the privilege of selling alcoholic liquor, wine, or beer on Sunday may sell or dispense alcoholic liquor, wine, or beer between the hours of 8:00 a.m. on Sunday and 2:00 a.m. of the following Monday, and further provided that a holder of any class

of liquor control license or the holder of a class “B” beer permit may sell or dispense alcoholic liquor, wine, or beer for consumption on the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on Monday when that Monday is New Year’s Day and beer for consumption off the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on the following Monday when that Sunday is the day before New Year’s Day.

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

3. Sell alcoholic beverages to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, to sales by a hotel or motel to bona fide registered guests or to retail sales by the managing entity of a convention center, civic center, or events center.

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

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

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

5. In the case of a retail wine or beer permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to wine, beer, or any other beverage in or about the permittee’s place of business.

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

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

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

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

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

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

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

9. Reuse for packaging alcoholic liquor or wine any container or receptacle used originally for packaging alcoholic liquor or wine; or adulterate, by the addition of any substance, the contents or remaining contents of an original package of an alcoholic liquor or wine; or knowingly possess any original package that has been reused or adulterated.

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

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

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

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

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

12. Permit or allow any person under 21 years of age to remain upon licensed premises unless over 50 percent of the dollar volume of the business establishment comes from the sale and serving of prepared foods. This provision does not apply to holders of a class “C” beer permit only.

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

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

1. As used in this section, “registered electrical or mechanical amusement device” means an electrical or mechanical device required to be registered with the Iowa Department of Inspection and Appeals, as provided in Section 99B.53 of the *Code of Iowa*.

2. It is unlawful for any person under the age of 21 to participate in the operation of a registered electrical or mechanical amusement device.

3. It is unlawful for any person owning or leasing a registered electrical or mechanical amusement device, or an employee of a person owning or leasing a registered electrical or mechanical amusement device, to knowingly allow a person under the age of 21 to participate in the operation of a registered electrical or mechanical amusement device.

4. It is unlawful for any person to knowingly participate in the operation of a registered electrical or mechanical amusement device with a person under the age of 21.

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## CHAPTER 121

# CIGARETTE AND TOBACCO PERMITS

121.01 Definitions  
121.02 Permit Required  
121.03 Application  
121.04 Fees  
121.05 Issuance and Expiration

121.06 Refunds  
121.07 Persons Under Legal Age  
121.08 Self-Service Sales Prohibited  
121.09 Permit Revocation

**121.01 DEFINITIONS.** For use in this chapter the following terms are defined:  
*(Code of Iowa, Sec. 453A.1)*

1. “Alternative nicotine product” means a product, not consisting of or containing tobacco, that provides for the ingestion into the body of nicotine, whether by chewing, absorbing, dissolving, inhaling, snorting, or sniffing, or by any other means. “Alternative nicotine product” does not include cigarettes, tobacco products, or vapor products, or a product that is regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.
2. “Cigarette” means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, cigarette shall not be construed to include cigars.
3. “Place of business” means any place where cigarettes, tobacco products, alternative nicotine products, or vapor products are sold, stored, or kept for the purpose of sale or consumption by a retailer.
4. “Retailer” means every person who sells, distributes or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, alternative nicotine products, or vapor products, irrespective of the quantity or amount or the number of sales, or who engages in the business of selling tobacco, tobacco products, alternative nicotine products, or vapor products to ultimate consumers.
5. “Self-service display” means any manner of product display, placement, or storage from which a person purchasing the product may take possession of the product, prior to purchase, without assistance from the retailer or employee of the retailer, in removing the product from a restricted access location.
6. “Tobacco products” means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking, but does not mean cigarettes.
7. “Vapor product” means any noncombustible product, which may or may not contain nicotine, that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from a solution or other substance. “Vapor product” includes

an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device, and any cartridge or other container of a solution or other substance, which may or may not contain nicotine, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. "Vapor product" does not include a product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.

### **121.02 PERMIT REQUIRED.**

1. Retail Cigarette Permits. It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes, alternative nicotine products, or vapor products at retail and no retailer shall distribute, sell, or solicit the sale of any cigarettes, alternative nicotine products, or vapor products within the City without a valid permit for each place of business. The permit shall, at all times, be publicly displayed at the place of business so as to be easily seen by the public and the persons authorized to inspect the place of business.

*(Code of Iowa, Sec. 453A.13)*

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

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

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

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

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

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

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

<b>FOR PERMITS GRANTED DURING:</b>	<b>FEE:</b>
July, August or September	\$ 75.00
October, November or December	\$ 56.25
January, February or March	\$ 37.50
April, May or June	\$ 18.75

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

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

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

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

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

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

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

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

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

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

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

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## CHAPTER 122

# PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS

122.01 Purpose	122.10 Time Restriction
122.02 Definitions	122.11 Revocation of License
122.03 License Required	122.12 Hearing
122.04 Application for License	122.13 Record and Determination
122.05 License Fees	122.14 Appeal
122.06 Bond Required	122.15 Effect of Revocation
122.07 License Issued	122.16 Rebates
122.08 Display of License	122.17 License Exemptions
122.09 License Not Transferable	122.18 Charitable and Nonprofit Organizations

**122.01 PURPOSE.** The purpose of this chapter is to protect residents of the City against fraud, unfair competition, and intrusion into the privacy of their homes by licensing and regulating peddlers, solicitors, and transient merchants.

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

1. “Peddler” means any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house to house or upon the public street.
2. “Solicitor” means any person who solicits or attempts to solicit from house to house or upon the public street any contribution or donation or any order for goods, services, subscriptions or merchandise to be delivered at a future date.
3. “Transient merchant” means any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases or occupies any building or structure whatsoever, or who operates out of a vehicle that is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader, or auctioneer does not exempt any person from being considered a transient merchant.

**122.03 LICENSE REQUIRED.** Any person engaging in peddling, soliciting or in the business of a transient merchant in the City without first obtaining a license as herein provided is in violation of this chapter.

**122.04 APPLICATION FOR LICENSE.** An application in writing shall be filed with the Clerk for a license under this chapter. Such application shall set forth the applicant’s name, permanent and local address, and business address if any. The application shall also set forth the applicant’s employer, if any, and the employer’s address, the nature of the applicant’s business, the last three places of such business and the length of time sought to be covered by the license. An application fee of \$15.00 shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein.

**122.05 LICENSE FEES.** The following license fees shall be paid to the Clerk prior to the issuance of any license.

1. Solicitors. In addition to the application fee for each person actually soliciting (principal or agent), a fee for the principal of \$350.00 per year.
2. Peddlers or Transient Merchants.
  - A. For one day.....\$25.00
  - B. For one week.....\$50.00
  - C. For one month .....\$125.00
  - D. For up to six (6) months .....\$200.00
  - E. For one year or major part thereof.....\$350.00

**122.06 BOND REQUIRED.** Before a license under this chapter is issued to a transient merchant, an applicant shall provide to the Clerk evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the *Code of Iowa*.

**122.07 LICENSE ISSUED.** If the Clerk finds the application is completed in conformance with the requirements of this chapter, the facts stated therein are found to be correct, and the license fee paid, a license shall be issued immediately.

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

**122.09 LICENSE NOT TRANSFERABLE.** Licenses issued under the provisions of this chapter are not transferable in any situation and are to be applicable only to the person filing the application.

**122.10 TIME RESTRICTION.** All peddler's and solicitor's licenses shall provide that said licenses are in force and effect only between the hours of 8:00 a.m. and 7:00 p.m.

**122.11 REVOCATION OF LICENSE.** Following a written notice and an opportunity for a hearing, the Clerk may revoke any license issued pursuant to this chapter for the following reasons:

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

The Clerk shall send the written notice to the licensee at the licensee's local address. The notice shall contain particulars of the complaints against the licensee, the ordinance provisions or State statutes allegedly violated, and the date, time, and place for hearing on the matter.

**122.12 HEARING.** The 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.

**122.13 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.

**122.14 APPEAL.** If the Clerk revokes or refuses to issue a license, the Clerk shall make a part of the record the reasons for such revocation or refusal. 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.

**122.15 EFFECT OF REVOCATION.** Revocation of any license shall bar the licensee from being eligible for any license under this chapter for a period of one year from the date of the revocation.

**122.16 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 \$5.00 of the original fee shall be retained by the City to cover administrative costs.

**122.17 LICENSE EXEMPTIONS.** The following are excluded from the application of this chapter.

1. Newspapers. Persons delivering, collecting for, or selling subscriptions to newspapers.
2. Club Members. Members of local civic and service clubs, Boy Scout, Girl Scout, 4-H Clubs, Future Farmers of America, and similar organizations.
3. Local Residents and Farmers. Local residents and farmers who offer for sale their own products.
4. Students. Students representing the Essex Community School District conducting projects sponsored by organizations recognized by the school.
5. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.
6. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.

**122.18 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 122.14 of this chapter.



## CHAPTER 123

### HOUSE MOVERS

123.01 House Mover Defined  
123.02 Permit Required  
123.03 Application  
123.04 Bond Required  
123.05 Insurance Required  
123.06 Permit Fee

123.07 Permit Issued  
123.08 Public Safety  
123.09 Time Limit  
123.10 Removal by City  
123.11 Protect Pavement  
123.12 Overhead Wires

**123.01 HOUSE MOVER DEFINED.** A “house mover” means any person who undertakes to move a building or similar structure upon, over or across public streets or property when the building or structure is of such size that it requires the use of skids, jacks, dollies, or any other specialized moving equipment.

**123.02 PERMIT REQUIRED.** It is unlawful for any person to engage in the activity of house mover as herein defined without a valid permit from the City for each house, building or similar structure to be moved.

**123.03 APPLICATION.** Application for a house mover’s permit shall be made in writing to the Clerk. The application shall include:

1. Name and Address. The applicant’s full name and address and, if a corporation, the names and addresses of its principal officers.
2. Building Location. An accurate description of the present location and future site of the building or similar structure to be moved.
3. Routing Plan. A routing plan approved by the Council, street superintendent, and public utility officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety.

**123.04 BOND REQUIRED.** The applicant shall post with the Clerk a penal bond in the minimum sum of \$5,000.00 issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee’s payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of moving the building or structure.

**123.05 INSURANCE REQUIRED.** Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:

1. Bodily Injury – \$50,000.00 per person; \$100,000.00 per accident.
2. Property Damage – \$50,000.00 per accident.

**123.06 PERMIT FEE.** A permit fee of \$15.00 shall be payable at the time of filing the application with the Clerk. A separate permit shall be required for each house, building or similar structure to be moved.

**123.07 PERMIT ISSUED.** Upon approval of the application, filing of bond and insurance certificate, and payment of the required fee, the Clerk shall issue a permit.

**123.08 PUBLIC SAFETY.** At all times when a building or similar structure is in motion upon any street, alley, sidewalk or public property, the permittee shall maintain flag persons at the closest intersections or other possible channels of traffic to the sides, behind and ahead of the building or structure. At all times when the building or structure is at rest upon any street, alley, sidewalk or public property the permittee shall maintain adequate warning signs or lights at the intersections or channels of traffic to the sides, behind and ahead of the building or structure.

**123.09 TIME LIMIT.** No house mover shall permit or allow a building or similar structure to remain upon any street or other public way for a period of more than 12 hours without having first secured the written approval of the City.

**123.10 REMOVAL BY CITY.** In the event any building or similar structure is found to be in violation of Section 123.09, the City is authorized to remove such building or structure and assess the costs thereof against the permit holder and the surety on the permit holder's bond.

**123.11 PROTECT PAVEMENT.** It is unlawful to move any house or building of any kind over any pavement, unless the wheels or rollers upon which the house or building is moved are at least one inch in width for each 1,000 pounds of weight of such building. If there is any question as to the weight of a house or building, the estimate of the City as to such weight shall be final.

**123.12 OVERHEAD WIRES.** The holder of any permit to move a building shall see that all telephone, cable television and electric wires and poles are removed when necessary and replaced in good order, and shall be liable for the costs of the same.

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## CHAPTER 124

### VENDORS

124.01 Food and Non-Alcoholic Beverages Vendor	124.06 Street Vendor Fees
124.02 Food and Non-Alcoholic Beverages Vendor Fee	124.07 Roaming Vendors
124.03 Alcoholic Beverages Vendor	124.08 Nuisance
124.04 Alcoholic Beverages Vendor Fees	124.09 Misdemeanor
124.05 Street Vendor	124.10 Exception

**124.01 FOOD AND NON-ALCOHOLIC BEVERAGES VENDOR.** No person shall provide or sell food or beverages to the public in the City for the duration of Labor Day festivities unless the person has first obtained a Vendor's Permit from the City through the Essex Community Club (ECC). Applications will be available through ECC Committee Members and at City Hall, located at 412 Iowa Avenue in Essex.

**124.02 FOOD AND NON-ALCOHOLIC BEVERAGES VENDOR FEE.** The fee for a Food and Non-Alcoholic Beverages Vendor's Permit during festivities shall be established by ECC annually for any club or business and for local businesses setting up on locations in addition to or other than their current establishment. The Food and Non-Alcoholic Beverages Vendor permit shall be granted on condition that the vendor apply for permit and locate the sales stand at a location to be determined by ECC; all food vendors must show proof of liability insurance and comply with the Iowa Department of Health rules and regulations and the Iowa Department of Revenue rules governing sale of food for consumption on the premises.

**124.03 ALCOHOLIC BEVERAGES VENDOR.** All permits for alcoholic beverages vending falls under the jurisdiction of the City and State of Iowa. Requests for vending shall be made at City Hall located at 412 Iowa Avenue in Essex.

**124.04 ALCOHOLIC BEVERAGES VENDOR FEES.** Fees for alcoholic beverages vending pertain to State permits, licenses and insurance as directed by the City and State of Iowa.

**124.05 STREET VENDOR.** No person shall sell merchandise or entertainment to the public in the City for the duration of Labor Day festivities unless the person has first obtained a Vendor's Permit from the City through the Essex Commercial Club. Applications will be available through ECC Committee Members and at City Hall located at 412 Iowa Avenue in Essex.

**124.06 STREET VENDOR FEES.** The fee for a Street Vendor's Permit during festivities shall be established annually by ECC. The Street Vendor Permit shall be granted on the condition that the Street Vendor apply for a permit, locate the sales stand during specified hours and at a location to be determined by ECC; all Street Vendors shall carry liability insurance and comply with the Iowa Department of Health rules and regulations and the Iowa Department of Revenue rules governing sale of taxable items.

**124.07 ROAMING VENDORS.** Roaming vendors for the sale of food, beverages or other merchandise shall be permitted in locations designated by ECC and shall meet all provisions as regulated by this chapter.

**124.08 NUISANCE.** The sale of food, beverages or merchandise without a permit or in violation of any of the provisions of this chapter is declared to be a nuisance. The police officers of the City are hereby empowered to cause any offending establishment to be dismantled and removed without notice.

**124.09 MISDEMEANOR.** It is a misdemeanor for any person to supply or sell food, beverages or merchandise within the City during Labor Day Festivities without first having obtained the appropriate Vendor Permit. It is a misdemeanor for any person to violate any of the provisions of this chapter.

**124.10 EXCEPTION.** It is not a violation of this chapter (and no vendor permit is required) for a person to sell food, beverages or merchandise in the City during Labor Day Festivities on said person's licensed premises, provided that the person was in possession of current Iowa permits for sales on premises two weeks prior to annual Labor Day festivities.

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## CHAPTER 135

### STREET USE AND MAINTENANCE

135.01 Removal of Warning Devices	135.08 Burning Prohibited
135.02 Obstructing or Defacing	135.09 Excavations
135.03 Placing Debris On	135.10 Property Owner's Responsibility for Maintenance
135.04 Playing In	135.11 Failure to Maintain
135.05 Traveling on Barricaded Street or Alley	135.12 Dumping of Snow
135.06 Use for Business Purposes	135.13 Driveway Culverts
135.07 Washing Vehicles	135.14 Low Maintenance Roadways

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

*(Code of Iowa, Sec. 716.1)*

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

*(Code of Iowa, Sec. 716.1)*

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

*(Code of Iowa, Sec. 321.369)*

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

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

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

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

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

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

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

1. Permit Required. No excavation shall be commenced without first obtaining a permit. A written application for such permit shall be filed with the City and shall contain the following:
  - A. An exact description of the property, by lot and street number, in front of or along which it is desired to excavate;
  - B. A statement of the purpose, for whom and by whom the excavation is to be made;
  - C. The person responsible for the refilling of said excavation and restoration of the street or alley surface; and
  - D. Date of commencement of the work and estimated completion date.
2. Public Convenience. Streets and alleys shall be opened in the manner that will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.
3. Barricades, Fencing and Lighting. Adequate barricades, fencing and warning lights meeting standards specified by the City shall be so placed as to protect the public from hazard. Any costs incurred by the City in providing or maintaining adequate barricades, fencing or warning lights shall be paid to the City by the permit holder/property owner.
4. Bond Required. The applicant shall post with the City a penal bond in the minimum sum of \$1,000.00 issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee's payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of administration of this section. In lieu of a surety bond, a cash deposit of \$1,000.00 may be filed with the City.
5. Insurance Required. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:
  - A. Bodily Injury - \$50,000.00 per person; \$100,000.00 per accident.
  - B. Property Damage - \$50,000.00 per accident.
6. Restoration of Public Property. Streets, sidewalks, alleys and other public property disturbed in the course of the work shall be restored to the condition of the property prior to the commencement of the work, or in a manner satisfactory to the City, at the expense of the permit holder/property owner.
7. Inspection. All work shall be subject to inspection by the City. Backfill shall not be deemed completed, and no resurfacing of any improved street or alley surface shall begin, until such backfill is inspected and approved by the City. The permit holder/property owner shall provide the City with notice at least 24 hours prior to the time when inspection of backfill is desired.

8. Completion by the City. Should any excavation in any street or alley be discontinued or left open and unfinished for a period of 24 hours after the approved completion date, or in the event the work is improperly done, the City has the right to finish or correct the excavation work and charge any expenses for such work to the permit holder/property owner.

9. Responsibility for Costs. All costs and expenses incident to the excavation shall be borne by the permit holder and/or property owner. The permit holder and owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such excavation.

10. Notification. At least 48 hours prior to the commencement of the excavation, excluding Saturdays, Sundays and legal holidays, the person performing the excavation shall contact the Statewide Notification Center and provide the center with the information required under Section 480.4 of the *Code of Iowa*.

11. Permit Issued. Upon approval of the application, filing of bond and insurance certificate, and payment of any required fees, a permit shall be issued.

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

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

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

*(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 impeded the passage of vehicles upon the street or alley or another person's property or another person's parkway 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

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<sup>†</sup> **EDITOR'S NOTE:** See also Section 136.04 relating to property owner's responsibility for maintenance of sidewalks.

property, and before installing a culvert, permission must first be obtained from the City. In the event repairs are needed at any time with respect to culverts, it shall be the responsibility of the property owner to make such repairs, and, in the event the owner fails to do so, the City shall have the right to make the repairs. If the property owner fails to reimburse the City for the cost of said repairs, the cost shall be certified to the County Treasurer and specially assessed against the property as by law provided.

**135.14 LOW MAINTENANCE ROADWAYS.** The following roadways, or such parts thereof as are located within the City limits, are hereby declared to be low maintenance roadways. The City shall post signs giving notice of this fact at all entrances to the low maintenance roadway from public streets within the City:

1. Unnamed/unidentified roadway extending to the east from approximately the intersection of East Street and North Avenue.



## CHAPTER 136

### SIDEWALK REGULATIONS

136.01 Purpose	136.11 Interference with Sidewalk Improvements
136.02 Definitions	136.12 Awnings
136.03 Removal of Snow, Ice, and Accumulations	136.13 Encroaching Steps
136.04 Property Owner's Responsibility for Maintenance	136.14 Openings and Enclosures
136.05 City May Order Repairs	136.15 Fires or Fuel on Sidewalks
136.06 Sidewalk Construction Ordered	136.16 Defacing
136.07 Permit Required	136.17 Debris on Sidewalks
136.08 Sidewalk Standards	136.18 Merchandise Display
136.09 Barricades and Warning Lights	136.19 Sales Stands
136.10 Failure to Repair or Barricade	

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

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

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

**136.03 REMOVAL OF SNOW, ICE, AND ACCUMULATIONS.** The abutting property owner shall remove snow, ice, and accumulations promptly from sidewalks. If a property owner does not remove snow, ice, or accumulations within 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. The abutting property owner may be liable for damages caused by failure to remove snow, ice, and accumulations promptly from the sidewalk.

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

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

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

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

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

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

*(Code of Iowa, Sec. 384.38)*

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

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

1. Cement. Portland cement shall be the only cement used in the construction and repair of sidewalks.
2. Construction. Sidewalks shall be of one-course construction.
3. Sidewalk Base. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a three-inch sub-base of compact, clean, coarse gravel or sand shall be laid. The adequacy of the soil drainage is to be determined by the City.
4. Sidewalk Bed. The sidewalk bed shall be so graded that the constructed sidewalk will be at established grade.
5. Length, Width and Depth. Length, width and depth requirements are as follows:
  - A. Residential sidewalks shall be at least four feet wide and four inches thick, and each section shall be no more than four feet in length.
  - B. Business District sidewalks shall extend from the property line to the curb. Each section shall be four inches thick and no more than six feet in length.
  - C. Driveway areas shall be not less than six inches in thickness.

6. Location. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) one foot outside the property line, unless the Council establishes a different distance due to special circumstances.
7. Grade. Curb tops shall be on level with the centerline of the street, which is the established grade.
8. Elevations. The street edge of a sidewalk shall be at an elevation even with the curb at the curb or not less than one-half inch above the curb for each foot between the curb and the sidewalk.
9. Slope. All sidewalks shall slope one-fourth inch per foot toward the curb.
10. Finish. All sidewalks shall be finished with a broom finish or wood float finish.
11. Curb Ramps and Sloped Areas for Persons with Disabilities. If a street, road, or highway is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the street, road, or highway with a sidewalk or path. If a sidewalk or path is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the sidewalk or path with a street, highway, or road. Curb ramps and sloped areas that are required pursuant to this subsection shall be constructed or installed in compliance with applicable federal requirements adopted in accordance with the Federal Americans with Disabilities Act, including (but not limited to) the guidelines issued by the Federal Architectural and Transportation Barriers Compliance Board.

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

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

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

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

**136.12 AWNINGS.** It is unlawful for a person to erect or maintain any awning over any sidewalk unless all parts of the awning are elevated at least eight feet above the surface of the sidewalk and the roof or covering is made of duck, canvas or other suitable material supported by iron frames or brackets securely fastened to the building, without any posts or other device that will obstruct the sidewalk or hinder or interfere with the free passage of pedestrians.

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

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

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

**136.15 FIRES OR FUEL ON SIDEWALKS.** It is unlawful for a person to make a fire of any kind on any sidewalk or to place or allow any fuel to remain upon any sidewalk.

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

*(Code of Iowa, Sec. 716.1)*

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

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

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

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

**ORDINANCE NO. 2021 – 03**  
**AN ORDINANCE AMENDING CHAPTER 136 SIDEWALK REGULATIONS**  
**SECTION 136.03 REMOVAL OF SNOW, ICE AND ACCUMULATIONS**

**BE IT ENACTED** by the City Council of Essex, Iowa:

**SECTION 1. SECTION MODIFIED.** Section 136.03 is amended by changing the definition of “within a reasonable time” to “within 48 hours following the snowfall, ice or accumulation of both”, with the second sentence of 136.03 to read as follows:

If a property owner does not remove snow, ice or accumulation within 48 hours, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax.

The balance of Chapter 136.03 remains unchanged.

**SECTION 2. SEVERABILITY CLAUSE.** If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

**SECTION 3. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

**PASSED** by the Council the 9<sup>th</sup> day of June 2021, and **APPROVED** this 9<sup>th</sup> day of June, 2021.

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**Marian Durfey, Mayor**

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**Mary Ohnmacht, City Clerk**

## CHAPTER 137

# VACATION AND DISPOSAL OF STREETS

137.01 Power to Vacate  
137.02 Planning and Zoning Commission  
137.03 Notice of Vacation Hearing

137.04 Findings Required  
137.05 Disposal of Vacated Streets or Alleys  
137.06 Disposal by Gift Limited

**137.01 POWER TO VACATE.** When, in the judgment of the Council, it would be in the best interest of the City to vacate a street, alley, portion thereof, or any public grounds, the Council may do so by ordinance in accordance with the provisions of this chapter.  
*(Code of Iowa, Sec. 364.12[2a])*

**137.02 PLANNING AND ZONING COMMISSION.** Any proposal to vacate a street, alley, portion thereof, or any public grounds shall be referred by the Council to the Planning and Zoning Commission for its study and recommendation prior to further consideration by the Council. The Commission shall submit a written report including recommendations to the Council within 30 days after the date the proposed vacation is referred to the Commission.  
*(Code of Iowa, Sec. 392.1)*

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

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

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

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

**137.06 DISPOSAL BY GIFT LIMITED.** The City may not dispose of real property by gift except to a governmental body for a public purpose or to a fair.  
*(Code of Iowa, Sec. 174.15[2] & 364.7[3])*

[illegible]

## CHAPTER 138

# STREET GRADES

### 138.01 Established Grades

### 138.02 Record Maintained

**138.01 ESTABLISHED GRADES.** The grades of all streets, alleys and sidewalks, which have been heretofore established by ordinance, are hereby confirmed, ratified, and established as official grades.

**138.02 RECORD MAINTAINED.** The Clerk shall maintain a record of all established grades and furnish information concerning such grades upon request.

EDITOR'S NOTE			
The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing street and/or sidewalk grades and remain in full force and effect.			
ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED
32	February 26, 1919		
33	February 26, 1919		
91	November 12, 1968		
95	July 8, 1970		



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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. Ordinance. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by ordinance.
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 ordinance, 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 Essex, 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 amendment 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. No amendment to this chapter which involves naming or changing the name of a street shall become effective until after such change and entry have been made on said map.

[The next page is 575]



## CHAPTER 145

# DANGEROUS BUILDINGS

145.01 Definitions

145.02 Enforcement Officer

145.03 Inspections and Right of Entry

145.04 General Definition of Unsafe

145.05 Unsafe Building

145.06 Notice to Owner

145.07 Conduct of Hearing

145.08 Posting of Signs

145.09 Right to Demolish; Municipal Infraction

145.10 Costs

**145.01 DEFINITIONS.** Definitions terms are defined for use in this chapter.

1. “Vacant” means entirely empty.
2. “Unoccupied” means lack of habitual presence of human beings.
3. “Abandoned” means as defined in City Ordinance Chapter 145 Section 145.05(5).
4. “Abandoned” shall also mean where a mortgage or tax foreclosure proceeding have been initiated for the property and the property has been vacant or unoccupied for a period in excess of 90 days, where the lender is seeking title or in title to the property. A lender is subject to nuisance abatement enforcement as provided in Iowa Code Chapter 657.A.

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

**145.03 INSPECTIONS AND RIGHT OF ENTRY.** The Mayor or the authorized inspection personnel designated by the Mayor are hereby authorized to make inspections and take such actions as may be required to enforce the provisions of this chapter. Whenever necessary to make an inspection to enforce any provisions of this chapter, or whenever the Mayor or the authorized inspection personnel designated by the Mayor have reasonable cause to believe that there exists in any building or upon any premises any condition or code violation which makes such building or premises unsafe, dangerous or hazardous, the Mayor or the authorized inspection personnel designated by the Mayor may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Mayor by this chapter, provided that if such building or premises are occupied, the Mayor or the authorized inspection personnel designated by the Mayor shall first present proper credentials and request entry; and if such building or premises is unoccupied, the Mayor, building official or authorized personnel designated by the Mayor shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, the Mayor or the authorized inspection personnel designated by the Mayor shall have recourse to every remedy provided by law to secure entry.

**145.04 GENERAL DEFINITION OF UNSAFE.** All buildings or structures that are structurally unsafe or not provided with adequate egress, or that constitute a fire hazard, or are otherwise dangerous to human life, or that in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings

are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

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

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

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of: (i) dilapidation, deterioration, or decay; (ii) faulty construction; (iii) the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay, or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse.
2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.
4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.
5. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months or whenever any building or structure is occasionally occupied, unoccupied, neglected, vacant or without at least one major utility and whenever such occasional occupy, lack of occupy, neglect, vacancy or lack of at least one major utility is such as to constitute such building or portion thereof an attractive nuisance or hazard to the public.
6. Absence of Property Insurance. Whenever any building or structure whether commercial or residential remains vacant/unoccupied/abandoned for more than six months with the absence of property and casualty insurance for full coverage, notice to the record title holder shall provide that the record title holder has 30 days to provide the City with proof of insurance coverage. Notice shall be given in accordance with Ordinance Section 145.06(1) Notice Served. If certified mail service is not accomplished on the record title holder, then the City shall provide notice by publication.

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

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

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

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

1. Notice. The owner shall be served with written notice specifying the date, time and place of hearing.
2. Owner's Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.
3. Determination. The Council shall make and record findings of fact and may issue such order as it deems appropriate.<sup>†</sup>

**145.08 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 ESSEX, IOWA." Such notice shall remain posted until the required demolition, removal or repairs are completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

**145.09 RIGHT TO DEMOLISH; MUNICIPAL INFRACTION.** In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the enforcement officer to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Council. As an alternative to this action, the City may utilize the municipal infraction process to abate the nuisance.

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

**145.10 COSTS.** Costs incurred under Section 145.09 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])*

## **ORDINANCE NO. 2020 - 04**

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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.

**AN ORDINANCE AMENDING CHAPTER 145 SECTION 145.05 5. of the Code of Ordinance of the City of Essex, Iowa**

**BE IT ENACTED** by the City Council of the City of Essex, Iowa:

**SECTION 1. SECTION MODIFIED.** Section 145.05 5, of the City Ordinance as last amended May of 2020 as follows:

145.05 5. shall be followed by reference to (Code of Iowa Section 657A.1A through 657A.10)., as required by 657A.10B.

**Section 2. SEVERABILITY CLAUSE.** If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

**Section 3. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

**PASSED and APPROVED** this 12<sup>th</sup> day of\_ August, 2020.

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**Marian Durfey, Mayor**

**ATTEST:**

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**Mary Ohnmacht, City Clerk**



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## CHAPTER 146

# MANUFACTURED AND MOBILE HOMES

### 146.01 Definitions

### 146.02 Conversion to Real Property

### 146.03 Foundation Requirements

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

*(Code of Iowa, Sec. 435.1)*

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

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

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

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

1. **Retailer’s Stock.** Mobile homes or manufactured homes on private property as part of a retailer’s or a manufacturer’s stock not used as a place for human habitation.
2. **Existing Homes.** A taxable mobile home or manufactured home that is located outside of a manufactured home community or mobile home park as of January 1, 1995,

shall be assessed and taxed as real estate, but is exempt from the permanent foundation requirement of this chapter until the home is relocated.

**146.03 FOUNDATION REQUIREMENTS.** A mobile home or manufactured home located outside of a manufactured home community or mobile home park shall be placed on a permanent frost-free foundation system that meets the support and anchorage requirements as recommended by the manufacturer or required by the *State Building Code*. The foundation system must be visually compatible with permanent foundation systems of surrounding residential structures. Any such home shall be installed in accordance with the requirements of the *State Building Code*.

*(Code of Iowa, Sec. 103A.10 & 414.28)*

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## CHAPTER 150

# BUILDING NUMBERING

### 150.01 Definitions

### 150.02 Owner Requirements

### 150.03 Building Numbering Map

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

1. “Owner” means the owner of the principal building.
2. “Principal building” means the main building on any lot or subdivision thereof.

**150.02 OWNER REQUIREMENTS.** Every owner shall comply with the following numbering requirements:

1. Obtain Building Number. The owner shall obtain the assigned number to the principal building from the City Building Inspector.

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

2. Display Building Number. The owner shall place or cause to be installed and maintained on the principal building the assigned number in a conspicuous place to the street in figures not less than three (3) inches in height and of a contrasting color with their background.

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

3. Failure to Comply. If an owner refuses to number a building as herein provided, or fails to do so for a period of thirty (30) days after being notified in writing by the City to do so, the City may proceed to place the assigned number on the principal building and assess the costs against the property for collection in the same manner as a property tax.

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

**150.03 BUILDING NUMBERING MAP.** The City Building Inspector shall be responsible for preparing and maintaining a building numbering map.

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## CHAPTER 151

### TREES

#### 151.01 Definition

#### 151.02 Planting Restrictions

#### 151.03 Duty to Trim Trees

#### 151.04 Trimming Trees to Be Supervised

#### 151.05 Disease Control

#### 151.06 Inspection and Removal

**151.01 DEFINITION.** For use in this chapter, “parking” means that part of the street, avenue, or highway in the City not covered by sidewalk and lying between the lot line and the curb line or, on unpaved streets, that part of the street, avenue, or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.

**151.02 PLANTING RESTRICTIONS.** No tree shall be planted in any parking or street, no exceptions.

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

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

**151.04 TRIMMING TREES TO BE SUPERVISED.** Except as allowed in Section 151.03, it is unlawful for any person to trim or cut any tree in a street or public place unless the work is done under the supervision of the City.

**151.05 DISEASE CONTROL.** Any dead, diseased, or damaged tree or shrub that may harbor serious insect or disease pests or disease injurious to other trees is hereby declared to be a nuisance.

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

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



## ORDINANCE NO 2023 – 2

### AN ORDINANCE AMENDING AND REPLACING Chapter 151 Trees of the Code of Ordinances of the City of Essex, Iowa

**BE IT ENACTED** by the City Council of the City of Essex, Iowa:

**Section 1. SECTION MODIFIED.** Chapter 151 Trees is deleted in total and replaced with Chapter 151 Trees to read as follows:

## CHAPTER 151

## TREES

151.01 Purpose

151.02 Definitions

151.03 Planting Restrictions

151.04 Planting Specifications

151.05 Public Tree Care

151.06 Tree Topping

151.07 Trimming Trees

151.08 Disease Control

151.09 Inspection & Removal

151.10 Insurance Certification

**151.01 PURPOSE.** The purpose of this chapter is to beautify and preserve the appearance of the City by requiring street trees to be uniformly located and maintained. Under this chapter, the primary responsibility for maintaining street trees is placed upon the abutting property owner.

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

1. “Parking” means that part of the public property or street located outside the lot and property lines and inside the curb lines. On unpaved streets it refers to the area between the lateral lines of the street and the adjacent lot and property lines.
2. “Park trees” means trees, shrubs, bushes, and all other woody vegetation located in public parks or other public area owned by the city to which the public is granted access either as a matter of right or by permit.
3. “Person” means every natural person, firm, partnership, association, or corporation.
4. “Street” 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 either as a matter of right or by permit, for purposes of pedestrian or vehicular traffic, whether self-propelled or moved by human power, including those areas typically referred to as streets, avenues, highways, way alleys and recreational trails.
5. “Street trees” means those trees, shrubs, bushes, or any other woody vegetation located in any part of a street within the City, including the parking.
6. “Stump” means the portion of a tree, shrub, bush or other woody vegetation left in the ground after the upper part and branches of the plant have been removed.

7. “Top” or “topping” means to severely cut back limbs of a tree to stubs larger than three inches in diameter within the tree’s crown to such a degree as to remove the normal canopy and disfigure the tree.

#### **151.03 STREET TREE SPECIES PERMITTED AND PROHIBITED.**

1. Permitted trees. The City Council shall adopt by resolution a list of trees allowed to be planted as street trees within the City. This list may be amended from time to time but will be adopted pursuant to the authority granted in this chapter and will be maintained for public use and inspection at City Hall, and at such other places designated by the City Council
  - a. **Small Trees: 4’ minimum space (curb to sidewalk) 30’ between trees:**
    - i. Red Bud, Flowering Crabapple (scab, firebright, cedar rust resistant), Japan Tree Lilac (all names varieties), Serviceberry (all names varieties)
  - b. **Medium Trees: 6’ minimum space (curb to sidewalk) 40’ between trees:**
    - i. River Birch (all named varieties), Black Gum, Flowering Pear (all named varieties)
  - c. **Large Trees: 8’ minimum space (curb to sidewalk) 50’ between trees:**
    - i. Norway Maple (all named varieties), Red Maple (all named varieties), Sugar Maple (all named varieties), Hackberry, Ginkgo (male only), Thornless Honeylocust (all named varieties), Swamp White Oak, Red Oak, Tulip Tree, Aspen, Elm (Dutch disease resistant)
2. Distance from Curbs and Sidewalks. The distance trees may be planted from curbs or curb lines and sidewalks will be in accordance with the tree species size class, and no tree may be planted closer to any curb, curb line, or the lateral line of a roadway where no curb is present, than the following distances:
  - a. Small tree, two feet
  - b. Medium tree, three feet
  - c. Large tree, four feet
3. Distance from Street Corners and Fire Hydrants. No street tree shall be planted closer than 35 feet to any street corner measured from the point of the nearest intersecting curb, curb line, or the lateral lines of the intersecting roads or roadways. No street tree shall be planted closer than 10 feet to any fire hydrant.
4. Distance from Utilities. No street tree, other than those of the species listed as small trees in the resolution adopted by the City Council pursuant to this chapter, may be planted under or within 10 lateral feet of any overhead utility wire, or over or within five lateral feet of any underground water line, sewer line, transmission line, or other utility. The abutting property owner shall have the responsibility to assure compliance with this section.

**151.04 STREET TREE PLANTING SPECIFICATIONS.** No trees shall be planted in any street, except in accordance with the following specifications:

1. All trees, shrubs, bushes or other woody vegetation planted in any street shall be planted in the parking midway between the outer line of the sidewalk (line of sidewalk furthest from property line) and the curb line. In the event a curb line is not established, this vegetation shall be planted on a line parallel to and 10 feet from the property line.
2. Spacing. The planting of street trees will be in accordance with the species size classifications adopted in the resolution of the City Council establishing street trees permitted to be planted. No tree species may be planted closer to another tree than is permitted by the following:
  - a. Small trees, 30 feet
  - b. Medium trees, 40 feet
  - c. Large trees, 50 feet

#### **151.05 PUBLIC TREE CARE**

1. The city shall have the right to plant, prune, maintain, remove and replace trees within any street, public park, or any other areas owned by the City, or to which the public has access as a matter of right, as may be necessary to ensure public safety or to preserve, protect or enhance the symmetry and beauty of such public areas. To facilitate this provision, the City may remove or cause or order to be removed, any tree, or any part thereof, which is either in an unsafe condition or by reason of its nature is or may be injurious to utilities located either above ground or underground, or to other public improvements within the street, or which is affected with any disease or injurious insect or other pest.
2. Any property owner desiring to plant a street tree in the street abutting the property owner's property, shall do so in accordance with this chapter and in accordance with the resolutions adopted by the City Council setting forth those species which are permitted and those which are prohibited, as provided for in Sections 151.03(1) and 151.04(2) of this chapter.

**151.06 TREE TOPPING.** It is unlawful for any person to top any street tree, park tree, or other tree on public property within the City. Trees damaged by storms or other causes, or trees located under utility installations or nearby other obstructions where pruning practices are impractical may be exempted from this section upon order of the City on application by an abutting property owner or other interested person.

#### **151.07 DUTY TO TRIM TREES.**

1. The abutting property owner of any street tree or tree located on the abutting property owners property overhanging in a street within the City shall prune the branches so that the branches shall neither cover all or any portion of any street land, nor obstruct the view of any street intersection. The abutting property owner shall keep the trees on or overhanging the street trimmed so that all branches are at least 15 feet above the highest surface of the abutting street and eight feet above the sidewalk.
2. The City shall notify the owner of private property to prune any tree, bush, shrub or other woody vegetation located on private property when such a plant interferes with the property diffusion of light along the street from a street lamp,

or interferes with visibility of any street intersection, or with visibility of any traffic control device or sign governing traffic moving on or along the street.

3. The city shall notify the abutting property owner, by written notification letter or by warning citation (fix-it-ticket), of the tree trimming/removal code violation. The initial notification shall give 30 days for performance of the necessary trimming or removal. At the conclusion of the 30 days a follow-up review will be done by the City. If the abutting property owner fails to trim the tree or trees on or adjacent to the abutting property owner's property, the City may serve notice on the abutting property owner requiring that such action be taken within five days. If the action is not taken within that time, the City may perform the required action and assess the costs thereof against the abutting property for collection in the same manner as a property tax. The City may accumulated individual assessments under this section and may periodically certify the assessments to the county treasurer under one or more assessments schedules
4. No oak tree species shall be pruned during the period from April 1 to October 1 of any calendar year in order to prevent the spread of oak wilt disease.
5. The City may from time to time issue additional orders prohibiting pruning or other maintenance activities on street trees or park trees when necessary to prevent the spread of disease or for other public purpose.
6. It shall be the duty of the City to remove dead, diseased, or dangerous trees, or broken or decayed limbs within the street or upon other public areas when necessary to protect the safety of the public.

#### **151.08 DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY.**

The City shall notify the owner of any tree, shrub, bush or other woody vegetation located on private property to remove the tree, bush, shrub or other woody vegetation when such plant constitutes a public nuisance or is a hazard to person or property, or harbors insects, other pests, or disease. The city shall notify in writing the property owner of the property on which such tree, shrub, bush or other woody vegetation is located of the necessity to remove same. Upon such notice, the owner shall remove the planting at the owner's expense within 60 days. Notice shall either be given by ordinary mail, by hand delivery, by personal service or by certified mail with return receipt bearing the signature of the property owner. In the event the property owner fails to comply with the notice, the City may force compliance by legal process and if granted authority to perform the required action, may there after asses the cots against the property for collection in the same manner as a property tax.

**151.09 REMOVAL OF STUMPS.** Any stump of any street tree or park tree shall be removed below the surface of the ground so that the top of the portion of the stump does not project above the surface of the surrounding grade.

**151.10 INSURANCE CERTIFICATION.** Any person desiring to engage in the business or occupation of pruning, treating, removing, or replacing street trees or park trees within the City shall first provide to the City evidence of liability insurance with minimum limits of \$1,000,000.00 each occurrence and \$2,000,000.00 annual aggregate

for bodily injury or property damage endorsed to protect the City, the Board, and each of its officers and members, from claims of personal injury or property damage caused by or resulting from acts of the person in the performance of any such tasks.

**Section 2. SEVERABILITY CLAUSE.** If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

**Section 3. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

**PASSED AND APPROVED** by the Council this 14<sup>th</sup> day of June, 2023.

[The next page is 615]



## CHAPTER 160

# FLOOD PLAIN REGULATIONS

160.01 Statutory Authority, Finding of Fact and Purpose  
160.02 Definitions  
160.03 General Provisions  
160.04 Floodplain Management Standards

160.05 Administration  
160.06 Nonconforming Uses  
160.07 Penalties for Violation  
160.08 Amendments

### 160.01 STATUTORY AUTHORITY, FINDINGS OF FACT AND PURPOSE.

1. Statutory Authority. The Legislature of the State of Iowa has in Chapter 364, *Code of Iowa*, as amended, delegated the power to cities to exercise any power and perform any function it deems appropriate to protect and preserve the rights, privileges and property of the City or of its residents, and to preserve and improve the peace, safety, health, welfare, comfort and convenience of its residents.

2. Findings of Fact.

A. The flood hazard areas of the City of Essex are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare of the community.

B. These flood losses, hazards, and related adverse effects are caused by: (i) The occupancy of flood hazard areas by uses vulnerable to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flooding and (ii) the cumulative effect of obstructions on the floodplain causing increases in flood heights and velocities.

3. Statement of Purpose. It is the purpose of this chapter to protect and preserve the rights, privileges and property of the City and its residents and to preserve and improve the peace, safety, health, welfare, and comfort and convenience of its residents by minimizing those flood losses described in subsection (2A) of this section with provisions designed to:

A. 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.

B. Require that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.

C. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.

D. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

**160.02 DEFINITIONS.** Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

1. "Base flood" means the flood having one percent chance of being equaled or exceeded in any given year. (See "100-year flood").
2. "Basement" means any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see "lowest floor."
3. "Development" means any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials. "Development" does not include "minor projects" or "routine maintenance of existing buildings and facilities" as defined in this section. It also does not include gardening, plowing, and similar practices that do not involve filling, grading.
4. "Existing construction" means any structure for which the "start of construction" commenced before the effective date of the first floodplain management regulations adopted by the community. May also be referred to as "existing structure".
5. "Existing factory-built home park or subdivision" means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management regulations adopted by the community.
6. "Expansion of existing factory-built home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
7. "Factory-built home" means any structure, designed for residential use which is wholly or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation, on a building site. For the purpose of this chapter factory-built homes include mobile homes, manufactured homes, and modular homes; and also include "recreational vehicles" which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.
8. "Factory-built home park" means a parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.
9. "Flood" means a general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.
10. "Flood elevation" means the elevation floodwaters would reach at a particular site during the occurrence of a specific flood. For instance, the 100-year flood elevation is the elevation of flood waters related to the occurrence of the 100-year flood.
11. "Flood insurance rate map (firm)" 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. "Floodplain" means any land area susceptible to being inundated by water as a result of a flood.
13. "Floodplain management" means an overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of floodplains, including but not limited to emergency preparedness plans, flood control works, floodproofing and floodplain management regulations.
14. "Flood proofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities, which will reduce or eliminate flood damage to such structures.
15. "Floodway" means the channel of a river or stream and those portions of the floodplains adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one foot.
16. "Floodway fringe" means those portions of the floodplain, other than the floodway, which can be filled, leveed, or otherwise obstructed without causing substantially higher flood levels or flow velocities.
17. "Historic structure" means any structure that is:
  - A. Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing of the National Register;
  - B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
  - C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
  - D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified 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 160.04(4A) of this chapter and
  - B. The enclosed area is unfinished (not carpeted, drywalled, etc.) and used solely for low damage potential uses such as building access, parking or storage, and
  - C. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one foot above the 100-year flood level, and

- D. The enclosed area is not a “basement” as defined in this section.

In cases where the lowest enclosed area satisfies criteria a, b, c, and d above, the lowest floor is the floor of the next highest enclosed area that does not satisfy the criteria above.

19. “Minor projects” means small development activities (except for filling, grading and excavating) valued at less than \$500.

20. “New construction” means (new buildings, factory-built home parks) - Those structures or development for which the start of construction commenced on or after the effective date of the first floodplain management regulations adopted by the community.

21. “New factory-built home park or subdivision”, means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the first floodplain management regulations adopted by the community.

22. “One hundred (100) year flood” means a flood, the magnitude of which has a one percent chance of being equaled or exceeded in any given year or which, on the average, will be equaled or exceeded a least once every 100 years.

23. “Recreational vehicle” means a vehicle which is:

- A. Built on a single chassis;
- B. 400 square feet or less when measured at the largest horizontal projection;
- C. Designed to be self-propelled or permanently towable by a light duty truck; and
- D. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

24. “Routine maintenance of existing buildings and facilities” means repairs necessary to keep a structure in a safe and habitable condition that do not trigger a building permit, provided they are not associated with a general improvement of the structure or repair of a damaged structure. Such repairs include:

- A. Normal maintenance of structures such as re-roofing, replacing roofing tiles and replacing siding;
- B. Exterior and interior painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work;
- C. Basement sealing;
- D. Repairing or replacing damaged or broken window panes;
- E. Repairing plumbing systems, electrical systems, heating or air conditioning systems and repairing wells or septic systems.

25. “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 community’s Flood Insurance Rate Map.

26. “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.

27. “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.

28. “Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

29. “Substantial improvement” means any improvement to a structure which satisfies either of the following criteria:

A. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either (i) before the “start of construction” of the improvement, or (ii) if the structure has been “substantially damaged” and is being restored, before the damage occurred. The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions. The term also does not include any alteration of 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 25 percent or more. All additions constructed on or after the effective date of the first floodplain management regulations adopted by the community shall be added to any proposed addition in determining whether the total increase in original floor space would exceed 25 percent.

30. “Variance” means a grant of relief by a community from the terms of the floodplain management regulations.

31. “Violation” means the failure of a structure or other development to be fully compliant with the community’s floodplain management regulations.

### **160.03 GENERAL PROVISIONS.**

1. Lands to Which Chapter Apply. The provisions of this chapter shall apply to all areas having special flood hazards within the jurisdiction of the City. For the purpose

of this chapter, the special flood hazard areas are those areas designated as Zone A on the Flood Insurance Rate Map (FIRM) for Page and Incorporated Areas, City of Essex, Panel 19145C0154C & 19145C0158C, dated April 19, 2017, which is hereby adopted and made a part of this chapter.

2. Rules for Interpretation of Flood Hazard Boundaries. The boundaries of the Special Flood Hazard areas shall be determined by scaling distances on the official Flood Insurance Rate Map. When an interpretation is needed as to the exact location of a boundary, the Building Official shall make the necessary interpretation. The Planning and Zoning Board shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Essex Building Official in the enforcement or administration of this chapter.

3. Compliance. No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations which apply to uses within the jurisdiction of this chapter.

4. Abrogation and Greater Restrictions. It is not intended by this chapter to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provision of this chapter shall prevail. All other chapters inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.

5. Interpretation. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

6. Warning and Disclaimer of Liability. The standards required by this chapter are considered reasonable for regulatory purposes. This chapter does not imply that areas outside the designated special flood hazard areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made there under.

7. Severability. If any section, clause, provision or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.

**160.04 FLOODPLAIN MANAGEMENT STANDARDS.** All uses must be consistent with the need to minimize flood damage and meet the following applicable performance standards. Where 100-year flood data has not been provided on the Flood Insurance Rate Map, the Iowa Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

1. All development within the special flood hazard areas shall:
  - A. Be consistent with the need to minimize flood damage.
  - B. Use construction methods and practices that will minimize flood damage.
  - C. Use construction materials and utility equipment that are resistant to flood damage.

- D. Obtain all other necessary permits from federal, state and local governmental agencies including approval when required from the Iowa Department of Natural Resources.
2. Residential buildings. All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one foot above the 100-year flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than 10 ft. above the 100-year flood level and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers) may be allowed subject to favorable consideration by the City Council, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding. All new residential structures shall be provided with a means of access which will be passable by wheeled vehicles during the 100-year flood.
3. Non-residential 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 flood proofed to such a level. When flood proofing is utilized, a professional engineer registered in the State of Iowa shall certify that the flood proofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 100-year flood; and that the structure, below the 100-year flood level is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are flood proofed shall be maintained by the Administrator.
4. All new and substantially improved structures:
- A. Fully enclosed areas below the "lowest floor" (not including basements) 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.
5. 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.

6. 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.
7. Factory-built homes:
  - A. All factory-built homes, including those placed in existing factory-built home parks or subdivisions shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one foot above the 100-year flood level.
  - B. All factory-built homes, including those placed in existing factory-built home parks or subdivisions shall be anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
8. 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.
9. 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.
10. Flood control structural works such as levees, flood walls, etc. shall provide, at a minimum, protection from a 100-year flood with a minimum of 3 ft. of design freeboard and shall provide for adequate interior drainage. In addition, the Department of Natural Resources shall approve structural flood control works.
11. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, the Department of Natural Resources must approve such alterations or relocations.
12. 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.

13. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the 100-year flood. Proposals for subdivisions greater than five acres or 50 lots (whichever is less) shall include 100-year flood elevation data for those areas located within the Special Flood Hazard Area.

14. Accessory Structures to Residential Uses.

A. Detached garages, sheds, and similar structures that are incidental to a residential use are exempt from the base flood elevation requirements where the following criteria are satisfied.

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

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

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

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

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

(6) The structure's walls shall include openings that satisfy the provisions of Section 160.04(4A) of this Code of Ordinances.

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.

15. Recreational Vehicles.

A. Recreational vehicles are exempt from the requirements of Section 160.04[7] of this Code of Ordinances 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 160.04[7] of this chapter regarding anchoring and elevation of factory-built homes.

16. Pipeline river and stream crossings shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.

#### **160.05 ADMINISTRATION.**

1. Appointment, Duties and Responsibilities of Floodplain Administrator.
  - A. The Building Official is hereby appointed to implement and administer the provisions of this chapter and will herein be referred to as the Administrator.
  - B. Duties of the Administrator shall include, but not necessarily be limited to the following:
    - (1) Review all floodplain development permit applications to assure that the provisions of this chapter will be satisfied.
    - (2) Review floodplain development applications to assure that all necessary permits have been obtained from federal, state and local governmental agencies including approval when required from the Department of Natural Resources for floodplain construction .
    - (3) Record and maintain a record of the elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of all new or substantially improved structures in the special flood hazard area.
    - (4) Record and maintain a record of the elevation (in relation to North American Vertical Datum 1988) to which all new or substantially improved structures have been floodproofed.
    - (5) Notify adjacent communities/counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.
    - (6) Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this chapter.
2. Floodplain Development Permit.
  - A. Permit Required. A Floodplain Development Permit issued by the Administrator shall be secured prior to any floodplain development (any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, excavation or drilling operations), including the placement of factory-built homes.
  - B. Application for Permit. Application shall be made on forms furnished by the Administrator and shall include the following:
    - (1) Description of the work to be covered by the permit for which application is to be made.



- (2) Description of the land on which the proposed work is to be done (i.e., lot, block, track, street address or similar description) that will readily identify and locate the work to be done.
- (3) Indication of the use or occupancy for which the proposed work is intended.
- (4) Elevation of the 100-year flood.
- (5) Elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of buildings or of the level to which a building is to be flood proofed.
- (6) For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.
- (7) Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this chapter.

C. Action on Permit Application. The Administrator shall, within a reasonable time, make a determination as to whether the proposed floodplain development meets the applicable standards of this chapter and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefore. The Administrator shall not issue permits for variances except as directed by the City Council.

D. Construction and Use to be as Provided in Application and Plans. Floodplain Development Permits based on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter.

E. 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.

3. Variance.

A. The City Council may authorize upon request in specific cases such variances from the terms of this chapter that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship. Variances granted must meet the following applicable standards.

- (1) Variances shall only be granted upon: (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.

(2) Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(3) 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: 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.

B. Factors Upon Which the Decision of the Council Shall be Based. In passing upon applications for Variances, the Council shall consider all relevant factors specified in other sections of this chapter and:

(1) The danger to life and property due to increased flood heights or velocities caused by encroachments.

(2) The danger that materials may be swept on to other land or downstream to the injury of others.

(3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.

(4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

(5) The importance of the services provided by the proposed facility to the City.

(6) The requirements of the facility for a floodplain location.

(7) The availability of alternative locations not subject to flooding for the proposed use.

(8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

(9) The relationship of the proposed use to the comprehensive plan and floodplain 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.

C. Conditions Attached to Variances. Upon consideration of the factors listed above, the Board may attach such conditions to the granting of variances

as it deems necessary to further the purpose of this chapter. Such conditions may include, but not necessarily be limited to:

- (1) Modification of waste disposal and water supply facilities.
- (2) Limitation of periods of use and operation.
- (3) Imposition of operational controls, sureties, and deed restrictions.
- (4) Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purpose of this chapter.
- (5) Flood proofing measures.

#### **160.06 NONCONFORMING USES.**

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this chapter, but which is not in conformity with the provisions of this chapter, may be continued subject to the following conditions:

A. If such use is discontinued for six consecutive months, any future use of the building premises shall conform to this chapter.

B. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.

2. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this chapter. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.

**160.07 PENALTIES FOR VIOLATION.** Violations of the provisions of this chapter or failure to comply with any of the requirements shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$100.00 or imprisoned for not more than 30 days. Each day such violation continues shall constitute a separate offense. Nothing herein contained prevents the City from taking such other lawful action as is necessary to prevent or remedy violation.

**160.08 AMENDMENTS.** The regulations and standards set forth in this chapter may from time to time be amended, supplemented, changed, or repealed. No amendment, supplement, change, or modification shall be undertaken without prior approval of the Department of Natural Resources.

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# CHAPTER 165

## ZONING AND SUBDIVISION REGULATIONS

EDITOR'S NOTE		
Ordinance No. 216 entitled "City of Essex Zoning and Subdivision Ordinances, 2006" adopted June 13, 2006, and amendments thereto are contained in the Appendix of this Code of Ordinances and are in full force and effect. The following ordinances have been adopted amending Ordinance No. 216 and have not been codified herein, but are specifically saved from repeal and are in full force and effect:		
ORDINANCE	ADOPTED	SUBJECT
222	4-11-08	Rezoning from R-1 to C-1
223	6-10-08	Pools
230	1-13-09	Removal of Buildings
244	6-21-10	Rezoning from R-1 to C-1
246	10-12-10	Driveway Dimensions
252	4-11-12	Permit Fees
265	2-11-15	C-3 Special Commercial District
284	2-14-18	2015 International Residential Code and 2015
		International Building Code

## ORDINANCE NO. 2024 – 06

AN ORDINANCE AMENDING SECTION 3.02 ARTICLE III GENERAL PROVISIONS OF CITY OF ESSEX ZONING ORDINANCE BY ADDING STORAGE CONTAINERS AND ACCESSORY STORAGE BUILDING REGULATIONS AS SECTION 3.02 ACCESSORY BUILDINGS, STRUCTURES AND USES.

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF ESSEX, IOWA:

Section 1. **SECTION MODIFIED.** Section 3.02 Article III General Provisions of City of Essex Zoning Ordinance By Adding Storage Containers and Accessory Storage Buildings Regulation as Section 3.02 Accessory Buildings in place of existing Section 3.02.

Section 3.02 shall read as follows:

1. Purpose- The purpose of this ordinance is to regulate the use of accessory storage containers in the City, which regulations are adopted to protect the public health, safety, welfare and promote public aesthetics in the City.
2. Definitions-
  - A. An “accessory storage container” is an accessory storage building and, in limited circumstances as set out in Section 2 (C) below, a cargo container.
  - B. An “accessory storage building” is:
    1. A building originally constructed for use as an accessory building for storage of material and equipment accessory to a primary use located on the property.
    2. For purposes of this chapter, cargo containers, railroad cars, truck vans, converted mobile homes, trailers, recreational vehicles, bus bodies, vehicles and similar prefabricated items and structures originally built for purposes other than the storage of goods and materials are not accessory storage buildings.
  - C. “Cargo Containers” include standardized reusable vessels that were:
    1. Originally designed for or used in the parking, shipping, movement or transportation of freight, articles, goods or commodities; and/or
    2. Originally designed for or capable of being mounted or moved by rail, truck or ship by means of being mounted on a chassis or similar transport device. This definition includes the terms “transport containers” and “portable site storage containers” having a similar appearance to and similar characteristics of cargo containers.
3. Storage on Residential Use Properties.
  - A. A zoning permit is required prior to construction of an accessory storage building or the temporary placement of cargo container. The application

shall show that the construction of an accessory storage building or the temporary placement of a proposed cargo container is accessory to the permitted use of the property and meets the placement criteria for the zone.

- B. Only accessory storage buildings defined in Section 104.01 above and more particularly herein shall be permitted as accessory storage containers on property in any residential zone of the city, or on any property within the city the primary use of which is residential. Cargo containers, railroad cars, truck vans, converted mobile homes, travel trailers, recreational vehicles, bus bodies, vehicles and similar prefabricated items and structures originally built for purposes other than the storage of goods and materials are not permitted to be used as storage building on property zoned residential or on property the primary use of which is residential.
  - C. Notwithstanding the provisions set forth in subsection B of this section, the temporary placement of cargo containers on residentially zoned properties , or on properties the primary use of which are residential, for the limited purpose of loading and unloading household contents shall be permitted for a period of time not exceeding 90 days in any one calendar year without approval for a limited extension from the City's Code Enforcement Officer. Original permit holder is allowed two (2) placements of the container within the 90 day period when listed on the original permit. Denials of any extension from code enforcement office can be appealed to the Planning and Zoning Board for an extension.
  - D. Notwithstanding the provisions set forth in subsection B of this section, all contractors may use cargo containers for the temporary location of an office, equipment and/or materials storage structure during construction which is taking place on the property where the cargo container is located, if the use of the cargo container is authorized pursuant to a city zoning permit. **(Exception: With written approval from Adjacent lot owner at the time of permit application container may be placed on adjacent property during construction).**
  - E. Cargo containers shall not occupy required off-street parking or City right-of-ways.
  - F. As a condition of placement, cargo container sites shall be required to meet all zoning regulations and nuisance regulations.
  - G. Material stored within cargo containers are subject to review by fire chief. He/she shall conduct such investigation or inspection and make such recommendations that he/she consider necessary by the Fire Chief and may constitute a municipal infraction.
4. Cargo Containers- Permitted Locations.

- A. The use of a cargo container as an accessory storage container is limited to the following zoning districts:
    - 1. Heavy Industrial M-2
    - 2. Light Industrial M-1
    - 3. Central Business CB
    - 4. Highway Business HB
    - 5. Agriculture
  - B. A zoning permit is required prior to placement of an accessory storage cargo container. The application shall show the proposed cargo container is accessory to the permitted use of the property and meets the placement criteria for the zone.
  - C. The use of a cargo container as an accessory storage container is further limited to properties in the above-identified zones only if the property upon which the cargo container is proposed to be located is not primarily for residential purposes.
  - D. Cargo containers shall not be stacked above the height of a single container device, except for placement with in the Light Industrial District or Heavy Industrial District.
  - E. Cargo Containers shall not be used for off-site advertising (**Exception: Cargo Containers owner/rental company advertising allowed**).
  - F. As a condition of placement, cargo container sites shall be required to meet all zoning regulations listed including Nuisances and General Provisions.
  - G. Cargo containers shall meet the setback requirements of the underlying zone. (**Exception: For temporary placement in setback on construction sites with an approved Building Permit.**)
  - H. Cargo containers shall be in an approved designated area and on the same property as the principal use and be included in the calculation of overall lot coverage. (**Exception: With written approval from adjacent lot owner at the time of building permit application container may be placed on adjacent property during construction**).
  - I. Material stored within cargo containers are subject to review by fire chief. He/she shall conduct such investigation or inspection and make such recommendations that he/she consider necessary as authorized by Administrative code. Failure to timely eliminate any fire hazards as recommended by the Fire Chief shall constitute a municipal infraction.
5. Current Violations – Time to Comply. All owners of property within the City shall have 120 days from the effective date of the ordinance codified in this chapter to bring the properties, which currently contain accessory storage



containers that in in violation of the terms of this chapter, into full compliance with provisions of this chapter.

6. Conflicts – In the event any conflict exists between the provisions of this chapter and other currently existing provisions of the Essex City Municipal Code or other ordinances of the City, the terms and provisions of this chapter shall take precedence and to the extent of any such conflict, the terms and conditions of any existing provisions of the Essex City Municipal Code or other ordinances of the City shall be and hereby are amended insofar as necessary to conform to the provisions of this chapter.
7. Violations- Penalties. Violation of this chapter shall be enforced pursuant to the procedures for enforcement of Municipal Infractions as the same exists now or may hereafter be amended.

This Section 3.02 is a complete rewrite of Section 3.02 and this is meant as a complete rewrite and replacement.

Section 2. **SEVERABILITY CLAUSE.** If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section 3. **WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

**PASSED AND APPROVED** by the Council this 10<sup>th</sup> day of December, 2024.

#### **ORDINANCE NO 2022 – 04**

#### **AN ORDINANCE AMENDING THE ZONING ORDINANCE BY AMENDING ARTICLE III GENERAL PROVISIONS AND SECTION 3.4 IN PARTICULAR AS FOLLOWS:**

Section 1 Section 3.4 Permit Required. Is modified with the following addition:

Requirement for permit shall include a building line that is the line of the outside wall of any building, structure, or extension thereof nearest the street that establishes the setback and the area of the front yard or side yard where any building, structure or projection thereof is not permitted to extend beyond. The City of Essex is desirous of preventing any building, structure or projection thereof beyond the existing building line and the creeping of the building, structure or extension thereof further and further toward the street. The description of building, structure or extension thereof is to be interpreted to include anything that extends the building or structure including but not limited to porches, patios, fences and the like. The building line is established by line of sight looking along the existing buildings or structures without extensions to determine where the building line exists.

No building or structure or any extension thereof shall extend beyond the building line.

SECTION 2. SEVERABILITY CLAUSE. If any section, provisions or parts of this ordinance shall be adjusted invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

PASSED AND APPROVED by the Council this 8<sup>th</sup> day of June, 2022.

### **ORDINANCE NO. 2022 - 05**

#### **AN ORDINANCE MODIFYING THE ZONING ORDINANCE BY AMENDING ARTICLE IV ZONING MAP AND DISTRICT REGULATIONS.**

Section 1. Article IV is modified with the following: Article IV is amended by the addition of Section 4.8 Extraterritorial Jurisdiction as Permitted under Iowa Code 354.9 and Iowa Code 499B to read as follows:

1. The City of Essex adopts an Ordinance regulating the division or subdivisions outside the City's boundaries fully in compliance with the City's existing subdivision ordinance.
2. The City of Essex establishes the area as all land within a two mile distance from the City's boundaries.
3. The City of Essex makes extraterritorial jurisdiction a part of a comprehensive plan for the physical development of the City and future growth of the City with due regard to extraterritorial area within two miles of the City boundaries.

The plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the City and its environs which will, in accordance with the present and future needs, best promote health, safety, morals, order, convenience, prosperity, and general welfare, as well as efficiency and economy in the process of development.

Wellhead Protection, Zones of Sensitivity, Wind Turbines, Solar, Mini houses, horizontal property regime as set forth in Iowa Code 499B shall be made part of this plan.

4. The City of Essex is desirous of working with Page County through a 28E Agreement to be established by and between the City of Essex and the County of Page, if the County of Page is desirous of agreement for reasonable standards and conditions. If 28E Agreement is not reached, then the City shall apply and review purposed development in accordance with City subdivision ordinance and Iowa Code 354.8.5.

5. The City of Essex shall be empowered to review Plat of Survey within any development within the two mile extraterritorial jurisdiction. Plat of Survey shall include any area of land described by metes and bounds.

SECTION 2. SEVERABILITY CLAUSE. If any section, provisions or parts of this ordinance shall be adjusted invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

PASSED AND APPROVED by the Council this 8<sup>th</sup> day of June, 2022.

ORDINANCE NO. 2022 – 06

**AN ORDINANCE AMENDING THE ZONING ORDINANCE TO ADDRESS SOLAR**

Section 11.5 is added to the Zoning Ordinance to read as follows:

**11.5 Solar**

11.5.1 For the purpose of promoting the health, safety, morals or the general welfare of the community or for the purpose of preserving historically significant areas of the community, the City of Essex is hereby empowered to regulate and restrict the height, number of stories, size of buildings and other structures, the percentage of lot that may be solar occupied, the roof percentage that solar can occupy and the requirements necessary to accomplish with compliance subject to review by Board of Adjustment and the Zoning Board based upon character and architectural style of community and local values regarding the physical character of the community.

11.5.2 **Definitions.** Not all of these terms are used in this ordinance, nor is this a complete list of solar definitions. As a community develops its own design standards for solar technology, many of the concepts defined here may be helpful in meeting local goals. For instance, daylighting devices may change the exterior appearance of the building, and the community may choose to distinguish between these devices and other architectural changes.

**Grid-intertie Solar Energy System-** (Interconnection of Solar with Mid America Energy) A photovoltaic solar energy system that is connected to an electric circuit served by an electric utility company.

**Ground-mount-** A solar energy system mounted on a rack or pole that rests or is attached to the ground. Ground-mount systems can be either accessory or principal uses.

**Off-grid Solar Energy System-** A photovoltaic solar energy system in which the circuits energized by the solar energy system are not electrically connected in any way to electric circuits that are served by an electric utility company.

**Renewable Energy Easement, Solar Energy Easement-** An easement that limits the height or location, or both, of permissible development on the burdened land in terms of a structure or vegetation, or both, for the purpose of providing access for the benefited land to wind or sunlight passing over the burdened land.

**Roof-mount-** A solar energy system mounted on a rack that is fastened to or ballasted on a building roof. Roof-mount systems are accessory to the principal use.

**Roof Pitch-** The final exterior slope of a building roof calculated by the rise over the run, typically but not exclusively expressed in twelfths such as 3/12, 9/12, 12/12.

**11.5.3 Plan Approval Required-** All solar energy systems shall require administrative plan approval by city official and the city council with city official recommending and city council being the last word.

**A. Plan Applications-** Plan applications for solar energy systems shall be accompanied by to-scale horizontal and vertical (elevation) drawings. The drawings must show the location of the system on the building or on the property for a ground-mount system, including the property lines.

**1. Pitched Roof Mounted Solar Energy Systems-** For all roof-mounted systems other than a flat roof the elevation must show the highest finished slope of the solar collector and the slope of the finished roof surface on which it is mounted.

**2. Flat Roof Mounted Solar Energy Systems-** For flat roof applications a drawing shall be submitted showing the distance to the roof edge and any parapets on the building and shall identify the height of the building on the street frontage side, the shortest distance of the system from the street frontage edge of the building, and the highest finished height of the solar collector above the finished surface of the roof.

**B. Plan Approvals-** Applications that meet the design requirements of this ordinance, and do not require an administrative variance, may be granted administrative approval by the City Council and may not require Board of Adjustment review. Plan approval does not indicate compliance with Building Code or Electric Code.

- C. Compliance with Building Code-** All active solar energy systems shall meet approval of local building code officials, consistent with the State of Iowa Building Code and solar thermal systems shall comply with HVAC-related requirements of the Energy Code.
- D. Compliance with State Electric Code-** All photovoltaic systems shall comply with the Iowa State Electric Code.
- E. Compliance with State Plumbing Code-** Solar thermal systems shall comply with applicable Iowa State Plumbing Code Requirements.
- F. Utility Notification-** All grid-intertie solar energy systems shall comply with the interconnection requirements of the electric utility. Off-grid systems are exempt from this requirement.
- G. Other standards and codes-** All solar systems shall be in compliance with all applicable local, state and federal regulatory codes, including the State of Iowa Uniform Building Code, as amended; and the National Electric Code, as amended.
- H.** All solar energy projects shall require Solar Permit Application to the City of Essex.

SECTION 2. SEVERABILITY CLAUSE. If any section, provisions or parts of this ordinance shall be adjusted invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

PASSED AND APPROVED by the Council this 8<sup>th</sup> day of June, 2022.

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# APPENDIX TO CODE OF ORDINANCES

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## USE AND MAINTENANCE OF THE CODE OF ORDINANCES

The following information is provided to assist in the use and proper maintenance of this Code of Ordinances.

### DISTRIBUTION OF COPIES

1. **OFFICIAL COPY.** The “OFFICIAL COPY” of the Code of Ordinances must be kept by the City Clerk and should be identified as the “OFFICIAL COPY.”

2. **DISTRIBUTION.** Other copies of the Code of Ordinances should be made available to all persons having a relatively frequent and continuing need to have access to ordinances which are in effect in the City as well as reference centers such as the City Library, County Law Library, and perhaps the schools.

3. **SALE.** The sale or distribution of copies in a general fashion is not recommended as experience indicates that indiscriminate distribution tends to result in outdated codes being used or misused.

4. **RECORD OF DISTRIBUTION.** The City Clerk should be responsible for maintaining an accurate and current record of persons having a copy of the Code of Ordinances. Each official, elected or appointed, should return to the City, upon leaving office, all documents, records and other materials pertaining to the office, including this Code of Ordinances.

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

### NUMBERING OF ORDINANCES AMENDING THE CODE OF ORDINANCES

It is recommended that a simple numerical sequence be used in assigning ordinance numbers to ordinances as they are passed. For example, if the ordinance adopting the Code of Ordinances is No. 163, we would suggest that the first ordinance passed changing, adding to, or deleting from the Code be assigned the number 164, the next ordinance be assigned the number 165, and so on. We advise against using the Code of Ordinances numbering system for the numbering of ordinances.

## **RETENTION OF AMENDING ORDINANCES**

Please note that two books should be maintained: (1) the Code of Ordinances; and (2) an ordinance book. We will assist in the maintenance of the Code of Ordinances book, per the Supplement Agreement, by revising and returning appropriate pages for the Code of Ordinances book as required to accommodate ordinances amending the Code. The City Clerk is responsible for maintaining the ordinance book and must be sure that an original copy of each ordinance adopted, bearing the signatures of the Mayor and Clerk, is inserted in the ordinance book and preserved in a safe place.

## **SUPPLEMENT RECORD**

A record of all supplements prepared for the Code of Ordinances is provided in the front of the Code. This record will indicate the number and date of the ordinances adopting the original Code and of each subsequently adopted ordinance which has been incorporated in the Code. For each supplemented ordinance, the Supplement Record will list the ordinance number, date, topic, and chapter or section number of the Code affected by the amending ordinance. A periodic review of the Supplement Record and ordinances passed will assure that all ordinances amending the Code have been incorporated therein.

## **DISTRIBUTION OF SUPPLEMENTS**

Supplements containing revised pages for insertion in each Code will be sent to the Clerk. It is the responsibility of the Clerk to see that each person having a Code of Ordinances receives each supplement so that each Code may be properly updated to reflect action of the Council in amending the Code.

## **AMENDING THE CODE OF ORDINANCES**

The Code of Ordinances contains most of the laws of the City as of the date of its adoption and is continually subject to amendment to reflect changing policies of the Council, mandates of the State, or decisions of the Courts. Amendments to the Code of Ordinances can only be accomplished by the adoption of an ordinance.

*(Code of Iowa, Sec. 380.2)*

The following forms of ordinances are recommended for making amendments to the Code of Ordinances:

## **ADDITION OF NEW PROVISIONS**

New material may require the addition of a new SUBSECTION, SECTION or CHAPTER, as follows:



**ORDINANCE NO. \_\_\_\_****AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF ESSEX, IOWA, BY ADDING A NEW SECTION LIMITING PARKING TO 30 MINUTES ON A PORTION OF SOUTH BOONE STREET**

**BE IT ENACTED** by the City Council of the City of Essex, Iowa:

**SECTION 1. NEW SECTION.** The Code of Ordinances of the City of Essex, Iowa, is amended by adding a new Section 69.16, entitled PARKING LIMITED TO 30 MINUTES, which is hereby adopted to read as follows:

**69.16 PARKING LIMITED TO 30 MINUTES.** It is unlawful to park any vehicle for a continuous period of more than 30 minutes between the hours of 8:00 a.m. and 8:00 p.m. on each day upon the following designated streets:

1. South Boone Street, on the west side, from Forest Avenue to Mason Drive.

**SECTION 2. REPEALER.** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**SECTION 3. SEVERABILITY CLAUSE.** If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

**SECTION 4. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and approved this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Third Reading: \_\_\_\_\_

I certify that the foregoing was published as Ordinance No. \_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
City Clerk

**DELETION OF EXISTING PROVISIONS**

Provisions may be removed from the Code of Ordinances by deleting SUBSECTIONS, SECTIONS or CHAPTERS as follows:

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF ESSEX, IOWA, BY REPEALING SECTION 65.02, SUBSECTION 5, PERTAINING TO THE SPECIAL STOP REQUIRED ON LAKE BOULEVARD**

**BE IT ENACTED** by the City Council of the City of Essex, Iowa:

**SECTION 1. SUBSECTION REPEALED.** The Code of Ordinances of the City of Essex, Iowa, is hereby amended by repealing Section 65.02, Subsection 5, which required vehicles traveling south on Lake Boulevard to stop at Second Place North.

**SECTION 2. SEVERABILITY CLAUSE.** If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

**SECTION 3. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_, and approved this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Third Reading: \_\_\_\_\_

I certify that the foregoing was published as Ordinance No. \_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
City Clerk

**MODIFICATION OR CHANGE OF EXISTING PROVISION**

Existing provisions may be added to, partially deleted, or changed as follows:

**ORDINANCE NO. \_\_\_\_****AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE  
CITY OF ESSEX, IOWA, BY AMENDING PROVISIONS  
PERTAINING TO SEWER SERVICE CHARGES**

**BE IT ENACTED** by the City Council of the City of Essex, Iowa:

**SECTION 1. SECTION MODIFIED.** Section 99.02 of the Code of Ordinances of the City of Essex, Iowa, is repealed and the following adopted in lieu thereof:

**99.02 RATE.** Each customer shall pay sewer service charges in the amount of 100 percent of the bill for water and water service attributable to the customer for the property served, but in no event less than \$10.00 per month.

**SECTION 2. SEVERABILITY CLAUSE.** If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

**SECTION 3. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_, and approved this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Third Reading: \_\_\_\_\_

I certify that the foregoing was published as Ordinance No. \_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_.

\_\_\_\_\_  
City Clerk

**ORDINANCES NOT CONTAINED IN THE  
CODE OF ORDINANCES**

There are certain types of ordinances which the City will be adopting which do not have to be incorporated in the Code of Ordinances. These include ordinances: (1) establishing grades of streets or sidewalks; (2) vacating streets or alleys; (3) authorizing the issuance of bonds; and (4) amending the zoning map.

*(Code of Iowa, Sec. 380.8)*

**ORDINANCE NO. \_\_\_\_****AN ORDINANCE VACATING THE ALLEY LYING IN BLOCK TWO  
RAILROAD ADDITION TO ESSEX, IOWA**

Be It Enacted by the City Council of the City of Essex, Iowa:

**SECTION 1.** The alley lying in Block Two, Railroad Addition to Essex, Iowa, is hereby vacated and closed from public use.

**SECTION 2.** The Council may by resolution convey the alley described above to abutting property owners in a manner directed by the City Council.

**SECTION 3.** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**SECTION 4.** If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

**SECTION 5.** This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_, and approved this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Third Reading: \_\_\_\_\_

I certify that the foregoing was published as Ordinance No. \_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_.

\_\_\_\_\_  
City Clerk

These ordinances should be numbered in the same numerical sequence as any other amending ordinance and placed in their proper sequence in the ordinance book.

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**SUGGESTED FORMS**

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**FIRST NOTICE – DANGEROUS BUILDING**

TO: (Name and address of owner, agent, or occupant of the property on which nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified to abate the nuisance existing at (name location of nuisance) within \_\_\_\_ days from service of this notice or file written request for a Council hearing with the undersigned officer within said time limit.

The nuisance consists of (describe the nuisance and cite the law or ordinance) and shall be abated by (state action necessary to abate the particular nuisance).

In the event you fail to abate or cause to be abated the above nuisance, as directed, or file written request for hearing within the time prescribed herein, the City will take such steps as are necessary to abate or cause to be abated the nuisance and the cost will be assessed against you as provided by law.

Date of Notice: \_\_\_\_\_

City of Essex, Iowa

By: \_\_\_\_\_  
(enforcement officer)

**NOTICE OF HEARING ON DANGEROUS BUILDING**

TO: (Name and address of the owner, agent, or occupant of the property on which nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified that the City Council of Essex, Iowa, will meet on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ p.m., in the Council Chambers of the City Hall, at (address of City Hall) for the purpose of considering whether or not the alleged nuisance consisting of (describe the nuisance) on your property, locally known as \_\_\_\_\_, constitutes a nuisance pursuant to Chapter \_\_\_\_\_ of the Code of Ordinances of Essex, Iowa, and should be abated by (state action necessary to abate the particular nuisance).

You are further notified that at such time and place you may appear and show cause why the said alleged nuisance should not be abated.

You are further notified to govern yourselves accordingly.

Date of Notice: \_\_\_\_\_

City of Essex, Iowa

By: \_\_\_\_\_  
(enforcement officer)

**RESOLUTION AND ORDER  
REGARDING DANGEROUS BUILDING**

**BE IT RESOLVED**, by the City Council of the City of Essex, Iowa:

**WHEREAS**, notice has heretofore been served on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, on (property owner's name), through (agent's name or "none"), agent, to abate the nuisance existing at (legal description and address) within \_\_\_\_ days from service of said notice upon the said (name of owner or agent). and

(EITHER)

**WHEREAS**, a hearing was requested by the said (name of property owner or agent) and the same was held at this meeting and evidence produced and considered by the City Council.

(OR, ALTERNATE TO PRECEDING PARAGRAPH)

**WHEREAS**, the said owner (agent) named above has failed to abate or cause to be abated the above nuisance as directed within the time set, and after evidence was duly produced and considered at this meeting, and said owner has failed to file a written request for hearing, as provided, after being properly served by a notice to abate.

**NOW THEREFORE, BE IT RESOLVED** that the owner of said property, or said owner's agent (name of owner or agent) is hereby directed and ordered to abate the nuisance consisting of (describe the nuisance) by (state action necessary to abate) within \_\_\_\_ days after the service of this Order upon said owner or agent. and

**BE IT FURTHER RESOLVED** that the enforcement officer be and is hereby directed to serve a copy of this Order upon the said property owner or agent named above. and

**BE IT FURTHER RESOLVED** that in the event the owner, or agent (name the owner or agent) fails to abate the said nuisance within the time prescribed above, then and in that event the City will abate the said nuisance and the cost will be assessed against the property and/or owner (owner's name) at (address), as the law shall provide.

Moved by \_\_\_\_\_ to adopt.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

**Note:** It is suggested by the blank space in the resolution that additional time be allowed the owner to abate the nuisance after the passage of the resolution before any action is taken on the part of the City to abate the same. In some instances, for the sake of public safety, the time element could be stricken from the resolution and immediate action be taken to abate the nuisance after the order is given.

**NOTICE TO ABATE NUISANCE**

TO: (Name and address of owner, agent, or occupant of the property on which the nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified to abate the nuisance existing at (name location of nuisance) or file written request for a hearing with the undersigned officer within (hours or days) from service of this notice.

The nuisance consists of: (describe the nuisance) and shall be abated by: (state action necessary to abate the particular nuisance).

In the event you fail to abate or cause to be abated the above nuisance as directed, the City will take such steps as are necessary to abate or cause to be abated the nuisance and the costs will be assessed against you as provided by law.

Date of Notice: \_\_\_\_\_

City of Essex, Iowa

By: \_\_\_\_\_  
(designate officer initiating notice)



**NOTICE****REQUIRED SEWER CONNECTION**

TO: \_\_\_\_\_  
(Name)  
\_\_\_\_\_  
(Street Address)  
\_\_\_\_\_, Iowa

You are hereby notified that connection to the public sanitary sewer system is required at the following described property within \_\_\_\_\_ (\_\_\_\_) days from service of this notice or that you must file written request for a hearing before the Council with the undersigned office within said time limit.

**Description of Property**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The nearest public sewer line within \_\_\_\_\_ (\_\_\_\_) feet of the above described property is located

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

In the event you fail to make connection as directed, or file written request for hearing within the time prescribed herein, the connection shall be made by the City and the costs thereof assessed against you as by law provided.

Date of Notice: \_\_\_\_\_

City of Essex, Iowa

By: \_\_\_\_\_, \_\_\_\_\_  
(Name) (Title)

**NOTICE OF HEARING****REQUIRED SEWER CONNECTION**

TO: \_\_\_\_\_  
(Name)  
\_\_\_\_\_  
(Street Address)  
\_\_\_\_\_, Iowa

You are hereby notified that the City Council of Essex, Iowa, will meet on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, at \_\_\_\_\_ m. in the Council Chambers of the City Hall for the purpose of considering whether or not connection to the public sanitary sewer system shall be required at the following described property:

**Description of Property**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

You are further notified that at such time and place you may appear and show cause why said connection should not be required.

You are further notified to govern yourselves accordingly.

Date of Notice: \_\_\_\_\_

City of Essex, Iowa

By: \_\_\_\_\_, \_\_\_\_\_  
(Name) (Title)

**RESOLUTION AND ORDER**  
**REQUIRED SEWER CONNECTION**

**BE IT RESOLVED**, by the City Council of the City of Essex, Iowa:

**WHEREAS**, notice has heretofore been served on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, on  
\_\_\_\_\_,  
(Name of Property Owner)  
through \_\_\_\_\_, Agent,  
(Agent's Name or "None")

to make connection of the property described as

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

to the public sanitary sewer located \_\_\_\_\_  
within \_\_\_\_\_ (\_\_\_\_\_) days from service of notice upon said owner or agent. and

(EITHER)

**WHEREAS**, a hearing was requested by the said owner or agent and the same was held at this meeting and evidence produced and considered by the City Council.

(OR AS ALTERNATE TO THE PRECEDING PARAGRAPH)

**WHEREAS**, the said owner or agent named above has failed to make such required connection within the time set, and after evidence was duly produced and considered at this meeting, and said owner or agent has failed to file a written request for hearing after being properly served by a notice to make such connection or request a hearing thereon.

**NOW, THEREFORE, BE IT RESOLVED** that the owner of said property, or said owner's agent, \_\_\_\_\_

(Name of Owner or Agent)

is hereby directed and ordered to make such required connection within \_\_\_\_\_ days after the service of this ORDER upon said owner or agent. and

**BE IT FURTHER RESOLVED** that the City Clerk be and the same is hereby directed to serve a copy of this ORDER upon said property owner or agent named above. and

**BE IT FURTHER RESOLVED**, that in the event the owner, or agent,

\_\_\_\_\_,

(Name of Owner or Agent)

fails to make such connection within the time prescribed above, then and in that event the City will make such connection and the cost thereof will be assessed against the property and/or owner

\_\_\_\_\_, as provided by law.

(Owner's Name)

(Address)

Moved by \_\_\_\_\_ to adopt.

Seconded by \_\_\_\_\_.

AYES: \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_,

\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_.

NAYS: \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_,

\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_.

Resolution approved this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

## CITY OF ESSEX, IOWA

## APPLICATION FOR A BUILDING/LAND USE PERMIT

DATE: \_\_\_\_\_ APPLICATION NO.: \_\_\_\_\_ FEE: \_\_\_\_\_

Applicant \_\_\_\_\_  
Address \_\_\_\_\_

Tel. No. (Bus.) \_\_\_\_\_ (Res.) \_\_\_\_\_

**FOR OFFICE USE ONLY**

\_\_\_\_ FEE PAID  
\_\_\_\_ PLOT DIAGRAM SUBMITTED  
\_\_\_\_ PLAN SUBMITTED  
\_\_\_\_ APPLICATION FOR A CERTIFICATE OF OCCUPANCY SUBMITTED

I/WE HEREBY REQUEST A BUILDING/LAND USE PERMIT TO:

☐ BUILD ☐ ALTER ☐ CHANGE THE USE OF

THE FOLLOWING DESCRIBED PROPERTY:

STREET ADDRESS \_\_\_\_\_

LEGAL DESCRIPTION:

TYPE OF IMPROVEMENT: \_\_\_\_\_

\_\_\_\_\_

PRESENT USE: \_\_\_\_\_

PROPOSED USE: \_\_\_\_\_

\_\_\_\_\_

*A PLOT DIAGRAM, showing lot lines, exact location and dimensions of all existing and proposed structures on the property, AND A PLAN OF ANY PROPOSED WORK MUST ACCOMPANY THIS APPLICATION.*

\*\*\*\*\*

I have read Chapter \_\_\_\_\_ of the Code of Ordinances of Essex, Iowa, and believe to the best of my knowledge, that the work proposed in this application would not violate any portion of this chapter.

\_\_\_\_\_  
(Applicant's Signature)

**CITY OF ESSEX, IOWA**

**BUILDING/LAND USE PERMIT**

PERMIT NO. \_\_\_\_\_ (Date)

APPLICATION NO. \_\_\_\_\_  
(Date of Application)

LOCATION \_\_\_\_\_

\*\*\*\*\*

THIS PERMIT IS ISSUED PURSUANT TO THE REQUIREMENTS OF CHAPTER \_\_\_\_,  
“BUILDING AND LAND USE REGULATIONS” OF THE CODE OF ORDINANCES OF  
ESSEX, IOWA.

APPROVED BY COUNCIL \_\_\_\_\_ (Date)

\*\*\*\*\*

THIS PERMIT ISSUED TO:

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature of Building Official

**CITY OF ESSEX, IOWA**

**APPLICATION FOR A CERTIFICATE OF OCCUPANCY**

DATE \_\_\_\_\_ APPLICATION NO. \_\_\_\_\_

APPLICATION NO. OF BUILDING/LAND USE PERMIT \_\_\_\_\_

\*\*\*\*\*

APPLICANT: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

TELEPHONE NO. (Business) \_\_\_\_\_  
(Home) \_\_\_\_\_

\*\*\*\*\*

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Signature of Building Official

CITY OF ESSEX, IOWA

CERTIFICATE OF OCCUPANCY

NO. \_\_\_\_\_

☐ PERMANENT

☐ TEMPORARY

DATE: \_\_\_\_\_

C.O. APPLICATION NO. \_\_\_\_\_

BUILDING/LAND USE PERMIT NO. \_\_\_\_\_

DATE ISSUED: \_\_\_\_\_

LOCATION \_\_\_\_\_

\*\*\*\*\*

THIS CERTIFICATE IS ISSUED PURSUANT TO THE REQUIREMENTS OF CHAPTER  
\_\_\_\_\_ OF THE CODE OF ORDINANCES OF \_\_\_\_\_, IOWA,  
AND COMPLIES WITH ALL THE BUILDING AND HEALTH LAWS.

\*\*\*\*\*

THIS CERTIFICATE ISSUED TO:

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Signature of Building Official



