

# DUNLAP CODE OF ORDINANCES

## 2022

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## TITLE I GENERAL PROVISIONS

### CHAPTER 1 GENERAL PROVISIONS

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1-1-1 DEFINITIONS. The following words and phrases whenever used in the Ordinances of the City, shall be construed as defined in this section unless, from the context, a different meaning is intended or unless different meaning is specifically defined and more particularly directed to the use of such words or phrases:

1. **"Building" means any man-made structure permanently affixed to the ground.**
2. "City" means the City of Dunlap, Iowa, or the area within the territorial limits of the City, and such territory outside of the City over which the City has jurisdiction or control by virtue of any constitutional or statutory provision;
3. "Clerk" means city clerk of Dunlap, Iowa.
4. "Computation of time" means the time within which an act is to be done. It shall be computed by excluding the first day and including the last day; and if the last day is Sunday or a legal holiday, that day shall be excluded;
5. "Council" means the City Council of the City. All its members or all Council persons mean the total number of Council persons provided by the City charter under the general laws of the state;
6. "County" means the County of Harrison, Iowa;
7. **"Delegation of Authority" means whenever a provision appears requiring an officer of the City to do some act or make certain inspections, it is to be construed to authorize the officer to designate, delegate and authorize subordinates to perform the required act or make the required inspection unless the terms of the provision or section designate otherwise.**

(Amended in 2010)

8. "Fiscal Year" means July 1 to June 30.

9. "Law" denotes applicable federal law, the Constitution and statutes of the State of Iowa, the Ordinances of the City; and when appropriate, any and all rules and regulations which may be promulgated thereunder;
10. "May" confers a power;
11. "Month" means a calendar month;
12. "Must" states a requirement;
13. "Oath" shall be construed to include an affirmative or declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "affirm" and "affirmed" shall be equivalent to the words "swear" and "sworn";
14. "Or" may be read "and" and "and" may be read "or" if the sense requires it;
15. "Ordinance" means a law of the City; however, an administrative action, order or directive, may be in the form of a resolution;
16. "Owner" applied to a building or land includes any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or part of such building or land;
17. "Person" means natural person, any other legal entity, or the manager, lessee, agent, servant, officer, or employee of any of them;
18. "Personal property" includes money, goods, chattels, things in action and evidences of debt;
19. "Preceding" and "following" mean next before and next after, respectively;
20. "Property" includes real and personal property;
21. "Real property" includes any interest in land;
22. "Shall" imposes a duty;
23. "Sidewalk" means that portion of a street between the curb line and the adjacent property line intended for the use of pedestrians;
24. "State" means the State of Iowa;
25. "Street" includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, or other public ways in this City which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this state;

26. "Tenant" and "occupant" applied to a building or land, includes any person who occupies whole or a part of such building or land, whether alone or with others;
27. "Title of Office". Use of the title of any officer, employee, board or commission means that officer, employee, department, board or commission of the City;
28. "Writing" and "Written" include printed, typewritten, or electronically transmitted such as facsimile or electronic mail;
29. "Year" means a calendar year;
30. All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases and such other as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning;
31. When an act is required by an Ordinance the same being such that it may be done as well by an agent as by the principal, such requirement shall be construed as to include all such acts performed by an authorized agent.

1-1-2 GRAMMATICAL INTERPRETATION. The following grammatical rules shall apply in the Ordinances of the City;

1. Gender. Any gender includes the other gender;
2. Singular and Plural. The singular number includes the plural and the plural includes the singular;
3. Tenses. Words used in the present tense include the past and the future tenses and vice versa;
4. Use of Words and Phrases. Words and phrases not specifically defined shall be construed according to the content and approved usage of the language.

1-1-3 PROHIBITED ACTS INCLUDE CAUSING, PERMITTING. Whenever in this Code any act or omission is made unlawful, it includes causing, allowing, permitting, aiding, abetting, suffering, or concealing the fact of such act or omission. A principal is responsible for the unauthorized acts or omissions committed by an agent or employee which have been authorized by the principal.

1-1-4 CONSTRUCTION. The provisions of this Code are to be construed with a view to affect its objects and to promote justice.

1-1-5 AMENDMENT. All Ordinances of the City Council passed thereafter shall be in the form of an addition or amendment to the Dunlap Municipal Code of 201920 constituting this Municipal



Code, and shall include proper references to chapter and section to maintain the orderly codification of the Ordinances.

(Code of Iowa, Sec. 380.2)

1-1-6 SEVERABILITY. If any section, provision or part of the City Code or any subsequent ordinance is adjudged invalid or unconstitutional, such adjudication will not affect the validity of the City Code as a whole or any section provision, or part thereof not adjudged invalid or unconstitutional.

1-1-7 CATCHLINES, TITLES, HEADINGS AND NOTES. The catchlines of the several sections of this City Code printed in boldface type as well as the titles, headings, chapter heads, section and subsection heads or titles, editor's notes, cross-references and State law references, unless set out in the body of the section itself, contained in this City Code, do not constitute any part of the law, and are intended merely to indicate, explain, supplement or clarify the contents of a section.

(Amended in 2010)

1-1-8 AMENDMENTS TO CITY CODE, EFFECT OF NEW ORDINANCES, AMENDATORY LANGUAGE.

1. All ordinances passed subsequent to this Code which amend, repeal or in any way affect this City Code may be numbered in accordance with the numbering system of this City Code and printed for inclusion herein. When subsequent ordinances repeal any chapter, section, or subsection or any portion thereof, such repealed portions may be excluded from this City Code by omission from reprinted pages. The subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time as this City Code and subsequent ordinances numbered or omitted are readopted as a new Code of Ordinances.

2. Amendments to any of the provisions of this City Code may be made by amending such provisions by specific reference to the section or subsection number of this City Code in substantially the following language: "That section \_\_\_\_\_ of the Code of Ordinances, City of Dunlap, Iowa is hereby amended to read as follows:..." The new provisions shall then be set out in full as desired.

3. In the event a new section not heretofore existing in this City Code is to be added, the following language may be used: "That the Code of ordinances, City of Dunlap, Iowa, is hereby amended by adding a section, to be numbered \_\_\_\_\_, which said section reads as follows: ..." The new section shall then be set out in full as desired.

(Amended in 2010)

## TITLE I GENERAL PROVISIONS

### CHAPTER 2 RIGHT OF ENTRY

#### 1-2-1 Right of Entry

1-2-1 RIGHT OF ENTRY. Whenever necessary to make an inspection to enforce any Ordinance, or whenever there is reasonable cause to believe that there exists an Ordinance violation in any building or upon any premises within the jurisdiction of the City, any authorized official of the City, may, upon presentation of proper credentials, enter such building or premises at all reasonable times to inspect the same and to perform any duty imposed upon such official by Ordinance; provided that, except in emergency situations, such official shall first give the owner and/or occupant, if **such person** can be located after reasonable effort, twenty-four hour written notice of the authorized official's intention to inspect. In the event the owner and/or occupant refuses entry, the official is empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

## TITLE I GENERAL PROVISIONS

### CHAPTER 3 PENALTY

1-3-1 General Penalty  
1-3-2 Civil Penalty -Municipal  
Infraction

1-3-3 Scheduled Fines

**1-3-1 GENERAL PENALTY. The doing of any act prohibited or declared to be unlawful, an offense, or a misdemeanor by the City Code or any Ordinance or Code herein adopted by reference, or the omission or failure to perform any act or duty required by this City Code or any Ordinance or Code or any Ordinance or Code herein adopted by reference is, unless another penalty is specified, punishable in accordance with Iowa Code Section 903.1(1)(a). No violation of the City Code shall subject an individual to incarceration.**

**Code of Iowa, Sec. 903.1(1)(a)  
(Amended in 2008)  
(Amended in 2009)  
(Amended in 2010)**

1-3-2 CIVIL PENALTY - MUNICIPAL INFRACTION.  
(Code of Iowa, Sec. 364.22)

#### 1. Definitions.

a. Municipal Infraction. Except 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 Iowa Code, the doing of any act prohibited or declared to be unlawful, an offense or a misdemeanor by the Code of Ordinances City of Dunlap, or any Ordinance or Code herein adopted by reference, or omission or failure to perform any act or duty required by the Code of Ordinances City of Dunlap, or any Ordinance or Code herein adopted by reference, is a "municipal infraction" and is punishable by civil penalty as provided herein.

b. Officer. The term "officer" shall mean any employee or official authorized to enforce the Code of Ordinances of the City of Dunlap.

c. Repeat offense. The term "repeat offense" shall mean a recurring violation of the same section of the Code of Ordinances.

#### 2. Violations, Penalties, and Alternative Relief.

a. A municipal infraction is punishable by a civil penalty as provided in the following schedule, unless a specific schedule of civil penalties is provided for specific offenses elsewhere in this Code.

#### Schedule of Civil Penalties

First offense--Not more than seven hundred fifty dollars (\$750.00).

**Repeat Offense**--Not more than one thousand dollars (\$1,000.00).  
(Amended during 2010)

b. Each day that a violation occurs or is permitted to exist by the violator constitutes a separate offense.

c. 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.

### 3. Civil Citations

a. Any officer authorized by the City to enforce the Code of Ordinances may issue a civil citation to a person who commits a municipal infraction.

b. The citation may be served by personal service, substituted service, or by certified mail, return receipt requested, or by publication as provided in the Iowa Rules of Civil Procedure.

c. The original of the citation shall be sent to the Clerk of the District Court. If the infraction involves real property, a copy of the citation shall be filed with the County Treasurer.

d. The citation shall serve as notification that a civil offense has been committed and shall contain the following information:

- (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 property, if applicable.

4. Seeking a civil penalty as authorized in Section 364.22, Code of Iowa, does not preclude the City from seeking alternative relief from the court in the same action. Such relief may include the imposition of a civil penalty by entry of a personal judgment against the defendant,

directing that the payment of the civil penalty be suspended or deferred under conditions imposed by the court, ordering the defendant to abate or cease the violation or authorizing the City to abate or correct the violation, or ordering that the City's cost for abatement or correction of the violation be entered as a personal judgment against the defendant or assessed against the property where the violation occurred, or both. If a defendant willfully violates the terms of an order imposed by the court, **such violation will be subject to a contempt of court action.**

5. This section does not preclude a peace officer from issuing a criminal citation for violation of a City Code 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 the Code of Ordinances by criminal sanctions or other lawful means. Each day that a violation occurs or is permitted to exist by the defendant constitutes a separate offense. The violation of any provision of this Code of Ordinances or any regulation promulgated thereunder shall also constitute a simple misdemeanor punishable by a fine of **not less than \$65.00 but not to exceed \$625.00. No violation of the City Code shall subject any individual to incarceration. A simple misdemeanor criminal charge filed pursuant to the Code of Ordinances shall only subject an individual to a monetary fine.**

1-3-3 SCHEDULED FINES. The scheduled fine for a violation of any provision of the City Code shall be in accordance with State Code Chapter 805 unless another scheduled amount is provided in the City Code **of Ordinances** or **the** Iowa Code.

## **TITLE I GENERAL PROVISIONS**

### **CHAPTER 4 PROCEDURE FOR HEARINGS BY THE CITY COUNCIL**

1-4-1	Purpose and Intent	1-4-4	Subpoenas
1-4-2	General	1-4-5	Conduct of Hearing
1-4-3	Form of Notice of Hearing	1-4-6	Method and Form of Decision

#### **1-4-1 PURPOSE AND INTENT.**

1. It is the purpose of this article to establish an orderly, efficient, and expeditious process for evidentiary hearings before the City Council.

2. The provisions of this article shall apply to a proceeding required by constitution, statute or Ordinance to be determined by the City Council after an opportunity for an evidentiary hearing.

#### **1-4-2 GENERAL.**

1. Record. A record of the entire proceedings shall be made by tape recording or by any other means of permanent recording determined to be appropriate by the City Council.

2. Reporting. The proceedings at the hearing may also be reported by a court reporter at the expense of any party.

3. Continuances. The City Council may grant continuances for good cause shown.

4. Oaths, Certification. The City Council or any member thereof has the power to administer oaths and affirmations.

5. Reasonable dispatch. The City Council and its representatives shall proceed with reasonable dispatch to conclude any matter before it. Due regard shall be shown for the convenience and necessity of any parties or their representatives.

#### **1-4-3 FORM OF NOTICE OF HEARING.**

The notice to parties shall be substantially in the following form, but may include other information:

"You are hereby notified that an evidentiary hearing will be held before the Dunlap City Council at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at the hour \_\_\_\_\_, upon the notice and order served upon you. You may be present at the hearing. You may be, but need not be, represented by counsel. You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You may request the issuance of

subpoenas to compel the attendance of witnesses and the production of books, documents or other things by filing an affidavit therefore with the City Clerk."

1-4-4 SUBPOENAS. Filing of affidavit. The City Council may issue a subpoena for the attendance of witnesses or the production of other evidence at a hearing upon the request of a member of the City Council or upon the written demand of any party. The issuance and service of such subpoena shall be obtained upon the filing of an affidavit therefore which states the name and address of the proposed witness; specifies the exact things sought to be produced and the materiality thereof in detail to the issues involved; and states that the witness has the desired things in the witness's possession or under the witness's control. A subpoena need not be issued when the affidavit is defective in any particular.

#### 1-4-5 CONDUCT OF HEARING.

1. Rules. Hearings need not be conducted according to the technical rules relating to evidence and witnesses.

2. Oral evidence. Oral evidence shall be taken only on oath or affirmation.

3. Hearsay evidence. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions in courts of competent jurisdiction in this state.

4. Admissibility of evidence. Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely upon in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this state.

5. Exclusion of evidence. Irrelevant and unduly repetitious evidence shall be excluded.

6. Rights of parties. Each party shall have these rights, among others:

- a. To call and examine witnesses on any matter relevant to the issues of the hearing;
- b. To introduce documentary and physical evidence;
- c. To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;
- d. To impeach any witness regardless of which party first called the witness to testify;
- e. To rebut the evidence against the party; and

f. To self-representation or to be represented by anyone of the party's choice who is lawfully permitted to do so.

7. Official notice.

a. What may be noticed. In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact which may be judicially noticed by the courts of this state or of official records of the City or its departments and Ordinances of the City.

b. Parties to be notified. Parties present at the hearing shall be informed of the matters to be noticed, and these matters shall be noted in the record, referred to therein, or appended thereto.

c. Opportunity to refute. Parties present at the hearing shall be given a reasonable opportunity, on request, to refute the officially noticed matters by evidence or by written or oral presentation of authority, the manner of such refutation to be determined by the City Council.

8. Inspection of the premises. The City Council may inspect any building or premises involved in the appeal during the course of the hearing, provided that:

a. Notice of such inspection shall be given to the parties before the inspection is made;

b. The parties are given an opportunity to be present during the inspection; and

c. The City Council shall state for the record, upon completion of the inspection, the material facts observed and the conclusions drawn therefrom. Each party then shall have a right to rebut or explain the matters so stated by the City Council.

1-4-6 METHOD AND FORM OF DECISION.

1. Hearings before the City Council where a contested case is heard before the City Council, no member thereof who did not hear the evidence or alternatively has not read or listened to the entire record of the proceedings shall vote on or take part in the decision. The City Council may designate a member or members to preside over the receipt of evidence. Such member or members shall prepare findings of fact for the City Council.

2. Form of decision. The decision shall be in writing and shall contain findings of fact, a determination of the issues presented, and the requirements to be complied with. A copy of the decision shall be delivered to the parties personally or sent to them by certified mail, postage prepaid, return receipt requested.

3. Effective date of decision. The effective date of the decision shall be stated therein.



## **TITLE II POLICY AND ADMINISTRATION**

### **CHAPTER 1 CITY CHARTER**

2-1-1	Charter	2-1-4	Number and Term of City Council
2-1-2	Form of Government	2-1-5	Term of Mayor
2-1-3	Powers and Duties	2-1-6	Copies on File

2-1-1 CHARTER. This chapter may be cited as the Charter of the City of Dunlap, Iowa.

2-1-2 FORM OF GOVERNMENT. The form of government of the City of Dunlap , Iowa, is the Mayor-Council form of government.

(Code of Iowa, Sec. 372.4)

2-1-3 POWERS AND DUTIES. The City 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 of Dunlap, Iowa.

2-1-4 NUMBER AND TERM OF CITY COUNCIL. The City Council consists of five City Council members elected at large, elected for terms of four years.

(Code of Iowa, Sec. 372.4)

(Code of Iowa, Sec. 376.2)

2-1-5 TERM OF MAYOR. The Mayor is elected for a term of four years.

(Code of Iowa, Sec. 372.4)

(Code of Iowa, Sec. 376.2)

2-1-6 COPIES ON FILE. The City Clerk shall keep an official copy of the charter on file with the official records of the City Clerk, shall immediately file a copy with the Secretary of State of Iowa, and shall keep copies of the charter available at the City Clerk's office for public inspection.

(Code of Iowa, Sec. 372.1)

## **TITLE II POLICY AND ADMINISTRATION**

### **CHAPTER 2 APPOINTMENT AND QUALIFICATIONS OF MUNICIPAL OFFICERS**

2-2-1	Creation of Appointive Officers	2-2-6	Surety
2-2-2	Appointment of Officers	2-2-7	Blanket Position Bond
2-2-3	Terms of Appointive Officers	2-2-8	Bonds Filed
2-2-4	Vacancies in Offices	2-2-9	Boards and Commissions
2-2-5	Bonds Required	2-2-10	Oaths

2-2-1 CREATION OF APPOINTIVE OFFICERS. There are hereby created the following appointive officers: Clerk, Deputy City Clerk, Police Chief, Attorney, Sewer Superintendent, Water Superintendent, Planning and Zoning Commission, Maintenance Personnel, and Fire Chief.

2-2-2 APPOINTMENT OF OFFICERS. The Mayor shall appoint a Mayor Pro Tempore, Treasurer, Library Board of Trustees, Zoning Board of Adjustment, Park Board, and Zoning Administrator, and shall appoint and may dismiss the Police Chief with the consent of a majority of the City Council. All other police officers shall be appointed by the Mayor as directed by the Council.

The City Council shall appoint the first Fire Chief of the volunteer fire department for a term of two (2) years. Future Fire Chiefs shall be elected for terms of two (2) years by the members of the volunteer Fire Department, with the approval of the City Council.

All other officers shall be appointed or selected by the City Council unless otherwise provided by law or Ordinance.

(Code of Iowa, Sec. 372.4(2))

2-2-3 TERMS OF APPOINTIVE OFFICERS. The terms of all appointive officers that are not otherwise fixed by law or Ordinance shall be two (2) years.

2-2-4 VACANCIES IN OFFICES. Vacancies in appointive office shall be filled in accordance with State law.

2-2-5 BONDS REQUIRED. Each municipal officer required by law or Ordinance to be bonded shall, before entering upon the duties of the office, execute to the City a good and sufficient bond, to be approved by the City Council, conditioned on the faithful performance of the duties and the proper handling and accounting for the money and property of the City in the official's charge unless the City Council shall have provided for a blanket position surety bond.

(Code of Iowa, Sec. 64.13)

2-2-6 SURETY. Any association or corporation which makes a business of insuring the fidelity of others and which has authority to do such business within Iowa shall be accepted as surety on any of the bonds.

2-2-7 BLANKET POSITION BOND. The City Council shall provide for a blanket position bond to cover all officers and employees of the City, but the City Council may provide by resolution for a surety bond for any other officer or employee that the City Council deems necessary. The City shall pay the premium on any official bond.

(Code of Iowa, Sec. 64.13)

2-2-8 BONDS FILED. All bonds when duly executed shall be filed with the Clerk, except that the Clerk's bond shall be filed with the Mayor.

(Code of Iowa, Sec. 64.23)

2-2-9 BOARDS AND COMMISSIONS.

1. Membership and **Sections**. Membership and selections of members of boards and commissions shall be as specified in this Chapter or the Code of Iowa. Any committee, board, or commission so established shall cease to exist upon the accomplishment of the special purpose for which it was created, or when abolished by a majority vote of the City Council or as specified in the Code of Iowa.

2. Residency Requirement: No person shall be appointed or reappointed to a committee, board, or commission or ad hoc committee created by such committee, board, or commission unless such person is, at the time of such appointment or reappointment, a resident of the City, and any person so appointed or reappointed shall maintain such residency during the term of the appointment or reappointment. Any member of a committee, board, or commission or ad hoc committee created by such committee, board, or commission who fails to maintain such residency shall be deemed removed as of the date of such change of residency, any provision in this Code to the contrary notwithstanding.

3. Removal of Members of Boards and Commissions: The City Council may remove any member of any board or commission, which it has established.

4. Gender Balance: Boards and commissions shall be gender balanced in accordance with Section 69.16A (**Code of Iowa**).

2-2-10 OATHS. The oath of office shall be required and administered in accordance with the following:

1. Qualifying for Office. All elected officers and the following appointed officers shall qualify for office by taking the prescribed oath:

(Code of Iowa, Sec. 63.1)

- A. City Clerk
- B. Deputy City Clerk
- C. Peace Officers
- D. Treasurer

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 off of (name of office) in Dunlap as now or hereinafter required by law."

(Code of Iowa, Sec. 63.10)

3. Officers Empowered to Administer Oaths. The following are empowered to administer oaths and to take affirmations in any matter pertaining to the business of their respective office: Mayor, Clerk, Members of all boards, commissions, or bodies created by law.

## **TITLE II POLICY AND ADMINISTRATION**

### **CHAPTER 3 POWERS AND DUTIES OF MUNICIPAL OFFICERS**

2-3-1	General Duties	2-3-8	Powers and Duties of the City Attorney
2-3-2	Books and Records	2-3-9	Powers and Duties of the Treasurer
2-3-3	Deposits of Municipal Funds	2-3-10	Powers and Duties of the Sewer Superintendent
2-3-4	Transfer of Records and Property To Successor	2-3-11	Powers and Duties of the Water Superintendent
2-3-5	Powers and Duties of the Mayor	2-3-12	Powers and Duties of the Fire Chief
2-3-6	Powers and Duties of the Clerk		
2-3-7	Powers and Duties of the Police Chief		

2-3-1 GENERAL DUTIES. Each municipal officer shall exercise the powers and perform the duties prescribed by law and Ordinance, or as otherwise directed by the City Council unless contrary to State law or City charter.

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

2-3-2 BOOKS AND RECORDS. All books and records required to be kept by law or Ordinance shall be open to inspection by the public upon request, except records required to be confidential by state or federal law.

(Code of Iowa, Sec. 22.1, 22.2, and 22.7)

2-3-3 DEPOSITS OF MUNICIPAL FUNDS. Prior to the fifth day of each month, each office or department shall deposit all funds collected on behalf of the municipality during the preceding month. The officer responsible for the deposit of funds shall take such funds to the City Clerk, together with receipts indicating the sources of the funds.

2-3-4 TRANSFER OF RECORDS AND PROPERTY TO SUCCESSOR. Each officer shall transfer to the official's successor in office all books, papers, records, documents and property, together with an invoice of the same, in the official's custody and appertaining to the official's office.

2-3-5 POWERS AND DUTIES OF THE MAYOR. The duties of the Mayor shall be as follows:

1. The Mayor shall supervise all departments of the City and give direction to department heads concerning the functions of the departments. The Mayor shall 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, Section 372.14(1))

2. The Mayor shall act as presiding officer at all regular and special City Council meetings. The Mayor pro tem shall serve in this capacity in the Mayor's absence.

(Code of Iowa, Sec. 372.14(1) and (3))

3. The Mayor may veto an Ordinance, amendment, or resolution within fourteen days after passage. The Mayor shall explain the reasons for the veto in a written message to the City Council at the time of the veto. Within thirty days after the Mayor's veto, the City Council may pass the measure again by a vote **of** not less than two-thirds of all of the members of the City Council. If the Mayor vetoes an ordinance, amendment, or resolution and the City 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.

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

Code of Iowa. Sec. 380.6  
(Amended during 2008)

4. The Mayor shall 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 or Ordinance.

5. The Mayor shall, whenever authorized by the City Council, sign all contracts on behalf of the City.

6. The Mayor shall call special meetings of the City Council when the Mayor deems such meetings necessary to the interests of the City.

7. The Mayor shall make such oral or written reports to the City Council at the first meeting of every month as referred. These reports shall concern municipal affairs generally, the municipal departments, and recommendations suitable for City Council action.

8. Immediately after taking office the Mayor shall designate one member of the City Council as Mayor pro tempore. The Mayor pro tempore shall be vice-president of the City Council. Except for the limitations otherwise provided herein, the Mayor pro tempore shall perform the duties of the Mayor in cases of absence or inability of the Mayor to perform the duties of the office. In the exercise of the duties of the office the Mayor pro tempore shall not have power to appoint, employ or discharge from employment officers or employees without the approval of the City Council. The Mayor pro tempore shall have the right to vote as a member of the City Council.

(Code of Iowa, Sec. 372.14(3))

9. The Mayor shall, upon order of the City Council, secure for the City such specialized and professional services not already available to the City. In executing the order of the City Council the

Mayor shall conduct said duties in accordance with the City Ordinance and the laws of the State of Iowa.

10. The Mayor shall sign all licenses and permits which have been granted by the City Council, except those designated by law or Ordinance to be issued by another municipal officer.

11. Upon authorization of the City Council, the Mayor shall revoke permits or licenses granted by the City Council when the terms **of such permits or licenses**, the Ordinances of the City, or the laws of the State of Iowa are violated by holders of said permits or licenses.

12. The Mayor shall order to be removed, at public expense, any nuisance for which no person can be found responsible and liable. This order shall be in writing. The order to remove said nuisances shall be carried out by the Police Chief.

2-3-6 POWERS AND DUTIES OF THE CLERK. The duties of the Clerk, or in the Clerk's absence or inability to act, the Deputy Clerk, shall be as follows:

1. The Clerk shall attend all regular and special City Council meetings and prepare and publish a condensed statement of the proceedings thereof, to include the total expenditure from each City fund, **within fifteen (15) days of the City Council meeting**. The statement shall further include a list of all claims allowed, a summary of all receipts and the gross amount of the claims.

(Code of Iowa, Sec. 372.13(4) and (6))

2. The Clerk shall record each measure taken by the City Council, stating where applicable whether the Mayor signed, vetoed, or took no action on the measure and what action the City Council made upon the Mayor's veto.

(Code of Iowa, Sec. 380.7(1))

3. The Clerk shall cause to be published either the entire text or a summary of all Ordinances and amendments enacted by the City. "Summary" shall mean a narrative description of the terms and conditions of an Ordinance setting forth the main points of the Ordinance in a manner calculated to inform the public in a clear and understandable manner the meaning of the Ordinance and which shall provide the public with sufficient notice to conform to the desired conduct required by the Ordinance. The description shall include the title of the Ordinance, an accurate and intelligible abstract or synopsis of the essential elements of the Ordinance, a statement that the description is a summary, the location and the normal business hours of the office where the Ordinance may be inspected, when the Ordinance becomes effective, and the full text of any provisions imposing fines, penalties, forfeitures, fees, or taxes. Legal descriptions of property set forth in Ordinances shall be described in full, provided that maps or charts may be substituted for legal descriptions when **such maps or charts** contain sufficient detail to clearly define the area with which the Ordinance is concerned. The narrative description shall be written in a clear and coherent manner and shall, to the extent possible, avoid the use of technical or legal terms not generally familiar to the public. When necessary to use technical or legal terms not generally familiar to the public, the narrative description shall include definitions of those terms.

The Clerk shall authenticate all such measures except motions with said Clerk's signature, certifying the time and place of publication when required.

(Code of Iowa, Sec. 380.7(1) and (2))

4. The Clerk shall maintain copies of all effective City Ordinances and codes for public review.

(Code of Iowa, Sec. 380.7(4))

5. The Clerk shall publish notice of public hearings, elections and other official actions as required by State and City law.

(Code of Iowa, Sec. 362.3)

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

(Code of Iowa, Sec. 380.11)

7. The Clerk shall be the chief accounting officer of the City.

8. The Clerk shall keep separate accounts for every appropriation, department, public improvement or undertaking, and for every public utility owned or operated by the City. Each account shall be kept in the manner required by law.

(Code of Iowa, Sec. 384.20)

9. Following City Council adoption for the budget, the Clerk shall certify the necessary tax levy for the following year to the County Auditor and the County Board of Supervisors.

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

10. The Clerk shall report to the City Council at the first meeting of each month the status of each municipal account as of the end of the previous month.

11. The Clerk shall balance all funds with the bank statement at the end of each month.

12. The Clerk shall prepare **and publish** the annual public report, publish it, and send a certified copy to the State Auditor and other State officers as required by law.

(Code of Iowa, Sec. 384.22)

13. The Clerk shall maintain all City records as required by law.

(Code of Iowa, Sec. 372.13(3) and (5))

14. The Clerk shall have custody and be responsible for the safekeeping of all writings or documents in which the municipality is a party in interest unless otherwise specifically directed by law or Ordinance.

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



15. The Clerk shall file and preserve all receipts, vouchers, and other documents kept, or that may be required to be kept, necessary to prove the validity of every transaction and the identity of every person having any beneficial relation thereto.

16. The Clerk shall furnish upon request to any municipal officer a copy of any record, paper or public document under the Clerk's control **as** it may be necessary to such officer in the discharge of the **duties of the municipal officer**. The Clerk shall furnish a copy **of any record, paper, or public document under the control of the Clerk, which is not a “confidential record” as defined under Iowa Code Section 22.7**, to any citizen when requested upon payment of the fee set by City Council resolution. The Clerk shall, under the direction of the Mayor or other authorized officer, affix the seal of the **municipal** corporation to those public documents or instruments which by Ordinance are required to be attested by the affixing of the seal.

(Code of Iowa, Sec. 380.7(4), Sec. 22.2 and 22.7)

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

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

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

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

19. The Clerk shall issue all licenses and permits approved by the City Council, and keep a record of licenses and permits issued which shall show a 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))

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

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

21. The Clerk shall preserve a complete record of every City election, regular or special and perform duties required by law or Ordinance of the City Clerk in regard to elections.

(Code of Iowa, Sec. 376.4)

22. The Clerk shall draw all warrants/checks for the City upon the vote of the City Council.

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

23. The Clerk shall show on every warrant/check the fund on which it is drawn and the claim to be paid.

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

24. The Clerk shall keep a warrant/check record in a form approved by the City Council, showing the number, date, amount, payee's name, upon what fund drawn, and for what claim each warrant/check is issued.

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

25. The Clerk shall bill and collect all charges, rents or fees due the City for utility and other services, and give a receipt therefore.

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

26. Annually, the Clerk shall prepare and submit to the City Council an itemized budget of revenues and expenditures.

(Code of Iowa, Sec. 384.16)

27. The Clerk shall keep the record of each fund separate.

(Code of Iowa, Sec. 372.13(4) and 384.85)

28. The Clerk shall keep an accurate record for all money or securities received by the Clerk on behalf of the municipality and specify date, from whom, and for what purposes received.

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

29. The Clerk shall prepare a receipt in duplicate for all funds received. The Clerk shall give the original to the party delivering the funds, and retain the duplicate.

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

30. The Clerk shall keep a separate account of all money received by the Clerk for special assessments.

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

31. The Clerk shall, immediately upon receipt of monies to be held in the Clerk's custody and belonging to the City, deposit the same in banks selected by the City Council in amounts not exceeding monetary limits authorized by the City Council.

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

2-3-7 POWERS AND DUTIES OF THE POLICE CHIEF. The duties of the Police Chief shall be as follows:

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

1. The Police Chief shall wear upon the Police Chief's outer garment and in plain view a badge engraved with "Police", and such uniform as may be specified by the City Council.

2. The Police Chief shall assist prosecutors in prosecuting any persons for the violation of an Ordinance by gathering all the facts and circumstances surrounding the case.

3. The Police Chief shall be sergeant-at-arms of the Council chamber when requested by the City Council.

4. The Police Chief shall report to the City Council upon activities as Police Chief when requested.

5. The Police Chief shall protect the rights of persons and property, preserve order at all public gatherings, prevent and abate nuisances, and protect persons against every manner of unlawful disorder and offense.

6. The Police Chief shall have charge of the City jail when such is provided and of all persons held therein. The Police Chief shall execute all orders of the court referring to the jail. The Police Chief shall feed and shelter persons jailed in the usual manner and as required by law. When no City jail is provided, the Police Chief shall make arrangements to convey any persons requiring detention to the County jail as provided by law and agreements with the County.

7. The Police Chief shall, whenever any person is bound over to the district court, convey the prisoner to the County jail.

8. The Police Chief shall execute all lawful orders of any board or commission established by the City Council.

9. The Police Chief shall be in command of all officers appointed for police work and be responsible for the care, maintenance and use of all vehicles and equipment for the department.

10. The Police Chief may appoint one or more assistant Police Chiefs, with approval of the City Council (2017), who may perform the Police Chief's duties and who shall be members of the police force.

11. The Police Chief shall make such rules, not in conflict with the provisions of this Ordinance, as needed for the detailed operation of the police department, subject to the approval of the City Council. Such rules shall cover off-duty and on-duty conduct and activity of members, the wearing and care of the uniform, the use and practice with side arms and other police weapons, the use of police radio and other communications, attendance at training meetings and such other matters as the Police Chief determines to be necessary for the operation of the police department. The Police Chief shall see that the discipline and conduct of the department conforms to rules of the department. In the event of an emergency the Police Chief may make temporary rules for the protection of the health, safety, and welfare of the City and its citizens until due consideration by the City Council may be had.

12. The Police Chief shall, when requested, aid other municipal officers in the execution of their official duties.

13. The Police Chief shall report all motor vehicle accidents the police department investigates in the regular course of duty to the Iowa Department of Public Safety as provided by law.

14. The Police Chief shall keep a record of all arrests made in the City by police officers. The Police Chief shall record whether said arrest was made under provisions of the laws of the State of Iowa or Ordinances of the City. The record shall show the offense for which arrest was made, who made the arrest, and the disposition made of the charge.

At least every year the Police Chief shall review and determine the current status of all Iowa arrests reported, which are at least one year old with no disposition data. Any Iowa arrest recorded within a computer data storage system which has no disposition data after four years shall be removed unless there is an outstanding arrest warrant or detainer on such charge.

2-3-8 POWERS AND DUTIES OF THE CITY ATTORNEY. The duties of the City Attorney shall be as follows:

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

1. Upon request, the City Attorney shall attend regular meetings of the City Council and attend those special meetings of the City Council at which the City Attorney is required to be present.

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

3. The City Attorney shall keep in proper files a record of all official opinions and a docket or register of all actions prosecuted and **defended** by the City Attorney accompanied by all proceedings relating to said actions.

4. The City Attorney shall, upon request, give an opinion in writing upon all questions of law relating to municipal matters submitted by the City Council, the Mayor, members of the City Council individually, municipal boards or the head of any municipal department.

5. The City Attorney shall prepare those Ordinances when the City Council may desire and direct to be prepared and report to the City Council upon all Ordinances before their final passage **of such Ordinances** by the City Council and publication.

6. 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 City Council.

7. The City Attorney shall, however, if directed by the City Council, appear to defend any municipal officer or employee in any cause of action arising out of or in the course of the performance of the duties of **such** office or employment.

8. 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.

9. The City Attorney shall make a written report to the City Council and interested department heads of the **deficiencies** in all contracts, documents, authorized power of any City of Dunlap officer, and Ordinances submitted to said City Attorney or coming under said City Attorney's notice.

10. The City Attorney shall, upon request, after due examination, offer a written opinion on and recommend alterations pertaining to contracts involving the City before **such contracts** become binding upon the City or are published.

2-3-9 POWERS AND DUTIES OF THE TREASURER. The duties of the Treasurer shall be as follows:

1. Custody of Funds. The Treasurer shall be responsible for the safe custody of all funds of the city on the manner provided by law, and council direction.

2. Record of Fund. The Treasurer shall keep the record of each fund separate.

3. Record Receipts. The Treasurer shall 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. The Treasurer shall keep an accurate account of all disbursements, money or property, specifying date, to whom, and from what fund paid.

5. Special Assessments. The Treasurer shall keep a separate account of all money received by the Treasurer from special assessments.

6. Deposit Funds in Bank. The Treasurer shall, upon receipt of monies to be held in the custody of the Treasurer and belonging to the city, deposit the same in banks selected by the council in amounts not exceeding monetary limits authorized by the council.

7. Bank Reconciliation. The Treasurer shall reconcile bank statements with his books and certify monthly to the council the balance of cash and investments of each fund and amounts received and disbursed.

8. Debt Service. The Treasurer shall keep a register of all bonds outstanding and record all payments of interest and principal.

9. Reconciliation with Clerk. The Treasurer shall reconcile the books of the treasury with the clerk's every month.

10. Depository Declaration. The Treasurer shall file the council's depository declaration with the county and state treasurer in January of each year and at other times when necessary.

11. Other Duties. The Treasurer shall perform such other duties as specified by the council by resolution or ordinance.

2-3-10 POWERS AND DUTIES OF THE SEWER SUPERINTENDENT. The duties of the sewer superintendent shall be as follows:

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

1. The Superintendent shall be responsible for the management, operation and maintenance of all municipal sewers.

2. The Superintendent shall keep records of accounts payable, revenues, accounts receivable, expenditures made, depreciation of plant and equipment, and a continuous up-to-date inventory of all goods and supplies. The Superintendent shall keep all other records ordered to be kept by the Mayor in addition to those provided for by law or Ordinance.

3. The Superintendent shall make a report every month **in writing** to the Mayor and City Council on the present state of the public sewers. In this report shall be specifically stated the financial condition, production and the general condition of the entire sewer enterprise. The Superintendent shall, at the close of every year, compile (or cause to be compiled) a written annual report of the activities and general condition of the public sewers of the City. This report shall contain a statement of the general progress and accomplishments of the plants and systems for the year covered in the report; a statement of financial operations for the year showing revenues, expenditures, and profits or losses; a summary of the history of the financial operations of the plant for the past five (5) years showing total revenue, cost of operations, depreciation, interest on bonds and net profits; **a statement of free services rendered to the municipality during the year and their estimated cash value**; a statement of the rate schedules that are presently in effect; and a balance sheet with a statement of all assets, liabilities and reserves.

2-3-10 POWERS AND DUTIES OF THE WATER SUPERINTENDENT. The duties of the water superintendent shall be as follows:

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

1. The Superintendent shall be responsible for the management, operation and maintenance of all municipal water systems.

2. The Superintendent shall keep records of accounts payable, revenues, accounts receivable, expenditures made, depreciation of plant and equipment and a continuous up-to-date inventory of all goods and supplies. The Superintendent shall keep all other records ordered to be kept by the Mayor in addition to those provided for by law or Ordinance.

2. The Superintendent shall make a report every month to the Mayor and City Council on the present state of the public water system. In this report shall be specifically stated the financial condition, production and the general condition of the entire water enterprise. The Superintendent shall, at the close of every year, compile (or cause to be compiled) a written annual report of the activities and general condition of the public water system of the City. This report shall contain a statement of the general progress and accomplishments of the plants and systems for the year covered in the report; a statement of financial operations for the year showing revenues, expenditures, and profits or losses; a summary of the history of the financial operations of the plant for the past five (5) years showing total revenue, cost of operations, depreciation, interest on bonds and net profits; a statement of the rate schedules that are presently in effect; and a balance sheet with a statement of all assets, liabilities and reserves.

2-3-11 POWERS AND DUTIES OF THE FIRE CHIEF. The duties of the Fire Chief shall be as follows:

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

1. The Fire Chief shall be charged with the duty of maintaining the efficiency, discipline and control of the fire department. The members of the fire department shall, at all times, be subject to the direction of the Fire Chief.
2. The Fire Chief shall enforce all rules and regulations established by the City Council for the conduct of the affairs of the fire department.
3. The Fire Chief shall 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.
4. The Fire Chief shall cause to be kept records of the fire department personnel, operating cost and efficiency of each element of fire fighting 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.
5. The Fire Chief shall make **written reports on or before the fifth day of each month** reports to the Mayor and City Council concerning the general status and efficiency of the fire department, the number of alarms answered during the month previous, and additional information that may be requested by the Mayor or the City Council. The Fire Chief shall compile an annual report based upon the records maintained by the fire department and summarizing the activities of the fire department for the year. This report shall be filed with the Mayor. The annual report shall also contain recommendations for the improvement of the department.
6. The Fire Chief shall enforce all Ordinances and, where enabled, state laws regulating the following:
  - a. Fire prevention.

- b. Maintenance and use of fire escapes.
  - c. The investigation of the cause, origin and circumstances of fires.
  - d. The means and adequacy of exits in case of fire from halls, theatres, churches, hospitals, asylums, lodging houses, schools, factories and all other buildings in which the public congregates for any purpose.
  - e. The installation and maintenance of private fire alarm systems and fire extinguishing equipment.
7. The Fire Chief shall have the right of entry into any building or premises within the Fire Chief's jurisdiction at a reasonable time and after reasonable notice to the occupant or owner. The Fire Chief shall there conduct such investigation or inspection that the Fire Chief considers necessary in light of state law, regulations or Ordinance.
8. The Fire Chief shall make such recommendations to owners, occupants, caretakers or managers of buildings necessary to eliminate fire hazards.
9. The Fire Chief shall, at the request of the State Fire Marshal, and as provided by law, aid said Marshal in the performance of the Marshal's duties by investigating, preventing and reporting data pertaining to fires.



## **TITLE II POLICY AND ADMINISTRATION**

### **CHAPTER 4 SALARIES OF MUNICIPAL OFFICERS**

2-4-1	Council Member	2-4-4	Mayor Pro Tem
2-4-2	Mayor	2-4-5	Other Officers
2-4-3	Treasurer	2-4-6	Holidays

2-4-1 COUNCIL MEMBER. The salaries of each City Council member shall be \$30.00 for each regular meeting of the City Council attended and \$10.00 for each special meeting of the council attended.

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

2-4-2 MAYOR. The Mayor shall receive an annual salary of \$1,800.00 to be paid in equal quarterly installments.

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

2-4-3 TREASURER. The Treasurer shall receive an annual salary of \$1,600.00, to be paid in equal quarterly installments.

2-4-4 MAYOR PRO TEM. If the Mayor Pro Tem performs the duties of the Mayor during the Mayor's absence or disability for a continuous period of fifteen days or more, the Mayor Pro Tem may be paid for that period the compensation determined by the City 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))

2-4-5 OTHER OFFICERS. The compensation of all other officers and employees shall be set by resolution of City Council.

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

2-4-6 HOLIDAYS. The following days shall be designated as legal holidays:

New Year's Day	Thanksgiving Day
Memorial Day	Day after Thanksgiving
Independence Day	Christmas Day
Labor Day	
New Year's Eve (half day)	
Veteran's Day	
Christmas Eve (half day)	

## TITLE II POLICY AND ADMINISTRATION

### CHAPTER 5 CITY FINANCE

2-5-1	Budget Adoption	2-5-9	Expenditures
2-5-2	Budget Amendment	2-5-10	Authorizations to Expend
2-5-3	Budget Protest	2-5-11	Accounting
2-5-4	Accounts and Programs	2-5-12	Budget Accounts
2-5-5	Annual Report	2-5-13	Contingency Accounts
2-5-6	Council Transfers	2-5-14	Petty Cash Fund
2-5-7	Administrative Transfers	2-5-15	Change Fund
2-5-8	Budget Officer		

2-5-1 BUDGET ADOPTION. Annually, the City shall prepare and adopt a budget, and shall certify taxes **in accordance with Section 384.16.**

(Code of Iowa, Sec. 384.16)

1. A budget shall be prepared for at least the following fiscal year. When required by rules of the State City finance committee, a tentative budget shall be prepared for one or two ensuing years. The proposed budget shall show estimates of the following:
  - a. Expenditures for each program.
  - b. Income from sources other than property taxation.
  - c. Amount to be raised by property taxation, and the property tax rate expressed in dollars per one thousand dollars valuation.

The budget shall show comparisons between the estimated expenditures in each program in the following year and the actual expenditures in each program during the two preceding years. Wherever practicable, as provided in rules of the State City finance committee, a budget shall show comparisons between the levels of service provided by each program as estimated for the following year, and actual levels of service provided by each program during the two preceding years.

2. Not less than twenty days before the date that the budget must be certified to the County Auditor and not less than ten days before the date set for hearing, the Clerk shall provide a sufficient number of copies of the budget to meet reasonable demands of taxpayers, and have **such copies of the budget** available for distribution at the offices of the Mayor and Clerk and at the City library, if any, or at three places designated by Ordinance for posting notices.

1. (Amended in 2012) [Code of Iowa, Sec. 384.16(2)]

3. 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 clerk for inclusion in the proposed city budget no later than February 1 of each year and in such form as may be required by the clerk.
4. Submission to Council. The clerk shall submit the completed budget proposal to the council no later than February 15 of each year.
5. Not less than ten nor more than twenty days before the date that the budget must be certified to the County Auditor, the Clerk shall provide a sufficient number of copies of the budget to meet reasonable demands of taxpayers, and have them available for distribution at the offices of the Mayor and Clerk and at the City library, if any, or at three places designated by Ordinance for posting notices.
6. The City Council shall set a time and place for public hearing on the budget before the final certification date and shall publish notice before the hearing as provided in Iowa law. Proof of publication shall be filed with the County Auditor.
7. At the hearing, any resident or taxpayer of the City may present to the City Council objections to any part of the budget for the following fiscal year or arguments in favor of any part of the budget.
8. After the hearing, the City Council shall adopt a budget for at least the following fiscal year, and the Clerk shall certify the necessary tax levy for the following 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, unless an additional tax levy is approved at a City election. Two copies of the complete budget as adopted shall be transmitted to the County Auditor.

2-5-2 BUDGET AMENDMENT. The City budget as finally adopted for the following fiscal year becomes effective July first and constitutes the City appropriation for each program and purpose specified therein until amended. The City budget for the current fiscal year may be amended for any of the following purposes:

(Code of Iowa, Sec. 384.18)

1. To permit the appropriation and expenditures of unexpended, unencumbered cash balances on hand at the end of the preceding fiscal year which had not been anticipated in the budget.
2. To permit the appropriation and expenditure of amounts anticipated to be available from sources other than property taxation, and which had not been anticipated in the budget.
3. To permit transfers from the debt service fund, the capital improvements reserve fund, the emergency fund, or other funds established by State law, to any other City fund, unless specifically prohibited by State law.

4. To permit transfers between programs within the general fund.

The budget amendment shall be prepared and adopted in the same manner as the original budget, and is subject to protest as provided in Section 2-5-3 of this chapter, except that the City Finance Committee may by rule provide that amendments of certain types or up to certain amounts may be made without public hearing and without being subject to protest.

2-5-3 BUDGET PROTEST. Within a period of ten days after the final date that the budget or amended budget may be certified to the County Auditor, persons affected by the budget may file a written protest with the County Auditor, specifying their objection to the budget or any part of it. A protest must be signed by qualified voters equal in number to one-fourth of one percent of the votes cast for governor in the last preceding general election in the City, but not less than ten persons, and the number need not be more than one hundred persons.

(Code of Iowa, Sec. 384.19)

2-5-4 ACCOUNTS AND PROGRAMS. The City shall keep separate accounts corresponding to the programs and items in its adopted or amended budget, as recommended by the State City Finance Committee.

The City shall keep accounts which show an accurate and detailed statement of all public funds collected, received, or expended for any City purpose, by any City officer, employee, or other person, and which show the receipt, use, and disposition of all City property. Public monies may not be expended or encumbered except under an annual or continuing appropriation.

(Code of Iowa, Sec. 384.20)

2-5-5 ANNUAL REPORT. Not later than December first of each year the City shall publish 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 this report shall be furnished to the Auditor of State.

(Code of Iowa, Sec. 384.22)

2-5-6 COUNCIL TRANSFERS. When the City Clerk determines that one or more appropriation accounts need added authorizations to meet required expenditures therein the City Clerk shall inform the City Council or if the City Council upon its own investigation so determines, and another account within the same programs has an appropriation in excess of foreseeable needs, or, in the case of a clear emergency or unforeseeable need, the contingency account has an unexpended appropriation which alone or with the other accounts can provide the needed appropriations, the City Council shall set forth by resolution the reductions and increases in the appropriations and the reason for such transfers. Upon the passage of the resolution and approval by the Mayor, as provided by law for resolutions, the City Clerk shall cause the transfers to be set out in full in the minutes and be included in the published proceedings of the City Council. Thereupon the Clerk, and where applicable, the City Treasurer, shall cause the appropriation to be revised upon the appropriation expenditure ledgers of the City, but in no case shall the total of the appropriation of a program be increased except for transfers from the contingency account nor shall the total appropriation for all

purposes be increased except by a budget amendment made after notice and hearing as required by law for such amendments.

(IAC, Sec. 545.2.4(384,388))

2-5-7 ADMINISTRATIVE TRANSFERS. The City Clerk shall have power to make transfers within a single activity between objects of expenditures within activities without prior City Council approval.

The City Clerk shall have the power to make transfers between activities, or between sub-programs without prior City Council approval to meet expenditures which exceed estimates or are unforeseen but necessary to carry out City Council directives or to maintain a necessary service and provide the required appropriation balance. Such transfers shall not exceed 10% at any one time of the activity's annual appropriation which is increased or decreased. However, when a given transfer, considering all previous transfers to or from any activity to exceed by ten percent greater or ten percent less than the original appropriation, it shall be presented to the City Council as a resolution including all such administrative transfers to date in the fiscal year for consideration and passage as presented, or as amended by the City Council.

(IAC, Sec. 545.2.4(384,388))

2-5-8 BUDGET OFFICER. The City Clerk shall be the City budget officer and is responsible for preparing the budget data in cooperation with the City Council or Mayor. The City Clerk shall be responsible for carrying out the authorizations and plans in the budget as set forth in the budget, subject to City Council control and the limitations set out in this Ordinance.

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

2-5-9 EXPENDITURES. No expenditure shall be authorized by any City officer or employee except as herein provided. All purchases of services, supplies and equipment shall be made only after issuance of a purchase order and no invoice shall be accepted unless authorized by such an order. Purchases not exceeding ten dollars (\$10.00) **(or an amount determined by City Council)** may be made by those officials authorized by the City Council but only on issuance of a spot purchase order in writing signed by the authorized officer. A copy of such spot purchase order must be delivered to the Clerk within twenty-four (24) hours, weekends, and holidays excepted. All other purchases shall be valid only if a purchase order has been given in writing and signed by the Clerk. Purchases from petty cash shall be excepted.

2-5-10 AUTHORIZATIONS TO EXPEND. All purchase orders other than those excepted herein shall be authorized by the City budget officer after determining whether the purchase, if a major item, has been authorized by the budget or other City Council approval. The Clerk shall then determine whether a purchase order may be issued by checking the availability of an appropriation sufficient to pay for such a purchase. A purchase order may be issued only if there is an appropriation sufficient for the purchase and for other anticipated or budgeted purposes. If no adequate appropriation is available for the expenditure contemplated the Clerk shall not issue a purchase order until a budget amendment to transfer of appropriation is made in accordance with power delegated by City Council and within the limits set by law and the City Council. The Clerk shall draw a warrant/check only upon an invoice received, or progress billing for a public

improvement, supported by a purchase order and a signed receipt or other certification indicating the material has been delivered of the quality and in the quantities indicated or the services have been performed satisfactorily to the extent invoiced.

2-5-11 ACCOUNTING. The Clerk shall set up and maintain books of original entry to provide a chronological record of cash received and disbursed through all receipts given and warrants written, which receipts and warrants shall be prenumbered, in accordance with modern, accepted methods, and the requirement of the state. The Clerk shall keep a general ledger controlling all cash transactions, budgetary accounts and recording unappropriated surpluses. Warrants/checks shall be signed by the City Clerk (and Mayor)

(Code of Iowa, Sec. 384.20)

2-5-12 BUDGET ACCOUNTS. The Clerk shall set up such individual accounts to record receipts by source and expenditures by program and purpose as will provide adequate information and control for budgetary purposes as planned and approved by the City Council. Each individual account shall be maintained within its proper fund as required by City Council order or State law and shall be so kept that receipts can be immediately and directly compared with specific estimates and expenditures can be related to the appropriation which authorized it. No expenditure shall be posted except to the appropriation for the function and purpose for which the expense was incurred.

(Code of Iowa, Sec. 384.20)

2-5-13 CONTINGENCY ACCOUNTS. Whenever the City Council shall have budgeted for a contingency account the Clerk shall set up in the accounting records but the Clerk shall not charge any claim to a contingency account. Said contingency accounts may be drawn upon only by City Council resolution directing a transfer to a specific purpose account within its fund and then only upon compelling evidence of an unexpected and unforeseeable need or emergency.

All administrative transfers shall be reported in writing at the next regular meeting of the City Council after being made and the facts set out in the minutes for the information of the Mayor and City Council

2-5-14 PETTY CASH FUND. The clerk shall be custodian of a petty cash fund not to exceed twenty-five dollars (\$25) for the payment of small claims for minor purchases, collect-on-delivery transportation charges and small fees customarily paid by the vendor or his agent. At such time as the petty cash fund is approaching depletion the clerk 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 payment or other personal services or personal expenses.

2-5-15 CHANGE FUND. The clerk is authorized to draw a check on the General Fund for establishing a change fund in the amount of one-hundred dollars (\$100.00) for the purpose of making change without co-mingling other funds to meet the requirements of said office. Said change funds shall be in the custody of the clerk and the clerk shall maintain the integrity of the fund.

**TITLE II POLICY AND ADMINISTRATION**

**CHAPTER 6 RESERVED**

## **TITLE II POLICY AND ADMINISTRATION**

### **CHAPTER 7 GIFT POLICY**

2-7-1 Donee Reporting of Gifts  
2-7-2 Donor Reporting of Gifts

2-7-3 Definition of Gift

2-7-1 **DONEE REPORTING OF GIFTS.** An elected or appointed official or employee of this city, or the spouse, or minor child of an elected or appointed official or employee of this city, or a firm of which the elected or appointed official or the employee of this city hold ten percent or more of the stock either directly or indirectly, shall disclose in writing on a report form developed by the Secretary of State, the nature, date, and the name of the donor, and the name of such person as donee to which a gift or gifts were made where the gift or gifts exceed fifteen dollars in cumulative value in any one calendar day. However, the donee need not report food and beverage provided for immediate consumption in the presence of the donor.

By the fifteenth of the month following the month in which the gift has been received, a copy of the report disclosing the gift or gifts shall be filed in the office of the county auditor of Harrison County, Iowa.

2-7-2 **DONOR REPORTING OF GIFTS.** A donor of a gift to an elected or appointed official or to an employee of the city, or to the spouse, or to minor child of an elected or appointed official or employee of this city, or to a firm of which the elected or appointed official or the employee of the city is a partner, or to a corporation of which the elected or appointed official or the employee of the city hold ten percent or more of the stock either directly or indirectly, shall disclose in writing on the form developed by the Secretary of State, the nature, amount, date, and the name of the donor and the name of the donee of a gift or gifts made by the donor which gift or gifts exceeds fifteen dollars in cumulative value in any one calendar day. However, the donor need not report food and beverage provided for immediate consumption in the presence of the donor.

By the fifteenth of the month following the month in which the gift was received a copy of the report disclosing the gift or gifts shall be filed by the donor, with the county auditor of Harrison County, Iowa.

2-7-3 **DEFINITION OF GIFT.** For purpose of this ordinance “gift” is defined as follows:

1. “Gift” means a rendering of money, property, services, granting a discount, loan forgiveness, payment of indebtedness, or anything else of value in return for which legal consideration of equal or greater value is not given and received, if the donor is in any of the following categories:

a. Is doing or seeking to do business of any kind with the City of Dunlap. For purposes of this ordinance, “doing business with the city” means being a party to any one or any combination of sales, purchases, leases, or contracts to, from, or with the city.

b. Is engaged in activities which are regulated or controlled by the City of Dunlap.



c. Has interests which may be substantially and materially affected, by the performance or nonperformance of the donee's official duty.

d. Is a lobbyist with respect to matters within the donee's jurisdiction.

2. However, "gift" does not mean any of the following:

a. Campaign contributions.

b. Informational material relevant to a public servant's official functions, such as books, pamphlets, reports, documents, or periodicals, and registration fees or tuition not including travel or lodging, for not more than three days, at seminars or other public meetings conducted in this state, at which the public servant receives information relevant to the public servant's official functions. Information or participation received under the exclusion of this paragraph may be applied to satisfy a continuing education requirement of the donee's regulated occupation or profession if the donee pays any registration costs exceeding thirty-five dollars.

c. Anything received from a person related within the fourth degree by kinship or marriage, unless the donor is acting as an agent or intermediary for another person not so related.

d. Any inheritance.

e. Anything available to or distributed to the public generally without regard to official status of the recipient.

g. Actual expenses for food, beverages, travel, lodging, registration, and scheduled entertainment of the donee for a meeting, which is given in return for participation in a panel or speaking engagement at the meeting.

h. Plaques or items of negligible resale value given as recognition for public services.

3. The value of the gift is determined as follows:

a. An individual making a gift on behalf of more than one person shall not divide the value of the gift by the number of persons on whose behalf the gift is made.

b. The value of a gift to the donee is the value actually received.

c. For the purposes of the reporting requirements of this ordinance, a donor of a gift made by more than one individual to one or more donees, shall report the gift if the total value of the gift to the donee exceeds fifteen dollars.

## **TITLE II POLICY AND ADMINISTRATION**

### **CHAPTER 8 POLICE DEPARTMENT**

2-8-1	Department Established	2-8-7	Police Chief; Duties
2-8-2	Organization	2-8-8	Departmental Rules
2-8-3	Peace Officer Qualifications	2-8-9	Summoning Aid
2-8-4	Required Training	2-8-10	Taking Weapons
2-8-5	Compensation	2-8-11	Contract Law Enforcement
2-8-6	Peace Officers Appointed		

2-8-1 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.

2-8-2 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 City Council.

2-8-3 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)

2-8-4 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))

2-8-5 COMPENSATION. Members of the department are designated by rank and receive such compensation as shall be determined by resolution of the City Council.

2-8-6 PEACE OFFICERS APPOINTED. The City Council shall appoint the Police Chief. The Police Chief shall appoint, subject to the approval of the Mayor, the other members of the department.

(Code of Iowa, Sec. 372.4(2))

2-8-7 POLICE CHIEF; DUTIES. The Police Chief has the following powers and duties subject to the approval of the City 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 City Council an annual report as well as such other reports as may be requested by the Mayor or City 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.

2-8-8 DEPARTMENTAL RULES. The Police Chief shall establish such rules, not in conflict with the Code of Ordinances, and subject to the approval of the City Council, as may be necessary for the operation of the department.

2-8-9 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)

2-8-10 TAKING WEAPONS. Any person who makes an arrest may take from the person arrested all items which 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)

2-8-11 CONTRACT LAW ENFORCEMENT. In lieu of the appointment of a Police Chief by the Mayor, the City 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)

## **TITLE II POLICY AND ADMINISTRATION**

### **CHAPTER 9 CITY ELECTIONS**

2-9-1	Purpose	2-9-6	Filing, Presumption, Withdrawals, Objections
2-9-2	Nominating Method to be Used	2-9-7	Persons Elected
2-9-3	Nominations by Petition	2-9-8	Primary and Runoff Abolished
2-9-4	Adding Name by Petition		
2-9-5	Preparation of Petition		

2-9-1    **PURPOSE.** The purpose of this chapter is to designate the method by which candidates for elective municipal offices in the City shall be nominated and elected.

2-9-2    **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)

2-9-3    **NOMINATIONS BY PETITION.** Nominations for elective municipal offices of the City may be made by nomination paper or papers signed by not less than ten eligible electors, residents of the City.  
(Code of Iowa, Sec. 45.1)

2-9-4    **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)

2-9-5    **PREPARATION OF PETITION.** Each eligible elector shall add to the signature the elector's residence address, and date of signing. The person whose nomination is proposed by the petition may not sign it. Before filing said petition, there shall be endorsed thereon or attached thereto an affidavit executed by the candidate, which affidavit shall contain:

1.    **Name and Residence.** The name and residence (including street and number, if any) of said nominee, and the office to which nominated.

2.    **Name on Ballot.** A request that the name of the nominee be printed upon the official ballot for the election.

3.    **Eligibility.** A statement that the nominee is eligible to be a candidate for the office and if elected will qualify as such officer.

4.    **Organization Statement.** A statement, in the form required by Iowa law, concerning the organization of the candidate's committee.

Such petition when so verified shall be known as a nomination paper.

(Code of Iowa, Sec. 45.5)

2-9-6 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.

2-9-7 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.

2-9-8 PRIMARY AND RUNOFF ABOLISHED. The Council has adopted Chapters 44 and 45 of the Code of Iowa for conducting elections and in accordance with Section 376.6(2), Code of Iowa, no primary or runoff election will be conducted for City offices.

## **TITLE II POLICY AND ADMINISTRATION**

### **CHAPTER 10 CITY COUNCIL**

**2-10-1 Powers and Duties**

**2-10-3 Meetings**

**2-10-2 Exercise of Power**

**2-10-1 POWER AND DUTIES.** The powers and duties of the City Council include, but are not limited to the following:

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

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

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

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

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

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

**5. Contracts.** The City Council shall make or authorize the making of all contracts, and no contract shall bind or be obligatory upon the City unless either made by ordinance or resolution adopted by the City Council, or reduced to writing and approved by the City Council, or expressly authorized by ordinance or resolution adopted by the City Council.

(Code of Iowa, Sec. 364.2(1) & 384.95 through 384.102)

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

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

**7. Setting Compensation for Elected Officers.** By ordinance, the City Council shall prescribe the compensation of the Mayor, City 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 City 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 City Council

members becomes effective for all City Council members at the beginning of the term of the City Council members elected at the election next following the change in compensation.

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

**2-10-2 EXERCISE OF POWER.** The City 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. **Approved Action by the City Council.** Passage of an ordinance, amendment, or resolution requires an affirmative vote of not less than a majority of the City Council members. A motion to spend public funds in excess of twenty five thousand dollars (\$25,000) on any one project, or a motion to accept public improvements and facilities upon their completion also requires an affirmative vote of not less than a majority of the City Council members. Each Council member's vote on an ordinance, amendment or resolution must be recorded.

(Code of Iowa, Sec. 380.4)

(Amended in 2008)

2. **Overriding Mayor's Veto.** Within thirty (30) days after the Mayor's veto, the City Council may repass the ordinance or resolution by a vote of not less than two-thirds of the City Council members, and the ordinance or resolution becomes effective upon repassage and publication.

(Code of Iowa, Sec. 380.6(2))

3. **Measures Become Effective.** Measures passed by the City Council, other than motions, become effective in one of the following ways:

a. If the Mayor signs the measure, a resolution becomes effective immediately upon signing and an ordinance or amendment becomes a law when published, unless a subsequent effective date is provided within the measure.

(Code of Iowa, Sec. 380.6(1))

b. If the Mayor vetoes a measure and the City 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 published unless a subsequent effective date is provided with the measure.

(Code of Iowa, Sec. 380.6(2))

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

(Code of Iowa, Sec. 380.6(3))

**2-10-3 MEETINGS.** Procedures for giving notice of meetings of the City Council and other provisions regarding the conduct of City Council meetings are contained in Section 5.06 of this Code of Ordinances. Additional particulars relating to City Council meetings are the following:

**1. Regular Meetings.** The regular meetings of the City Council are on the second Wednesday of each month at seven o'clock (7:00) p.m. in the City Council Chambers at City Hall. If such day falls on a legal holiday or Christmas Eve, the meeting is held on such different day or time as determined by the City Council.

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

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

**3. Quorum.** A majority of all City Council members is a quorum.

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

**4. Rules of Procedure.** The City Council shall determine its own rules and maintain records of its proceedings.

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

**5. Compelling Attendance.** Any three (3) members of the City 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.



## TITLE III COMMUNITY PROTECTION

### CHAPTER 1 OFFENSES

3-1-1	Violations of Chapter	3-1-4	Streets
3-1-2	Public Peace	3-1-5	Public Safety and Health
3-1-3	Public Morals	3-1-6	Public Property
		3-1-7	Private Property

3-1-1 VIOLATIONS OF CHAPTER. Commission of any of the acts named in the following sections by any person shall constitute a violation of this chapter.

3-1-2 PUBLIC PEACE. It shall be unlawful for any person to do any of the following:

1. Engage in fighting or violent behavior or invite or **provoke** another person to fight, provided that participants in athletic contests may engage in such conduct which is reasonably related to that sport.

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

2. Make unusually loud or excessive noise which results in the disturbance of the peace and the public quiet of a neighborhood.

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

3. Willfully permit upon any premises owned, occupied, possessed or controlled by such person any unusually loud or excessive noise in such a manner calculated to provoke a breach of the peace of others, or the public quiet of the neighborhood.

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

4. Direct abusive language or make any threatening gesture which the person knows or reasonably should know is likely to provoke a violent reaction by another.

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

5. Without lawful authority or order 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))

6. Without authority, obstruct any street, sidewalk, highway or other public way.

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

7. Without authority, solicit contributions, distribute literature, or otherwise peddle or sell goods and services within the traveled portion of any roadway.

8. It shall be unlawful to disturb the peace and quiet of any street, alley, avenue, public place, religious or public assembly, neighborhood, private family or person by loud or unusual noise

caused by blowing horns or ringing bells, or by the use of sirens, radios or any type of speaking devices or noisemakers.

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

### 3-1-3 PUBLIC MORALS.

1. Indecent exposure. It shall be unlawful for any person to expose such person's genitals, pubes, female nipples, or buttocks to **a person other than the person's spouse, or who commits a sex act in the presence or view of third person, if the person does so to arouse or satisfy the sexual desires of either party and the person knows, or reasonably should know, that the act is offensive to the viewer.**

(Code of Iowa, Sec. 709.9)

2. **Public Urination/Defecation. It shall be unlawful for any person to urinate or defecate in a public place, other than a structure equipped with a toilet and/or urinal, in the presence of or in view of another person if the person knows, or reasonably should know, that such behavior would be offensive to a reasonable person.**

### 3-1-4 STREETS.

1. Removal of safeguards or danger signals. No person shall willfully remove, tear down, destroy, deface, or carry away from any highway, street, alley, avenue or bridge 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 highway, street, alley, avenue or bridge without the consent of the person in control thereof.

(Code of Iowa, Sec. 716.5)

2. Obstructing or defacing streets. No person shall obstruct, deface, or injure any public road in any manner by breaking up, plowing or digging within the boundary lines thereof, without permission from the Mayor.

(Code of Iowa, Sec. 716.1)

3. Allowing water, snow, ice and accumulations on sidewalk. No abutting property owner shall allow water from an improperly located eave or drain, or from any roof, to fall onto a public sidewalk, or fail to remove snow, ice and accumulations from the sidewalks promptly. Upon failure by the abutting property owner to perform the action required under this subsection within a reasonable time, the City may perform the required action and assess the costs against the abutting property.

(Code of Iowa, Sec. 364.12(2)(b and e))

4. Removal of hydrant caps, sewer caps or manhole covers. No person shall remove or carry away hydrant caps, sewer caps or manhole covers without the consent of the person in control thereof.

### 3-1-5 PUBLIC SAFETY AND HEALTH.

1. Expectorating. No person shall expectorate **public property or on on floor of any public** structure within the City limits.

(Code of Iowa, Sec. 364.1)

2. Putting debris on streets and sidewalks. No person shall throw or deposit on any street or sidewalk any glass bottle, glass, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any other substance, **which the person knows or has reason to know may** injure any person, animal or vehicle.

(Code of Iowa, Sec. 321.369)

3. Carrying a concealed weapon. It shall be unlawful for any person to carry under such person's clothes or concealed about their person or to be found in possession of any slingshot, knuckles of metal or other material, air gun or any other weapon other than a knife unless licensed by the Iowa Department of Public Safety **or having in possession a valid permit.**

4. False alarms. No person shall give or cause to be given any false alarm of a fire or cry or sound an alarm or by any other means without cause.

5. Stench bombs. No person shall throw, drop, pour, explode, deposit, release, discharge or expose any stench bomb or tear bomb, or any liquid, gaseous or solid substance or matter of any kind that is injurious to persons or property, or that is nauseous, sickening, irritating or offensive to any of the senses in, on or about a theater, restaurant, car, structure, place of business, or amusement, or any place of public assemblage, or attempt to do any of these acts, or prepare or possess such devices or materials with intent to do any of these acts. This provision shall not apply to duly constituted police, military authorities, or peace officers in the discharge of their duties, or to licensed physicians, nurses, pharmacists and other similar persons licensed under the laws of this State; nor to any established place of business or home having tear gas installed as a protection against burglary, robbery or holdup, nor to any bank or other messenger carrying funds or other valuables.

6. Discharging firearms and fireworks.

(Code of Iowa, Sec. 727.2)

a. No person, firm, or corporation **or other legal entity** shall discharge or fire any cannon, gun, bomb, pistol, air gun, or other firearms or set off or burn firecrackers, torpedoes, sky rockets, roman candles, or other fireworks of like construction or any fireworks containing any explosive or inflammable compound, or other device containing any explosive.

b. The City Council may upon application in writing, grant a permit for the display and use of fireworks by any organization or groups of individuals when such fireworks display will be handled by a competent operator.

c. The City Council may, upon application in writing, grant a permit for the operation of a firing range in which the discharge of firearms for training, recreational or competitive events would be allowed upon showing that the range would be under the direction of a competent organization, group or individual.

d. In the interest of public health and safety and at such times as approved by the Chief of Police, the police or their designee may use firearms to control rodent or animal problems when it is evident that conventional control methods have not resolved the problem.

e. Nothing herein shall be construed to prohibit the use of blank cartridges for a show or the theatre, or for signal purposes in athletic sports or by railroads, or trucks, for signal purposes, or by a recognized military organization and provided further that nothing in this section shall apply to any substance or composition prepared and used for medicinal or fumigation purposes.

#### 7. Possession of Fireworks.

a. Definition. The term "fireworks" includes any explosive composition, or combination of explosives, substances or articles prepared for the purpose of producing a visible or audible effect by combustion, explosion or detonation and includes blank cartridges, firecrackers, torpedoes, sky rockets, Roman Candles or other fireworks of like construction and fireworks containing any explosive or flammable compound, or other device containing any explosive substance. The term "fireworks" does not include gold star-producing sparklers on wires that contain no magnesium or chlorate or perchlorate, flitter sparklers in paper tubes that do not exceed 1/8 inch in diameter, toy snakes that contain no mercury, or caps used in cap pistols.

b. Exemption. The use of blank cartridges for a show or the theater, or for signal purposes in athletic events, or by railroads or trucks for signal purposes, or by recognized military organizations is exempt from this Subsection.

c. Prohibition. No person shall possess fireworks except as provided in 3-15 of this code of ordinances.

8. Abandoned refrigerators. No person shall place, or allow to be placed, any discarded, abandoned, unattended or unused refrigerator, ice box or similar container equipped with an air-tight door or lid, snap lock, or other locking device which cannot be released from the inside, in a location accessible to children, outside any building, dwelling, or within an unoccupied or abandoned building or dwelling, or other structure, under such person's control without first removing the door, lid, snap lock, or other locking device from said icebox, refrigerator or similar container. This provision applies equally to the owner of any such refrigerator, icebox or similar container, and to the owner or occupant of the premises where the hazard is permitted to remain.

(Code of Iowa, Sec. 727.3)

9. Impersonating an officer. No person shall falsely represent themselves or falsely assume to be any law enforcement officer, judge or magistrate. It shall be unlawful to wear or adopt the uniform or insignia of any law enforcement officer on any street or public place.

(Code of Iowa, Sec. 718.2)

10. Harassment of City Employees.

a. It shall be unlawful for any person to willfully prevent, resist or obstruct or attempt to prevent, resist or obstruct any City employee from the performance of any official duty.

b. It shall be unlawful for any person to communicate by any means, any threat of bodily or property harm to any City employee or to any member of the employee's family during the course of, or as a result of, the performance of any official duty by said City employee.

11. Antenna and radio wires. No person shall allow, locate or maintain any antenna wires, antenna supports, radio wires or television wires to exist over any street, alley, highway, sidewalk or public property.

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

12. Barbed wire. No person shall install, allow to be installed or use barbed wire without the consent of the City Council.

(Code of Iowa, Sec. 364.1)

13. Playing in streets. No person shall coast, sled or play games on streets or highways except in areas blocked off by the Chief of Police for such purposes.

(Code of Iowa, Sec. 364.12)

14. It shall be unlawful for a person to use an electric fencer within the city limits without the consent of the council unless such land consists of ten acres or more and is used as agricultural land.

**15. Littering Prohibited.**

**a. As used in this Code, "discard" means to place, cause to be placed, throw, deposit or drop, and "litter" means any garbage, rubbish, trash, refuse, waste material and yard waste.**

**b. No person shall discard any litter within the City of Dunlap except as provided and approved by the City of Dunlap by collecting and discarding such litter in approved areas or approved receptacles.**

**c. It is unlawful for any person to deposit or place any garbage, rubbish, trash, refuse, waste material or yard waste in any street, alley, lane, public place, private property, or body of water within the City.**

**d. It is unlawful to place garbage, refuse or yard waste on the private property of another, or into another garbage, refuse or yard waste containers for the purpose of being hauled away.**

e. It is unlawful to permit garbage, yard waste or refuse to remain for more than ten (10) days on private property that is under one's ownership, possession or control. Yard waste may be retained more than ten (10) days if composting is being completed.

f. Notwithstanding the above provisions, garbage, refuse or yard waste may be placed on the untraveled portions of streets, alleys, lanes, public places or on private property to be hauled away, provided the garbage, refuse or yard waste containers are kept in place in the manner prescribed in this Code of Ordinances.

### 3-1-6 PUBLIC PROPERTY.

1. Defacing public grounds. No person shall cut, break or deface any tree or shrub in a public park or on any avenue thereto by willfully defacing, cutting, breaking or injuring, except by the authority of the Mayor.

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

2. **Damage** new pavement. No person shall **damage** new pavement in any street, alley or sidewalk by willfully driving, walking or making marks on such.

(Code of Iowa, 364.12(2))

3. Destroying park equipment. No person shall destroy or **damage** any property or equipment in public swimming pools, playgrounds or parks by willfully defacing, breaking, damaging, mutilating or cutting.

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

4. **Damage** to public library books or property. No person shall willfully or **recklessly** tear, deface, mutilate, **damage** or destroy, in whole or in part, any newspaper, periodical, book, map, pamphlet, chart, picture or other property belonging to any public library or reading room.

5. Defacing or destroying proclamations or notices. No person shall intentionally 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 of this State, or any proclamation, advertisement or notification, set up at any place within the City by authority of 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)

6. **Damage** to gravestones or property in cemetery. No person shall willfully and **recklessly** destroy, mutilate, deface, **damage** or remove any tomb, vault, monument, gravestone or other structure placed in any public or private cemetery, or any fences, railing or other work for the protection, ornamentation of said cemetery, or of any tomb, vault, monument or gravestone, or other structure aforesaid, on any cemetery lot within such cemetery, or willfully and maliciously destroy, cut, break or **damage** any tree, shrub, plant or lawn within the limits of said cemetery, or drive outside of said avenues and roads, and over the grass or graves of said cemetery.

(Code of Iowa, Sec. 716.1)

7. **Damage** to fire apparatus. No person shall willfully destroy or **damage** any engines, hose carriage, hose, hook and ladder carriage, or other things used and kept for extinguishment of fires.  
(Code of Iowa, Sec. 716.1)

8. **Damage** to city ambulance or paramedic apparatus. No person shall willfully destroy or **damage** any ambulance or paramedic unit, equipment or other things used to administer medical care.  
(Code of Iowa, Sec. 716.1)

9. Obstructing or defacing roads. No person shall obstruct, deface or **damage** any public road by breaking up, plowing or digging within the boundary lines thereof, except by written authorization of the Mayor.  
(Code of Iowa, Sec. 716.1)

10. **Damage** to roads, railways, and other utilities. No person shall **damage**, remove or destroy any electric railway or apparatus belonging thereto, or any bridge, rail or plank road; or place or cause to be placed, any obstruction on any electric railway, or on any such bridge, rail or plank road; or willfully obstruct or **damage** any public road or highway; or cut, burn, or in any way break down, **damage** or destroy any post or pole used in connection with any system of electric lighting, electric railway, or telephone or telegraph system; or break down and destroy or **damage** and deface any electric light, telegraph or telephone instrument; or in any way cut, break or **damage** the wires of any apparatus belonging thereto; or willfully without proper authorization tap, cut, **damage**, break, disconnect, connect, make any connection with, or destroy any of the wires, mains, pipes, conduits, meters or other apparatus belonging to, or attached to, the power plant or distributing system of any electric light plant, electric motor, gas plant or water plant; or aid or abet any other person in so doing.  
(Code of Iowa, Sec. 716.1)

11. Tapping into Utility Transmission Cables. No person shall connect to any transmission cable without first obtaining permission from the owner of the cable.  
(Code of Iowa, Sec. 727.8)

12. Obstructing ditches and breaking levees. No person shall divert, obstruct, impede, or fill up, without legal authority, any ditch, drain, or watercourse, or break down any levee established, constructed, or maintained under any provision of law.  
(Code of Iowa, Sec. 716.1)

3-1-7 PRIVATE PROPERTY. It shall be unlawful for a person to commit one or more of the following acts.

1. Enter property without permission. Enter upon or in private property without legal justification or without the implied or actual permission of the owner, lessee, or person in lawful possession with the intent to commit public offense or to use, remove there from, alter, damage, harass or place thereon or therein anything animate or inanimate, without the implied or actual permission of the owner, lessee, or person in lawful possession.

(Code of Iowa, 2007, as amended, Sec. 716.7(2)(a))

2. Not vacate property when requested. Enter or remain upon or in private property without legal justification after being notified or requested to abstain from entering or to remove or vacate there from by the owner, lessee, or person in lawful possession, or by any police officer, magistrate or public employee whose duty it is to supervise the use or maintenance of the property

(Code of Iowa, 2007, as amended, Sec. 716.7(2)(b))

3. Interfere with lawful use of property. Enter upon or in private property for the purpose or with the effect of unduly interfering with the lawful use of the property by others.

(Code of Iowa, 2007, as amended, Sec. 716.7(2)(c))

4. Use of property without permission. Be upon or in private property and use, remove there from, alter, damage, harass, or place thereon or therein anything animate or inanimate, without the implied or actual permission of the owner, lessee, or person in lawful possession.

(Code of Iowa, 2007, as amended, Sec.

716.7(2)(d))

It shall be unlawful for a person to wrongfully or unlawfully tap or connect a wire with the telephone, telegraph or cable television wires of any person engaged in the transmission of messages on telephone, telegraph or cable television lines.

(Code of Iowa, 2007, as amended, Sec. 727.8)

It shall be unlawful to cut, break or deface any tree or shrub, fence, deface or otherwise injure private buildings, railings, windows, or any other private property except by the authority of the owner of said property.

(Code of Iowa, 2007, as amended, Sec. 716.1 and 716.6)



## **TITLE III COMMUNITY PROTECTION**

### **CHAPTER 2 NUISANCES**

3-2-1	Definitions	3-2-7	Request for Hearing and Appeal
3-2-2	Nuisances Prohibited	3-2-8	Abatement in Emergency
3-2-3	Other Conditions Regulated	3-2-9	Abatement by Municipality
3-2-4	Notice to Abate Nuisance or Condition	3-2-10	Collection of Cost of Abatement
3-2-5	Contents of Notice to Abate	3-2-11	Installment Payment of Cost of Abatement
3-2-6	Method of Service	3-2-12	Condemnation of Nuisance

3-2-1     **DEFINITIONS.** For use in this Ordinance, the following terms are defined:

1.   **NUSIANCES DECLARED.** The term "nuisance" means whatever is injurious to health, indecent, or unreasonably offensive to the senses or an obstacle to the free use of property, so as essentially to unreasonably interfere with the comfortable enjoyment of life or property. Nuisances shall include, but not be limited to, those activities and items hereinafter set forth in this section below:

(Code of Iowa, Sec. 657.1)

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

(Code of Iowa, Sec. 657.2(1))

b.   The causing or suffering any offal, filth, or noisome substance to accumulate or to remain in any place to the prejudice of others.

(Code of Iowa, Sec. 657.2(2))

c.   The obstructing or impeding without legal authority the passage of any navigable river, harbor, or collection of water.

(Code of Iowa, Sec. 657.2(3))

d.   The polluting or rendering unwholesome or impure the water of any river, stream, or pond, or unlawfully diverting the same from its natural course or state, to the injury or prejudice of others.

(Code of Iowa, Sec. 657.2(4))

e.   The obstructing or encumbering by fences, buildings, or otherwise the public roads, private ways, streets, alleys, commons, landing places, or burying grounds.

(Code of Iowa, Sec. 657.2(5))

(This is not an exhaustive list of possible nuisances.)

f. Houses of ill fame, kept for the purpose of prostitution and lewdness, gambling houses, or houses resorted to for the use of controlled substances or houses where drunkenness, quarreling, fighting or breaches of the peace are carried on or permitted to the disturbance of others.

(Code of Iowa, Sec. 657.2(6))

g. Billboards, signboards, and advertising signs, whether erected and constructed on public or private property, which so obstruct and impair the view of any portion or part of a public street, avenue, highway, boulevard or alley or of a railroad or street railway track as to render dangerous the use thereof, especially near intersecting streets.

(Code of Iowa, Sec. 657.2(7))

h. Cotton-bearing cottonwood trees and all other cotton-bearing poplar trees in the City.

i. Any object or structure hereafter erected within 1,000 feet of the limits of any municipal or regularly established airport or landing place, which may endanger or obstruct aerial navigation, including take-off and landing.

(Code of Iowa, Sec. 657.2(8))

j. The depositing or storing of inflammable junk, such as old rags, rope, cordage, rubber, bones, and paper, by any person, including a dealer in such articles, unless it be in a building of fire resistant construction.

(Code of Iowa, Sec. 657.2(9))

k. The emission of dense smoke, noxious fumes, or fly ash.

(Code of Iowa, Sec. 657.2(10))

l. **Weeds. Any condition relating to weeds which is described as a nuisance in the Dunlap Municipal Code of Ordinances or under state law.** Dense growth of all weeds, grasses, vines, brush, or other vegetation in the City so as to constitute a health, safety, or fire hazard including any City owned property between the abutting property line and the street right-of-way. **Any condition related to weeds described or defined as a nuisance under the Code of Iowa or the City Municipal Code.**

(Code of Iowa, Sec. 657.2(11))

m. Trees infected with Dutch elm disease.

(Code of Iowa, Sec. 657.2(12))

n. Effluent from septic tank or drain field running or ponding on the ground in the open.

o. Any article or substance placed upon a street, alley, sidewalk, public ground, or in any ditch, waterway, or gutter so as to obstruct the drainage.

(Code of Iowa, Sec. 716.1)

p. Accumulations of rubbish or trash tending to harbor vermin, rodents, and rank growth of weeds or other vegetation and plants, which is conducive to hazard.

(Code of Iowa, Sec. 657.2)

q. Carrying weapons, any person armed with a dangerous weapon concealed on or about the person, or who, within the limits of the city, goes armed with a pistol or revolver, or any loaded firearm of any kind, whether concealed or not, or who knowingly carries or transports in a vehicle a pistol or revolver as specifically required by Section 724.4 of the Code of Iowa.

r. Tobacco smoking in any city buildings or vehicles.

s. Causing or suffering any refuse, garbage, obnoxious substances, hazardous wastes, junk or salvage materials to be collected or to remain in any place to the prejudice to others; causing or suffering any refuse, garbage, obnoxious substances, hazardous wastes, junk or salvage materials or other offensive or disagreeable substances to be thrown, left or deposited in or upon any street, avenue, alley, sidewalk, park, public square, public enclosure, lot, vacant or occupied, or upon any pond or pool of water; except for compost piles established and maintained with written permission from the Harrison County Public Health Department and junk or salvage materials property stored in accordance with the Dunlap Municipal Code;

t. Diseased or damaged trees or shrubs. Any dead, diseased or damaged trees or shrubs, which may harbor insects or diseased pests or diseases injurious to other trees or shrubs or any healthy tree which is in such a state of deterioration that any part of such tree may fall and damage property or cause injury to persons.

v. Any ditch, drain or water course which is now or hereafter may be constructed so as to prevent surface water and overflow water from adjacent lands entering or draining into and through the same; any storm water detention basin not maintained in an appropriate manner so as to allow its proper function.

w. Stagnant water standing on any property, any property, container or material kept in such condition that water can accumulate and stagnate.

x. Conditions which are conducive to the harborage or breeding of vermin.

y. Infestations of vermin such as rats, mice, skunks, snakes, starlings, pigeons, bees, wasps, cockroaches or flies.

z. Facilities for the storage or processing of sewage, such as privies, vaults, sewers, private drains, septic tanks, cesspools and drainage fields, which have failed or do not function properly or which are overflowing, leaking or emanating odors; septic tanks, cisterns and cesspools which are abandoned or no longer in use unless they are empty and cleaned with clean fill; an evolved cesspools or septic tank which does not comply with the Harrison County Department of Health regulation.

- aa. Unoccupied buildings or unoccupied portions of buildings which are unsecured.
- bb. Dangerous buildings or structures.
- cc. Abandoned buildings.
- dd. Any hazardous thing or condition on property which may contribute to injury of any person present on the property; hazards include, but are not limited to, open holes, open wells, open foundation, dangerous trees or limbs, abandoned and unsecured refrigerators or trapping devices.
- ee. The storage, parking, leaving or permitting the storage, parking or leaving of any inoperable or obsolete vehicle upon private property within the City for a period in excess of 48 hours, unless exempted herein. This section shall not apply to any vehicle enclosed within a building on private property or to any vehicle held in connection with a legal junk yard or automobile or truck-oriented use operated in the appropriate zone and in compliance with the Dunlap Municipal Code of Ordinances.
- ff. All junk yard or salvage operations except those permitted by ordinance and operating in full compliance with the Dunlap Municipal Code of Ordinances.
- gg. The open burning of trash, refuse, garbage, junk or salvage materials, yard waste, leaves and tree trimmings shall be prohibited within the City limits, provided, however, the City Council may designate up to three weekends each year to allow City residents to burn leaves and tree trimmings in accordance with the City's Open Burning Policy. Outdoor cooking or burning of wood is permitted if performed in a container constructed of steel, brick or masonry and the fire is no larger than two feet in diameter. Additional open burning may be permitted upon written request, only with the special permission of the City Council provided the burning is in compliance with Open Burning Policy guidelines established by the City in consultation with the Fire Department.
- hh. Any accumulations of ice, water and snow on public sidewalks, or the failure to remove said accumulations within 48 hours after the creation of such accumulations exist, shall constitute a nuisance and shall be abated pursuant to the provisions specified in the Dunlap Municipal Code of Ordinances.
- ii. The parking of motor vehicles on private property without the consent of the property owner or responsible party.
- jj. Any nuisance described as such or declared by Chapter 657 of the Code of Iowa.
- kk. The sounding of any horn or other signaling device on any vehicle on any street, public or private place within the City, except as a danger warning, which makes a loud or harsh sound to the disturbance or annoyance of any person and can be plainly audible at a distance of 50 feet.

ll. The use of amplified sound creating a disturbance or annoyance to others and can be plainly heard 50 feet from the source of the amplified sound.

mm. Yelling, shouting, hooting, whistling or singing at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in the vicinity.

nn. The erection, excavation, demolition, alteration, repair or construction of any building or other property between the hours of 7:00 a.m. and 9:00 p.m., except in the case of an emergency of a public health and safety nature, with the approval of the City.

oo. No person shall obstruct, deface, destroy or **damage** any public right-of-way in any manner by breaking up, plowing or digging within the right-of-way without City permission.

pp. No person shall throw or deposit on any public or private property any glass bottle, glass, nails, tacks, wire, cans, trash, garbage, rubbish, litter or any other debris or like substance which may injure or damage any person, animal or vehicle or which may annoy, injure or become dangerous to the health, comfort or property of individuals or the public.

qq. No person shall allow any plants to grow uncultivated and out of context with the surrounding plant life when such plant has a seed head formed or forming and with a height of 8 inches or more, nor shall any person allow their grass to grow unattended with a consistent height above 8 inches.

rr. Causing or suffering any refuse, garbage, obnoxious substances, hazardous wastes, junk or salvage materials to be collected or to remain in any place **to the disturbance of** others.

ss. Causing or suffering any refuse, garbage, obnoxious substances, hazardous wastes, junk or salvage materials or other offensive or disagreeable substances to be thrown, left or deposited in or upon any street, alley, avenue, sidewalk, park, public square, public enclosure, lot, vacant or occupied.

tt. The storage of any appliances, scrap metal, indoor furniture, broken furniture, used building material, unstacked wood, broken toys, broken bicycles and tricycles, bathroom fixtures and similar objects visible from the public right-of-way or adjoining property.

uu. Pools and ponds containing stagnant water.

vv. Pipes, lumber, drywall, flooring, roofing shingles and other building material left on the property visible from the public right-of-way or adjoining property for a period of time exceeding 72 hours.

ww. Rusty, deteriorated, dilapidated or unusable play equipment visible from any adjoining property.

xx. Dilapidated dwelling units exhibiting peeling paint, untreated wood, broken gutters, broken windows, dry rot, missing banisters, railings and spindles, broken doors and the like creating an eyesore and offending members of the public.

**(This is not an exclusive or exhaustive list of possible nuisances. The Council must decide what is needed a appropriate for its community.)**

2. The term "property owner" means the contract purchaser if there is one of record, otherwise the record holder of legal title.

(Code of Iowa, Sec. 364.1)

3-2-2 NUISANCES PROHIBITED. The creation or maintenance of a nuisance is **hereby** prohibited, and a nuisance may be abated **by criminal citation, municipal infraction or as otherwise** provided in this **Ordinance or Code of Iowa**.

(Code of Iowa, Sec. 657.3)

3-2-3 OTHER CONDITIONS REGULATED. The following actions are required and may also be abated in the manner provided in this Ordinance:

1. The removal of diseased trees or dead wood, but not diseased trees and dead wood outside the lot and property lines and inside the curb lines upon the public street.

(Code of Iowa, Sec. 364.12(3)(b))

2. The removal, repair, or dismantling of dangerous buildings or structures.

(Code of Iowa, Sec. 364.12(3)(c))

3. The numbering of buildings.

(Code of Iowa, Sec. 364.12(3)(d))

4. The connection to public drainage systems from abutting property when necessary for public health or safety.

(Code of Iowa, Sec. 364.12(3)(e))

5. The connection to public sewer systems from abutting property, and the installation of sanitary toilet facilities and removal of other toilet facilities on such property.

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

6. The cutting or destruction of weeds or other growth which constitutes a health, safety, or fire hazard.

(Code of Iowa, Sec. 364.12(3)(g))

7. The maintenance, by the property owner, of all property outside the lot and property lines and inside the curb lines upon public streets, including maintaining a fifteen (15) foot clearance above the street from trees extending over the streets, except as provided in Section 3-2-3(1).

3-2-4 NOTICE TO ABATE NUISANCE OR CONDITION. Whenever the Mayor or other authorized municipal officer finds that a nuisance or other **prohibited** condition exists, the Mayor or **may notify** the property owner as shown by the records of the County Auditor to abate the nuisance within a reasonable time after notice. Notice and opportunity to abate the nuisance is not required prior to bringing legal action.

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

3-2-5 CONTENTS OF NOTICE TO ABATE. The notice to abate shall contain:

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

1. A description of what constitutes the nuisance or other condition.
2. The location of the nuisance or condition.
3. A statement of the act or acts necessary to abate the nuisance or condition.
4. A reasonable time within which to complete the abatement.

5. A statement that if the nuisance or condition is not abated as directed and no request for hearing is made within the time prescribed, the City will abate it and assess the costs against such person.

3-2-6 METHOD OF SERVICE. The notice may be **sent** by **regular** mail to the property owner as shown by the records of the County Auditor.

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

3-2-7 REQUEST FOR HEARING AND APPEAL. Any person ordered to abate a nuisance or condition may have a hearing with the officer ordering the abatement as to whether a nuisance or prohibited condition exists. A request for a hearing must be made in writing and delivered to the officer/**employee** ordering the abatement within seven (7) working days of the receipt of the notice or the right to a hearing shall be waived. If an appeal is not filed as set forth herein, it will be conclusively presumed that a nuisance or prohibited condition exists and it must be abated as ordered.

At the conclusion of the hearing, the hearing officer shall render a written decision as to whether a nuisance or prohibited condition exists. If the officer finds that a nuisance or prohibited condition

exists, the officer must order it abated within an additional time which must be reasonable under the circumstances. The property owner may appeal this decision by filing written notice with the City Clerk within five (5) calendar days of the decision. This appeal shall be heard before the City Council at a time and place fixed by the Council. The findings of the Council shall be conclusive and, if a nuisance or prohibited condition is found to exist, it shall be ordered abated within a time reasonable under the circumstances.

3-2-8 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, and assess the costs as provided herein, after notice to the property owner under the applicable provision of Sections 3-2-4 and 3-2-5 and hearing as provided in Section 3-2-7.

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

3-2-9 ABATEMENT BY MUNICIPALITY. 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 City Clerk, who shall pay such expenses on behalf of the municipality.

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

3-2-10 COLLECTION OF COST OF ABATEMENT. The Clerk shall mail a statement of the total expense incurred to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one month, the City Clerk shall certify the costs to the County Treasurer and they shall then be collected with, and in the same manner, as general property taxes.

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

3-2-11 INSTALLMENT PAYMENT OF COST OF ABATEMENT. If the amount expended to abate the nuisance or condition exceeds \$100, the City may permit the assessment to be paid in up to ten annual installments, to be paid in the same manner and at the same rate of interest charged delinquent real estate taxes by the County Treasurer.

(Code of Iowa, Sec. 364.13)

3-2-12 CONDEMNATION OF NUISANCE. The City may condemn a residential, commercial or industrial building found to be **abandoned and** a public nuisance and take title to the property for the public purpose of disposing of the property under **Chapter 657A** by conveying the property to a private individual for rehabilitation or for demolition and construction of housing.

(Code of Iowa, Sec. 364.12A)

## **SECTION 2. NUISANCES PROHIBITED.**

**The creation or maintenance of a nuisance is hereby prohibited, and a nuisance may be abated by criminal citation, municipal infraction or as provided in this Ordinance.**



### **SECTION 3. OTHER PROHIBITED CONDITIONS.**

The following actions are required and failure to do so shall constitute a nuisance prohibited herein:

- A. The removal of diseased or dead trees or branches on private property. This provision does not apply to trees located on City right-of-way.
- B. The removal, repair or dismantling of a dangerous building or structure.
- C. The numbering of buildings.
- D. The connection to public drainage systems.
- E. The connection to public sewer systems and the installation of sanitary toilet facilities.

### **SECTION 4. NOTICE TO ABATE NUISANCE.**

Whenever the Mayor or other authorized municipal employee finds that a nuisance or other condition as set forth in this Ordinance exists, he or she shall send the property owners a written notice to abate the nuisance within a reasonable time after the notice.

### **SECTION 5. CONTENTS OF NOTICE TO ABATE.**

The notice to abate shall be delivered by ordinary mail and shall contain:

- A. A description of the nuisance.
- B. The location of the nuisance.
- C. A statement of the act or acts necessary to abate the nuisance.
- D. A time period within which to complete the abatement.
- E. A statement that if the nuisance is not abated as directed, the consequences that may occur.

### **SECTION 6. REQUEST FOR HEARING.**

Any person ordered to abate a nuisance may have a hearing with the officer/employee ordering the abatement. A request for hearing must be made in writing and delivered to the officer/employee ordering the abatement within seven working days of the receipt of the notice or the right to hearing shall be waived.

**At the conclusion of the hearing, the officer/employee shall render a decision as to whether a nuisance or prohibited condition exists. If the decision is upheld, the nuisance must be abated immediately.**

**The property owner may appeal this decision by filing written notice with the City Clerk within five calendar days of the decision. The appeal will be heard before the City Council at a time and place fixed by the City Council. The findings of the Council shall be conclusive, and, if a nuisance is found to exist, it shall be ordered abated.**

#### **SECTION 7. ABATEMENT IN EMERGENCY.**

**If it is determined that an emergency exists by reason of the continuing maintenance of a nuisance, the City may perform any action which may be required under this Ordinance without prior notice and may assess the costs of the abatement to the property owner. The property owner has the right to appeal the assessment of the costs as provided in Section 6 above.**

#### **SECTION 8. ABATEMENT BY CITY.**

**If the person notified to abate a nuisance fails to abate the nuisance as directed, the City may perform the required action to abate and assess the costs to the property or may file criminal charges or a municipal infraction citation as the City deems fit.**

## **TITLE III COMMUNITY PROTECTION**

### **CHAPTER 3 TRAFFIC CODE**

- |       |  |        |   |
|-------|--|--------|---|
| 3-3-1 | Short Title                                |        | Streets and Alleys  |
| 3-3-2 | Definitions                                | 3-3-16 | One-Way Streets and Alleys  |
| 3-3-3 | Traffic Accident Reports                   | 3-3-17 | Authority to Restrict Direction of movement on Streets During Certain Periods |
| 3-3-4 | Police Department to Submit Annual Reports |        |   |

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- |        |  |
|--------|--|
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- 3-3-53    Parking
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- 3-3-55    Lamps and Other Equipment on  
             Bicycles

3-3-1     SHORT TITLE. This chapter may be known and cited as the "Traffic Code".

3-3-2     DEFINITIONS. Where words and phrases used in this chapter are defined in Chapter 321 of the Code of Iowa, such definitions shall apply to this Ordinance.

1.    "Park and parking" means the stopping or standing of a vehicle, except for the purpose of, and while actually engaged in, loading or unloading merchandise or passengers.

2.    "Stand or standing" means the halting of a vehicle, whether occupied or not, except for the purpose of and while actually engaged in receiving or discharging passengers.

3.    "Stop", when required means complete cessation of movement.

4.    "Stop or stopping", when prohibited, means 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 police officer or traffic-control sign or signal.

5.    "Business districts" means: the territory contiguous to and including **a highway when fifty percent or more of the frontage thereon for a distance of three hundred feet or more is occupied by buildings in use for business.**

6.    "Residential districts" means all areas of the City not included in business districts.  
(Code of Iowa, Sec. 321.1)

3-3-3     TRAFFIC ACCIDENT REPORTS. The driver of a vehicle involved in an accident within the limits of this 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 Chief of Police. All such reports shall be for the confidential use of the police department and shall be subject to the provisions of Section 321.271 of the Code of Iowa.

The City shall maintain a suitable system of filing traffic accident reports.  
(Code of Iowa, Sec. 321.266)

3-3-4     POLICE DEPARTMENT TO SUBMIT ANNUAL REPORTS. The Police Chief shall prepare annually a traffic report which shall be filed with the Mayor. Such report shall contain information on traffic matters in this City concerning the number of traffic accidents, the number of persons killed or injured, the number and nature of violations, and other pertinent traffic data including the plans and recommendations for future traffic safety activities.

## ENFORCEMENT AND OBEDIENCE TO TRAFFIC REGULATIONS

3-3-5 **AUTHORITY OF POLICE AND FIRE DEPARTMENT OFFICIALS.** Provisions of this chapter and the Iowa law relating to motor vehicles and law of the road shall be enforced by the officers of the police department. The officers of the police department are hereby authorized to direct all traffic by voice, hand or signal in conformance with traffic laws. In the event of a fire or other emergency, officers of the police department may direct traffic as conditions require notwithstanding the provisions of the traffic laws. Officers of the fire department may direct or assist the police in directing traffic threat or in the immediate vicinity.

(Code of Iowa, Sec. 321.229)

3-3-6 **REQUIRED OBEDIENCE TO PROVISIONS OF THIS CHAPTER AND STATE LAW.** Any person who shall willfully fail or refuse to comply with any lawful order of a police officer or direction of a fire department officer during a fire, or who fails to abide by the provisions of this chapter and the applicable provisions of the following Iowa statutes relating to motor vehicles and the law of the road is in violation of this chapter. These sections of the Code are adopted by reference:

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|-----|---------|--|
| 1.  | 321.98  | <b>Operation without registration.</b>   |
| 2.  | 321.180 | <b>Violations of instruction permit limitations.</b>   |
| 3.  | 321.193 | <b>Violation of conditions of restricted license.</b>  |
| 4.  | 321.194 | <b>Violation of conditions of minor's school license.</b>  |
| 5.  | 321.216 | <b>Unlawful use of license.</b>  |
| 6.  | 321.218 | <b>Driving without a valid license (as to simple misdemeanor offenses only).</b>                                   |
| 7.  | 321.219 | <b>Permitting unauthorized minor to drive.</b>   |
| 8.  | 321.220 | <b>Permitting unauthorized person to drive.</b>  |
| 9.  | 321.229 | <b>Failure to comply with lawful order of peace officer.</b>   |
| 10. | 321.231 | <b>Failure of driver of emergency vehicle to exercise caution while on emergency run (stop signs and signals).</b> |
| 11. | 321.232 | <b>Radar jamming devices.</b>  |
| 12. | 321.234 | <b>Failure to observe seating requirements.</b>  |

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| 13. | 321.236 | (Parking) Violation of local ordinance (not a state offense).                 |
| 14. | 321.256 | Failure to obey traffic control device.                                       |
| 15. | 321.257 | Failure to obey or yield to pedestrian or to official traffic control signal. |
| 16. | 321.260 | Unlawful possession of, or interference with traffic control device.          |
| 17. | 321.264 | Striking unattended vehicle.  |
| 18. | 321.265 | Striking fixtures upon a highway.   |
| 19. | 321.275 | Motorcycle and motorized bicycles violations.                                 |
| 20. | 321.277 | Reckless driving.   |
| 21. | 321.278 | Drag racing prohibited.   |
| 22. | 321.285 | Speed restrictions.   |
| 23. | 321.286 | Truck speed limits (highway).   |
| 24. | 321.287 | Bus speed limits (highway).   |
| 25. | 321.288 | Failure to maintain control.  |
| 26. | 321.294 | Failure to maintain minimum speed when directed by officer.                   |
| 27. | 321.295 | Excessive speed on bridge.  |
| 28. | 321.297 | Driving on wrong side of two-way highway.                                     |
| 29. | 321.298 | Failure to yield half of roadway upon meeting vehicle.                        |
| 30. | 321.299 | Passing on wrong side.  |
| 31. | 321.303 | Unsafe passing.   |
| 32. | 321.304 | Unlawful passing.   |
| 33. | 321.305 | Violating one-way traffic designation.  |
| 34. | 321.306 | Improper use of lanes.  |

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| 35. | 321.307 | Following too closely.                              |
| 36. | 321.308 | Following too closely (trucks and towing vehicles). |
| 37. | 321.309 | Failure to use approved drawbar.                    |
| 38. | 321.310 | Unlawful towing of four-wheeled trailer.            |
| 39. | 321.311 | Turning from improper lane.                         |
| 40. | 321.312 | Making U-turn on curve or hill.                     |
| 41. | 321.313 | Unsafe starting of a stopped vehicle.               |
| 42. | 321.314 | Unsafe turn or failure to give signal.              |
| 43. | 321.315 | Failure to give continuous turn signal.             |
| 44. | 321.316 | Failure to signal stop or rapid deceleration.       |
| 45. | 321.317 | Signal light requirements; see equipment violation. |
| 46. | 321.318 | Incorrect hand signal.                              |
| 47. | 321.319 | Failure to yield to vehicle on right.               |
| 48. | 321.320 | Failure to yield upon left turn.                    |
| 49. | 321.321 | Failure to yield upon entering through highway.     |
| 50. | 321.322 | Failure to obey stop or yield sign.                 |
| 51. | 321.323 | Unsafe backing on highway.                          |
| 52. | 321.324 | Failure to yield to emergency vehicle.              |
| 53. | 321.325 | Pedestrian disobeying traffic control signal.       |
| 54. | 321.326 | Pedestrian walking on wrong side of highway.        |
| 55. | 321.327 | Pedestrian right-of-way.                            |
| 56. | 321.328 | Pedestrian failing to use crosswalk.                |
| 57. | 321.329 | Vehicle failing to yield to pedestrian.             |



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| 58. | 321.331 | Soliciting ride from within roadway.                                     |
| 59. | 321.332 | Unlawful use of white cane.  |
| 60. | 321.333 | Failure to yield to blind person.  |
| 61. | 321.340 | Driving in or through safety zone.                                       |
| 62. | 321.341 | Failure to properly stop at railroad crossing.                           |
| 63. | 321.342 | Failure to obey stop sign at railroad crossing.                          |
| 64. | 321.343 | Failure to stop certain cargo or passenger vehicle at railroad crossing. |
| 65. | 321.344 | Unlawful movement of construction equipment across railroad track.       |
| 66. | 321.353 | Unsafe entry into sidewalk or roadway.                                   |
| 67. | 321.354 | Stopping on traveled part of highway.                                    |
| 68. | 321.358 | Stopping, standing, or parking where prohibited.                         |
| 69. | 321.360 | Prohibited parking in front of certain buildings.                        |
| 70. | 321.361 | Parking too far from curb/angular parking.                               |
| 71. | 321.362 | Parking without stopping engine and setting brake.                       |
| 72. | 321.363 | Driving with obstructed view or control.                                 |
| 73. | 321.365 | Coasting upon downgrade.   |
| 74. | 321.366 | Improper use of median, curb, or controlled access facility.             |
| 75. | 321.367 | Failure to maintain distance fire-fighting vehicle.                      |
| 76. | 321.368 | Crossing unprotected fire hose.  |
| 77. | 321.369 | Putting debris on highway/roadway.                                       |
| 78. | 321.370 | Removing injurious material.   |
| 79. | 321.371 | Clearing up wrecks.  |

80.	321.372	School bus provisions.
81.	321.377	Excessive speed of school bus.
82.	321.381	Driving or towing unsafe vehicle.
83.	321.382	Operating underpowered vehicle.
84.	321.383	Failure to display reflective device on slow-moving vehicles.
85.	321.384	Failure to use headlamps when required.
86.	321.385	Insufficient number of headlamps.
87.	321.386	Insufficient number of headlamps-motorcycles and motorized bicycles.
88.	321.387	Improper rear lamp.
89.	321.388	Improper registration plate lamp.
90.	321.389	Improper rear reflector.
91.	321.390	Reflector requirements.
92.	321.391	Improper type of reflector.
93.	321.392	Improper clearance lighting on truck or trailer.
94.	321.393	Lighting device color and mounting.
95.	321.394	No lamp or flag on rear-projecting load.
96.	321.395	Parking on certain roadways without parking lights.
97.	321.397	Improper light on bicycle.
98.	321.398	Improper light on other vehicle.
99.	321.402	Improper use of spotlight.
100.	321.403	Improper use of auxiliary driving lights.
101.	321.404	Improper brake light.

102.	321.408	Back-up lamps.
103.	321.409	Improperly adjusted headlamps.
104.	321.415	Failure to dim.
105.	321.419	Improper headlighting when night driving.
106.	321.420	Excessive number of driving lights.
107.	321.422	Lights of improper color-front or rear.
108.	321.423	Special light/signal provision.
109.	321.430	Defective braking equipment.
110.	321.431	Brake performance ability.
111.	321.432	Defective audible warning device.
112.	321.433	Unauthorized use of emergency audible warning devices on motor vehicle.
113.	321.434	Use of siren or whistle on bicycle.
114.	321.436	Defective or unauthorized muffler system.
115.	321.437	Mirrors.
116.	321.438	Windshields.
117.	321.439	Defective windshield wiper.
118.	321.440	Defective tires.
119.	321.441	Unauthorized use of metal tire or track.
120.	321.442	Unauthorized use of metal projection on wheels.
121.	321.444	Failure to use safety glass.
122.	321.445	Failure to maintain or use safety belts.
123.	321.446	Failure to secure child.

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| 124. | 321.449 | Special regulations.  |
| 125. | 321.450 | Hazardous materials.  |
| 126. | 321.454 | Width and length violations.  |
| 127. | 321.455 | Excessive side projection of load – passenger vehicle.                      |
| 128. | 321.456 | Excessive height.   |
| 129. | 321.457 | Excessive length.   |
| 130. | 321.458 | Excessive projection from front of vehicle.                                 |
| 131. | 321.459 | Excessive weight – dual axels (each over 2000 lb. over).                    |
| 132. | 321.460 | Spilling loads on highways.   |
| 133. | 321.461 | Excessive tow-bar length.   |
| 134. | 321.462 | Failure to use required towing equipment.                                   |
| 135. | 321.463 | Maximum gross weight.   |
| 136. | 321.466 | Gross weight in excess of registered gross weight (for each 2000 lb. over). |

#### TRAFFIC CONTROL DEVICES

3-3-7 AUTHORITY TO INSTALL TRAFFIC-CONTROL DEVICES. The Chief of Police shall cause to be placed and maintained traffic-control devices when and as required under this chapter or other Ordinances of this City to make effective their provisions, and may so cause to be placed and maintained such additional, emergency, or temporary traffic-control devices for the duration of an emergency or temporary condition as traffic conditions may require, to regulate traffic under the traffic Ordinances of this City or under State law or to guide or warn traffic.

The Chief of Police shall keep a record of all traffic-control devices maintained by the department.

All traffic-control devices shall comply with current standards established by the Manual of Uniform Traffic Control Devices for Streets and Highways **at the time the control device is placed or erected.**

(Code of Iowa, Sec. 321.255 and 321.256)

3-3-8 CHIEF OF POLICE TO DESIGNATE CROSSWALKS, ESTABLISH, AND MARK TRAFFIC LANES. The Chief of Police is hereby authorized:

1. To designate and maintain by appropriate devices, marks or lines upon the surface of the roadway, crosswalks 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.

2. To mark lanes for traffic on street pavements at such places as traffic conditions require, consistent with the traffic Code of this City. Where traffic lanes have been marked, it shall be unlawful for the operator of any vehicle to fail or refuse to keep such vehicle within the boundaries of a lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

3-3-9 PLAY STREETS. The Chief of Police has the authority to declare any street or part thereof a play street and to place 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 the street or any portion thereof except drivers of vehicles having business or whose residences are within the closed area, and then the driver shall exercise the greatest care in driving upon the street or portion thereof.

## SPEED REGULATIONS

3-3-10 CHANGING STATE SPEED LIMITS IN CERTAIN ZONES. It is hereby determined upon the basis of an engineering and traffic investigation that the speed permitted by State law upon the following streets or portions thereof is greater or less than is necessary for the safe operation of vehicles thereon, and it is declared that the maximum speed limit upon these streets or portions thereof described shall be as follows:

A. 45 m.p.h. on any of the following streets or highways:

(1) Iowa Highway 30, commencing 321 feet southerly from the north corporation line of the City of Dunlap, Iowa, southerly to the north lot line of Lot 3 in Block 1 in the City of Dunlap, Iowa

(2) Iowa Highway 37 – Iowa Avenue commencing 145 feet west from the east corporation line of the City of Dunlap, Iowa, west to a point 357 feet east of the east line of 13<sup>th</sup> Street.

(3) Iowa Highway 30 commencing 1584 feet northerly from the south corporation line of the City of Dunlap, Iowa, northeasterly to a point 3410 feet northerly along Iowa Highway 30 from the south corporation line of the City of Dunlap, Iowa.

(4) Iowa Highway 37 commencing 1584 feet east from the Harrison County line of Harrison County, Iowa, easterly 1056 feet to Highway marker No. 23 adjacent to Iowa Highway 37.

B. 35 m.p.h. on any of the following streets or highways:

(1) Lincoln Way Street from the north corporation line of the City of Dunlap, Iowa, south to north lot lines of Lots One (1) and Eighteen (18) in Block 67 Third Addition to the City of Dunlap, Iowa.

(2) Toledo Avenue from the south corporation line of the City of Dunlap, Iowa, north to the south line of Iowa Highway 30.

(3) Iowa Highway 30 from a point 3410 feet northerly of the south corporate line to a point 97 feet northerly of the north line of Remsen Street.

(4) Iowa Highway 37 – Iowa Avenue from a point 357 feet east of the east line of 13<sup>th</sup> Street west to the west line of 12<sup>th</sup> Street.

(5) Harrison Road from the east corporation line of the City of Dunlap, Iowa, west to the east line of 12<sup>th</sup> Street.

(6) Iowa Highway 37 from Iowa Highway marker No. 23 adjacent to Iowa Highway 37 east to the west line of Highway 30.

C. 30 m.p.h. on any of the following streets or highways:

(1) Iowa Highway 30 from a point 97 feet northerly of the north line of Remen Street northerly to a point 72 feet north of the north line of Eagle Street.

(2) Iowa Highway 30 from a point adjacent to the north lot line of Lot 3 in Block 1 in the City of Dunlap, Iowa, south to the south line of First Street.

(3) Remsen Street from the west corporation line of the City of Dunlap, Iowa, east to the west line of Illinois Central RR ROW.

D. 25 m.p.h. on any of the following streets or highways:

(1) Iowa Highway 30 from a point 72 feet north of Eagle Street north to the south line of First Street.

(2) Lincoln Way southerly from the north line of Lots One (1) and Eighteen (18) in Block 67 of the Third Addition to the City of Dunlap, Iowa, Harrison County, Iowa, to the east line of 12<sup>th</sup> Street.

(3) Iowa Highway 37 – Iowa Avenue from the west line of 12<sup>th</sup> Street west to the east line of Iowa Highway 30.

(4) Remsen Street from the west line of 1<sup>st</sup> Street to the west line of the Illinois and Central Railroad right-of-way line.

(5) Harrison Road from the east line of 12<sup>th</sup> Street west to the east line of 10<sup>th</sup> Street.

(Code of Iowa, Sec. 321.290)

<b><u>Miles per hour over the posted speed limit</u></b>	<b><u>Scheduled fine</u></b>	<b><u>30% surcharge</u></b>	<b><u>Court costs</u></b>	<b><u>Total</u></b>
(1 thru 5 over)	\$10.00	\$ 3.00	\$17.00	\$30.00
(6 thru 10 over)	20.00	6.00	17.00	43.00
(11 thru 15 over)	30.00	9.00	17.00	56.00

(16 thru 20 over)	40.00	12.00	17.00	69.00
Over 20 MPH over	40.00*	12.00**	17.00	69.00***

\*Plus \$2.00 for each mile in excess of 20 MPH over speed limit.

\*\*Plus 30% of each additional \$2.00 for each mile in excess of 20 MPH over speed limit.

\*\*\*Plus the additional fine and surcharge for each mile in excess of 20 MPH over speed limit

## TURNING MOVEMENTS

3-3-11 TURNING MARKERS, BUTTONS AND SIGNS. The Chief of Police 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 by the State law 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 the markers, buttons, or signs, including right-hand turns at intersections with automatic traffic signals.

(Code of Iowa, Sec. 321.311)

3-3-12 AUTHORITY TO PLACE RESTRICTED TURN SIGNS. The Chief of Police is authorized to determine those intersections, as traffic conditions require, at which the drivers of vehicles shall not make a right or left turn. The making of turns may be prohibited between certain hours of any day, in which event the same shall be plainly indicated on signs.

3-3-13 OBEDIENCE TO NO-TURN SIGNS. Whenever authorized signs are erected indicating that no right or left turn is permitted, no driver of a vehicle shall disobey the directions of any such signs.

3-3-14 "U" TURNS. It shall be unlawful for a driver to make a "U" turn except at an intersection. "U" turns are prohibited at intersections within the business district and at intersections where there are automatic traffic signals.

1. Iowa Street and First Street
2. Iowa Street and Second Street
3. Iowa Street and Third Street
4. Iowa Street and Fourth Street
5. Iowa Street and Fifth Street
6. Iowa Street and Sixth Street
7. Iowa Street and Seventh Street
8. Iowa Street and Eighth Street
9. Iowa Street and Ninth Street
10. Iowa Street and Tenth Street
11. Iowa Street and Eleventh Street
12. Iowa Street and Twelfth

A violation of this section is a simple misdemeanor.

## ONE-WAY STREETS AND ALLEYS

3-3-15 AUTHORITY TO DESIGNATE ONE-WAY STREETS AND ALLEYS. Whenever any traffic Code of this City designates any one-way street or alley the Chief of Police shall cause to be placed and maintained signs giving notice thereof and the regulation shall not be effective unless the signs are in place. Signs indicating the direction of traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited. It shall be unlawful for any person to operate any vehicle in violation of markings, signs, barriers or other devices placed in accordance with this section.

3-3-16 ONE-WAY STREETS AND ALLEYS. Upon the following streets and alleys vehicular traffic shall move only in the indicated direction:

**South 1<sup>st</sup> Street from Eaton Street to the Alley north of Iowa Avenue**  
**-easternmost lane will travel in the northern direction**  
**-westernmost lane will travel in the southern direction**

3-3-17 AUTHORITY TO RESTRICT DIRECTION OF MOVEMENT ON STREETS DURING CERTAIN PERIODS. The Chief of Police is authorized to determine and recommend to the Council certain streets, or specified lanes thereon, upon which vehicular traffic shall proceed in one direction during one period and the opposite direction during another period of the day and shall, upon authority given by Ordinance, place and maintain appropriate markings, signs, barriers, or other devices to give notice thereof. The Chief of Police may erect signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the center line of the roadway.

It shall be unlawful for any person to operate any vehicle in violation of markings, signs, barriers, or other devices placed in accordance with this section.

The following streets may have variable laning or direction of traffic at different times of day as marked by authorized signs under the provisions of this section:

#### **SPECIAL STOPS REQUIRED**

3-3-18 THROUGH HIGHWAYS. Streets or portions of streets described below are declared to be through highways:

(Code of Iowa, Sec. 321.345 and 321.350)

1. U.S. Highway No. 30 from the south corporate line to the north corporate line.
2. Iowa Highway No. 37 from the east corporate line to the west corporate line.

A violation of this section is a simple misdemeanor.

3-3-19 AUTHORITY TO ERECT STOP SIGNS. Whenever any Ordinance of this City designates and describes a through highway it shall be the duty of the Chief of Police to cause to be placed and maintained a stop sign on each and every street intersecting through highway except as modified in the case of intersecting through highways.



**3-3-20 STOPS AT INTERSECTING THROUGH HIGHWAYS AND OTHER INTERSECTIONS.** At the intersections of through highways and at intersections upon streets other than through highways, where, because of heavy cross-traffic or other traffic conditions, particular hazard exists, the Chief of Police is hereby authorized to determine whether vehicles shall stop or yield at one or more entrances to the intersection and shall present recommendations to the Council, and, upon approval of the Council, shall erect an appropriate sign at every place where a stop or yield is required. Every driver of a vehicle shall stop before entering an intersection as required herein.

1. Remsen Street. Vehicles traveling on Remsen Street shall stop at Tenth Street.
2. Court Street. Vehicles traveling on Court street shall stop at Tenth Street.
3. Eagle Street. Vehicles traveling on Eagle Street shall stop at Tenth Street.
4. Eaton Street. Vehicles traveling on Eaton Street shall stop at Tenth Street.
5. Clinton Street. Vehicles traveling on Clinton Street shall stop at Tenth Street.
6. Eaton Street. Vehicles traveling on Eaton Street shall stop at Twelfth Street.
7. Second Street. Vehicles traveling on Second Street shall stop at Remsen Street.
8. First Street. Vehicles traveling on First Street shall stop at Remsen Street.
9. Sixth Street. Vehicles traveling on Sixth Street shall stop at Court Street.
10. Tenth Street. Vehicles traveling on Tenth Street shall stop at Remsen Street.
11. Eighth Street. Vehicles traveling on East Street shall stop at Montague Street.
12. Montague Street. Vehicles traveling on Montague Street shall stop at Eighth Street.
13. Eagle Street. Vehicles traveling west on Eagle Street shall stop at Twelfth Street.
14. Second Street. Vehicles traveling on Second Street shall stop at Park Street.
15. Twelfth Street. Vehicles traveling on Twelfth Street shall stop at Remsen Street.
16. Jeroleman Street. Vehicles traveling on Jeroleman Street shall stop at Tenth Street.
17. Court Street. Vehicles traveling on Court Street shall stop at Ninth Street.
18. Montague Street. Vehicles traveling on Montague Street shall stop at Tenth Street.
19. Twelfth Street. Vehicles traveling on Twelfth Street shall stop at Eaton Street.
20. Clinton Street. Vehicles traveling on Clinton Street shall stop at Eighth Street.
21. East Jeroleman Street. Vehicles traveling west on East Jeroleman Street shall stop at Seventh Street.
22. West Jeroleman Street. Vehicles traveling east on West Jeroleman Street shall stop at Seventh Street.
23. Montague Street. Vehicles traveling East and West on Montague Street shall stop at Seventh Street.

**Special Yield Required.** Every driver of a vehicle shall yield in accordance with the following:

1. Court Street. Vehicles traveling on Court Street shall yield at Ninth Street.
  2. North Lincoln Way. Vehicles traveling south on North Lincoln Way shall yield at Twelfth Street.
  3. Parkview Circle. Vehicles traveling west on Eaton Street shall yield at Parkview Circle.
- A violation of this section is a simple misdemeanor.

3-3-21 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.

3-3-22 SCHOOL STOPS. When a vehicle approaches an authorized school stop, the driver shall bring the vehicle to a full stop at a point ten feet from the approach side of the crosswalk marked by an authorized school stop sign, and thereafter proceed in a careful and prudent manner until the driver shall have passed such school site. The following are authorized school stops:

1. Tenth Street at Iowa Street.
2. Eleventh Street at Iowa Street.

#### PEDESTRIANS' RIGHTS AND DUTIES

3-3-23 PROHIBITED CROSSING. Pedestrians crossing a street in the business district shall cross in the crosswalks only.

(Code of Iowa, Sec. 321.327)

3-3-24 PEDESTRIANS ON LEFT. Where sidewalks are provided it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway. Where sidewalks are not provided pedestrians at all times when walking on or along a roadway, shall walk on the left side of the roadway.

(Code of Iowa, Sec. 321.326)

#### METHOD OF PARKING

3-3-25 STANDING OR PARKING CLOSE TO CURB. No person shall stand or park a vehicle in a roadway other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the right-hand wheels of the vehicle within eighteen inches of the curb or edge of the roadway except as 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)

3-3-26 STANDING OR PARKING ON THE LEFT-HAND SIDE OF 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 eighteen inches of the curb or edge of the roadway except as provided in the case of angle parking.

(Code of Iowa, Sec. 321.361)

3-3-27 SIGNS OR MARKINGS INDICATING ANGLE PARKING. The Chief of Police, as traffic conditions require, shall determine upon what streets angle parking shall be permitted and

shall mark or sign the streets or portions thereof indicating the method of angle parking. The determination shall be subject to approval by Council resolution.

(Code of Iowa, Sec. 321.361)

**3-3-28 OBEDIENCE TO ANGLE PARKING SIGNS OR MARKINGS.** 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 the signs and markings. Angle or diagonal parking shall be permitted only in the following locations:

1. Iowa Street, on the north side, from Sixth Street to Eighth Street.
2. Sixth Street from Eaton Street to the alley north of Iowa Street
3. Seventh Street from Jeroleman Street to the alley south of Iowa Street.
4. Iowa Street on the south side, from Sixth Street to Eighth Street except for that part of the streets lying adjacent to Lots 1,2 and 12 in Block 21, all in the City of Dunlap, Harrison County, Iowa, and Lots 1, 2, 3, 7, 8, 9, 10, 11 and 12 in Block 22 all in the City of Dunlap, Harrison County, Iowa, said parking spaces to remain as parallel parking.

#### **STOPPING, STANDING, OR PARKING PROHIBITED IN SPECIFIED PLACES**

**3-3-29 STOPPING, STANDING, OR PARKING PROHIBITED IN SPECIFIED PLACES.** No person shall stop, stand or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control device, in any of the following places:

(Code of Iowa, Sec. 321.358)

1. On a sidewalk.
2. In front of a public or private driveway.
3. Within an intersection.
4. Within five (5) feet of either side of the point on the curb nearest to a fire hydrant.
5. On a crosswalk.
6. Within ten (10) feet upon the approach to any flashing beacon, stop sign, or traffic-control signal located at the side of the roadway.
7. Within fifty (50) feet of the nearest rail of a railroad crossing, except when parked parallel with such rail and not exhibiting a red light.
8. Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of said entrance when properly signposted.

9. Alongside or opposite any street excavation or obstruction when such stopping, standing, or parking would obstruct traffic.

10. On the roadway side of any vehicle stopped or parked at the edge or curb of street.

11. Opposite the entrance to a garage or driveway in such a manner or under such conditions as to leave available less than twenty (20) feet of the width of the roadway for the free movement of vehicular traffic.

12. Upon any street or in any alley in any part of the City in such a manner or under such conditions as to leave available less than ten (10) feet of the width of the roadway of such street or alley for the free movement of vehicular traffic, except when necessary in obedience to traffic regulations or traffic signs, or signals of a police officer.

13. At any place where official signs or curb markings prohibit stopping, standing or parking.

14. Within ten (10) feet of the crosswalk at all intersections within the City.

15. In an alley under any fire escape at any time.

16. Mailboxes. Within twenty (20) feet on either side of a mailbox which is so placed and so equipped as to permit the depositing of mail from vehicles on the roadway.

**3-3-30 AUTHORITY TO PAINT CURBS AND ERECT SIGNS PROHIBITING STANDING OR PARKING.** When, because of restricted visibility or when standing or parked vehicles constitute a hazard to moving traffic, or when other traffic conditions require, the Chief of Police may cause curbs to be painted with a yellow or orange color and erect "no parking" or "standing" signs. It shall be unlawful for the operator of any vehicle to stand or park a vehicle in an area so painted or sign-posted. It shall be unlawful for any person, other than after having first secured the permission of the Chief of Police, to paint any curbing, sidewalk or street with yellow or orange colored paint or to erect "no parking" signs.

(Code of Iowa, Sec. 321.358(10))

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 police officer or traffic control signal.

1. Eaton Street, on the south side from Sixth Street to Seventh Street.

2. Iowa Street, on the north side from Eighth Street to the east corporate line.

3. Tenth Street, from Iowa Avenue to Harrison Road.

4. Iowa Street, on the south side commencing at a point Thirty (30) feet east from the Northwest corner of Lot One (1) in Block Fifty-five (55); thence East One Hundred Eighty-three (183.0) feet to a point Thirteen (13) feet from the Northwest corner of Lot Four (4) in Block Sixty-three (63) from the hours of 8:00 a.m. to 4:00 p.m. on the days of Monday, Tuesday, Wednesday, Thursday and Friday during the months commencing September 1 through May 31 of each year.

5. Eaton Street from Ninth Street to Tenth Street between the hours of 8:00 a.m. and 4:00 p.m. During school hours.

6. Twelfth Street from Iowa Avenue to Lincoln Way.

Parking limited to thirty minutes. It shall be unlawful to park any vehicle for a continuous period of more than thirty minutes upon the following designated streets.

1. Eighth Street, on the east side, from Iowa Street to the alley south of Iowa Street.

3-3-31 **AUTHORITY TO IMPOUND VEHICLES.** Members of the police department are authorized to remove, or cause to be removed, a vehicle from a street, public alley, or highway to the nearest garage or other place of safety, or to a garage designated or maintained by the police department, or otherwise maintained by the City, under the following circumstances:

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

2. When any vehicle is left unattended upon a street and constitutes a definite hazard or obstruction to the normal movement of traffic.

3. When any vehicle is left parked upon a street for a continuous period of forty-eight hours or more. A diligent effort shall first be made to locate the owner. If the owner is found, the owner shall be given the opportunity to remove the vehicle.

4. When any vehicle is left parked in violation of a ban on parking during a snow emergency as proclaimed by the Mayor.

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

## STOPPING, STANDING OR PARKING

3-3-32 **PARKING SIGNS REQUIRED.** Whenever by this or any other chapter of this City Code any parking time limit is imposed or parking is prohibited on designated streets or portions of streets it shall be the duty of the Police Chief to erect appropriate signs giving notice thereof and the regulations shall not be effective unless signs are erected and in place at the time of any alleged offense. When signs are erected giving notice thereof, no person shall disobey the restrictions stated on such signs.

(Code of Iowa, Sec. 321.236)

3-3-33 **PARKING DURING SNOW EMERGENCY.** No person shall park, abandon, or leave unattended any vehicle on any public street, alley, or City-owned off-street parking area following a more than two inch plowable snow event unless the snow has been removed or plowed from said street, alley or parking area and the snow has ceased to fall. Once the more than two inch plowable snow event has occurred the provisions of this ordinance shall remain in force and effect for the duration of the snow or ice storm and the forty-eight hour period after cessation of the storm except as above provided upon streets which have been fully opened.

The ban shall be of uniform application and the City Clerk is directed to publicize the requirements widely, using all available news media, in early November each year. When predictions or occurrences indicate the need, the Mayor shall proclaim a snow emergency and the Police Chief shall inform the news media to publicize the proclamation and the parking rules under the emergency. Such emergency may be extended or shortened when conditions warrant.

(Code of Iowa, Sec. 321.236)

3-3-34 **ALL-NIGHT PARKING PROHIBITED.** No person, except physicians or other persons on emergency calls, shall park a vehicle on any street marked to prohibit all night parking and giving notice thereof, for a period of time longer than thirty minutes between the hours of 2 a.m. and 5 a.m. of any day.

3-3-35 **TRUCK PARKING LIMITED.** Trucks licensed for five tons or more shall not be parked at the following locations on the streets named:

**3-3-35A TRAILERS.** No semi tractor-trailers shall not be parked on City streets or right-of-way or on private property used for residential purpose within the City.

## MISCELLANEOUS DRIVING RULES

3-3-36 **VEHICLES NOT TO BE DRIVEN ON SIDEWALKS.** The driver of a vehicle shall not drive upon or within any sidewalk area.

3-3-37 **CLINGING TO VEHICLES.** No person shall drive a motor vehicle on the streets of this City unless all passengers of the vehicle are inside the vehicle in the place intended for their

accommodation. No person shall ride on the running board of a motor vehicle or in any other place not customarily used for carrying passengers. No person riding upon any bicycle, coaster, roller skates, sled or toy vehicle shall attach the same or himself or herself to any vehicle upon a roadway.

**3-3-38 PARKING FOR CERTAIN PURPOSES PROHIBITED.** No person shall park a vehicle upon the roadway for the principal purpose of:

1. Displaying such vehicle for sale.
2. Displaying advertising.
3. Selling merchandise from the vehicle except in a duly established market place or when so authorized or licensed under the Ordinances of this City.
4. Storage or as junk or dead storage for more than forty-eight hours.

**3-3-39 DRIVING THROUGH FUNERAL OR OTHER PROCESSION.** No driver of any vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when the vehicles are conspicuously designated as required in this chapter. This provision shall not apply at intersections where traffic is controlled by traffic-control signals or police officers.

**3-3-40 DRIVERS IN A PROCESSION.** Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as practical and shall follow the vehicle ahead as closely as is practical and safe.

**3-3-41 FUNERAL PROCESSIONS TO BE IDENTIFIED.** A funeral procession composed of vehicles shall be identified as such by the display upon the outside of each vehicle of a pennant or other identifying insignia or by such other method as may be determined and designated by the police department.

**3-3-42 LOAD RESTRICTIONS UPON VEHICLES USING CERTAIN STREETS.** When signs are erected giving notice thereof, no person shall operate any vehicle licensed in excess of the amounts specified on the signs at any time upon any of the following streets within the City and none other:

**3-3-43 TRUCK ROUTES.**

1. Every motor vehicle licensed for five tons or more, having no fixed terminal within the City or making no scheduled or definite stops within the City for the purpose of loading or unloading, shall travel over or upon the following streets within the City and none other:

2. Any motor vehicle licensed for five tons or more, having a fixed terminal, making a scheduled or definite stop within the City for the purpose of loading or unloading, shall proceed over or upon the designated routes set out in this section to the nearest point of its scheduled or definite

stop and shall proceed thereto, load or unload and return, by the most direct route to its point of departure from the designated route.

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

#### 3-3-44 VEHICULAR NOISE.

1. It shall be unlawful for any person to make, continue or cause any disturbing, excessive or offensive noise which results in discomfort or annoyance to any reasonable person of normal sensitivity by means of radio, compact disk player, stereo, speakers, cassette tape player or similar sound device in a motor vehicle.

2. The operation of any radio, compact disk player, stereo, speakers, cassette tape player or similar sound device in such a manner so as to be audible at a distance of two hundred (200') from the motor vehicle shall constitute evidence of a prima facie violation of this section.

#### 3-3-45 ENGINE AND COMPRESSION BRAKES.

1. It shall be unlawful for the driver of any vehicle to use or operate or cause to be used or operated within the City, any engine brake, compression brake or mechanical exhaust device designed to aid in the braking or deceleration of any vehicle that results in excessive, loud, unusual or explosive noise from such vehicle.

2. The usage of an engine brake, compression brake or mechanical exhaust device designed to aid in braking or deceleration in such a manner so as to be audible at a distance of three hundred feet (300') from the motor vehicle shall constitute evidence of a prima facie violation of this section.

### BICYCLE REGULATIONS

3-3-46 DEFINITIONS. For the purpose of this Chapter the following terms are defined:

1. "Bicycles" shall mean either of the following:

a. A device having two wheels and having at least one saddle or seat for the use of a rider which is propelled by human power.

b. A device having two or more wheels with fully operable peddles and an electric motor less than seven hundred fifty watts (one horsepower), whose maximum speed on a paved level surface, when powered solely by such a motor while ridden, is less than twenty miles per hour.

(Code of Iowa, Sec. 321.1)

**(Amended in 2008)**



3-3-47 TRAFFIC CODE APPLIES TO PERSONS RIDING BICYCLES. 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 drivers of vehicles by the laws of this State regarding rules of the road applicable to vehicles or by the traffic Ordinances of this City applicable to drivers of vehicles, except as to those provisions which by their nature can have no application. Whenever a person dismounts from a bicycle such person shall be subject to all regulations applicable to pedestrians.

3-3-48 RIDING ON BICYCLES. A person propelling a bicycle shall not ride other than astride a permanent and regular seat.

No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

3-3-49 RIDING ON ROADWAYS AND BICYCLE PATHS. Every person operating a bicycle upon a roadway shall ride as near to the right-hand side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

Persons riding bicycles upon a roadway shall not ride more than two (2) abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.

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

3-3-50 SPEED. No person shall operate a bicycle at a speed greater than is reasonable and prudent under existing conditions.

3-3-51 EMERGING FROM ALLEY OR DRIVEWAY. The operators 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 the sidewalk or sidewalk area, and upon entering the roadway shall yield the right of way to all vehicles approaching on said roadway.

3-3-52 CARRYING ARTICLES. No person operating a bicycle shall carry any package, bundle, or article which prevents the rider from keeping at least one hand upon the handle bars.

3-3-53 PARKING. Bicycles shall be parked upon the roadway of a street against the curb, or upon the sidewalk in a rack to support bicycles, or against a building, or at the curb, in such a manner as to afford the least obstruction to pedestrian traffic.

3-3-54 RIDING ON SIDEWALKS. No person shall ride a bicycle on a sidewalk within a business district.

When signs are erected on a sidewalk or roadway prohibiting the riding of bicycles on the sidewalk or roadway, no person shall disobey such signs.

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

3-3-55 LAMPS AND OTHER EQUIPMENT ON BICYCLES. Every bicycle when in use at nighttime shall be equipped with a lamp on the front that emits a white light visible from a distance of at least 500 feet to the front and with 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 head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector.

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

## SNOWMOBILES

3-3-56 SNOWMOBILE DEFINITIONS.

1. "Snowmobile" means a self-propelled vehicle designed for travel on snow or ice in a natural terrain steered by wheels, skis or runners.
2. "Operate" means to control the operation of a snowmobile.
3. "Operator" means a person who operates or is in actual control of a snowmobile.

3-3-57 PERMITTED AREAS OF OPERATION. Snowmobiles will be allowed to operate in the City as follows:

The route established herein shall be the only permitted snowmobile route and the snowmobiles shall be operated within the roadways of said public streets and shall also be subject to the following regulations.

3-3-58 REGULATIONS. It shall be unlawful for any person to operate a snowmobile under the following circumstances:

1. On private property of another without the express permission to do so by the owner or occupant of said property.
2. On public school grounds, park property, playgrounds, recreational areas and golf courses without express permission to do so by the proper public authority.
3. In a manner so as to create loud, unnecessary or unusual noise so as to disturb or interfere with the peace and quiet of other persons.
4. In a careless, reckless or negligent manner so as to endanger the safety of any person or property of any other person.

5. Without having such snowmobile registered as provided for by Iowa Statute except that this provision shall not apply to the operation of a snowmobile on the private property of the owner by the owner or a member of his immediate family.

6. Within the right-of-way of any public street or alley within the City unless the operator shall have a valid driver's license; or an instruction permit and accompanied by a qualified licensed driver.

7. No person shall operate a snowmobile in the City from eleven o'clock (11:00) p.m. to ten o'clock (10:00) a.m., except for the purpose of loading and unloading a snowmobile from another vehicle or trailer.

3-3-59 EQUIPMENT REQUIRED. All snowmobiles operated within the City shall have the following equipment:

1. Mufflers which are properly attached and which reduce the noise of operation of the vehicle to the minimum noise necessary for operating the vehicle and no person shall use a muffler cut-out, by-pass or similar device on said vehicle.

2. Adequate brakes in good operating condition and at least one headlight and one taillight in good operating condition.

3. A safety or so-called "dead-man" throttle in operating condition; a safety or "dead-man" throttle is defined as a device which when pressure is removed from the accelerator or throttle causes the motor to be disengaged from the driving track.

3-3-60 UNATTENDED VEHICLES. It is unlawful for the owner or operator to leave or allow a snowmobile to be or remain unattended on public property while the motor is running or the key left in the ignition.

3-3-61 RESTRICTION OF OPERATION. The City Council may, by resolution, prohibit the operation of snowmobiles within the right-of-way of the public roads, streets or alley or other City property within the City when the public safety and welfare so requires.

3-3-62 TRAFFIC REGULATION. Each person operating a snowmobile shall strictly observe all traffic signs and signals and all other traffic rules and regulations applicable thereto, and shall obey the orders and directions of any police officer of the City authorized to direct or regulate traffic.

## OFF-ROAD VEHICLES

3-3-63 DEFINITIONS. For use in this Chapter the following terms are defined:

1. "All-terrain vehicle" means a motorized flotation-tire vehicle with not less than three and not more than six low-pressure tires that is limited in engine displacement to less than one

thousand cubic centimeters and in total dry weight to less than one thousand pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.

Off-road motorcycles shall be considered all-terrain vehicles for the purpose of registration. Off-road motorcycles shall also be considered all-terrain vehicles for the purpose of titling if a title has not previously been issued pursuant to Chapter 321. An operator of an off-road motorcycle is subject to provisions governing the operation of all-terrain vehicles in this Chapter, but is exempt from the safety instruction and certification program requirements of Sections 321I.25 and 321I.26.

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, but which contains design features that enable operation over natural terrain.

3. “Off-road utility vehicle” means a motorized flotation-tire vehicle with not less than four and not more than six low-pressure tires that is limited in engine displacement to less than one thousand five hundred cubic centimeters and in total dry weight to not more than one thousand eight hundred pounds and that has a steering wheel for control.

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

3-3-64 IDENTIFICATION PLATES & STICKERS. Individuals who operate an ATV or ORUV on the streets and alleys of the City of Dunlap must obtain an identification plate and sticker from the office of the Dunlap City Clerk. The following conditions apply:

1. The owner of each ATV and/or ORUV shall be required to provide proof of ownership including but not limited to bill of sale, registration, and other documentation as may be accepted by the Clerk.
2. Each applicant for an identification plate and/or sticker shall be at least 18 years of age, possess a valid Iowa driver’s license, and provide verification of being licensed to the Clerk upon request.
3. Each applicant for an identification plate and/or sticker shall provide proof of current financial responsibility in accordance with Section 321.20B of the Code of Iowa; the owner/operator shall maintain such financial coverage and have a card showing valid coverage with them inside the vehicle at all times the vehicle is in service in the City of Dunlap.
4. Each applicant for an identification plate and/or sticker must provide proof that the vehicle is properly registered pursuant to Iowa Code Section 321.13 and DNR regulations, and maintain said registrations.
5. Each applicant for an identification plate must pay a fee in the amount of \$25.00; the registration sticker for the year the plate is purchased shall be included in the fee.
6. Each registered owner shall renew the registration of the ATV or ORUV by January 31 of each year. A renewal fee of \$15.00 shall be assessed each year the vehicle is renewed.

Upon payment of the renewal fee the Clerk shall issue that year's registration sticker to be affixed to the vehicle.

3-3-65        OPERATION ON STREETS AND ALLEYS. A registered ATV or ORUV may be operated on any City of Dunlap street or alley, unless otherwise prohibited by these ordinances, between the hours of 6:30 a.m. and 11:00 p.m., Central Standard Time. There shall be no time limitation for the use of an ATV or ORU for the sole exception of snow removal or other City/Community activities.

3-3-66        REQUIRED EQUIPMENT: Any ATV or ORUV for which a City of Dunlap permit is issued shall be equipped as required by Sections 321I.12 and 321I.13 of the Code of Iowa, including but not limited to being outfitted with the following: muffler, headlight, taillight and adequate brakes.

3-3-67        OPERATIONS.

1.        No person shall drive or operate an ATV or ORUV on any street, alley or right of way who is not at least eighteen (18) years of age, who does not have a valid Iowa driver's license; and who does not have proof of current financial responsibility in accordance with Section 321.20B of the Code of Iowa.

2.        Traffic Code. Any person operating an ATV or ORUV, including those for which a City of Dunlap permit has been issued, shall strictly adhere to all traffic rules and regulations, and shall obey the orders and direction of any law enforcement officer authorized to direct or regulate traffic.

3.        Speed. No ATV shall be operated at a speed in excess of the lesser of twenty-five (25) miles per hour or the posted speed limit, nor shall any ATV or ORUV be operated at a speed greater than is reasonable and proper for the existing road conditions.

4.        Lights. NO ATV or ORUV shall be operated without a lighted headlight and taillight from sunset to sunrise and at such other times when conditions provide insufficient lighting to render clearly discernible persons and vehicles at a distance of five hundred feet ahead.

5.        Unattended ATVs or ORUVs. No person shall leave an ATV or ORUV unattended on public property while the motor is running or the keys are in the ignition.

6.        Trails. ATVs and ORUV shall not be operated on snowmobile trails except where designated. (Code of Iowa, Sec. 321I.10(3)).

7.        Railroad Right-of-way. ATVs and ORUVs shall not be operated on an operating railroad right-of-way. An ATV or ORUV 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. This paragraph does not apply to a law enforcement officer's or employee's duties or

to an employee of a utility with authorization to enter upon the railroad right-of-way in the lawful performance of the employee's duties. (Code of Iowa, Sec. 3211.14(h)).

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

9. Sidewalk or Parking. ATVs and ORUVs 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".

10. Hours of Operation. No ATV shall be operated in the City of Dunlap between the hours of 11:00 o'clock p.m. and 6:30 o'clock a.m., except for emergency situations or for loading or unloading from a transport trailer, except that ATVs or

ORUVs may be operated during prohibited hours to perform snow removal activities.

11. City Streets. ATV and ORUV operators possessing a valid City of Dunlap plate and sticker may operate ATVs and ORUVs upon streets and alleyways under the jurisdiction and within the corporate limits of the City of Dunlap. ATVs and ORUVs shall not be operated upon any city street that is a state or federal highway. ATVs and ORUVs may cross the following highways only at the specified intersection(s):

i) State Highway 37, also known as Iowa Avenue, may be crossed at those intersections from 7th Street through 12th Street;

ii) U.S. Highway 30 may only be crossed at Eaton Avenue & Remsen St.

12. Passengers. Passengers may only ride where intended by the manufacturer, and must be secured by a safety belt if so equipped. While in operation all passengers must be seated on the seat and no part of the body of any rider will extend beyond the sides of the vehicle. Children must be accompanied by an adult driver and must follow all requirements of this subsection. The passenger limit shall be what is indicated by the manufacturer. At no time are passengers allowed to ride in any portion of the vehicle other than what is intended by the manufacturer except for during a parade if said vehicle is a participant in the parade.

### 3-3-68 VIOLATIONS AND PENALTY.

1. Any person found guilty of violating the provisions herein shall be guilty of a civil penalty – municipal infraction, as stated in Title I General Provisions, Chapter 3 Penalty, of the City of Dunlap, Code of Ordinances 2010, and revocation of the City of Dunlap ATV/ORUV permit for a period of two (2) months.

2. Any person guilty of violating this ordinance two (2) times in a twelve (12) month period shall be guilty of a civil penalty – municipal infraction, as stated in Title I General Provisions, Chapter 3, Penalty, of the city of Dunlap City Code of Ordinances, 2010 and revocation of the City of Dunlap City ATV/ORUV permit for a period of two (2) years.

3. Any person guilty of violating this ordinance three (3) times shall be guilty of a civil penalty – municipal infraction, as stated in Title I General Provisions, Chapter 3 Penalty, of the City of

Dunlap, Code of Ordinances 2010, and permanent revocation of the city of Dow city ATV/ORUV permit.

## GOLF CARTS

3-3-69 DEFINITIONS. A motor vehicle that is originally designated and manufactured for operation on a golf course for sporting or recreational purposes and that is not capable of exceeding speeds of 25 mph. This does not include All-Terrain Vehicles (“ATV”) or Off-Road Utility Vehicles (“ORUV”). To be considered a “golf cart” for the purpose of this chapter, the vehicle must have at least three or four wheels and draw propulsion from a rechargeable traction battery with at least four Kilowatt hours of capacity or a gasoline engine with a gas tank of a minimum capacity of 3 gallons or more.

3-3-70 MANNER OF OPERATION-GENERAL REQUIREMENTS. No person shall operate a golf cart with a bench seat in the city except as hereinafter provided.

3-3-71 OBSERVATION of the traffic regulations mandatory. Golf cart operators shall observe all state and local traffic control regulations and devises.

3-3-72 PERMIT REQUIRED. No golf cart shall be operated in the city unless a permit from the Dunlap City Clerk has been issued to the owner of said golf cart. The permit is good for the calendar year within which it is issued and shall be renewed annually. The fee for said permit is \$15.00 per year. Prior to any initial renewal permit being issued, the golf cart shall be inspected by a person designated by the City to make sure said golf cart complies with the requirement of this chapter. There shall be no permit issued if in the previous year the applicant was cited and convicted of any violations of this chapter.

3-3-73 PROOF OF LIABILITY INSURANCE. As part of the permit process, the owner of the golf care must provide proof of liability insurance with minimum limits of \$100,000 each person, \$300,000 each accident before a permit will be issued. The proof of insurance must be with the golf cart whenever said golf cart is in operation.

3-3-74 STANDARD EQUIPMENT REGULATIONS. All golf carts shall be equipped with the following:

1. Brakes;
2. Slow moving vehicle sign;
3. Bicycle safety flag on a staff holder to put such flag at least five feet above the surface of the street;
4. Any other safety equipment which may be required for golf carts by Chapter 321 of the Code of Iowa.

3-3-75 OPERATION REGULATIONS. The following regulations apply to the operation of a golf cart within the City:

1. Any operator of a golf cart must have a valid driver's license;
2. All riders in the golf cart must remain seated at all times.
3. No more than two adult people may ride in the front seat of a golf cart and no more than two adult people may ride in the backseat of a golf cart, if said back seat exists. While in operation, all riders must be seated on the seat and no part of the body of any rider will extend beyond the sides of the cart. Children must be accompanied by an adult driver and must follow all requirements of the subsection except the capacity limits as long as all children are seated on the seat and no part of the body of the child extends beyond the sides of the cart.

A person who violates subsection 1 commits a simple misdemeanor punishable as a scheduled violation under Section 805.8A, subsection 3 of the Iowa Code.

3-3-76 TIMES OF THE OPERATION LIMITED. Golf carts may be operated during the following times:

1. From sunrise to sunset;
2. Golf carts are prohibited on streets during inclement weather when visibility is reduced or impaired by weather, smoke, fog or other conditions or at any other time there is insufficient light clearly to see a person or vehicle on a roadway at a distance of 500 feet, or when road surface conditions prevent safe operation.

3-3-77 SIDEWALKS AND ADJACENT AREAS.

1. No golf cart shall be operated upon the public sidewalk, nor shall they be operated upon that portion of the street located between the curb line and the sidewalk or property line, referred to as the "parking" except for purposes of crossing the same to a public street.
2. Parking – two carts may use one parking space provided they both park within the parking lines.

3-3-78 STREETS UPON WHICH GOLF CARTS MAY BE OPERATED. Golf carts may only be operated on streets. Golf carts are prohibited from being operated on U.S. Highway 30 and Highway 37, except to cross said highways. A person who violates this subsection commits a simple misdemeanor punishable as a scheduled violation under Section 805.8A, subsection 3 of the Iowa Code.

3-3-79 CARELESS OPERATION UNLAWFUL. No person shall operate a golf cart on a city street while under the influence of intoxicating liquor or narcotics or habit forming drugs.

3-3-80 TOWING. No item shall be towed by a golf cart.



3-3-81 TRESPASSING ON PRIVATE PROPERTY. No golf cart shall be operated upon private property without the express consent of the owner thereof.

3-3-82 OPERATION LIMITATION – CEMETERIES. No golf cart shall be operated on roadways or other areas in cemeteries located in the City, except for bona-fide graveside, funeral or visitation purposes.

3-3-83 COMMUNITY EVENTS – EXCEPTION. The Dunlap City Clerk may grant exceptions and allow any type of golf cart to be used on any City street by community and civic organization for community events.

## PENALTIES AND PROCEDURE

3-3-84 **NOTICE OF FINE PLACED ON ILLEGALLY PARKED VEHICLE.** Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by any Ordinance of this City or State law, the officer finding such vehicle shall prepare a **notice of parking fine** giving the registration number, and other identifying information to such vehicle in a conspicuous place and directing the driver of the vehicle to appear within **thirty** days, or to pay the local scheduled fine:

3-3-85 PRESUMPTION IN REFERENCE TO ILLEGAL PARKING. In any prosecution charging a violation of any parking Ordinance or State law governing the standing, stopping, or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of any such Ordinance or law, together with proof that the defendant named in the complaint was at the time of such parking violation the registered owner of such vehicle, shall constitute prima facie evidence that the registered owner of such vehicle was the person who parked or placed such vehicle at the point where, and for the time during which such violation occurred.

3-3-86 LOCAL PARKING FINES. Scheduled fines as follows are established, payable by mail or in person at the City Clerk's office within thirty days of the violation, for the following parking violations:

			Penalty After <u>30 Days</u>
1.	Overtime parking	\$25.00	\$50.00
2.	Prohibited parking	\$25.00	\$50.00
3.	No parking zone	\$25.00	\$50.00
4.	Blocking alley	\$25.00	\$50.00
5.	Illegal parking	\$25.00	\$50.00
6.	Street cleaning	\$25.00	\$50.00
7.	Snow Removal	\$25.00	\$50.00
8.	Person with disabilities parking	\$100.00	\$150.00

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

3-3-87    FAILURE TO PAY PARKING CITATIONS. If a violator of the restrictions on stopping, standing, or parking under the parking Ordinances of this City or of State law fails to make payment of the scheduled fine as specified on a parking citation affixed to such motor vehicle within the thirty (30) days, the City shall send the owner of the motor vehicle to which the parking citation was affixed a letter informing the owner of the violation and warning that in the event the penalty is not paid within five days from date of mailing, a court citation will be issued requiring a court appearance and subjecting the violator to court costs.

## **TITLE III COMMUNITY PROTECTION**

### **CHAPTER 4 RAILROAD REGULATION**

3-4-1	Definitions	3-4-4	Street Crossing Obstructions
3-4-2	Warning Signals	3-4-5	Maintenance of Crossings
3-4-3	Street Crossing Signs and Devices	3-4-6	Flying Switches

3-4-1     **DEFINITIONS.** For use in this chapter, the following terms are defined as follows:

1.   The term "railroad train" shall mean an engine or locomotive with or without cars, coupled thereto, operated on rails.

(Code of Iowa, Sec. 321.1(58))

2.   The term "operator" shall mean any individual, partnership, corporation or other association that owns, operates, drives or controls a railroad train.

3-4-2     **WARNING SIGNALS.** Operators shall sound a bell at least 1,000 feet before a street crossing is reached and shall ring the bell continuously until the crossing is passed. Operators also shall sound a whistle at least 1,000 feet before reaching every intersection of the track and street, sidewalk, alley or similar public crossing within the City limits, unless such crossing is protected by a mechanical warning device or flagman as required under Section 3-4-5 of this chapter.

(Code of Iowa, Sec. 327G.13)

3-4-3     **STREET CROSSING SIGNS AND DEVICES.** Operators shall erect and maintain nonmechanical warning signs on both sides of the tracks at each intersection of the tracks and a street, sidewalk, alley or similar public crossing within the City limits, except where some mechanical sign, signal, device, or gate or flagman is required by resolution of the Council. Such non-mechanical signs shall be of a height and size, and utilize such lettering as to give adequate warning of such crossing. Whenever the City Council shall deem it necessary for the safety and convenience of the public that some mechanical sign, signal, device or gate should be erected and maintained, flagman stationed at any street or other public crossing, the City Council, by resolution, shall order and direct the railroad company or companies concerned to erect and maintain such sign, signal, device, or gate or to station a flagman at such crossing at the expense of such company or companies. Any required flagman shall be stationed at such crossing during the periods of time of each day that the City Council shall designate. The resolution shall specify the street or other public crossing at which the sign, signal, device or gate shall be erected or flagman stationed. After the resolution has been adopted, a copy shall be served the railroad company or companies with a notice of the time limit for compliance. In complying, Chapter 327G of the Code of Iowa shall prevail.

(Code of Iowa, Sec. 327G.15)

3-4-4 STREET CROSSING OBSTRUCTIONS. A railroad corporation or its employees shall not operate a train in such a manner as to prevent vehicular use of a highway, street, or alley for a period of time in excess of ten minutes except in any of the following circumstances:

(Code of Iowa, Sec. 327G.32)

1. When necessary to comply with signals affecting the safety of the movement of trains.
2. When necessary to avoid striking an object or person on the track.
3. When the train is disabled.
4. When necessary to comply with governmental safety regulations including, but not limited to, speed Ordinances and speed regulations.

An employee is not guilty of a violation 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.

3-4-5 MAINTENANCE OF CROSSINGS. Operators shall construct and maintain good, sufficient and safe crossings over any street traversed by their rails.

(Code of Iowa, Sec. 327G.15)

3-4-6 FLYING SWITCHES. No operator shall cause any railroad car or cars, unattached to any engine, to be propelled across any intersection of the tracks and a street, alley, sidewalk or similar public crossing, for the purpose of making a flying switch unless some employee of the railroad shall be stationed at the intersection to give warning of such car's or cars' approach.

## TITLE III COMMUNITY PROTECTION

### CHAPTER 5 FIRE PROTECTION

3-5-1	Establishment and Purpose	3-5-10	Walls and Roof
3-5-2	<b>Volunteer Fire Fighters</b>	3-5-11	Exterior and Division Walls
3-5-3	Fire Fighter's Duties	3-5-12	Beams in Walls
3-5-4	Worker's Compensation and Hospitalization Insurance	3-5-13	Accessory Buildings
3-5-5	Liability Insurance	3-5-14	Special Permit
3-5-6	Fires Outside City Limits	3-5-15	Moving Buildings
3-5-7	Fire Limits Established	3-5-16	Reconstruction Prohibited
3-5-8	Plans Submitted	3-5-17	Board of Appraisement
3-5-9	Buildings Prohibited	3-5-18	Removal of Buildings

3-5-1 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)

3-5-2 VOLUNTEER FIRE FIGHTERS. The department shall consist of the fire chief and such other officers and personnel at least age eighteen (18), **shall be appointed to serve as a volunteer fire fighter**. Prior to appointment as a volunteer fire fighter and every four years thereafter a volunteer fire fighter must pass a medical physical examination.

(Code of Iowa, Sec. 362.10)

3-5-3 FIRE FIGHTER'S DUTIES. When called by the Fire Chief, all fire fighters shall report for duty immediately in the manner directed by the Fire Chief. All fire fighters shall be subject to call at any time. Fire Fighters shall obey strictly the commands of any other fire fighter who has been appointed by the Fire Chief to be in command temporarily. Fire fighters shall report for training as ordered by the Fire Chief.

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

3-5-4 WORKER'S COMPENSATION AND HOSPITALIZATION INSURANCE. The City 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 fire fighters. All volunteer fire fighters shall be covered by the contract.

3-5-5 LIABILITY INSURANCE. The City 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.

3-5-6 FIRES OUTSIDE CITY LIMITS. The department shall answer calls to fires and other emergencies outside the City limits if the Fire Chief determines that such emergency exists and that

such action will not endanger persons and property within the City limits **or pursuant to an agreement with the County or Township.**

(Code of Iowa, Sec. 364.16)

3-5-7 FIRE LIMITS ESTABLISHED. The fire limits are established to include all territory within the following boundaries:

The North One-Half of Blocks Twenty (20), Twenty-one (21) and Twenty-two (22), and the South One Half of Blocks Fifteen (15), Sixteen (16) and Seventeen (17).

3-5-8 PLANS SUBMITTED. It shall be unlawful to build, enlarge or alter any wall, structure, building or part thereof, within the Fire Limits, until a plan of the proposed work, together with a statement of materials to be used shall have been submitted to the mayor, who shall, if in accordance with the provisions of this chapter, issue a permit for the proposed work.

3-5-9 BUILDINGS PROHIBITED. The erection of any building or structure of any kind, or additions thereto, or substantial alternations thereof, involving partial re-building, are prohibited in the Fire Limits, unless constructed in strict compliance with the provisions of this chapter.

3-5-10 WALLS AND ROOF. The building or structure shall be enclosed on all sides with walls constructed wholly of stone, brick, terra-cotta, hollow building tile, concrete or other fireproof material and the roof, top and sides of all roof structures, including dormer windows and cornices, shall be covered with incombustible material, such as metal, slate, tile, composition shingles.

3-5-11 EXTERIOR AND DIVISION WALLS. All exterior or division walls of buildings hereafter erected, shall be of sufficient thickness to support the load to be carried. All solid brick or reinforced concrete, exterior or division walls, shall be not less than twelve (12) inches thick in the upper two stories or upper thirty (30) feet, increasing four (4) inches in thickness for each two stories or fraction thereof below. Such exterior or division walls, when constructed of other permissible material, such as concrete tile or hollow tile, shall be at least four (4) inches thicker than solid brick or reinforced concrete walls. All exterior or division walls shall extend at least fifteen (15) inches above the roof.

3-5-12 BEAMS IN WALLS. The ends of all floor, ceiling or roof beams, entering a party or fire wall from opposite sides, shall be separated by at least four (4) inches of solid masonry. Such separation may be obtained by corbelling the wall, or staggering the beams, but no wall shall be corbelled more than two (2) inches for the purpose. The ends of all wooden beams that enter walls shall be cut to a bevel to make them self-releasing.

3-5-13 ACCESSORY BUILDINGS. The mayor, upon vote of a majority of the council in favor thereof, may issue a permit to build a coal house and other outbuildings of materials other than those specified in this chapter, not exceeding twelve (12) feet in height and one hundred and fifty (150) square feet in area, to be placed not less than twenty feet (20') from any other building or erection within the fire limits, and with the use of which no fire is anticipated. To obtain such permit, written application shall be made to the mayor and the council before any work is done, specifying the

location, size and contemplated use of the proposed erection, and if a majority of the council vote in favor of granting such permit and the mayor approves of the same, the mayor shall issue a permit in writing.

3-5-14 SPECIAL PERMIT. The Council may, by four-fifths vote, issue a special permit to improve any property within the fire limits contrary to the provisions of this chapter, on condition that such improvement shall not increase the rates for fire insurance or the fire hazard, according to the rules of the Iowa Insurance Service Bureau. Before such special permit is issued, the applicant must file with the council a statement from the Iowa Insurance Service Bureau. Before such special permit is issued, the applicant must file with the council a statement from the Iowa Insurance Service Bureau that the improvement will not increase the fire insurance rates on adjoining or adjacent property.

3-5-15 MOVING BUILDINGS. The removal of any building not constructed in accordance with the provisions of this chapter, from without to within the fire limits or from any part of the fire limits to any other place therein is prohibited.

3-5-16 RECONSTRUCTION PROHIBITED. Any building within the fire limits, not constructed in accordance with the provisions of this chapter, which may hereafter be damaged by fire, decay or otherwise, to the extent of fifty percent (50%) of its value, shall not be repaired or rebuilt but shall be torn down or removed. When the damages are less than fifty percent (50%) of its value the building shall not be repaired, so as to be higher in value than it was before the damages were sustained, except upon approval, by four-fifths of the members of the council, of the plans and specifications of such repairs and rebuilding.

3-5-17 BOARD OF APPRAISEMENT. In case of a question as to the amount or extent of damage, by fire or otherwise, to any building, the damage shall be determined by a board of appraisement of three disinterested parties, owners of real estate within the fire limits, one of whom shall be appointed by the owner or agent of the building, the second by the mayor and the persons thus chosen shall select a third person. If the members of the board appointed by the owner of the property and by the mayor are unable to agree upon the third member, within ten (10) days of their appointment, the council shall appoint such third member. The members of the board shall fix the amount or extent of the damage. Their decisions shall be in writing, shall be final and conclusive, and shall be filed with the clerk. No building within the Fire Limits about which there is a question shall be repaired or rebuilt until such finding has been filed with the clerk.

3-5-18 REMOVAL OF BUILDINGS. Any person, firm or corporation who shall erect or move any building in the Fire Limits, contrary to the provisions of this chapter, shall be given ten (10) days written notice by the mayor to remove or tear down the same, and if such removal or taking down is not completed within ten (10) days from the date it is presented, the amount of the bill shall be certified, by the clerk, to the county auditor, as a special tax against the property and collected the same as other taxes.

## **TITLE III COMMUNITY PROTECTION**

### **CHAPTER 6 CURFEW FOR MINORS**

3-6-1	Preamble	3-6-4	Offenses
3-6-2	Findings and Purpose	3-6-5	Defenses
3-6-3	Definitions	3-6-6	Enforcement

3-6-1 PREAMBLE. The City of Dunlap recognizes that all citizens including minors have certain inalienable rights and that among them are the rights of liberty and the pursuit of happiness. Further, all citizens including minors have the right to freedom of religion, freedom of speech, freedom of assembly, and of association. This section should be interpreted to avoid any construction that would result in the appearance of interference with the free exercise of religious worship and political association and this Ordinance shall not be construed to mean that the City intends to interfere with a minor's freedom of association for political, economic, religious, or cultural matters or association for purposes such as marches, demonstrations, picketing, or prayer vigils which are otherwise lawful and peaceful assemblies.

(Code of Iowa, Sec. 364.1)

3-6-2 FINDINGS AND PURPOSE. The City Council has determined that there has been an increase in juvenile violence and crime by persons under the age of 17 in the City of Dunlap; and

Persons under the age of 17 are particularly susceptible by their lack of maturity and experience to participate in unlawful and gang-related activities and to be victims of older perpetrators of crime; and

The City of Dunlap has an obligation to provide for the protection of minors from each other and from other persons, for the enforcement of parental control over and responsibility for children, for the protection of the general public, and for the reduction of the incidence of juvenile criminal activities.

3-6-3 DEFINITIONS. In this chapter:

1. It is unlawful for any minor to be or remain upon any of the alleys, streets or public places or places of business and amusement in the city between the hours of 10 p.m. and 5 a.m. Sunday through Thursday and 12:01 a.m. and 5:00 a.m. on Friday and Saturday.

2. Emergency means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

3. Establishment means any privately-owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.



4. Guardian means:

- a. A person who, under court order, is the guardian of the person of a minor; or
- b. A public or private agency with whom a minor has been placed by a court.

5. Minor means any person under age 18 years of age.

6. Operator means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

7. Parent means a person who is:

- a. A biological parent, adoptive parent, or step-parent of another person; or
- b. At least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

8. Public place means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

9. Remain means to:

- a. Linger or stay; or
- b. Fail to leave premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.

10. Serious Bodily Injury means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss of impairment of the function of any bodily member or organ.

#### 3-6-4 OFFENSES.

1. A minor commits an offense if the minor remains in any public place or on the premises of any establishment within the City during curfew hours.

2. A parent or guardian of a minor commits an offense if they knowingly permit, or by insufficient control allow, the minor to remain in any public place or on the premises of any establishment within the City during curfew hours.

3. The owner, operator, or any employee of an establishment commits an offense if they knowingly allow a minor to remain upon the premises of the establishment during curfew hours.

### 3-6-5 DEFENSES.

1. It is a defense to prosecution under this chapter that the minor was:
  - a. Accompanied by the minor's parent or guardian;
  - b. On an errand at the direction of the minor's parent or guardian, without any detour or stop;
  - c. In a motor vehicle involved in interstate travel;
  - d. Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
  - e. Involved in an emergency;
  - f. On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence;
  - g. Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the City of Dunlap, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the City of Dunlap, a civic organization, or another similar entity that takes responsibility for the minor;
  - h. Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or
  - i. Married or had been married.
2. It is a defense to prosecution under Subsection 3-6-4(3) that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

### 3-6-6 ENFORCEMENT.

1. Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has

occurred and that, based on any response and other circumstances, no defense in Section 3-6-5 is present.

2. A minor who is in violation of this Ordinance shall be reunited with the minor's parent or guardian or custodian or other adult taking the place of the parent or shall be taken home by the police officers of the City of Dunlap.

3. If a minor violates the provisions of this section more than two times within a twelve month period, the police officer shall notify the probation officer, or the county attorney if there is no probation officer, of the violations and shall prepare a statement setting forth the violations to be filed with the clerk of the juvenile court upon the approval of the probation officer or county attorney.

## **TITLE III COMMUNITY PROTECTION**

### **CHAPTER 7 REGULATING PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS**

3-7-1	Definitions	3-7-7	Bond Required
3-7-2	Exemptions	3-7-8	Obstruction of Pedestrian or
3-7-3	Permits		Vehicular Traffic
3-7-4	Requirements	3-7-9	Display of Permit
3-7-5	Hours of Solicitation	3-7-10	Permit Not Transferable
3-7-6	Consumer Protection Law	3-7-11	Revocation of Permit

3-7-1     **DEFINITIONS.** For use in this chapter, the following terms are defined as follows:

1.   A "peddler" is any person carrying or transporting 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.   A "solicitor" is any person who solicits or attempts to solicit from house-to-house or upon public streets orders for commercial goods, wares, subscriptions, publications, periodicals, merchandise, or services to be delivered or fulfilled at a future date.

For the purposes of this chapter, "solicitor" does not include a person who contacts another person at such person's residence without prior invitation to enlist support for or against, or solicit funds for patriotic, philanthropic, charitable, political, or religious purposes, whether or not there is an incidental purpose involving the sale of some goods or service.

3.   A "transient merchant" includes every merchant, whether an individual person, a firm, corporation, partnership, or association, who brings or causes to be brought within the municipality any goods, wares, or merchandise of any kind, nature, or description, with the intention of temporarily or intermittently selling or offering to sell at retail such goods, wares, or merchandise. Temporary association with a local merchant, dealer, trader, or auctioneer, for conducting such transient business in connection with, as part of, or in the name of any local merchant, dealer, trader, or auctioneer, does not exempt any such person, firm, or corporation from being considered a transient merchant.

The provisions of this chapter shall not be construed to apply to persons selling at wholesale to merchants, nor to persons running a huckster wagon, or selling or distributing livestock feeds, fresh meats, fish, fruit, or vegetables, nor to persons selling their own work or production either by themselves or their employees.

3-7-2     **EXEMPTIONS.** The provisions of this chapter shall not apply to nonprofit civic, charitable, religious, or educational groups engaged in retail sale for the purposes of fund raising.

3-7-3 PERMITS. Before any person or organization engages in any of the practices defined herein, they must comply with all applicable Ordinances, and must also obtain from the City Clerk a permit in accordance with the provisions of sections 3-7-4 and 3-7-5. This permit shall extend no longer than sixty days. A fee of \$25.00 shall be paid at the time of registration to cover the cost of investigation and issuance.

(Code of Iowa, Sec. 9C.2)

3-7-4 REQUIREMENTS. Any applicant engaged in any activity described in 3-7-1 of this chapter must file with the City Clerk an application in writing that gives the following information:

1. Name and social security number.
2. Permanent and local addresses and, in case of transient merchants, the local address from which proposed sales will be made.
3. A brief description of the nature of the sales method.
4. Name and address of the firm for or on whose behalf the orders are solicited, or the supplier of the goods offered for sale.
5. Length of time for which the permit is desired.
6. A statement as to whether or not the applicant has been convicted of any crime, and if so, the date, the nature of the offense, and the name of the court imposing the penalty.
7. Motor vehicle make, model, year, color, and registration number, if a vehicle is to be used in the proposed solicitation.

3-7-5 HOURS OF SOLICITATION. No person may conduct those activities described in Section 3-7-1 except between the hours of 9:00 a.m. and 6:00 p.m. on each day, and no solicitation shall be done on Sundays or legal holidays.

3-7-6 CONSUMER PROTECTION LAW. All solicitors and peddlers shall be informed of, agree to comply with, and comply with the State law, Section 555A.3, Code of Iowa, requiring a notice of cancellation to be given in duplicate, properly filled out, to each buyer to whom such person sells a product or service and, comply with the other requirements of the law.

3-7-7 BOND REQUIRED. Before a permit under this chapter is issued, each person subject to this Ordinance shall post with the Clerk, a bond, by a surety company authorized to insure the fidelity of others in Iowa, in the amount of \$1,000 to the effect that the registrant and the surety consent to the forfeiture of the principal sum of the bond or such part thereof as may be necessary: (1) to indemnify the City for any penalties or costs occasioned by the enforcement of this chapter, and (2) to make payment of any judgment rendered against the registrant as a result of a claim or litigation arising out of or in connection with the registrant's peddling or solicitation. The bond shall not be retired until one year from the expiration of the permit.

3-7-8 OBSTRUCTION OF PEDESTRIAN OR VEHICULAR TRAFFIC. No person, while engaged in any of the practices described in Section 3-7-1, shall block or obstruct the path of any pedestrian or vehicular traffic, or block or obstruct any way of ingress or egress to roads, buildings, or other enclosures or conveyances, including, but not limited to, vehicles, elevators, and escalators.

3-7-9 DISPLAY OF PERMIT. Each solicitor or peddler shall at all times while doing business in this City keep in his or her possession the permit provided for in Section 3-7-3 of this Chapter, and shall, upon the request of prospective customers, exhibit the permit as evidence that he or she has complied with all requirements of this Chapter. Each transient merchant shall display publicly the permit in his or her place of business.

3-7-10 PERMIT NOT TRANSFERABLE. Permits issued under the provisions of this Chapter are not transferable in any situation and are to be applicable only to the person filing the application.

3-7-11 REVOCATION OF PERMIT. The City Council after notice and hearing, may revoke any permit issued under this Ordinance where the permittee in the application for the permit or in the course of conducting his or her business has made fraudulent or incorrect statements or has violated this Ordinance or has otherwise conducted business in an unlawful manner.

## **TITLE III COMMUNITY PROTECTION**

### **CHAPTER 8 CIGARETTE LICENSE**

3-8-1	Definitions	3-8-6	Refunds
3-8-2	Permit Required	3-8-7	Suspension; Revocation; Civil
3-8-3	Issuance		Penalty
3-8-4	Expiration	3-8-8	Permits not Transferable
3-8-5	Fees	3-8-9	Display

3-8-1    **DEFINITIONS.** For use in this chapter the following terms are defined as follows:

1. "Cigarette" means any roll for smoking made wholly or in part of tobacco or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, this definition shall not be construed to include cigars.

(Code of Iowa, Sec. 453A.1(2))

2. "Retailer" means and includes every person in this State who sells, distributes, or offers for sale for consumption, or possess for the purpose of sale for consumption, cigarettes irrespective of quality or amount or the number of sales.

(Code of Iowa, Sec. 453A.1(19))

3. "Place of business" means and includes any place where cigarettes are sold or where cigarettes are stored, within or without the State of Iowa, by the holder of an Iowa permit or kept for the purpose of sale or consumption; or if sold from any vehicle or train, the vehicle or train on which or from which such cigarettes are sold shall constitute a place of business.

(Code of Iowa, Sec. 453A.1(17))

3-8-2    **PERMIT REQUIRED.** No retailer shall distribute, sell, or solicit the sale of any cigarettes within the City of Dunlap, Iowa, without a valid permit for each place of business. The permit shall be displayed publicly in the place of business so that it can be seen easily by the public.

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

3-8-3    **ISSUANCE.** The City Council shall issue or renew a permit, upon a determination that such issuance or renewal will not be detrimental to the public health, safety, or morals, when a retailer who is not a minor has filed with the City Clerk a completed application on forms provided by the State Department of Revenue and Finance and accompanied by the fee provided in Section 3-8-5.

(Code of Iowa, Sec. 453A.13(2)(a))

3-8-4    **EXPIRATION.** Permits expire on June 30 of each year.

(Code of Iowa, Sec. 453A.13(3))

3-8-5 FEES. The fee for permits issued or renewed in July, August, or September is \$75.00. The fee for permits issued in October, November, or December is \$56.25; in January, February or March, \$37.50; and in April, May or June, \$18.75.

(Code of Iowa, Sec. 453A.13(3))

3-8-6 REFUNDS. A retailer may surrender an unrevoked permit in July, August, or September for a refund of \$56.25; in October, November, or December, for \$37.50; or in January, February, or March, for \$18.75.

(Code of Iowa, Sec. 453A.13(4))

3-8-7 SUSPENSION; REVOCATION; CIVIL PENALTY.

1. If a retailer or employee of a retailer has violated Section 453A.2, 453A.36, subsection 6 or 453A.39, Code of Iowa, the City Council, in addition to the other penalties fixed for such violations in this section, shall assess a penalty after giving the permit holder an opportunity to be heard, upon ten (10) days written notice, stating the reasons for the contemplated action and the time and place at which the person may appear and be heard, as follows:

a. For a first violation, the retailer shall be assessed a civil penalty in the amount of three hundred dollars (\$300.00). Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of fourteen (14) days.

b. For a second violation within a period of two (2) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) or the retailer's permit shall be suspended for a period of thirty (30) days. The retailer may select its preference in the penalty to be applied under this paragraph.

c. For a third violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) and the retailer's permit shall be suspended for a period of thirty (30) days.

d. For a fourth violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) and the retailer's permit shall be suspended for a period of sixty (60) days.

e. For a fifth violation within a period of four (4) years, the retailer's permit shall be revoked.

f. If an employee of a retailer violates section 453A.2, subsection 1, the retailer shall not be assessed a penalty under subsection 2, and the violation shall be deemed not to be a violation of section 453A.2, subsection 1, for the purpose of determining the number of violations for which a penalty may be assessed pursuant to subsection 2, if the employee holds a valid certificate of completion of the tobacco compliance employee training program pursuant to section 453A.2A at



the time of the violation. A retailer may assert only once in a four (4) year period the bar under either this subsection or subsection 4 against assessment of a penalty pursuant to subsection 2, for a violation of section 453A.2, that takes place at the same place of business location.

g. If an employee of a retailer violates section 453A.2, subsection 1, the retailer shall not be assessed a penalty under subsection 2, and the violation shall be deemed not to be a violation of section 453A.2, subsection 1, for the purpose of determining the number of violations for which a penalty may be assessed pursuant to subsection 2, if the retailer provides written documentation that the employee of the retailer has completed an in-house tobacco compliance employee training program or a tobacco compliance employee training program which is substantially similar to the I Pledge program which is approximately one (1) hour in length as developed by the alcoholic beverages division of the Department of Commerce. A retailer may assert only once in a four (4) year period the bar under this subsection against assessment of a penalty pursuant to subsection 2, for a violation of section 453A.2, that takes place at the same place of business location.

2. If a retail permit is suspended or revoked under this section, the suspension or revocation shall only apply to the place of business at which the violation occurred and shall not apply to any other place of business to which the retail permit applies but at which the violation did not occur.

3. The City Clerk shall report the suspension or revocation of a retail permit under this section to the Iowa Department of Public Health within thirty (30) days of the suspension or revocation of any retail permit.

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

3-8-8 PERMITS NOT TRANSFERABLE. A permit shall not be transferable to another place of business or retailer. However, if a retailer who holds a valid permit moves the place of business, the City Council, if it decides to issue a new permit for the new place of business, shall not charge any additional fee for the unexpired term of the original permit if the retailer has not received a refund for surrender of the original permit.

3-8-9 DISPLAY. The permit shall be displayed in the place of business so that it can be seen easily by the public.

(Code of Iowa, Sec. 453A.13(10))

## **TITLE III COMMUNITY PROTECTION**

### **CHAPTER 9 ALCOHOLIC BEVERAGES**

3-9-1	Purpose	3-9-3	Action by Council
3-9-2	Required Obedience to Provisions of this Chapter and State Law	3-9-4	Transfers

3-9-1     **PURPOSE.** The purpose of this chapter is to provide for administration of licenses and permits and for local regulations and procedures for the conduct of the sale and consumption of beer, wine, and liquor, for the protection of the safety, health, and general welfare of this community.  
(Code of Iowa, Sec. 364.1)

3-9-2     **REQUIRED OBEDIENCE TO PROVISIONS OF THIS CHAPTER AND STATE LAW.**  
The following sections of the Iowa Code are hereby adopted by reference:

1. 123.2 and 123.3 General Prohibition and Definitions
2. 123.18 Favors From Licensee or Permittee
3. 123.22 State Monopoly
4. 123.28 Open Alcoholic Beverage Containers
5. 123.30 Liquor Control Licenses - Classes
6. 123.31 Application Contents
7. 123.33 Records
8. 123.34 Expiration - License or Permit
9. 123.35 Simplified Renewal Procedure
10. 123.36 Liquor Fees - Sunday Sales
11. 123.38 Nature of Permit or License - Surrender - Transfer
12. 123.39 Suspension or Revocation of License or Permit - Civil Penalty
13. 123.40 Effect of Revocation
14. 123.44 Gifts of Liquors Prohibited

15. 123.46 Consumption in Public Places - Intoxication - Right to Chemical Test - Notifications - Exoneration
16. 123.47 Persons Under Legal Age - Penalty
17. 123.49 Miscellaneous Prohibitions
18. 123.50 Criminal and Civil Penalties
19. 123.51 Advertisements for Alcoholic Liquor, Wine or Beer
20. 123.52 Prohibited Sale
21. 123.90 Penalties Generally
22. 123.95 Premises Must Be Licensed - Exception as to Conventions and Social Gatherings
23. 123.122 through 123.145 Beer Provisions (Division II)
24. 123.150 Sunday Sales Before New Year's Day
25. 123.171 through 123.182 Wine Provisions (Division V)
26. 321.284 Open Containers in Motor Vehicles - Drivers
27. 321.284A Open Containers in Motor Vehicles - Passengers

3-9-3 ACTION BY COUNCIL. The City Council shall approve or disapprove the application. Action taken by the City Council shall be endorsed on the application. The application, fee, penal bond, and certificate of dram shop liability insurance (if applicable) shall be forwarded to the Iowa Alcoholic Beverages Division for further action as provided by law.

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

3-9-4 TRANSFERS. The City Council may, in its discretion, authorize a licensee or permittee to transfer the license or permit from one location to another within the City, provided that the premises to which the transfer is to be made would have been eligible for a license or permit in the first instance and the transfer will not result in the violation of any law or Ordinance. An applicant for a transfer shall file with the application for transfer proof of dram shop liability insurance and penal bond covering the premises to which the license is to be transferred.

(Code of Iowa, Sec. 123.38)

## **TITLE III COMMUNITY PROTECTION**

### **CHAPTER 10 JUNK AND ABANDONED VEHICLES**

3-10-1	Purpose		Abandoned Vehicles
3-10-2	Definitions	3-10-8	Junk Vehicles Declared a Nuisance
3-10-3	Removal of Abandoned Vehicles		
3-10-4	Notification of Owners and Lien holders	3-10-9	Notice to Abate
3-10-5	Impoundment Fees and Bonds	3-10-10	Abatement by Municipality
3-10-6	Hearing Procedures	3-10-11	Collection of Cost of Abatement
3-10-7	Auction or Disposal of	3-10-12	Exceptions
		3-10-13	Interference with Enforcement

3-10-1 PURPOSE. The purpose of this chapter is to protect the health, safety, and welfare of the citizens and safety of property of this City by providing for removal of abandoned motor vehicles and the elimination of the open storage of abandoned and junk motor vehicles and machinery except in authorized places.

(Code of Iowa, Sec. 364.1)

3-10-2 DEFINITIONS. For the purpose of this chapter, the following terms are defined as follows:

1. "Abandoned vehicle" means any of the following:

a. A vehicle that has been left unattended on public property for more than twenty-four hours and lacks current registration plates or two or more wheels or other parts which render the vehicle inoperable; or unsafe or

b. A vehicle that has remained illegally on public property for more than twenty-four hours; or

c. A vehicle that has been unlawfully parked on private property or has been placed on private property without the consent of the owner or person in control of the property for more than twenty-four hours; or

d. A vehicle that has been legally impounded by order of the Chief of Police and has not been reclaimed for a period of ten days; or

e. Any vehicle parked on the street determined by the Chief of Police to create a hazard to other vehicular traffic.

(Code of Iowa, Sec. 321.89(1)(b))

2. "Private property" means any real property within the City which is not public property as defined in this section.

3. "Public property" means any public right-of-way open for the purposes of vehicular travel.

4. A "junk vehicle" means any vehicle without current license plates or which has any one of the following characteristics:

a. Any vehicle with a broken or cracked windshield, or window or headlight or any other cracked or broken glass.

b. Any vehicle with a broken or loose fender, door or bumper or hood or door handle or window handle or steering wheel, trunk top or trunk handle or tail pipe.

c. Any vehicle which has become the habitat of rats, mice, or snakes, or any other vermin or insects.

d. Any vehicle which contains gasoline or any other flammable fuel.

e. Any motor vehicle if it lacks an engine or two or more wheels or other structural parts which render said motor vehicle totally inoperable.

f. Any other vehicle which, because of its defective or obsolete condition, in any other way constitutes a threat to the public health and safety.

(Cedar Falls v. Flett 330 N.W. 2nd 251, 253, Iowa 1983)

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

### 3-10-3 REMOVAL OF ABANDONED VEHICLES.

1. The Chief of Police or Mayor may, without prior notice or hearing, remove and impound any abandoned vehicle as defined in section 3-10-2 (1). The Chief of Police or Mayor may hire other personnel, equipment, and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles.

2. The impoundment and storage of all vehicles pursuant to this chapter shall be in such areas or places designated by the City Council.

3. When a vehicle is taken into custody and impounded under the provisions of this chapter, the Chief of Police or Mayor if the Chief of Police is unavailable, shall maintain a record of the vehicle, listing the color, year of manufacture, manufacturer's trade name, body style, vehicle

identification number, and license plate and year displayed on the vehicle. The records shall include the date and hour of tow, location towed from, location towed to, person or firm doing the towing, reason for towing, and the name of the officer authorizing the tow.

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

4. Nothing in this chapter shall govern the procedures of any police officer in taking into custody and impounding any vehicle to be used or proposed to be used as evidence in a criminal case involving crimes other than violations of this chapter.

### 3-10-4 NOTIFICATION OF OWNERS AND LIENHOLDERS.

1. When a vehicle is taken into custody under the provisions of this chapter or under any provisions of State law, the Chief of Police or Mayor if the Chief of Police is unavailable, shall notify, within three days, by certified mail with five-days return receipt, the last known registered owner of the vehicle, all lien holders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to their last known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall:

- a. Describe the year, make, model, and serial number of the vehicle.
- b. Describe the personal property found in the vehicle.
- c. Describe the location of the facility where the vehicle is being held.
- d. Inform the persons receiving notice:

(1) of their right to reclaim the vehicle and personal property within ten days after the effective date of the notice;

(2) that the right can be exercised upon payment of all towing, preservation, notice, and storage charges resulting from placing the vehicle in custody;

(3) that failure of the owner or lien holders to exercise their right to reclaim the vehicle within the reclaiming period shall be deemed a waiver by the owner and all lien holders of all right, title, claim, and interest in the vehicle;

(4) that failure to reclaim the vehicle is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher.

e. State that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or personal property by the Chief of Police or the assessment of fees and charges provided by this chapter may request a hearing to contest these matters in accordance with the provisions of Section 3-10-6.

f. State that a request for a hearing must be in writing and received by the department prior to the expiration of the ten day reclaiming period.

g. State that in the event a hearing is requested immediate release of the vehicle may be obtained by posting a cash bond as required by Section 3-10-5.

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

2. The owner, lien holders or any person receiving notice may, by written request received by the Chief of Police prior to the expiration of the ten day reclaiming period, obtain an additional fourteen days within which the vehicle may be reclaimed.

(Code of Iowa, Sec. 321.89(3)(c))

3. Notice by one publication in one newspaper of general circulation in the area where the vehicle was abandoned shall be sufficient to meet the requirements of this chapter. The published notice may contain multiple listings of abandoned vehicles but shall be published within the same time requirements and shall contain the same information as prescribed for mailed notice in this section. Published notice shall be used if:

a. the identity of the last registered owner cannot be determined, or

b. the registration contains no address for the owner, or

c. it is impossible to determine with reasonable certainty the identity and address of all lien holders.

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

4. If the persons receiving notice do not request a hearing or exercise their right to reclaim the vehicle or personal property within the reclaiming period, the owner of the vehicle or owners of the personal property shall no longer have any right, title, claim, or interest in or to the vehicle.

5. No court in any case in law or equity shall recognize any right, title, claim, or interest of the owner and lien holders after the ten day reclaiming period.

(Code of Iowa, Sec. 321.89(3))

### 3-10-5 IMPOUNDMENT FEES AND BOND.

1. Before the owner or other person lawfully entitled to possession of any vehicle that has been impounded under the provisions of this chapter or any other provision of law may recover such vehicle, such person shall present to the Chief of Police or Mayor if the Chief of Police is unavailable, evidence of such person's identity and right to possession of the vehicle, shall sign a receipt for its return, and shall pay the costs of:

a. an impoundment fee

b. towing charges

- c. preservation charges
- d. storage charges
- e. notice charges

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

2. The amount of the charges specified in a-e shall be set by the City Council. The notice charges shall be limited to the actual cost.

3. If a hearing is requested under Section 3-10-4 (1)(e), the owner or person lawfully entitled to possession of the vehicle shall be permitted to secure the immediate release of the vehicle upon posting a cash bond in an amount equal to the sum of:

- a. the fees required by Section 3-10-5(1)
- b. the amount of the fine or penalty for each violation for which there is an outstanding or otherwise unsettled traffic violation notice or warrant.

#### 3-10-6 HEARING PROCEDURES.

1. The registered owner, any lien holder of record, or duly authorized agents thereof, may object to the legality of the impoundment or the assessment of fees and request a hearing thereon. No person shall be entitled to more than one hearing on each impoundment. Upon receipt of a timely objection to the impoundment, the objector shall be informed of the reason for the impoundment and a hearing shall be held, without unnecessary delay, before the City Council pursuant to 1-4-1 at seq.

(Code of Iowa, Sec. 321.89(3))

3-10-7 AUCTION OR DISPOSAL OF ABANDONED VEHICLES. The Chief of Police shall follow the procedures in State law for the auction or disposal of abandoned vehicles.

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

3-10-8 JUNK VEHICLES DECLARED A NUISANCE. Except as hereinafter provided, it is hereby declared that the parking, leaving, or storage of a junk vehicle upon either public or private property within the corporate limits of the City of Dunlap, Iowa, 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 vehicle is stored upon private property or public property in violation thereof, the owner of the property shall be liable for said violation.

#### 3-10-9 NOTICE TO ABATE.



1. Whenever the Chief of Police or Mayor if the Chief of Police is unavailable, shall find a junk vehicle placed or stored on private property within the City in violation of Section 3-10-8, the Chief of Police shall notify, by certified mail with five days' return receipt, the following persons:

- a. the owner of the property.
- b. the occupant of the property.

2. The notice to abate shall:

- a. describe, to the extent possible, the year, make, model, and color of the vehicle.
- b. describe the location of the vehicle.
- c. state that the vehicle constitutes a nuisance under the provisions of this chapter.
- d. state that the owner of the property shall remove or repair the said junk vehicle within ten days.

3-10-10 ABATEMENT BY MUNICIPALITY. 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 City Clerk who shall pay such expenses on behalf of the municipality.

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

3-10-11 COLLECTION OF COST OF ABATEMENT. The Clerk shall mail a statement of the total expense incurred to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one month, the Clerk shall certify the costs to the County Treasurer and the costs shall then be collected with, and in the same manner, as general property taxes.

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

3-10-12 EXCEPTIONS. This chapter shall not apply to the following:

- 1. A vehicle in an enclosed building.
- 2. A vehicle on the premises of a business enterprise operated in a district properly zoned therefore, as authorized under the Zoning Ordinance or restricted residence district of this City, when necessary to the operation of said business enterprise.
- 3. A vehicle in an appropriate storage space or depository maintained in a lawful place and lawful manner by this City.

3-10-13 INTERFERENCE WITH ENFORCEMENT. No person shall interfere in any way with the enforcement provision of this chapter.

## **TITLE III COMMUNITY PROTECTION**

### **CHAPTER 11 DRUG PARAPHERNALIA**

3-11-1 Definitions

3-11-3 Prohibition

3-11-2 Exemption

3-11-1 DEFINITIONS. As used in this Section, "drug paraphernalia" means all equipment, products, or materials of any kind used or attempted to be used in combination with a controlled substance, except those items used in combination with the lawful use of a controlled substance, to knowingly or intentionally and primarily do any of the following:

1. Manufacture a controlled substance.
2. Inject, ingest, inhale, or otherwise introduce into the human body a controlled substance.
3. Test the strength, effectiveness, or purity of a controlled substance.
4. Enhance the effect of a controlled substance.

(Code of Iowa, Sec. 124.414)

3-11-2 EXEMPTION. "Drug paraphernalia" does not include hypodermic needles or syringes if manufactured, delivered, sold, or possessed for a lawful purpose.

(Code of Iowa. Sec. 124.414)

3-11-3 PROHIBITION. It is unlawful for any person to knowingly or intentionally manufacture, deliver, sell, or possess drug paraphernalia.

(Code of Iowa, Sec. 124.414)

## **TITLE III COMMUNITY PROTECTION**

### **CHAPTER 12 DANGEROUS BUILDINGS**

3-12-1	Enforcement Officer	3-12-5	Conduct of Hearing
3-12-2	General Definition of Unsafe	3-12-6	Postings of Signs
3-12-3	Unsafe Building	3-12-7	Right to Demolish
3-12-4	Notice to Owner	3-12-8	Costs

3-12-1 **ENFORCEMENT OFFICER.** The mayor shall be responsible for the enforcement of this chapter.

3-12-2 **GENERAL DEFINITION OF UNSAFE.** All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, as specified in this chapter or any other ordinance, 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.

3-12-3 **UNSAFE BUILDING.** “Unsafe building” shall mean any structure or mobile home meeting any or all of the following criteria:

(1) Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.

(2) Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of 20 pounds per square foot.

(3) Whenever any portion thereof has cracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.

(4) Whenever the building or structure, or any portion thereof, because of (a) dilapidation, deterioration or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause, is likely to partially or completely collapse.

(5) Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.

(6) Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.

(7) Whenever the building or structure, exclusive of the foundation, shows 33 percent or more damage or deterioration of its supporting member or members, or 50 percent damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.

(8) Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become (a) an attractive nuisance to children; (b) a harbor for vagrants, criminals or immoral persons; or as to (c) enable persons to resort thereto for the purpose of committing unlawful or immoral acts.

(9) Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that is likely to cause sickness or disease.

(10) Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.

(11) Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence.

(12) Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

3-12-4 NOTICE TO OWNER. The mayor or his appointee 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 mayor 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 30 days from date of notice, unless otherwise stipulated by the mayor. 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 mayor.

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

1. Notice Served. Such notice shall be served in the manner provided for service of original notice of the Iowa Rules of Civil Procedure upon the owner of record, if he shall be found within the city limits. If he is not found within the city limits such service may be made upon said 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 mayor officer shall begin as of the date he receives such notice.

2. Hearing. Such notice shall also advise the owner that he may request a hearing before the council on the notice by filing a written request for hearing within the time provided in the notice.

3-12-5 CONDUCT OF HEARING. If requested, the council shall conduct a hearing in accordance with the following:

1. Nature. 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.

3-12-6 POSTING OF SIGNS. The mayor shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. City of Dunlap." Such notice shall not be removed without written permission of the mayor and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

3-12-7 RIGHT TO DEMOLISH. In case the owner shall fail, neglect or refuse to comply with the notice to repair, rehabilitate or to demolish and remove said 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 mayor to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the council.

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

3-12-8 COSTS. Costs incurred under Section 3-12-6 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 Auditor for collection in the manner provided for other taxes.

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

## **TITLE III COMMUNITY PROTECTION**

### **CHAPTER 13 LITTERING PROHIBITED**

1. As used in this Code, “discard” means to place, cause to be placed, throw, deposit or drop, and “litter” means any garbage, rubbish, trash, refuse, waste material and yard waste.

2. No person shall discard any litter within the City of Dunlap, except as provided and approved by the City of Dunlap, by collecting and discarding such litter in approved areas or approved receptacles.

3. It is unlawful for any person to deposit or place any garbage, rubbish, trash, refuse, waste material or yard waste in any street, alley, lane, public place, private property, or body of water within the City.

4. It is unlawful to place garbage, refuse or yard waste on the private property of another, or into another garbage, refuse or yard waste containers for the purpose of being hauled away.

5. It is unlawful to permit garbage, yard waste or refuse to remain for more than ten (10) days on private property that is under one’s ownership, possession or control. Yard waste may be retained more than ten (10) days if composting is being completed.

6. Notwithstanding the above provisions, garbage, refuse or yard waste may be placed on the untraveled portions of streets, alleys, lanes, public places or on private property to be hauled away, provided the garbage, refuse or yard waste is kept in place in the manner prescribed in this Code.

#### Section            Anti-Scavenging.

It shall be a violation of this Code for any person to sort through, scavenge or remove any garbage, waste, refuse, rubbish or recycling material that has been placed in a designated garbage or recycling container. Unauthorized collection, removal or scavenging of material placed in a garbage or recycling container shall be a violation of this Code and punishable as set forth in the Municipal Code.

## **TITLE III COMMUNITY PROTETION**

### **CHAPTER 14 MOWING OF PROPERTIES**

3-14-1 Purpose	3-14-6 Publication of Notice
3-14-2 Exemptions	3-14-7 Failure to Comply
3-14-3 Definitions	3-14-8 Abatement by City
3-14-4 Cutting Specifications and Standards of Practice	3-14-9 Collection of Costs
3-14-5 Uniform Height Specifications	3-14-10 Failure to Abate

**3-14-1 PURPOSE.** The purpose of this chapter is to beautify and preserve the appearance of the City by requiring property owners and occupants to maintain lawns at a uniform height within the boundaries of their property and on abutting street right-of-way in order to prevent unsightly, offensive or nuisance conditions.

**3-14-2 EXEMPTIONS.** The Council reserves the right to declare any particular area exempt from this chapter if it involves conservation or other natural grass, flower, or wildlife area, such exemption to be approved by the Council by motion and filed in writing with the Clerk.

**3-14-3 DEFINITIONS.** For use in this chapter, the following terms are defined:

1. “Curb”, “curb line” or “curbing” means the outer boundaries of a street at the edge of that portion of the street usually traveled by vehicular traffic.
2. “Cut” or “mow” means to mechanically maintain the growth of grass, weeds, or brush at a uniform height.
3. “Owner” means a person owning private property in the City and any person occupying private property in the City.
4. “Parking” means that part of a street in the City not covered by a sidewalk and lying between the lot line or property line and the curb line; or on unpaved streets, that part of the street lying between the lot line or property line and that portion for the street usually traveled by vehicular traffic.

#### **3-14-4 CUTTING SPECIFICATIONS AND STANDARDS OF PRACTICE.**

1. Every owner shall cut, mow and maintain all grass, weeds and brush upon the owner’s property and adjacent to the curb line or outer boundary of any street, which includes the parking area abutting the owner’s property, to a uniform height as defined in Section 3-14-5.

2. Every owner shall cut, mow and maintain all grass, weeds and brush adjacent to the curb line, including the parking area abutting the owner's property, in such a manner so as to be in conformity with Section 3-14-5.
3. Every owner shall cut, mow and prevent all grass, weeds and brush adjacent to the curb, curb line, curbing, in such a manner so as to keep all grass, weeds and brush from exceeding the curb, curb line, curbing.

**3-14-5 UNIFORM HEIGHT SPECIFICATIONS.** Any property within the City of Dunlap, whether vacated or non-vacated, is required to be mowed any time the grass, weeds and brush reaches a height in excess of 8 inches. Ornamental grasses are excluded. Grass, weeds, and brush, which are allowed to grow in excess of the above-specified limitations, are deemed to be violations of this chapter. Any property within the City of Dunlap, whether vacated or non-vacated, is required to conform to these specifications.

**3-14-6 PUBLICATION OF NOTICE.** Annual spring publication of this ordinance in an official newspaper shall serve as notice to property owners. The City will be authorized to respond to violations without additional written notice being given.

**3-14-7 FAILURE TO COMPLY.** If the property owner fails to comply with this chapter, the Council or its appointee will order the property to be mowed. The City of Dunlap will then apply a charge of \$75.00 per hour to remedy said nuisances, plus a \$100.00 surcharge. This fee, if not paid within 30 days, will be assessed by the City for such costs and will be collected in the same manner as general property taxes.

**3-14-8 ABATEMENT BY CITY.** If the property owner neglects or fails to abate as directed by this chapter, the City may perform the required action to abate. The fee for the abatement will be in accordance with Section 3-14-7.

**3-14-9 COLLECTION OF COSTS.** The City Clerk shall send a statement of the total expense incurred to the property owner who has failed to abide by the publication notice. If the amount shown by the statement has not been paid within 30 days, 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.

**3-14-10. FAILURE TO ABATE.** Any person causing or maintaining a nuisance who shall fail or refuse to abate or remove the same is in violation of this Code of Ordinances.



## **TITLE III COMMUNITY PROTECTION**

### **CHAPTER 15 FIREWORKS**

#### **3-15-1 Fireworks Regulations**

**3-15-1 FIREWORKS REGULATIONS.** The sale and use of fireworks are regulated as follows:

- 1. Prior to any person engaging in fireworks sales, the following shall be provided to the fire chief:**
  - a. Proof of valid permit issued from the state fire marshal.**
  - b. Proof of liability insurance separate from the building property insurance specifically showing coverage of fireworks sales for an aggregate amount of \$2,000,000.**
- 2. Any property, building, or premise whether it be permanent or temporary, intended for fireworks sales shall have an initial fire inspection completed by the fire chief prior to engaging in fireworks sales. The fire chief or their designee shall cause an annual inspection to occur meeting the requirements of the National Fire Protection Association standard 1124 (2017 edition) and the current fire code adopted by the City of Dunlap. An annual inspection fee of \$200 shall be charged for any temporary or permanent buildings used to sell fireworks.**
- 3. Fireworks sales shall only be conducted in accordance with dates and times designated by Iowa Code.**
  - a. Approved fireworks sales meeting the requirements of this chapter shall be allowed from an approved permanent structure or building between June 1 and July 8.**
  - b. Approved fireworks sales meeting the requirements of this chapter shall be allowed from an approved temporary structure between June 13 and July 8.**
  - c. It shall be unlawful to sell fireworks without meeting the requirements specified in this ordinance, or to sell fireworks outside of the dates specified.**
  - d. Fireworks shall not be sold from a motor vehicle or trailer required to be licensed for travel on a public roadway.**
- 4. The City may, upon application in writing, grant a permit for the display of fireworks on public property by a City agency, fair associations, amusement parks**

**and other organizations or groups of individuals approved by City authorities when such fireworks display will be handled by a competent operator. No permit shall be granted hereunder unless the operator or sponsoring organization has filed with the City evidence of insurance in the following amounts:**

- a. Personal Injury: \$250,000 per person.**
- b. Property Damage: \$50,000**
- c. Total Exposure: \$1,000,000**

**(Code of Iowa, Sec. 727.2)**

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

**(Code of Iowa, Sec. 727.2)**

- 6. Fireworks Sales and Safety Requirements. The following safety requirements shall be adopted for all locations where fireworks are sold:**

- a. Not more than 100 pounds of total aggregate weight of DOT 1.4 class fireworks shall be located inside a commercial business with other mercantile products for sale. Sparkers, snakes, snaps, cap gun caps, or smoke bombs shall not be considered when figuring weight.**
- b. Not more than 500 pounds of total aggregate weight of DOT 1.4 class fireworks shall be located inside a building where fireworks are the primary business. Sparkers, snakes, snaps, cap gun caps, or smoke bombs shall not be considered when figuring weight.**
- c. Not more than 1000 pounds of total aggregate weight of DOT 1.4 class fireworks shall be located in a temporary structure used primarily for fireworks sales. Sparkers, snakes, snaps, cap gun caps, or smoke bombs shall not be considered when figuring weight.**
- d. Any permanent structure used primarily for the purpose of fireworks sales shall be located 35 feet from a property line, public roadway, alley, or highway; and 70 feet from an inhabited building. However, where a person**

**owns the adjacent property or written permission is granted, the property line distance requirement can be reduced to 15 feet.**

- e. Any temporary structure having between 500 and 1000 pounds of total aggregate weight of DOT 1.4 class fireworks shall be located 55 feet from a property line, public roadway, alley, or highway; and 110 feet from an inhabited building.**
- f. NO SMOKING signs shall be posted in conspicuous locations throughout the sales area. Smoking, open flame source, or matches shall not be located within 50 feet where fireworks are sold, with the following exceptions:**
  - 1) Lighters and matches may be sold as part of a retail business in commercial structures who engage in other merchandise sales where fireworks are not the primary business.**
  - 2) Locations who engage in fireworks sales as a primary source of revenue may sell extended lighters so long as lighters are located in a sealed package and not opened within the store premises.**
- g. All electrical wiring shall meet NFPA 70 National Electrical Code. Permanent structures or buildings used primarily for fireworks sales shall meet wiring requirements for a hazardous location, including covered light fixtures to avoid sparks upon failure or damage to lights.**
- h. All fireworks sales locations shall maintain 48 inch clear aisles between fireworks display shelves.**
- i. Any location where fireworks are sold shall maintain two approved exits for egress during an emergency. All approved exits shall be clearly marked with signage; except that, exit signs shall be illuminated in permanent structures.**
- j. Fireworks sales shall only be permitted in a single story at grade building or structure to facilitate easy exiting during an emergency.**
- k. All locations shall have a minimum of two 10 pound ABC rated fire extinguishers mounted in accordance with NFPA 10. Additional fire extinguishers shall be placed in locations to prevent travel distance exceeding 75 feet in order to reach a fire extinguisher. Nothing in this ordinance prevents a temporary sales location from having emergency water barrels positioned in the sales area for use during a small fire; except that fire extinguishers are still required.**

- l. All doors used as service doors outside the view of a clerk shall be locked to prevent unauthorized persons from entering the building unnoticed. If doors are required as part of the two approved exits needed, they shall be operable without special tools, keys, or knowledge. Delayed or alarmed egress doors are permitted so long as release is activated within 8 seconds and the delay device is not affixed to the primary egress door.**
- m. No persons under the influence of alcohol, drugs, or narcotics, shall be allowed to remain in the business where fireworks are sold as a primary business.**
- n. No more than one convex container or approved explosive magazine shall be located on site for short term storage of extra product. All containers shall be properly placarded and equipped with tamper proof locking devices. It is permitted to place containers in a security fenced area.**
- o. Individual fireworks devices or opened fireworks packages shall not be permitted to be displayed. No open fuses shall be exposed during storage inside a sales location.**
- p. Leftover fireworks shall be removed from sales locations by July 9 following the June/July sales period.**
- q. The Fire Chief or designated inspector shall have the authority to reduce or eliminate requirements under Section 6 of this Ordinance for permanent structures, when, in his or her opinion, safety of the structure and general public will not be compromised, in order to ensure property owners a reasonable right to pursue firework sales.**
- r. The vendor's license issued from State Fire Marshall authorizing sales of fireworks shall be clearly and prominently displayed at all times.**
- s. All weeds and combustible materials shall be cleared from the location of any structure, including a distance of at least twenty feet surrounding any structure dispensing fireworks.**
- t. All temporary structures shall be removed from the temporary location by 12:00 p.m. on the seventh day after the end of sales of fireworks and all accompanying litter shall be cleared from said location by the said time and date.**
- u. A retailer or community group selling or offering for sale consumer fireworks shall not knowingly have a person less than 18 years of age,**

**whether the person is paid or unpaid, involved in the sale, handling or transport of consumer fireworks.**

**7. Sales allowed, location: Fireworks sales shall only be allowed in areas zoned BGH (Heavy General Business Zone).**

- a. Any person engaged in sales in any zone other than BGH (heavy General Business Zone) shall not be approved for sales within the city limits.**
- b. No person shall sell a DOT 1.4 class firework to a person under the age of 18.**
- c. Fireworks shall not be sold to an intoxicated person or to any person whom a reasonable person would believe may be impaired by other substances.**

**8. Fireworks Sales penalties:**

- a. A person or entity who violates the provision of this fireworks sales ordinance is guilty of a simple misdemeanor and punishable as scheduled by Iowa Code.**
- b. In circumstances where a flagrant or intentional violation of these provisions occurs, a peace officer shall issue a misdemeanor charge with a scheduled fine in accordance with Iowa Code.**
- c. Individuals, retailers, businesses, consumers, community groups violating the provisions of this chapter shall be reported to the state fire marshal to cause revocation of permit hearings to commence.**

**9. Fireworks use and discharge, general requirements:**

- a. No person under the age of 18 shall discharge a DOT 1.4 class fireworks without adult supervision.**
- b. A person shall only discharge a fireworks device on real property they own or on property where consent has been given except that snakes, sparklers, or caps can be discharged on a public place so long as all trash, wrappers, and wires are properly disposed of.**
- c. Fireworks shall not be discharged by persons showing visible signs of, or determined to be, intoxicated or under the influence of a drug or narcotic.**
- d. Any person discharging a fireworks device assumes all responsibility for its operation, flight, and the consequences thereof.**

- e. No person shall discharge a fireworks device in a reckless manner or manner likely to cause death, injury, fire, or property damage.
- f. No person shall discharge a fireworks device outside the following dates and hours:
  - 1) July 1 through July 6 from the hours of 12:00 p.m. (noon) until 10:00 p.m. except for July 4 the hours shall be from 10:00 a.m. until 12:00 a.m.

However, it shall be unlawful to display or discharge fireworks at any and all times the City's fire danger warning is categorized at "High" or "Extreme".

- a. It shall be unlawful to alter, remove, or discharge components of a fireworks device from its intended method of discharging.
- b. Sky lantern open flame devices are not permitted to be released within the city limits, except if tethered by a retrievable rope so long as the person discharging has control over the sky lantern.
- c. It shall be unlawful to discharge fireworks, firework devices or firework components within 200 feet of a licensed firework vendor's location.
- d. It shall be unlawful to discharge fireworks, firework devices or firework components within 15 feet of a structure. It shall be unlawful to discharge homemade fireworks of any size or type. Harrison County Sheriff's office will be notified of any and all violations.

#### **10. Fireworks use and discharge, Penalties:**

- a. Any person who violates the provisions of the fireworks discharging ordinance or without reckless intent causes injury, property damage or a fire shall be guilty of a simple misdemeanor punishable as scheduled by Iowa Code.

Persons who recklessly endanger the property or safety of another shall be guilty of a serious misdemeanor in violation of 712.5 State Code of Iowa.

## **TITLE III COMMUNITY PROTECTION**

### **CHAPTER 16 ADULT ENTERTAINMENT**

3-16-1 Definitions	3-16-5 Revocation of Permit
3-16-2 Permit Required	3-16-6 Minors
3-16-3 Application	3-16-7 Alcohol
3-16-4 Conditions for Approval	3-16-8 Public Exposure

3-16-1 - DEFINITIONS: For use in this chapter, the following terms are defined:

1. "Adult amusement or entertainment" means an amusement or entertainment which is distinguished or characterized by an emphasis on acts or material depicting, describing or relating to specified sexual activities or specified anatomical areas as defined in this section, including, but not limited to, topless or bottomless dancers, exotic dancers, strippers, male or female impersonators or similar entertainment.
2. "Adult book store or gift shop" is an establishment having as a substantial and significant portion of its stock in trade books, magazines and other periodicals or goods and items held for sale which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in this section.
3. "Adult hotel or motel" means a building with accommodations used for the temporary occupancy of one or more individuals and is an establishment where in a substantial and significant portion of the materials presented are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in this section, for observation by the individuals therein.
4. "Adult photo studio" is an establishment which, upon payment of a fee, provides photographic equipment and/or models for the purpose of photographing specified anatomical areas or specified sexual activities, as defined herein.
5. "Adult theater" is a theater wherein a substantial and significant portion of the materials presented are distinguished or characterized by an emphasis on acts or material depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in this section, for observation by the patrons therein.
6. "Adult uses" includes adult amusement or entertainment, adult book store or gift shop, adult hotel or motel, adult photo studio, adult theater and massage parlor.
7. "Dance Tavern" means any licensed premises, as defined in Section 123.3(20) of the Code of Iowa, on which persons of either sex entertain tavern patrons by dancing, whether or not such persons receive compensation for performing such dancing.
8. "Establishment of an adult entertainment business" means the opening of such business as a new business, the relocation of such business or the conversion of an existing business to and adult entertainment business.

9. "Massage parlor" means any place where, for any form of consideration or gratuity, manipulated massage or manipulated exercise, is practiced for pay upon the human body with an emphasis on specified sexual activities or specified anatomical areas, as defined herein, by another not duly licensed physician, osteopath, chiropractor, registered nurse or practical nurse operating under a physician's direction, physical therapist, podiatrist, registered speech pathologist and physical or occupational therapist who treats only patients recommended by a licensed physician and operates only under such physician's direction, whether with or without the use of mechanical, therapeutic or bathing devices, and includes Turkish bath houses. The term does not include a regular licensed hospital, medical clinic or nursing home.
10. "Person of good moral character" means any person who meets all of the following requirements
  - a. Has such financial standing and a reputation that will satisfy the Council that he or she will comply with this chapter and all laws, ordinances and regulations applicable to operation of an adult entertainment business;
  - b. Is a citizen of the United States and a resident of Iowa or, in the case of corporation, licensed to do business in Iowa.
  - c. Has not been convicted of a felony. However, if this conviction of a felony occurred more than five (5) years before the date of the application for permit, and if the applicant's rights of citizenship have been restored the Governor, the Council may determine that such person is a person of good moral character notwithstanding such conviction.

If the person is a corporation, partnership, association, club, hotel or motel, the foregoing Requirements of this subsection shall apply to each officer, director, partner or associate who, directly or indirectly, owns or controls ten percent (10%) or more of any class of stock of such organization or has an interest of ten percent (10%) or more in the ownership or profits of such organization. For the purpose of the provision, an individual and spouse shall be regarded as one person.

11. "Sexual encounter center" means any business, agency or persons who, for any form of consideration or gratuity, provide a place where three or more persons, not all of whom are members of the same family, may congregate, assemble or associate for the purpose of engaging in – sex acts or exposing specified anatomical areas, as defined in this section.
12. "Specified anatomical area" means less than completely and opaquely covered human genitalia, public region, buttocks; and a female breasts below a point immediately above the top of the areola; and human male genitals in a discernibly turgid state – even if completely and opaquely covered.
13. "Sex acts" means any sexual contact, actual or simulated, either natural or deviate, between two or more persons, or between a person and an animal, by the penetration of the penis into the vagina or anus or by contact between the mouth or tongue and genitalia or anus, by contact between a finger of one person and the genitalia or anus of another person or by use of artificial sexual organs in



contact with the genitalia or anus, human genitals in a state of sexual stimulation or arousal, fondling or other erotic touching of human genitals, pubic region, buttocks or female breast, cunnilingus, or fellatio, anilingus, masturbation, bestiality, lewd exhibition of genitals or excretory function, actual or simulated; flagellation, mutilation or torture, actual or simulated in a sexual context.

3-16-2 PERMIT REQUIRED. No person shall establish, operate or conduct an adult entertainment business without first obtaining a permit therefore and shall continue to operate or conduct such business only so long as such permit continues in force.

3-16-3 APPLICATION. An application for the original issuance or for the renewal of a permit shall be filed with the City Clerk and shall be presented to the Council for approval or disapproval. It shall be accompanied with an application fee of three hundred dollars (\$300.00). The permit may be issued for such period of time as the Council may determine but shall not exceed one year.

3-16-4 CONDITIONS FOR APPROVAL. An applicant for an adult entertainment business permit must, as a condition, for approval by the Council, give consent in writing on the application to members of the fire department, police department and health department and the building inspector to enter upon the premises occupied by the adult entertainment business without warrant to inspect for violations of the provisions of State law and of this chapter and in addition thereto:

1. Premises. No adult entertainment business permit shall be approved for premises which do not conform to all applicable laws, ordinances, resolutions and Fire and health regulations
2. Character. No permit shall be granted to a person who is not a person of good moral character.
3. Location. No permit shall be issued for the establishment of an adult entertainment business within 1000 feet of another such business, a place of worship, any school, library, public park, public plaza, regularly scheduled school bus stop, licensed day care facility, or any dwelling (one-family, two-family or multiple dwelling), City Hall or public playground or area zoned for residential use.
  - a. Measurement shall be taken on a direct line from the closest Customer entrance of such adult entertainment business to the point on the Property line of such other business, school, place of worship, public park, public plaza, regularly scheduled school bus stop, licensed day car facility, or any dwelling (one-family, two-family or multiple dwelling) City Hall, or public playground or area zoned for residential use which is closest to the said customer entrance of such adult entertainment business.
  - b. All building openings, entries, windows, etc. shall be constructed, located, covered or screened in such a manner as to prevent a view of display areas from, or a view into the interior of the adult entertainment business from, any pedestrian sidewalk, walkway, street, or other public or semi-public area.

- c. Any adult entertainment business in existence on the effective date of this Ordinance which does not comply with the minimum separation requirements defined above may be continued as a nonconforming period of not more than six (6) years thereafter. Such nonconforming use shall not be expanded, extended or altered with regard to the land area, building or structure involved in such use. The provisions of paragraph B above shall apply to all adult entertainment businesses, including said nonconforming uses, upon adoption of this Ordinance.

3-16-5 REVOCATION OF PERMIT. An adult entertainment business permit may be revoked by the Council at any time if the Council determines that a permit would not be granted if an application for it were made at that time by the person then holding the permit. If a permit is revoked, none of the fee paid for the permit shall be returned to the permit holder.

3-16-6 MINORS. No minor shall be permitted in any establishment in which adult uses are permitted.

3-16-7 ALCOHOL. No alcohol shall be permitted in any establishment in which adult uses are permitted, unless such is specifically allowed pursuant to the Code of Iowa. This prohibition applies equally to the proprietor and the patrons of the establishment involved.

3-16-8 PUBLIC EXPOSURE. Except as hereinafter provided, no person shall expose those parts of his or her body which are hereinafter listed to another in any public place, in any privately owned place open to the public, or in any place where such exposure is seen by another person or persons located in any public place:

1. A women's nipple, the areola thereof, or full breast, except as necessary in the breast feeding of a baby.
2. The pubic hair, pubes, perineum or anus of a male or female, the penis or scrotum of a male or the vagina of a female, excepting such body parts of prepubescent infants or either sex.

This subsection does not apply to limited or minimal exposures incident to the use of public rest rooms or locker rooms or such other places where such exposures occur incident to the prescribed use of those facilities.

## **TITLE IV MENTAL AND PHYSICAL HEALTH**

### **CHAPTER 1 ANIMAL CONTROL**

4-1-1	Definitions	4-1-8	Dangerous Animals
4-1-2	Dog License	4-1-9	Keeping a Vicious Animal
4-1-3	Cat License	4-1-10	Animals Prohibited in City Park
4-1-4	Immunization	4-1-11	Cruelty to Animals
4-1-5	At Large Prohibited	4-1-12	Exhibitions and Fights
4-1-6	Animal Nuisances	4-1-13	Bothersome Animals
4-1-7	Impounding		

4-1-1     **DEFINITIONS.** For use in this chapter the following terms are defined as follows:

1. The term “animal” shall mean all living creatures other than humans.
2. The term "dog" shall mean animals of the canine species whether altered or not.
3. The term “cat” shall mean animals of the feline species whether altered or not.
4. The term "at large" shall mean any licensed or unlicensed animal found off the premises of the owner and not under the control of a competent person, restrained within a motor vehicle, housed in a veterinary hospital or kennel, on a leash or "at heel" beside a competent person and obedient to that person's command.
5. The term "owner" shall mean any person owning, keeping, sheltering or harboring an animal.

4-1-2     **DOG LICENSE.** Every owner of a dog over the age of six (6) months shall procure a dog license from the City Clerk on or before the first day of February of each year.

The annual license fee shall be \$15.00 for each intact male or female dog, \$5.00 for each spayed or neutered dog.

Licenses become delinquent February 1 of each year and the delinquent license fee shall be \$20.00, except in those cases where by reason of residence or age the dog was not subject to licensing during the January 1 to May 31 period.

Upon payment of the license fee, and providing proof of a current vaccination against rabies, the City Clerk shall issue to the owner a license which shall contain the name of the owner, the owner's

place of residence and a description of the dog. The City Clerk shall keep a duplicate of each license issued as a public record.

Upon issuance of the license, the City Clerk shall deliver to the owner a metal tag stamped with the number of the license and the year for which it is issued. The license tag shall be securely fastened to a collar or harness which shall be worn by the dog for which the license is issued.

Any dog found running at large without the license tag attached to its collar or harness shall be deemed unlicensed.

4-1-3 CAT LICENSE. Every owner of a cat over the age of six (6) months shall procure a cat license from the City Clerk on or before the first day of February of each year.

The annual license fee shall be \$15.00 for each intact male or female cat, \$5.00 for each spayed or neutered cat.

Licenses become delinquent February 1 of each year and the delinquent license fee shall be \$15.00, except in those cases where by reason of residence or age the cat was not subject to licensing during the January 1 to May 31 period.

Upon payment of the license fee, and providing proof of a current vaccination against rabies, the City Clerk shall issue to the owner a license which shall contain the name of the owner, the owner's place of residence and a description of the cat. The City Clerk shall keep a duplicate of each license issued as a public record.

Upon issuance of the license, the City Clerk shall deliver to the owner a metal tag stamped with the number of the license and the year for which it is issued. The license tag shall be securely fastened to a collar or harness which shall be worn by the cat for which the license is issued.

Any cat found running at large without the license tag attached to its collar or harness shall be deemed unlicensed.

4-1-4 IMMUNIZATION. All dogs and cats six (6) months or older shall be vaccinated against rabies. Before issuance of the license the owner shall furnish a veterinarian's certificate showing that the dog or cat for which the license is sought has been vaccinated, and that the vaccination does not expire within six (6) months from the effective date of the dog license. It shall be a violation of this Ordinance for any dog or cat to not be vaccinated against rabies. A tag showing evidence of proper vaccination shall be worn by every dog or cat when not confined.

(Code of Iowa, Sec. 351.33)

4-1-5 AT LARGE PROHIBITED. No owner or person having custody of an animal shall permit such animal to run at large.

(Code of Iowa, Sec. 351.41)

4-1-6 ANIMAL NUISANCES. It shall be unlawful for any person to permit an animal under such person's control or within such person's custody to commit a nuisance. An animal shall be considered a nuisance if it:

1. Damages, soils, defiles or defecates on private property other than the owner's or on public property, walks and recreation areas unless such waste is immediately removed and properly disposed of by the owner.

2. Causes unsanitary, dangerous or offensive conditions.

3. Causes a disturbance by excessive barking or other noisemaking or chases vehicles, or molests, attacks or interferes with persons or other domestic animals.

(Code of Iowa, Sec. 657.1)

4-1-7 IMPOUNDING.

1. Any unlicensed or unvaccinated dog or cat found at large or any licensed dog or cat found at large in violation of Sections 4-1-4 and 4-1-5 of this chapter shall be seized and impounded, or, at the discretion of the Police Officer, the owner may be served a summons to appear before a proper court to answer charges made thereunder.

2. Owners of licensed dogs and cats shall be notified within two (2) days that upon payment of impounding fees the dog or cat will be returned. If the impounded licensed dogs or cats are not recovered by their owners within seven (7) days after notice, the dogs or cat shall be disposed of as provided in Section 717B.4 Code of Iowa.

3. Impounded unlicensed dogs and cats may be recovered by the owner, upon proper identification, by payment of the license fee, impounding fee and boarding costs, and the costs of vaccination if vaccination is required by Section 4-1-4. If such dogs or cats are not claimed within seven (7) days after notice, they shall be disposed of in a humane manner as directed by the City Council.

(Code of Iowa, Sec. 351.37)

4. Any animal found to have bitten a person or other animal shall be confined as directed by the Police Officer.

(Code of Iowa, Sec. 351.39)

5. This section shall not apply to a law enforcement dog or horse used by the law enforcement agency, that is acting in the performance of its duties, which has bitten a person.

(Code of Iowa, Sec 351.39)

#### 4-1-8 DANGEROUS ANIMALS.

1. Dangerous Animals Prohibited. No person shall keep, shelter, or harbor for any purpose within the City limits, a dangerous animal.

2. Definitions. A dangerous animal is:

a. Any animal which is not naturally tame or gentle, and which is of a wild nature or disposition, and which is capable of killing, inflicting serious injury upon, or causing disease among human beings or domestic animals, and having known tendencies as a species to do so.

b. The following are animals which shall be deemed to be dangerous animals per se:

(1) Lions, tigers, jaguars, leopards, cougars, lynx, and bobcats;

(2) Wolves, coyotes, and foxes;

(3) Badgers, wolverines, weasels, skunks and mink;

(4) Raccoons;

(5) Bears;

(6) Monkeys, chimpanzees, and apes;

(7) Alligators and crocodiles;

(8) Scorpions; gila monsters;

(9) Snakes that are venomous or constrictors;

(10) Staffordshire terriers - known as pit bulls;

(11) Any cross breed of such animals which have similar characteristics of the animals specified above.

c. Any animals declared to be dangerous by the City Council.

3. Dangerous Animals Exceptions. The keeping of dangerous animals shall not be prohibited in the following circumstances:

a. The keeping of dangerous animals in a public zoo, bona fide educational or medical institution, humane society, or museum where they are kept as live specimens for the public to view,

or for the purpose of instruction, research or study, and has obtained the written approval of the City Council.

4-1-9 KEEPING A VICIOUS ANIMAL. It shall be unlawful for any person or persons to harbor or keep a vicious animal within the City. A vicious animal is deemed so when it shall have attacked or bitten any person without provocation, or when the propensity to attack or bite persons or other animals shall exist and such propensity is known or ought reasonably be known to the owner thereof.

**A. An animal is deemed vicious under the following circumstances**

- 1. Has bitten or clawed a person without provocation on two separate occasions within a twelve (12) month period.**
- 2. Did bite or claw a person, without provocation, causing injuries above the shoulders of a person.**
- 3. Has attacked any domestic animal, without provocation, on more than two (2) separate occasions during the life of the animal.**
- 4. Has killed any domestic animal, without provocation while off the property of the attacking animal's owner.**
- 5. Has bitten another animal or human, without provocation, that causes a fracture, skin puncture, laceration, cut, or injury to the other animal or human.**
- 6. The Staffordshire Terrier breed of dogs.**
- 7. The American Pit Bull breed of dogs.**
- 8. The American Staffordshire breed of dogs.**
- 9. Dogs of mixed breed or of other breeds than above listed, which breed or mixed breed is known as pit bulls, pit bull dogs or pit bull terriers.**
- 10. Any dog which has the appearance and characteristics of being predominately of the breeds of Staffordshire Terrier, American Pit Bull Terrier, American Staffordshire Terrier, any other breed commonly known as pit bulls, pit bull dogs or pit bull terriers, or a combination of any of these breeds.**

4-1-10 ANIMALS PROHIBITED IN CITY PARK. It shall be unlawful for any owner to allow a domestic animal to enter upon or run upon any city park, more particularly described as all of Block Eleven (11) in the City of Dunlap, Harrison County, Iowa.

4-1-11 CRUELTY TO ANIMALS. It is unlawful for any person to impound or confine, in any place, a domestic animal or fowl, dog, or cat, and fail to supply the animal during confinement with a sufficient quantity of food and water, or who fails to provide an animal with adequate shelter, or who tortures, torments, deprives of necessary sustenance, mutilates, overdrives, overloads, drives when overloaded, beats, or kills an animal by any means which causes unjustified pain, distress, or suffering, whether intentionally or negligently.

4-1-12 EXHIBITIONS AND FIGHTS. A person who arranges, promotes, or stages an exhibition at which an animal is tormented, or any fight between animals or between a person and an animal, or who keeps a place where such exhibitions and fights are staged for the entertainment of spectators, commits a serious misdemeanor.

4-1-13 BOTHERSOME ANIMALS. It shall be unlawful for a person to keep within the city such bothersome animals as barking dogs, bees, cattle, horses, swine, sheep, chickens, ducks, geese and any other type of fowl which tend to disrupt the peace and good order of the community

**4-1-14 KENNEL DOGS.** Kennel dogs which are kept or raised solely for the bona fide purpose of sale and which are kept under constant restraint are not subject to the provisions of this ordinance.

**4-1-15 NUMBER OF ANIMALS LIMITED.** No person shall own, possess, or keep more than a total of four (4) mature dogs and/or, in any one household within the City. A mature dog or cat is one over the age of six (6) months.



## **TITLE V HUMAN DEVELOPMENT - EDUCATION AND CULTURE**

### **CHAPTER 1 LIBRARY SERVICES**

5-1-1	Public Library	the Use of the Library
5-1-2	Library Trustees	5-1-7 Non-Resident Use of the Library
5-1-3	Qualifications of Trustees	5-1-8 Library Accounts
5-1-4	Organization of the Board	5-1-9 Annual Report
5-1-5	Powers and Duties	5-1-10 Injury to Books or Property
5-1-6	Power to Contract with Others for	

5-1-1 PUBLIC LIBRARY. There is hereby established a free public library for the City, to be known as the Dunlap Public Library.

5-1-2 LIBRARY TRUSTEES. The board of trustees of the Dunlap Public Library, hereinafter referred to as the board, consists of five members. All board members shall be appointed by the Mayor with the approval of the City Council.

(Code of Iowa, Sec. 392.5)

5-1-3 QUALIFICATIONS OF TRUSTEES. All of the members of the board shall be bona fide citizens and residents of the City and all shall be over the age of eighteen (18).

5-1-4 ORGANIZATION OF THE BOARD.

1. Terms of office. All appointments to the board shall be for six (6) years, except to fill vacancies. Each term shall commence on July first. Appointments shall be made every two (2) years of one-third the total number as near as possible, to stagger the terms.

(Code of Iowa Sec. 336.5)

2. Vacancies. The position of any trustee shall be declared vacant if said trustee moves permanently from the City or if said trustee is absent from six (6) consecutive regular meetings of the board, except in the case of sickness or temporary absence from the City. Vacancies in the board shall be filled by appointment of the Mayor, with approval of the City Council, and the new trustee shall fill out the unexpired term for which the appointment is made.

(Code of Iowa Sec. 336.6)

3. Compensation. Trustees shall receive no compensation for their services.

(Code of Iowa Sec. 336.7)

5-1-5 POWERS AND DUTIES. The board shall have and exercise the following powers and duties:

1. To meet and elect from its members a president, a secretary, and such other officers as it deems necessary. The city treasurer shall serve as board treasurer, but shall not be a member of the board.

(Code of Iowa Sec. 336.8(1))

2. To have charge, control and supervision of the public library, its appurtenances, fixtures and rooms containing the same.

(Code of Iowa Sec. 336.8(2))

3. To direct and control all the affairs of the library.

4. 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.

(Code of Iowa Sec. 336.8(3))

5. To remove by a two-thirds vote of the board the librarian and provide procedures for the removal of assistants or employees for misdemeanor, incompetence or inattention to duty, subject, however, to the provisions of Chapter 35C, Code of Iowa.

(Code of Iowa Sec. 336.8(4))

6. 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.

(Code of Iowa Sec. 336.8(5))

7. To authorize the use of the library by non-residents of the City and to fix charges therefore.

(Code of Iowa Sec. 336.8(6))

8. To make and adopt, amend, modify or repeal rules and regulations, not inconsistent with 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.

(Code of Iowa Sec. 336.8(7))

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

(Code of Iowa Sec. 336.8(8))

10. 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.

(Code of Iowa, Sec. 336.8(9))

11. To enforce the performance of conditions on gifts, donations, devises and bequests accepted by the city by action against the council.

12. To keep a record of its proceedings.

13. To have authority to make agreements with the local County historical associations, 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.

(Code of Iowa Sec. 336.17)

#### 5-1-6 POWER TO CONTRACT WITH OTHERS FOR THE USE OF THE LIBRARY.

1. Contracting. The board may contract with any other boards of trustees of free public libraries, any other City, school corporation, private or semi-private 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. 336.18(1))

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 (5) percent in number of electors who voted for governor in the territory of the party at the last general election. The petition must be presented to the governing body not less than forty (40) days before the election. The proposition may be submitted at any election provided by law that is held in the territory of the party who is seeking to terminate the contract.

(Code of Iowa, Sec. 336.18(2)(a and b))

#### 5-1-7 NON-RESIDENT USE OF THE LIBRARY. The board may authorize the use of the library by non-residents in any one or more of the following ways:

1. By lending the books or other materials of the library to non-residents on the same terms and conditions as to residents of the City, or upon payment of a special non-resident library fee.

2. By establishing depositories of library books or other materials to be loaned to non-residents.

3. By establishing bookmobiles or a traveling library so that books or other library materials may be loaned to non-residents.

4. By establishing branch libraries for lending books or other library materials to non-residents.

5-1-8 LIBRARY ACCOUNTS. All money appropriated by the City Council from the general fund 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. The warrant writing officer is the City Clerk.

5-1-9 ANNUAL REPORT. The board shall make a report to the City Council immediately after the close of the municipal fiscal year. This report shall contain statements of the condition of the library, the number of books added thereto, the number circulated, the amount of funds collected, and the amount of money expended in the maintenance of the library during the year, together with such further information required by the City Council.

5-1-10 INJURY TO BOOKS OR PROPERTY. It shall be unlawful for a person to willfully, maliciously or wantonly 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.

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 1 MOBILE HOME REGULATION

6-1-1	Definitions	6-1-4	Emergency and Temporary Parking
6-1-2	Location of Mobile Homes		
6-1-3	Special Permits for Location of Mobile Homes Outside Mobile Home Parks	6-1-5	Traffic Code Applicable
		6-1-6	Building Requirements
		6-1-7	Mobile Home Hookups

6-1-1 DEFINITIONS. For use in this chapter the following terms are defined as follows:

1. **“Factory-built structure”** means any structure which is, wholly or in substantial part, mad, fabricated, formed, or assembled in manufacturing facilities for installation, or assembly and installation, on a building site. “Factory-built structure” includes the terms “mobile home”, “manufactured home”, and “modular home”

(Code of Iowa. Sec. 103A.3(8))

2. **“Manufactured home”** means a factory-built structure built under authority of 42 U.S.S. Section 5403, that is required by federal law to display a seal from the United States Department of Housing and Urban Development, and was constructed on or after June 15, 1976.

(Code of Iowa, Sec. 435.1(5))

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 shall also include any such vehicle with motive power not registered as a motor vehicle in Iowa. Mobil homes were constructed before June 15, 1976.

(Code of Iowa, Sec. 435.1(5))

4. **“Mobile home park”** means a 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.

(Code of Iowa, Sec. 435.1(6))

5. **“Modular home”** means a factor-built structure which is manufactured to be used as a place of human habitation, is constructed to comply with the Iowa State Building Code for modular factory-built structures.

(Code of Iowa, Sec. 435.1(7))

6-1-2 LOCATION OF MOBILE HOMES. All mobile homes shall be placed or parked in a mobile home park unless permitted otherwise by State law. This section shall not apply to mobile homes parked or placed upon private property as part of a dealer's or a manufacturer's stock not used as a place for human habitation.

6-1-3 SPECIAL PERMITS FOR LOCATION OF MOBILE HOMES OUTSIDE MOBILE HOME PARKS. The City Council, upon application of a mobile home owner, may grant a permit for a mobile home to be located for a limited time on premises outside mobile home parks. The City Council shall issue such special permits when it appears that location within local mobile home park is impracticable or impossible and public health, safety, and welfare interests will not be seriously affected by granting the permit. Special permits shall not be granted for periods in excess of six (six) months, but upon expiration of a special permit reapplication may be made. Application for the permit shall include:

1. A statement concerning the practicability of location within a local mobile home park.
2. A description of sanitation facilities contained within the mobile home and those facilities available at the proposed location.
3. A statement of the desired duration of the special permit.

6-1-4 EMERGENCY AND TEMPORARY PARKING. Emergency or temporary parking of mobile homes upon the streets, alleys, or highways, or any other public or private place for a period not in excess of seven days shall not constitute a violation of 6-1-2, but such parking shall be subject to any prohibitions or regulations contained in other Ordinances of this City.

6-1-5 TRAFFIC CODE APPLICABLE. The owner of a mobile home park may elect to have City traffic provisions of the City Code apply to real property in the mobile home park and any person located on the real property. The owner of a mobile home park may waive this right by filing a waiver with the County Recorder.

6-1-6 BUILDING REQUIREMENTS. All mobile homes, modular homes and factory built homes as defined in the Iowa Code located outside a mobile home park shall comply with all Ordinances relating to residences or homes in the community and shall be affixed to a permanent perimeter foundation (**unless it is incompatible with the structural design of the home. Any** home located outside a mobile home park on the date this ordinance takes effect shall be exempt from the permanent foundation requirement.

(Code of Iowa, Sec. 435.26)

6-1-7 MOBILE HOME HOOKUPS. A mobile home dealer or an employee of a mobile home dealer may perform water, gas, electrical, and other utility service connections in a mobile home space, or within ten feet of such space, located in a mobile home park, and the dealer or an employee of the dealer may install a tie-down system on a mobile home located in a mobile home park. The

connections are subject to inspection and approval by City of Dunlap officials and the mobile home dealer shall pay an inspection fee of \$25.00. No additional permits shall be required.  
(Code of Iowa, Sec. 322B.3)

## **TITLE VI PHYSICAL ENVIRONMENT**

### **CHAPTER 2 UTILITIES - SANITARY SYSTEM**

6-2-1	Definitions	6-2-5	Use of the Public Sewers
6-2-2	Use of Public Sewers Required	6-2-6	Protection from Damage
6-2-3	Private Sewage Disposal	6-2-7	Powers and Authority to Inspectors
6-2-4	Building Sewers and Connections	6-2-8	Penalties

6-2-1 DEFINITIONS. Unless the context specifically indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

1. "BOD" (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 C, expressed in milligrams per liter or parts per million.

2. "Building Drain" shall mean that part of the lowest horizontal piping of a 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 (5) feet (1.5 meters) outside the inner face of the building wall.

(IAC 567-69.3(1))

3. "Building Sewer" shall mean the extension from the building drain to the public sewer or other place of disposal.

(IAC 567-69.3(1))

4. "Combined Sewer" shall mean a sewer receiving both surface runoff and sewage.

5. "Garbage" shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sales of produce.

6. "Industrial Wastes" shall mean the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

7. "Natural Outlet" shall mean any outlet into watercourse, pond, ditch, or other body of surface or groundwater.

8. "Person" shall mean any individual, firm, company, association, society, corporation, or group.

9. "pH" shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.



10. "Properly Shredded Garbage" shall mean the waste from the preparation, cooking, dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch (1.27 centimeters) in any dimension.

11. "Public Sewer" shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

12. "Sanitary Sewer" shall mean a sewer which carries sewage and to which storm, surface, and groundwater are not intentionally admitted.

13. "Sewage" shall mean 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.

14. "Sewage Treatment Plant" shall mean any arrangement of devices and structures used for treating sewage.

15. "Sewage Works" shall mean all facilities for collecting, pumping, treating, and disposing of sewage.

16. "Sewer" shall mean a pipe or conduit for carrying sewage.

17. "Slug" shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration of flows during normal operation.

18. "Storm Drain" (sometimes termed "storm sewer") shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes other than unpolluted cooling water.

19. "Superintendent" shall mean the Sewer Superintendent of the City of Dunlap or the Superintendent's authorized deputy, agent, or representative.

20. "Suspended Solids" shall mean solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

21. "Watercourse" shall mean a channel in which a flow of water occurs, either continuously or intermittently.

## 6-2-2 USE OF PUBLIC SEWERS REQUIRED.

1. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City or in any area under the jurisdiction of said City, any human or animal excrement, garbage, or other objectionable waste.

2. It shall be unlawful to discharge to any natural outlet within the City, or in any area under the jurisdiction of said City, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Ordinance.

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

3. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

4. The owner of any house, building, or property 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 of the City, is hereby required at such owner's expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Ordinance, provided that said public sewer is within one hundred fifty (150) feet of the property line. Billing for sanitary sewer service shall begin the date of official notice to connect to the public sewer.

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

(IAC 567-69.3(3))

#### 6-2-3 PRIVATE SEWAGE DISPOSAL.

1. Where a public sanitary or combined sewer is not available under the provision of Section 6-2-2(4), the building sewer shall be connected to a private sewage disposal system complying with the provisions of this section.

2. Before commencement of construction of a private sewage disposal system the owner shall first obtain a written permit signed by the Superintendent. The application for such permit shall be made on a form furnished by the City, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the Superintendent. A permit and inspection fee of \$25.00 dollars shall be paid to the City at the time the application is filed.

3. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent. The Superintendent shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 72 hours of the receipt of notice by the Superintendent.

4. The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the Department of Natural Resources of the State of Iowa and the

County Health Department. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 15,000 square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

5. At such times as a public sewer becomes available to a property served by a private sewage disposal system, as provided in 6-2-2(4), a direct connection shall be made to the public sewer in compliance with this Ordinance, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

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

6. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the City.

7. No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the County Health Officer.

8. When a public sewer becomes available, the building sewer shall be connected at the building owner's expense, to said sewer within sixty (60) days and the private sewage disposal system shall be cleaned of sludge and filled with clean bank-run gravel or dirt.

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

#### 6-2-4 BUILDING SEWERS AND CONNECTIONS.

1. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent.

2. There shall be two (2) classes of building sewer permits: (a) for residential and commercial service, and (b) for service to establishments producing industrial wastes. In either case, the owner or the owner's agent shall make application on a special form furnished by the City. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Superintendent. A permit and inspection fee of \$5.00 dollars for a residential or commercial building sewer permit and \$15.00 dollars for an industrial building sewer permit shall be paid to the City at the time the application is filed.

Before a permit may be issued for excavating for plumbing in any public street, way or alley, the person applying for such permit shall have executed unto the City of Dunlap and deposited with the City Clerk a corporate surety in the sum of five thousand dollars (\$5,000.00) conditioned that the applicant will perform faithfully all work with due care and skill, and in accordance with the laws, rules and regulations established under the authority of any Ordinances of the City of Dunlap pertaining to plumbing. This bond shall state that the person will indemnify and save harmless the City of Dunlap and the owner of the premises against all damages, costs, expenses, outlay and claims of every nature and kind arising out of unskillfulness or negligence on the applicant's part in connection with plumbing or excavating for plumbing as prescribed in this Ordinance. Such bond

shall remain in force and must be executed for a period of two (2) years except that on such expiration it shall remain in force as to all penalties, claims and demands that may have accrued thereunder prior to such expiration.

3. All cost and expense incident to the installation and connection 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.

4. A separate and independent building sewer shall be provided for every 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, courtyard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

5. Old building sewers may be used in connection with new building sewers only when they are found, upon examination and testing by the Superintendent, to meet all requirements of this Ordinance. The Superintendent may require that the old sewer be excavated for the purpose of facilitating inspection. No old cesspool or septic tank shall be connected to any portion of a building sewer that is also connected to the public sewer. Cesspools and septic tanks shall be located, and drained in a manner approved by the Superintendent and removed or filled with sand, crushed rock or any other solid material approved by the Superintendent, except as exempted by the Superintendent.

6. The building sewer shall be constructed in accordance with applicable portions of the last published (State Plumbing Code of Iowa), applicable specifications of the American Society for Testing and Materials (ASTM) and applicable portions of the Water Pollution Control Federation (WPCF) Manual of Practice No. 9."

a. Each connection to the public sewer shall be made to the fittings designated for that property. If a fitting in the public sewer is not available for the designated property, the connection shall then be made under the direct supervision of the Superintendent. Connections to the public sewer not made to an existing wye or tee shall be made by a hole cutter or careful chisel cutting. The connection shall be rendered water and gas tight, by use of rubber gaskets. The building sewer shall not protrude into the public sewer.

b. All building sewers shall be constructed of the following materials conforming to the indicated standards:

Vitrified Clay Pipe VCP

(1) Pipe and Fittings - ASTM C-700 "Standard Specification for Vitrified Clay Pipe, Extra Strength, Standard Strength and Perforated."

(2) Coupling and Joints - ASTM C-425 "Standard Specification for Compression Joints for Vitrified Clay Pipe and Fittings".

### Extra Heavy Cast Iron Soil Pipe

(1) Pipe and Fittings - ASTM A-74 "Standard Specification for Cast Iron Soil Pipe and Fittings."

(2) Joints - ASTM C-564 "Standard Specification for Rubber Gaskets for Cast Iron Soil Pipe and Fittings."

### Polyvinyl Chloride (PVC)

Polyvinyl Chloride (PVC) and joints shall be installed according to the manufacturers' recommendations and shall conform to:

(1) Pipe - A.S.T.M. D-3034, "Type P.S.M. Poly (PVC) and Fittings."

Minimum wall thickness:

4" - 0.125"

6" - 0.180"

8" - 0.240"

10" - 0.300"

(2) Joints - A.S.T.M. D-1869, A.S.T.M. D-1312, "Flexible Elastomeric Seals."

c. No building sewer for residential or commercial buildings shall be less than four inches in diameter. No building sewer for industries or multiple dwellings shall be less than six inches in diameter.

d. Unless otherwise authorized, all building sewers shall have a grade of not less than one - eighth (1/8) inch per foot. A grade of one-fourth (1/4) inch per foot shall be used wherever practical.

e. All excavation shall be open trench work unless authorized by the Superintendent. The foundation in the trench shall be formed to prevent any subsequent settlement of the pipes. If the foundation is good firm earth, the earth shall be pared or molded to give a full support to the lower quadrant of each pipe. Bell holes shall be dug. Where the floor of the trench is of hard or rocky material, the trench shall be excavated to four inches below the pipe and brought back to the proper grade with gravel, coarse sand or similar material so as to provide a firm foundation and uniform support for the building sewer line. Backfilling shall be placed in layers and solidly tamped or packed up to two feet above the pipe. Back-filling shall not be done until final inspection is made by the Superintendent. Building sewers shall be laid straight at uniform grade between connections or fittings.

f. Cleanouts shall be provided for each change in direction or grade if the change exceeds 45 degrees and at least every 100 feet.

7. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. The depth shall be sufficient to afford protection from frost. All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the said Superintendent. Pipe laying and backfill shall be performed in accordance with A.S.T.M. Specification (Designation C12). No backfill shall be placed until the work has been inspected by the Superintendent or the Superintendent's representative. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

8. No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

9. The connection of the building sewer into the public sewer shall conform to the requirements of the Plumbing Code or other applicable rules and regulations of the City, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. 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.

10. Each and every part of the building sewer shall be inspected and approved by the Superintendent before being concealed or back-filled. The applicant for the building sewer permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Superintendent or the Superintendent's representative.

11. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

12. The City shall, in no event, be held responsible for claims made against it by reason of the breaking of any mains or service pipes, or by reason of any other interruption of the service caused by the breaking of machinery or stoppage for necessary repairs; and no person shall be entitled to damages nor have any portion of a payment refunded for any interruption.

13. The premises receiving sanitary sewer service, shall at all reasonable hours, be subject to inspection by duly authorized personnel of the City.

14. The Owner of the property served by a building sewer shall be responsible for the operation, maintenance, repair, blockage, surface replacement, and any damage resulting from

operation, maintenance repair and blockage of said building sewer, from the point of connection with the building drain to the Public Sewer.

#### 6-2-5 USE OF THE PUBLIC SEWERS.

1. No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, subsurface drainage, including interior and exterior foundation drains, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Applications may be cancelled and/or sewer service discontinued by the City for any violation of any rule, regulation or condition of service, and especially for any of the following reasons:

a. Misrepresented in the application as to the property or fixtures to be serviced by the sanitary sewer system.

b. Non-payment of bills.

c. Improper or imperfect service pipes and fixtures, or failure to keep same in suitable state of repair.

2. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the 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.

3. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

a. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.

b. Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) mg/l as CN in the wastes as discharged to the public sewer.

c. 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.

d. Solid or viscous substances in quantities of such size capable of causing obstruction to the flow of 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.

e. Any water or wastes having (1) a 5-day bio-chemical oxygen demand greater than 300 parts per million by weight, or (2) containing more than 350 parts per million by weight, or suspended solids, or (3) having an average daily flow greater than 2 percent of the average sewage flow of the City, shall be subject to the review of the Superintendent. Where necessary in the opinion of the Superintendent, the owner shall provide at the owner's expense, such preliminary treatment as may be necessary to (1) reduce the biochemical oxygen demand to 300 parts per million by weight, or (2) reduce the suspended solids to 350 parts per million by weight, or (3) 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.

4. 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 prohibited are:

- a. Any liquid or vapor having a temperature higher than one hundred fifty (150) F (65 C).
- b. Any water or wastes containing fats, wax, grease or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150 F) (0 and 65 C).
- c. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Superintendent.
- d. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.
- e. 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.



f. Any waters or wastes containing phenols or other taste-or-odor-producing substances, - in such concentrations exceeding limits which may be established by the Superintendent as necessary after treatment of the composite sewage, to meet with requirements of the State, Federal, or other public agencies with jurisdiction for such discharge to the receiving waters.

g. 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.

h. Any waters or wastes having a pH in excess of 9.5.

i. Materials which exert or cause:

(1) 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).

(2) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).

(3) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

(4) Unusual volume of flow or concentration of waters constituting "slugs" as defined herein.

j. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

5. 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 6-2-5(4), 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:

a. Reject the wastes,

b. Require pretreatment to an acceptable condition for discharge to the public sewers.

c. Require control over the quantities and rates of discharge, and/or

d. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provision of 6-2-5(10) of this article.

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.

6. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection.

7. 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.

8. 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.

9. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this Ordinance 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 twenty-four (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24 hour composite of all outfalls where pH's are determined from periodic grab samples).

10. No statement contained in this article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment, therefore, by the industrial concern.

#### 6-2-6 PROTECTION FROM DAMAGE.

1. No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

(Code of Iowa, Sec. 716.1)

#### 6-2-7 POWERS AND AUTHORITY TO INSPECTORS.

1. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this Ordinance. The Superintendent or the Superintendent's 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.

2. While performing the necessary work on private properties referred to in 6-2-7(1), the Superintendent or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the City employees and the City shall indemnify the company against loss or damage to its property by the City employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Section 6-2-5(8).

3. 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.

#### 6-2-8 PENALTIES.

1. Any person found to be violating any provision of this Ordinance except Section 6-2-6 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. Any person violating any of the provisions of this Ordinance is liable to the City for any expense, loss, or damage occasioned the City by reason of such violations.

Footnote: See 384.38(3) concerning establishing districts and connection fees (H.F. 2343, 1994 legislative session).

## **TITLE VI PHYSICAL ENVIRONMENT**

### **CHAPTER 3 UTILITIES - WATER SYSTEM**

6-3-1	Enforcement	6-3-16	Service Cut off
6-3-2	Adoption of State Plumbing Code	6-3-17	Breaks in Service of Fixtures
6-3-3	License Required	6-3-18	Abandoned Service Pipes
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6-3-6	Fee for Permit	6-3-21	Discontinue Use of Water
6-3-7	Water Supply Control	6-3-22	Water Meters
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6-3-14	Service Pipes Not to be laid Across Private Property	6-3-29	Outside Water Meter
6-3-15	Separate Connections		

6-3-1     **ENFORCEMENT.** The Superintendent of public utilities shall supervise the installation of water service pipes and their connections to the water main and enforce all regulations pertaining to water services in this City in accordance with this chapter. This chapter shall apply to all replacements of existing service pipes as well as to new ones. The City Council shall make such rules, not in conflict with the provisions of this chapter, as needed for the detailed operation of the waterworks. In the event of an emergency the Superintendent may make temporary rules for the protection of the system until due consideration by the City Council may be had.

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

6-3-2     **ADOPTION OF STATE PLUMBING CODE.** The installation of any water-service pipe and any connection with the municipal water system shall comply with all pertinent and applicable provisions, whether regulatory, procedural or enforcement provisions, of the State Plumbing Code as amended and as published by the Iowa Department of Public Health, which is hereby adopted. An official copy of the State Plumbing Code as adopted and a certified copy of this Ordinance are on file in the office of the City Clerk for public inspection.

6-3-3     **LICENSE REQUIRED.** All installation of water service pipes and connections to the municipal water system shall be made by a plumber licensed by this City. The Superintendent shall have the power to suspend the license of any plumber for violation of any of the provisions of this

Ordinance. A suspension, unless revoked, shall continue until the next regular meeting of the City Council. The Superintendent shall notify the plumber immediately by personal written notice of the suspension, the reasons for the suspension, and the time and place of the City Council meeting at which the plumber will be granted a hearing. At this City Council meeting the Superintendent shall make a written report to the City Council stating the Superintendent's reasons for the suspension, and the City Council, after fair hearing, shall revoke the suspension or take any further action that is necessary and proper.

6-3-4 MANDATORY CONNECTIONS. All residences and business establishments within the City limits intended or used for human habitation, occupancy or use shall be connected to the public water supply if it is reasonably available and if the building is not furnished with pure and wholesome water from some other source.

6-3-5 PERMIT. Before any person, firm, corporation or other association shall make a connection with the public water system, a written permit must be obtained from the Superintendent. The application for the permit shall be filed with the Superintendent on blanks furnished by the Superintendent. The application 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. No different or additional uses shall be allowed except by written permission of the Superintendent. The Superintendent shall issue the permit, bearing the Superintendent's signature and stating the time of issuance, if the proposed work meets all the requirements of this Ordinance and if all fees required under this Ordinance have been paid. Work under any permit must be begun within six (6) months after it is issued. The Superintendent may at any time revoke the permit for any violation of this Ordinance and require that the work be stopped. The owner or plumber may appeal such action in the manner provided in Section 6-3-3 of this Ordinance.

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

6-3-6 FEE FOR PERMIT. Before any permit is issued the person who makes the application shall pay a fee to the (Superintendent) (City Clerk) to cover the cost of issuing the permit and supervising, regulating and inspecting the work. The fee shall be established by Resolution. (See footnote at end of chapter)

6-3-7 WATER SUPPLY CONTROL. The plumber who makes the connection to the municipal water system shall install a main shut-off valve of the inverted key type on the water-service pipe near the curb with a suitable lock of a pattern approved by the Superintendent. The shut-off valve shall be covered with a heavy metal cover having the letter "W" marked thereon, visible and even with the pavement or ground.

The plumber also shall install a shut-off valve and waste cock on every service pipe inside the building near the entrance of the water-service pipe into the building; this must be located so that the water can be shut off conveniently and the pipes drained. Where one service pipe is installed to supply more than one customer, there shall be separate shut-off valves inside the building for each customer so that service to one customer can be shut off without interfering with service to the others.

6-3-8 **MAKING THE CONNECTION.** Any connection with the municipal water system must be made under the direct supervision of the Superintendent or the Superintendent's authorized assistant. All taps in the water main must be at least (12) inches apart and on the side and near the top and not in any case within 18 inches of the hub.

- a. **Service Pipe.**
  1. No water service pipe or tap for any building shall be less than three-quarter (3/4) inches in diameter. All pipe up to and including one and one-half (1 ½) inch inside diameter shall be "Type K". All pipe over one and one-half (1 ½) inches must be "Type K" heavy type copper, cast iron or PVC grade water pipe approved by the Public Works Director. Pipe must be laid to such a depth as to prevent rupture from settling or freezing. PVC pipe must be installed with tracer wire.
  2. All water service pipes and their connections to the water system must be inspected and approved by the Public Works Director, before they are covered, and the Director shall keep a record of such approvals. If the Director 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 Public Works Director or his/her designee to enter the premises to inspect or make necessary alterations or repairs at all reasonable hours and upon proof of authority.
- b. **No Connection Between Different Services.** When there are two or more buildings on premises, the piping from each service must be kept separate, and no connection made from one to the other.
- c. **Depth of Service Pipe.** Service pipe must be laid at least five and one-half (5 ½) feet below the surface of the ground. When pipes are laid in streets or ground subject to fixed grades where the surface of the ground is higher than the established grades, they shall be laid so that they will be at least five and one-half (5 ½) feet below the established grade.
- d. **Maintenance of Service Pipes.** All service pipes and fixtures from the street water main to the premises, including the corporation cocks at the mains (except corporation cocks put in during the initial water installation period) shall be installed and maintained at the expense of the owners, and any leaks or other defects in the same shall be promptly repaired by the owner. If not promptly repaired, the water shall be turned off until such repairs have been made, and the expense incurred thereby shall be charged against such owner, and must be paid before water shall be turned on again. If such repair is not made within three (3) days of written notification by the City, the property owner shall be charged the sum of fifteen dollars (\$15.00) per day for each day after said three (3) day period of grace, during which the said water wastage shall continue.

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

6-3-9 EXCAVATIONS. Excavations to do work under this Ordinance shall be dug so as to occasion the least possible inconvenience to the public and to provide for the passage of water along the gutter. All such excavations shall have proper barricades at all times, and warning lights placed from one-half hour before sunset to one-half hour after sunrise. In refilling the excavation the earth must be laid in layers and each layer tamped thoroughly to prevent settlement, and this work, and any street, sidewalk, pavement or other public property that is affected, must be restored to as good a condition as it was previous to the excavation. The plumber must maintain the affected area in good repair to the satisfaction of the City Council for three months after refilling. All water service pipes must be laid so as to prevent rupture by settlement or freezing. No excavation shall be made within six (6) feet of any laid water or sewer pipe while the ground is frozen, and no water or sewer pipe shall be exposed to frost, except by special written permission of the Superintendent.

6-3-10 INSPECTION AND APPROVAL. All water-service pipes and their connections to the municipal 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 owner must proceed immediately to correct the work so that it will meet with the Superintendent's approval. Every person who uses or intends to use the municipal water system shall permit the Superintendent or the Superintendent's authorized assistants to enter the premises to inspect and make necessary alterations or repairs at all reasonable hours and on proof of authority.

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

6-3-11 COMPLETION BY THE CITY. Should any excavation be left open or partly refilled for twenty-four (24) hours after the water-service pipe is installed and connected with the municipal water system, or should the work be improperly done, the Superintendent shall have the right to finish or correct the work, and the City Council shall assess the costs to the property owner or the plumber. If the plumber is assessed, the plumber must pay the costs before the plumber can receive another permit, and the plumber's bond required by the Plumbing Ordinance shall be security for the assessment. If the property owner is assessed, such assessment shall be collected with and in the same manner as general property taxes.

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

6-3-12 METER ACCURACY AND TEST. All water shall be supplied through meters that accurately measure the amount of water supplied to any building. The Superintendent or the Superintendent's assistant shall make a test of the accuracy of any water meter at any time when requested in writing. If it is found that such meter overruns to the extent of 5 percent or more, the cost of the tests shall be paid by the City and a refund shall be made to the customer for overcharges collected since the last known date of accuracy but not for longer than 6 months. If the meter is found to be accurate or slow less than 5percent fast, the patron shall pay the reasonable costs of the tests.

Compulsory Check. Every meter shall be removed from service at least once each 10 years and thoroughly tested for accuracy. Any meter found inaccurate beyond a tolerance of 5 percent shall not be returned to service until properly adjusted.



**6-3-13 ABANDONED CONNECTIONS.** When an old water service is abandoned or a service is renewed with a new tap on the main, all abandoned connections with the mains shall be turned off at the corporation cock and made absolutely water tight.

**6-3-14 Service Pipes Not to be Laid Across Private Property.** No consumer shall be permitted to conduct water pipes across lots or buildings to adjoining premises, but all service pipes shall be laid on streets, alleys, or public grounds to the premises to be served, and entered the building nearest the main.

**6-3-15 Separate Connections.** There shall be separate service pipes laid from the main to each dwelling or unit being served. Such service pipe shall be laid in a straight line at right angles to the water main, and connections made within two lines drawn parallel to the sides of the building to be served and not more than ten feet outside of these sides. In all cases each building served must have an independent service shut off. Apartment buildings may have one (1) service line into the apartment building; however, the line must be split once in the building for each apartment. The owner of the apartment building must provide the City with access to the water line shutoff twenty-four (24) hours a day.

**6-3-16 Service Cut Off.**

a. A curb stop and shut off for controlling the supply of water to consumers shall be placed on every service. When connections are made in streets or alleys the stop box shall be placed less than twelve (12) inches inside the sidewalk or sidewalk line on City property; and when made in alleys, it shall be placed within the area located twelve (12) inches outside of the lot lines. The cover of said stop box shall be maintained at the same height as the sidewalk or the surrounding ground. Where area walls or curb lines prevent the location of the stop box and shut off at the point indicated, they shall be placed immediately within the area wall or curb line. All stop boxes must be set on a line drawn at right angles to the main through the service corporation or connection in the main.

b. Every service pipe must also have a stop and waste placed in the building within two (2) feet of the point where the pipe enters the building. Said stop must have a handle or wrench attached to turn the same, and be kept in working order at all times so that the water supply may be shut off by the occupant of the premises.

c. The outside shut off and stop box shall be under the sole control of the City and no one except an employee or person specially authorized by the City Council shall open the cover of such box, or turn on or off the water. Provided, however, that approved plumbers may turn off or on the water for testing plumbing or making repairs, but whenever so used to shut off must be left closed if found closed, and open if found open, by the plumber who uses it.

d. The stop box in every service must be kept flush with the surrounding ground or surface, and must be visible from the sidewalk. The curb box and shut off must be kept in

good condition and ready for use at all times by the owner. Should the owner neglect to maintain such box and shut off in proper condition to be used, and if the stop box is found to be filled up, or the stop box or shut off found to be out of repair at any time, the City shall have the right to clean or repair the same when needed without giving notice, and charge the cost thereof to the owner, and if payment is refused, the payment thereof may be enforced in the same manner as that provided in the case of delinquent water bills.

e. 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 customer so that service may be shut off for one without interfering with service to the others. The interior valves shall be placed on the customer side of the meter within one (1) foot of the meter. This will be required for all new construction and plumbing service upgrades.

**6-3-17 Breaks in Service of Fixtures.** The City shall not be held responsible by reason of the breaking of any service pipe or water coil, or for failure in the supply of water.

**6-3-18 Abandoned Service Pipes.** If a service pipe or connection, which is not being used, is found to be leaking, the City may without notice, repair or turn off the same, and charge the expense thereof to the owner of the property last served by this connection.

**6-3-19 Right to Shut Off Water.**

a. The City reserves the right to at any time, when necessary, without notice, to shut the water off its mains for the purpose of making repairs or extensions or for other purposes, and no claims shall be made against the City by reason of the breakage of any service pipe or service cock or from any other damage that may result from shutting off water for repairing, laying, or relaying mains, hydrants or other connections. The City may give notice of shutting off water if conditions are such that it is possible to do so.

b. When water is shut off for making repairs in premises having water heating coils in heaters, consumers should turn off the water at the basement shut off and open a faucet in the hot water pipe and leave it open until water is turned on, in order to protect piping and fixtures from excessive pressures from hot water or steam.

**6-3-20 Responsibility in Turning on Water.** In turning on water the city shall not be responsible for any damage that may occur by reason of improper fixtures, open or improper connections, or from any other cause.

**6-3-21 Discontinue Use of Water.** Owners or consumers desiring to discontinue the use of water shall give notice thereof in writing to the City who shall then cause the water to be turned off and the meter removed. A service charge of Twenty-five Dollars (\$25.00) shall be made to shut off and reconnect the service. Water rents or charges for services shall be made

until notice is given. When water service is discontinued, all water rentals for such service shall become due and payable. No service will be reconnected or turned back on until all past due fees and charges are paid in full. If for any reason, a meter is removed from a house temporarily because of an owner's absence or danger of the meter freezing, a charge of Twenty-five Dollars (\$25.00) shall be made to cover the cost of removing and reconnecting the meter.

#### **6-3-22 Water Meters.**

a. The City shall provide one (1) water meter per service line. All water meters furnished to the customers shall be metered. All meters shall be set and installed by a plumber licensed through the State of Iowa, at the owner's expense, at a suitable location in the piping system for same. Meters shall be placed on service pipe not to exceed two (2) feet from the location in the wall or floor where such pipe enters the premises.

In the event a meter larger than that required for a single-family residence is needed, the full cost of such larger meter shall be paid by the customer requesting or needing such larger meter. The cost of the meter shall be paid to the City, by the property owner or customer, prior to the installation of the meter.

b. The piping system shall be so constructed and the meters placed so that all water supplied by the City to be used in or about the premises shall pass through the water meter, and the owner of the premises shall be responsible for compliance with this provision of this Ordinance, and he or she shall be liable for the payment for water used in violation of this Ordinance. The first offense for violating this provision will be a fine of up to Five Hundred Dollars (\$500.00). For each subsequent offense, a civil penalty of up to Seven Hundred Fifty Dollars (\$750.00) shall be imposed. The amount of such water used shall be determined by the City, but in every case where City water is used in violation hereof, the water bill shall be increased not less than one and a half (1½) times the average monthly usage.

c. There shall be a stop and waste between the meter and the wall, and a suitable place provided for the meter so as to keep it safe and clean and readily accessible at all times to the meter reader and inspectors of the City. All valves and fittings necessary to comply with these requirements and to provide connection to the meter, except a coupling or flange at each end of the meter, shall be provided by the owner of the premises to be served. In case that two or more meters are desired for measuring water to two different tenants in the same building from one service connection, they shall be so placed that neither of the meters shall measure water which has passed through another one.

**6-3-23 Unnecessary Waste.** The City reserves the right to prohibit the use of water for yard sprinklers or large consumers of water, when in the judgment of the City, the public welfare requires such action. The City shall adopt a resolution setting forth the basis for the moratorium and the length of time the moratorium will be in effect. Violation of the City

prohibition will be a simple misdemeanor enforceable by municipal infraction or criminal citation.

#### **6-3-24 Owners to Protect Meters.**

a. The owners or occupants of premises where a meter is installed shall be held responsible for its care and protection from freezing or hot water and from other injury or interference from any person or persons. In case of any injury to the meter, or in case of its stoppage or imperfect working, he or she shall give immediate notice to the City. In all cases where water meters are broken or damaged by negligence of owners or occupants of the premises, or by freezing, hot water, or other injuries except ordinary wear the necessary repairs to the meter shall be made by the City and the cost of such repairs shall be paid for by such owner or occupant, and in case payment thereof is neglected or refused, the cost of such repairs shall be added to the consumer's water bill and payment thereof enforced as provided for delinquent water bills. Damaged meters may be repaired by the City without first giving notice thereof to the owners of the premises where such meter is located.

b. No one shall in any way interfere with the proper registration of water meters, and no one except as authorized by the City shall break a seal of a meter, provided, however, that the City may grant written permission to approved plumbers in cases of emergency to break a water meter seal. The owner of the property may be charged a civil penalty of up to Five Hundred Dollars (\$500.00) for the first offense and up to a Seven Hundred Fifty Dollar (\$750.00) civil penalty for each subsequent violation of this section.

c. Wherever a water meter is installed on a water service in the premises that are to be remodeled, removed or destroyed, or where the service is discontinued so that the water meter is no longer needed, the owner of such meter, and free access to such meter shall be provided at least twenty-four hours after such notice is given so that the meter may be removed. The owner of the premises shall be held responsible for the meter until such written notice is given. If the meter is covered or lost, he or she shall be required to pay to the City a sum equal to the fair, reasonable market value thereof. The replacement cost thereof is presumed to be its fair reasonable market value.

**6-3-25 Other Supply Than City Water.** On premises where water is supplied from two (2) sources, the City water being one of them, the piping system the City water must be entirely separated from that of the other source.

**6-3-26 Inspection of Meters, Pipes and Fixtures.** The City shall be permitted at all reasonable hours to enter the premises or buildings of consumers for the purpose of reading meters and to examine the water pipes and fixtures and the manner in which water is used. The City reserves the right to set or remove a meter whenever it is deemed advisable to do so. Refusal on the part of the owner, consumer or occupant of any premises served with City water to permit an employee of the City to enter such premises at any reasonable hour for reading the water meter or inspecting water pipes and fixtures shall be sufficient cause to

**forthwith discontinue the water service at such premises.**

**6-3-27 Fire Hydrants Not to be Used.** No person, save and except members of the Fire Department of the City of Dunlap, Iowa, or employees of the City acting in regular performance of their duties, shall open any hydrant belonging to the City at any time without a permit in writing signed by an authorized City Official.

**6-3-28 Water Works Property.** It shall be unlawful to break, injure, mar, or deface, interfere with or disturb any building, machinery apparatus, fixtures attachments or appurtenance of the water works, or any hydrant, stop cock box, or commit any act tending to obstruct or impair the intended use of any of the above mentioned property, without permission of the City Council or excepting cases herein otherwise provided by Ordinance.

**6-3-29 OUTSIDE WATER METERS.** Any customer may apply to the City for a second water meter for underground irrigation systems as long as the wastewater from said activity does not flow into the sanitary sewer. Application shall be made with the City on permit forms available at the Clerk's office. The application shall be accompanied by a permit fee in the amount of twenty-five dollars (\$25.00).

1. The meter shall be installed between the existing meter servicing the property structure(s) and the main. Superintendent may develop specifications for any additional plumbing which may be required for the outside water meter. The Superintendent shall be responsible in determining where the remote reading device for the meter is located.
2. Any water usage measured through such meters shall be subject to water rates as specified in Ordinance 189 but shall not be subject to sewer use charges.
3. Such meters and remote reading devices shall be purchased by the customer through the City at fees to be established by the City.
4. The water meter shall be installed by a licensed plumber at customer's expense and under the supervision of the Superintendent. During any period in which the City determines that it is necessary to conserve water, all outside metered services shall be disconnected immediately. Disconnection will be completed by the City. Reconnection shall occur only when the water conservation period is over, as determined by the City.
5. If at any time it is brought to the attention of the City that the customer is using the outside metered service to provide water for uses other than their underground irrigation system, the outside service meter shall be removed and the customer shall no longer be eligible for such service.
6. Any sign of meter tampering by the customer shall result in the immediate termination of the outside metering service.

7. The City shall retain ownership of the outside water meter; however, any customer assumes the responsibility for any damage to the outside water meter and remote reading appurtenances.

## **TITLE VI PHYSICAL ENVIRONMENT**

### **CHAPTER 4 UTILITIES - REFUSE COLLECTION**

6-4-1	Definitions	6-4-11	Collection Service
6-4-2	Duty to Provide Cans	6-4-12	Collection Vehicles
6-4-3	Administration	6-4-13	Loading
6-4-4	Storage	6-4-14	Frequency of Collection
6-4-5	Collections	6-4-15	Location of Containers
6-4-6	Necessity of Permits	6-4-16	Bulky Rubbish
6-4-7	Burning of Refuse	6-4-17	Tree Limbs and Brush
6-4-8	Refuse Other Than Garbage	6-4-18	Right of Entry
6-4-9	Sanitary Landfill	6-4-19	Collector's License
6-4-10	Separation of Yard Wastes Required	6-4-20	Collection Fees

6-4-1    **DEFINITIONS.** For use in this chapter, the following terms are defined as follows:

1. "Refuse". Includes all garbage, rubbish, ashes, or other substances offensive to sight or smell, dangerous to the public health or detrimental to the best interests of the community except dead animals not killed for food.

2. "Garbage". Includes all animal, fruit, vegetable, and other refuse resulting from the preparation of food and drink.

3. "Rubbish". Includes all other refuse not falling within the term "garbage" except those objects too large to be placed in cans.

4. "Can". Means a container for the storage of garbage or rubbish, which is:

- a. Provided with a handle and tight fitting cover.
- b. Made of non-corrosive material.
- c. Water-tight.
- d. With a capacity of no more than thirty-five (35) gallons.

5. "Yard Waste". Organic debris (e.g. grass clippings, leaves, tree limbs, bark, branches, flowers, etc.) which is produced as part of yard and garden development and maintenance.

6-4-2    **DUTY TO PROVIDE CANS.** Each person shall provide cans or approved containers for the storage of garbage and rubbish accumulating on the premises owned or occupied by such owner.

Such cans or containers shall be kept covered and reasonably clean at all times. The cans or containers shall be in a position readily accessible to the collector.

It shall be the duty of the owner of each household residing in a building arranged for more than one family unit to provide proper cans for garbage and rubbish.

6-4-3 ADMINISTRATION. Administration of this chapter shall be by the Superintendent of refuse, or such employee designated by the Superintendent.

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

6-4-4 STORAGE. All garbage must be drained. All rubbish shall be placed in a can except as otherwise provided.

6-4-5 COLLECTIONS. All garbage and rubbish shall be taken from dwellings at least once each week and from public establishments as frequently as the City Council may require.

All cans for garbage and rubbish shall be kept as provided in the rules and regulations for collection of refuse.

6-4-6 NECESSITY OF PERMIT. No person shall collect garbage or rubbish except such person's unless otherwise by contract or permit approved by the Superintendent of refuse and issued by the Clerk.

In the event any business, firm, or corporation may elect to dispose of refuse or waste matter as may accumulate on any premises, property, or location, the same may be done provided that such disposal and transporting of any refuse or waste matter complies with the provisions of this chapter, is approved by the City and a permit issued by the Clerk.

6-4-7 BURNING OF REFUSE.

1. It shall be unlawful for any person to burn or incinerate any garbage, rubbish, or refuse within the City except by permission of the City Council.

2. This section shall not apply to any incinerator operated under a license granted by the City or any burning conducted under the direction of the fire department for training purposes.

3. This section shall not apply to outdoor cooking appliances used for residential recreational purposes using commonly acceptable fuels.

4. The following burning shall be permitted:

A. 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.



B. 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 Iowa Department of Natural Resources.

C. Landscape Waste. The disposal by open burning of landscape waste originating on the premises. However, the burning of landscape waste produced in clearing, grubbing, and construction operations shall be limited to areas located at least one-fourth mile from any inhabited building. Rubber tires shall not be used to ignite landscape waste.

D. Backyard burning. Backyard burning of residential waste at dwellings of four family units or less.

E. Training Fires. Fires set for the purpose of bona fide training of public or industrial employees in fire fighting methods, provided that the Fire Chief receives notice in writing at least one week before such action commences.

6-4-8 REFUSE OTHER THAN GARBAGE. Each person shall dispose of all refuse other than garbage and rubbish accumulation on the premises such person owns or occupies before it becomes a nuisance. If it does become a nuisance, it shall be subject to provisions of Title III, Chapter 2 of this Code.

6-4-9 SANITARY LANDFILL. The City Council by resolution may designate a sanitary landfill and establish reasonable rules and regulations necessary to control its use by the public and make charge for the use thereof.

6-4-10 SEPARATION OF YARD WASTES REQUIRED. All yard waste shall be separated by the owner or occupant from all other garbage and refuse accumulated on the premises and shall be composted on the premises or placed in degradable bags, containers, or packages and set out for collection.

6-4-11 COLLECTION SERVICE. The city shall provide for the collection of solid waste except bulky refuse as provided in Section 6-4-16, from residential premises only. The owners or operators of commercial, industrial or institutional premises shall provide for the collection of solid waste produced upon such premises.

6-4-12 COLLECTION VEHICLES. Vehicles or containers used for the collection and transportation of garbage and other solid waste 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.

6-4-13 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 there from, 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.

6-4-14 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.

6-4-15 LOCATION OF CONTAINERS. Containers for the storage of solid wastes awaiting collection shall be placed at the curb or alley as designated by the council. Containers or other solid wastes placed at the curb line shall not be so placed more than 12 hours in advance of the regularly scheduled collection day and shall be promptly removed from the curb line following collection.

6-4-16 BULKY RUBBISH. Bulky rubbish which is too large or heavy to be collected in the normal manner of other solid waste shall be collected by the collector upon request in accordance with procedures therefore established by the council.

6-4-17 TREE LIMBS AND BRUSH. Tree limbs of less than four inches in diameter and brush will be collected provided they are placed at the curb or alley line, securely tied in bundles not more than 48 inches long or 18 inches in diameter when not in approved containers and weight no more than 40 pounds.

6-4-18 RIGHT OF ENTRY. Solid waste collectors are hereby authorized to enter upon private property for the purpose of collecting solid waste, however solid waste collectors shall not enter dwelling units or other residential buildings.

6-4-19 COLLECTOR'S LICENSE. No person shall engage in the business of collection, transporting, processing or disposing of solid waste other than his own within the city without first obtaining from the city an annual license in accordance with the following:

1. Application. Application for a solid waste collector's license shall be made to the clerk and provide the following:

- A. Name and Address. The full name and address of the applicant, and if a corporation, the names and addresses of the officers thereof.

- B. Equipment. A complete and accurate listing of the number and type of collection and transportation equipment to be used.

- C. Collection Program. A complete description of the frequency, routes and method of collection and transportation to be used.

D. Disposal. A statement as to the precise location and method of disposal or processing facilities to be used.

2. Insurance. No collector's license shall be issued until and unless the applicant therefore, in addition to all other requirements set forth, shall file and maintain with the city evidence of satisfactory public liability insurance covering all operations of the applicant pertaining to such business and all equipment and vehicles to be operated in the conduct thereof. Minimum amounts of insurance shall be established periodically by the City Council.

Each insurance policy required hereunder shall include as a part thereof provisions requiring the insurance carrier to notify the city of the expiration, cancellation or other termination of coverage not less than 10 days prior to the effective date of such action.

3. License Fee. A license fee in the amount of \$5.00 for each vehicle or transport container to be used in the city shall accompany the application. In the event the requested license is not granted, the fee paid shall be refunded to the applicant.

4. License Issued. If the council upon investigation finds the application to be in order and determines that the applicant will collect, transport, process or dispose of the environment and in conformity with law and ordinance the requested license may be issued to be effective for a period of one year from the date approved.

5. License Number Displayed. All vehicles, mobile equipment or facilities operated by virtue of a license granted hereunder shall have prominently displayed thereon in a clearly visible manner the license number under which operated.

6. License Renewal. An annual license may be renewed simply upon payment of the required fee if operated in substantially the same manner as provided in the original application and by providing the clerk with a current listing of vehicles, equipment and facilities in use.

7. License Not Transferable. No license authorized by this article may be transferred to another person.

8. Owner May Transport. Nothing herein is to be construed so as to prevent the owner from transporting solid waste accumulating upon premises owned, occupied or used by him, provided such refuse is disposed of properly in an approved sanitary disposal project.

9. Grading or Excavation Exception. No license or permit shall be required for the removal, hauling or disposal of earth and rock material from grading or excavation activities, however, all such materials shall be conveyed in tight vehicles, trucks or receptacles so constructed and maintained that none of the material being transported shall spill upon the public rights of way.

3-4-20 COLLECTION FEES. The collection and disposal of solid waste as provided by this article is declared to be a benefit to the property served or eligible to be served and there shall be levied and collected fees therefore in accordance with the following:

1. Schedule of Fees. The fee for solid waste collection and disposal service used, or available, shall be determined by the contract the City enters into with the hauler of the solid waste. In addition to the contractual fee, the City shall collect a fee to defray the costs of maintaining a solid waste landfill in Harrison County, Iowa. Each individual, individuals, or entity that is registered with the City Clerk as being responsible for the payment of water to the City for that dwelling, apartment or multiple family unit shall pay the contractual fee plus a fee of \$5.75 per month. The registered water user shall also pay an additional fee of \$3.75 per month for each rental unit in said persons dwelling, apartment, or multiple family unit. The fees may be collected in the manner as the fees for water and sewer usage are collected. A fee may also be collected by the City for any administrative expenses in complying with this ordinance.

2. Liability for payment for the fees connected with the collection of refuse and solid waste as provided by the City of Dunlap, Iowa shall be borne by the individual, individuals, or entity that is registered with the City Clerk as being responsible for the payment of water to the City for that dwelling. They will be subject to said fee whether or not said parties actually avail themselves of the service provided.

3. Providing for fees and the collection thereof to maintain a solid waste landfill site for the city of Dunlap, Iowa.

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 5 UTILITIES - BILLING CHARGES

6-5-1	Utility Defined	6-5-11	Determination and Payment of
6-5-2	Districts		Sewer Rent From Premises
6-5-3	Disposition of Fees and Charges		With Private Water Systems
6-5-4	Billing, Penalty	6-5-11	Special Rates
6-5-5	Discontinuing Services, Fees	6-5-12	Payment of Bills
6-5-6	Lien Exemption	6-5-13	Lien for Non-Payment
6-5-7	Lien Notice	6-5-14	Shutting off Sewer and
6-5-8	Customer Guarantee Deposits		Water Utilities
6-5-9	Water Rates		
6-5-10	Rate of Sewer Rent and		
	Manner of Payment		

6-5-1 UTILITY DEFINED. For use in this chapter, utility is the sewer, water, and refuse collection systems operated by the City.

6-5-2 DISTRICTS. There shall be one sewer and water district which encompasses all of the City of Dunlap, Iowa.

6-5-3 DISPOSITION OF FEES AND CHARGES. All money received under this chapter shall be deposited in the City treasury not later than the last day of the month in which it was received and a written report of the amount and source of the fees and charges shall be on file with the City Clerk.

6-5-4 BILLING, PENALTY. Utility bills shall be due on the first of the month following the period for which service is billed. Payment shall be made to the City Clerk. Bills shall become delinquent after the fifteenth of the month in which due and bills paid after said day shall have added a penalty of five (5) percent of the amount of the bill for utility service. When the fifteenth falls on Saturday or Sunday, the City Clerk shall accept payment on the next office day without penalty.  
(Code of Iowa, Sec. 384.84(1))

6-5-5 DISCONTINUING SERVICE, FEES.

1. If any account is not paid within thirty days from the end of any given period, the service to such owner or person so supplied with the utility shall be discontinued after the following procedures have been complied with:

- a. **The Public Works Director, or their authorized representative, shall shut off the supply of water to any customer who, not having contested the amount billed in good faith, has failed to pay the bill for water on or before the tenth (10<sup>th</sup>) day after mailing of written notice that the water supply will be shut off. The City Clerk shall send such notice within forty-eight (48) hours following the delinquent**

**date, or on the first office day following such first day after the delinquent date. When a Sunday or legal holiday intervenes during the notice period, such days shall not be counted. The Clerk shall notify each delinquent customer that service will be 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 discontinuance.**

**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 a hearing is requested, the Mayor shall conduct an informal hearing and shall make a determination as to whether the disconnection is justified.**

b. The City Clerk shall send a disconnect or discontinuance notice by ordinary mail providing the following notice to customers: "You are advised that you may request a hearing on this matter to the City Clerk by noon on the day preceding the scheduled shut-off date or discontinuance of service."

c. When a hearing is requested by a customer, the Mayor or the Mayor's designee shall conduct a hearing within two (2) days following the request. The customer shall have the right to present evidence or propose a payment plan. The decision of the Mayor is final.

2. a. If service is discontinued for nonpayment of fees and charges, or for the violation of any Ordinance, a fee of \$2.50 shall be paid to the City Clerk in addition to the rates or charges then due before such service is restored. If any such service charge is not paid within sixty (60) days from the date it is due, the same shall constitute a lien upon the premises served by said municipal system, which said lien shall be collected in the same manner as taxes.

(Code of Iowa, Sec. 384.84(2))

3. A lien shall not be certified to the County Treasurer for collection unless thirty (30) days prior written notice by ordinary mail of the intent to certify a lien is given to the account holder of the delinquent account. If the account holder is a tenant, and if the owner or property lessor of the property has made a written request for notice, the notice shall also be given to the owner.

(Code of Iowa, Sec. 384.84 (3))

4. **If the property in which there are delinquent utilities owing is sold before the City certifies the lien to the County Treasurer, the City may certify the delinquent utilities against another property located in this state owned by the delinquent user.**

**(Code of Iowa, Sec. 384.84(3)(a)(3))**

**5. There will be no extension of water service after the current billing, unless an extension is preapproved due to extenuating circumstances. The City Clerk or the Clerk's authorized representative will determine whether to authorize an extension of time to pay, based on individual circumstances and the customer's payment history. Repeat violators will not be extended past the shut-off date at the discretion of the City.**

**6. Persons receiving service outside the City limits shall be deemed to have accepted the requirements of the water service and rules set by the City Council and its authorized representatives. Persons receiving water service outside the city limits shall be charged a rate of 1-1/2 times the rate charged to premises located within the corporate city limits of the City.**

**6-5-6 LIEN EXEMPTION.** The lien for nonpayment shall not apply to a residential rental property where water service is separately metered and the rates or charges for the water service are paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential rental property and that the tenant is liable for rates or charges. The City may require a deposit not exceeding the usual cost of ninety (90) days of water service be paid to the City. The landlord's written notice shall contain the name of the tenant responsible for the charges, the address of the rental property and the date of occupancy. A change in tenant shall require a new written notice to be given to the City within thirty (30) business days of the change in tenant. When the tenant moves from the rental property, the City shall refund the deposit to the tenant if the water service charges are paid in full. A change in the ownership of the residential rental property shall require written notice of such change to be given to the City within ten (10) business days of the completion of the change of ownership. The lien exemption does not apply to delinquent charges for repairs to the water service.

**6-5-7 LIEN NOTICE.** A lien for delinquent water service charges shall not be certified to the County Treasurer unless prior written notice of intent to certify a lien is given to the customer in whose name the delinquent charges were incurred. If the customer is a tenant and if the owner or landlord of the property or premises has made a written request for notice, the notice shall also be given to the owner or landlord. The notice shall be sent to the appropriate persons by ordinary mail, not less than thirty (30) days prior to certification of the lien to the County Treasurer.

(Code of Iowa, Sec. 384.84(3)(d))  
(Code of Iowa, Sec. 384.84(3)(e))  
(Amended in 2012)

**6-5-8 CUSTOMER GUARANTEE DEPOSITS.** Customer deposits shall be required of all customers who are tenants, or others having no established credit record, and of those who have an unacceptable credit record or who have a prior record of failure to pay water bills rendered. Such deposit shall be equal to the estimated typical bill for the type of use contracted for, and be set to the

nearest five (\$5.00) dollars. Deposits of customers having established acceptable credit records for three (3) years shall have their deposits returned. An occurrence or recurrence of a bad payment record may be the occasion for the City Clerk to require a new or larger deposit for the continuation of service.

(Code of Iowa, Sec. 384.84(1))

6-5-9 WATER RATES. Water shall be furnished at the following monthly rates per property serviced by the City of Dunlap:

(Code of Iowa, Sec. 384.84(1))

0 - 1,000 gallons used per month:	\$11.50 per month (minimum)
Each 1,000 gallons after first 1,000:	\$6.00 per thousand gallons;

In addition to the above basis, there shall be an additional \$5.00 per month current water infrastructure fee for each household.

The minimum charge shall be \$16.50 per household or business building per billing month.

A. Said rate shall be collected in increments of 100 gallons on a pro-rated basis.

B. Additionally, the city shall assess a \$1.50 administrative fee each month to each customer's water bill.

C. A water deposit in the amount of \$100.00 shall be collected from the user prior to the water service being connected to the user's property. At such time as a customer is presented with its final billing statement, the deposit shall be applied thereto, and if the bill is less than the deposit any excess shall be remitted to the customer or its personal representative. If the deposit is less than the final bill then any excess shall be paid by the customer.

Billing for Water Service. Billing and payment for water service shall be in accordance with the following schedule:

1. Meters read. Water meter shall be read during the last month of each of the quarters consisting of the following months:

First Quarter:	January, February and March.
Second Quarter	April, May and June.
Third Quarter	July, August and September.
Fourth Quarter	October, November and December.

2. Bills issued. The city clerk shall prepare and issue bills for water service on or before the 25<sup>th</sup> day of each month, basing the bills for January, February, April, May, July, August, October and November on one third of the total water usage by the customer during the previous quarter. The bills for March, June, September and December shall be based on total water usage for the



quarter ending with those months, with credit being given to the customer for payments made during the previous two months of that quarter.

3. Bills payable. Bills for water service shall be due and payable at the office of the city clerk by the 20<sup>th</sup> day of the month following issuance.

4. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A one time later payment penalty of five (5%) percent of the amount due shall be added to each delinquent bill.

6-5-10 RATE OF SEWER RENT AND MANNER OF PAYMENT. The rate of sewer rent shall be seventy-five (75) percent of the net water bill for each premise plus a five (5) dollar current sewer infrastructure fee. The rent shall be paid with the water bill at the same time as payment of the water bill is due and under the same condition as to penalty for late payment, at the office of the City Clerk, beginning with the next payment after the enactment of this Ordinance, or, if connection has not been made, after the connection to the sewer system is made.

(Code of Iowa, Sec. 384.84(1))

6-5-11 DETERMINATION AND PAYMENT OF SEWER RENT FROM PREMISES WITH PRIVATE WATER SYSTEMS. Users whose premises have a private water system shall pay a sewer rent in proportion to the water used and determined by the City Council either by an estimate agreed to by the user or by metering the water system. The rates shall be the same as provided in Section 6-5-10 applied as if a City water bill were to be paid. Rent shall be paid at the same time and place as provided in Section 6-5-10.

(Code of Iowa, Sec. 384.84(1))

6-5-12 SPECIAL RATES. Where, in the judgment of the superintendent and the council, special conditions exist to the extent that the application of the sewer rental provided in Section 6-5-10 would be inequitable or unfair to either the city or the contributor, a special rate shall be proposed by the superintendent and submitted to the council for approval by resolution.

(Code of Iowa, as amended, Sec.384.84(2)(b ))

6-5-13 PAYMENT OF BILLS. All sewer rentals shall be due and payable under the same terms and conditions provided for payment for water service except that the provision of Section 6-5-14 shall be used to enforce collection of delinquent sewer charge. Water service may not be discontinued for failure to pay sewer rental chares.

(Code of Iowa, as amended, Sec. 384.84(1))

6-5-14 LIEN FOR NON-PAYMENT. Sewer rental charges remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the clerk to the county auditor for collection in the same manner as property taxes.

(Code of Iowa, as amended, Sec. 384.84(1))

6-5-15 SHUTTING OFF SEWER AND WATER UTILITIES. In the event that a customer becomes delinquent in the payment of a utility bill the City Clerk shall give written notice to the account holder by ordinary mail, informing the account holder of the nature of the delinquency and affording the account holder the opportunity for a hearing prior to discontinuance of service. If the account holder is a tenant, and if the owner or landlord of the property has made a written request for notice, the notice shall also be given to the owner or landlord. The hearing officer shall be the City Clerk or the Mayor or a Council member or the water superintendent. The hearing shall be held no later than noon on the day preceding the scheduled shut off date of the service. The decision of the hearing officer shall be final. The utility service shall not be turned on again until all violations have been corrected and the utility superintendent has ordered the service to be turned on or re-instated.

## **TITLE VI PHYSICAL ENVIRONMENT**

### **CHAPTER 6 STREET CUTS AND EXCAVATIONS**

6-6-1	Excavation Permit Required	6-6-4	Safety Measures
6-6-2	Application for Permit	6-6-5	Backfilling and Restoration
6-6-3	Permit Fees	6-6-6	Rules and Regulations

6-6-1 EXCAVATION PERMIT REQUIRED. Excavating within the right-of-way of public streets and alleys, and of public grounds, and the cutting of surfacing or pavings of the traveled way therein, shall not be done by any person, firm, association, or corporation without obtaining a permit from the City Clerk.

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

6-6-2 APPLICATION FOR PERMIT. No person shall commence excavation in any public street or public ground until that person has applied to the City Clerk for an excavation permit. Such application shall indicate the location of the excavation, the name and address of the applicant who is to do the work, whether public liability insurance is in force, and that the applicant has checked the underground map of all utilities, and other owners of underground facilities, and that the applicant has notified those persons or companies of the time that excavation will commence. The making of an application shall be deemed notice to the City of Dunlap of the plan to cut the street surfacing or pavements, and to obstruct the public way. Such permits shall not be valid until six hours after receipt unless the Clerk waives this requirement.

In an emergency, authorized persons or companies may commence excavations provided that they shall have made a reasonable effort to inform the City and the utilities whose underground utilities might be involved in any way, and those involved in the excavation shall make written application at the earliest practicable moment. The Clerk may provide on the form for the certification that the applicant has notified all utilities and other parties required by this Ordinance.

6-6-3 PERMIT FEES. The permit fee shall be \$15.00 for the cost of each inspection. A single excavation shall be deemed to constitute all the digging necessary for a single connection, or a cut for installing a main not exceeding 100 feet in length. An additional fee of \$15.00 shall be required for every additional 100 feet, or major fraction thereof, of main excavation. All fees are doubled if excavation commences before a permit is obtained.

6-6-4 SAFETY MEASURES. Any person, firm, or corporation cutting a pavement or surfacing or excavating in the streets shall erect suitable barricades, maintain warning lights from sunset to sunrise each night, and take such other precautions as necessary for the safety of the public, whether vehicles or pedestrians. Vehicles, equipment, materials, excavated material, and similar items shall likewise be protected by lights and warning devices, such as traffic cones, flags, etc. Where traffic conditions warrant, the party excavating may be required to provide flagmen, if in the judgment of the Chief of Police the public safety requires it. Compliance with City Ordinances and regulations

shall not be deemed to waive the requirements that the party excavating shall comply with all the requirements of the labor safety laws and the rules of the Iowa Department of Labor, nor shall any failure be deemed a responsibility of the City.

6-6-5 BACKFILLING AND RESTORATION. Any person excavating in the streets shall be responsible for the backfilling of the excavation in accordance with City specifications and the restoration of the pavement or surfacing to as good a condition as that existing prior to the excavation. If any excavator fails to backfill or restore the pavement or surfacing properly within forty-eight hours of the completion of the underground work, the City reserves the right to backfill and resurface or install new paving and charge the cost thereof to the party excavating. If any backfilling or pavement or surfacing restoration is not in accordance with the City specifications, City personnel are authorized to remove such material as is necessary and to backfill and restore the pavement or surfacing properly.

6-6-6 RULES AND REGULATIONS. The City Council may by resolution establish such rules and regulations for the manner of making cuts and related matters involving excavations.

## **TITLE VI PHYSICAL ENVIRONMENT**

### **CHAPTER 7 PLANNING AND ZONING COMMISSION**

- 6-7-1 Planning and Zoning Commission
- 6-7-2 Terms of Office
- 6-7-3 Vacancies
- 6-7-4 Compensation
- 6-7-5 Powers and Duties

6-7-1 **PLANNING AND ZONING COMMISSION.** There shall be a City Planning and Zoning Commission hereinafter referred to as the Commission, consisting of seven (7) members, who shall be bona fide citizens and residents of the city and qualified by knowledge or experience to act in matters pertaining to the development of a city plan and who shall not hold any elective office in the city government, and who shall be appointed by the mayor, subject to the approval of the city council.

(Code of Iowa, Sec. 414.6 and 392.1)

6-7-2 **TERM OF OFFICE.** The term of office of the members of the commission shall be five (5) years. The terms of not more than one-third of the members will expire in any one year.

(Code of Iowa, Sec. 392.1)

6-7-3 **VACANCIES.** If any vacancy shall exist on the commission caused by resignation, or otherwise, a successor for the remaining term of said member shall be appointed in the same manner as the original appointee.

(Code of Iowa, Sec. 392.1)

6-7-4 **COMPENSATION.** All members of the commission shall serve without compensation, except their actual expenses, which shall be subject to the approval of the city council.

(Code of Iowa, Sec. 392.1)

6-7-5 **POWERS AND DUTIES.**

(Code of Iowa, Sec. 392.1)

1. **Selection of Officers.** The commission shall choose annually at its first regular meeting, one of its members to act as chairman and another as vice-chairman, who shall perform all the duties of the chairman during his absence or disability.

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

3. **Annual Report.** The commission shall each year make a report to the mayor and city council of its proceedings, with a full statement of its receipts, disbursements and the progress of its work during the preceding fiscal year.

4. Appointment of Assistants. Subject to the limitations contained in this chapter as to the expenditure of funds, it may appoint such assistants as it may deem necessary and prescribe and define their respective duties and fix and regulate the compensation to be paid to the several persons employed by it.

5. Comprehensive Plan. It shall have full power and authority to make or cause to be made such surveys, studies, maps, plans, or charts of the whole or any portion of the city or of any land outside thereof, which in the opinion of the commission bears relation to the comprehensive plan and shall bring to the attention of the city council, and may publish its studies and recommendations.

(Code of Iowa, Sec. 414.3)

6. Comprehensive Plan - Preparation. For the purpose of making a comprehensive plan for the physical development of the city, the commission shall make careful and comprehensive studies of present conditions and future growth of the city and with due regard to its relation to neighboring territory. 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.

(Code of Iowa, Sec. 414.3)

7. Comprehensive Plan - Public Hearing. Before adopting a comprehensive plan as referred to in the preceding paragraph, or any part of it, or any substantial amendment thereof, the commission shall hold at least one public hearing thereon, notice of the time of which shall be given by one publication in a newspaper of general circulation in the city not less than four (4), nor more than twenty (20) days before the date of hearing. The adoption of the plan or part or amendment thereof shall be by resolution of the commission carried by the affirmative vote of not less than two-thirds of the members of the commission.

After adoption of said plan by the commission, an attested copy thereof shall be certified to the city council and the council may approve the same. When said plan or any modification or amendment thereof shall receive the approval of the council, the said plan, until substantially modified or amended as hereinbefore authorized, shall constitute the official city plan.

(Code of Iowa, Secs. 414.4 and 414.6)

8. Comprehensive Plan - Amendments. When the comprehensive plan as heretofore provided has been adopted no substantial amendment or modification thereof shall be made without such proposed change first being referred to the commission for its recommendations. If the commission disapproves the proposed change it may be adopted by the city council only by the affirmative vote of at least three-fourths of the members of the council.

(Code of Iowa, Secs. 414.4 and 414.6)

9. Recommendation of Improvements. No statuary, memorial or work of art in a public place, and no public building, bridge, viaduct, street fixtures, public structure or appurtenances, shall be located or erected, or site thereof 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 such improvement shall have been submitted to the commission and its recommendation 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.

10. Review and Comment on Plats. All plans, plats, or replats of subdivision or resubdivisions of land embraced in the city or adjacent thereto, laid out in lots, or plats with 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 city council.

11. Review and Comment of Street and Park Improvements. No plan for any street, park, parkway, boulevard, traffic way, riverfront, 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 later shall have had thirty days within to file its recommendation thereon.

12. 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 city council amendments, changes, or modifications, all of which are provided for in Chapter 414 of the Code of Iowa.

(Code of Iowa, Sec. 414.6)

13. Fiscal Responsibilities. The commission shall have full, complete and exclusive authority to expend for and on behalf of the city all sums of money appropriated to it, and to use and expend all gifts, donations, or payments whatsoever which are received by the city for city planning and zoning purposes.

14. Limitation on Entering Contracts. The commission shall have no power to contract debts beyond the amount of its income for the present year.

## **TITLE VI PHYSICAL ENVIRONMENT**

### **CHAPTER 8 WATER WELL PROTECTION**

#### **6-8-1 Definitions**

#### **6-8-2 Deep Well Protection**

#### **6-8-3 Shallow Well Protection**

#### **6-8-4 Nonconforming Uses**

**6-8-1 DEFINITIONS.** For use in this chapter, the following terms are defined:

1. “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 (5) feet thick located at least twenty-five (25) feet below the normal ground surface and above the aquifer from which the water is drawn.

2. “Shallow 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 (5) feet thick located less than twenty-five (25) feet below the normal ground surface and above the aquifer from which the water is drawn.

**6-8-2 DEEP WELL PROTECTION.** No Structure or facility of the following enumerated and listed types shall be located within the distances hereinafter set forth after each structure or facility from a deep public well within the City.

1. Well house floor drains – 5 feet;
2. Water treatment plant wastes – 50 feet;
3. Sanitary and industrial discharges – 400 feet;
4. Well house floor drains to surface:
  - A. None within 5 feet;
  - B. 5 to 10 feet water main materials enclosed in concrete permitted.
  - C. 10-25 feet must be water main material;
  - D. 25-75 feet must be watertight sewer pipe.
5. Well house floor drains to sewers, water plant wastes to sanitary sewer, sanitary and storm sewers and drains:
  - A. 0 to 25 feet – prohibited;
  - B. 25 to 75 feet – if water main pipe;
  - C. 75 to 200 feet – if watertight sewer pipe;
6. Sewer force mains:
  - A. 0 to 75 feet – prohibited;
  - B. 75 to 400 feet – if water main pipe;
7. Water plant treatment process wastes that are treated onsite:
  - A. 0 to 5 feet – prohibited;
  - B. 5 to 50 feet – if sanitary sewer main pipe;
8. Irrigation of wastewater – 100 feet;



9. Land application of solid wastes – 100 feet;
10. Cesspools & earth pit privies – 200 feet;
11. Concrete vaults & septic tanks – 100 feet;
12. Lagoons – 400 feet;
13. Mechanical wastewater treatment plants – 200 feet;
14. Soil absorption fields – 200 feet;
15. Chemicals:
  - A. Application to ground surface – 100 feet;
  - B. Chemical & mineral storage above ground – 100 feet;
  - C. Chemical & mineral storage on or under ground – 200 feet;
16. Animal Pasturage – 50 feet;
17. Animal enclosure – 100 feet;
18. Earthen silage storage trench or pit – 100 feet;
19. Animal wastes:
  - A. Land application of liquid or slurry – 100 feet;
  - B. Land application of solids – 100 feet;
  - C. Solids stockpile – 200 feet;
  - D. Storage basin or lagoon – 400 feet;
  - E. Storage tank – 100 feet;
20. Miscellaneous:
  - A. Basements, pits, sumps – 10 feet;
  - B. Cemeteries – 500 feet;
  - C. Cisterns – 50 feet;
  - D. Flowing streams or other surface water bodies – 50 feet;
  - E. Private wells – 200 feet;
  - F. Solid waste landfills and disposal sites – 1000 feet.

6-8-3 SHALLOW WELL PROTECTION. No Structure or facility of the following enumerated and listed types shall be located within the distances hereinafter set forth after each structure or facility from a shallow public well within the City, and located at the following site:

Beginning at the Southwest corner of the property owned by the Dunlap Community School District (NE  $\frac{1}{4}$ , Section 3, T81N, R41W), thence east a distance of 100.00 feet along the southern boundary of said property (assumed to run in a true east-west direction) thence north a distance of 57.7 feet, thence N 60° - 0' W a distance of 57.7 feet, thence N 150° - 0' W along the western boundary of said property a distance of 100.0 feet to the point of beginning.

21. Well house floor drains – 5 feet;
22. Water treatment plant wastes – 50 feet;
23. Sanitary and industrial discharges – 200 feet;
24. Well house floor drains to surface:
  - A. None within 5 feet;

- B. 5 to 10 feet water main materials enclosed in concrete permitted.
  - C. 10-25 feet must be water main material;
  - D. 25-75 feet must be watertight sewer pipe.
25. Well house floor drains to sewers, water plant wastes to sanitary sewer, sanitary and storm sewers and drains:
- A. 0 to 25 feet – prohibited;
  - B. 25 to 75 feet – if water main pipe;
  - C. 75 to 200 feet – if watertight sewer pipe;
26. Sewer force mains:
- A. 0 to 75 feet – prohibited;
  - B. 75 to 400 feet – if water main pipe;
27. Water plant treatment process wastes that are treated onsite:
- A. 0 to 5 feet – prohibited;
  - B. 5 to 50 feet – if sanitary sewer main pipe;
28. Irrigation of wastewater – 200 feet;
29. Land application of solid wastes – 200 feet;
30. Cesspools & earth pit privies – 200 feet;
31. Concrete vaults & septic tanks – 200 feet;
32. Lagoons – 200 feet;
33. Mechanical wastewater treatment plants – 200 feet;
34. Soil absorption fields – 200 feet;
35. Chemicals:
- A. Application to ground surface – 200 feet;
  - B. Chemical & mineral storage above ground – 200 feet;
  - C. Chemical & mineral storage on or under ground – 200 feet;
36. Animal Pasturage – 50 feet;
37. Animal enclosure – 200 feet;
38. Earthen silage storage trench or pit – 200 feet;
39. Animal wastes:
- A. Land application of liquid or slurry – 200 feet;
  - B. Land application of solids – 200 feet;
  - C. Solids stockpile – 200 feet;
  - D. Storage basin or lagoon – 200 feet;
  - E. Storage tank – 200 feet;
40. Miscellaneous:
- A. Basements, pits, sumps – 10 feet;
  - B. Cemeteries – 200 feet;
  - C. Cisterns – 100 feet;
  - D. Flowing streams or other surface water bodies – 50 feet;
  - E. Private wells – 200 feet;
  - F. Solid waste landfills and disposal sites – 200 feet.

6-8-4 NONCONFORMING USES. The use of structures or facilities existing as of December 11, 2002 may be continued even though such use may not conform with the regulations of this chapter, in other words, such structures or facilities may be located within the distances set forth. However,

such structures or facilities not in conformance with the terms of this chapter may not be enlarged, extended, reconstructed or substituted subsequent to such date.

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 9 SIDEWALK REGULATIONS

6-9-1	Purpose	6-9-11	Failure to Obtain Permit; Remedies
6-9-2	Definitions	6-9-12	Inspection and Approval
6-9-3	Cleaning Snow, Ice, and Accumulations	6-9-13	Barricades and Warning Lights
6-9-4	Maintenance Responsibility	6-9-14	Interference with Sidewalk Improvements
6-9-5	Liability of Abutting Owner	6-9-15	Special Assessments for Construction and Repair
6-9-6	Ordering Sidewalk Improvements	6-9-16	Notice of Assessment for Repair or Cleaning Costs
6-9-7	Repairing Defective Sidewalks	6-9-17	Hearing and Assessment
6-9-8	Notice of Inability to Repair or Barricade	6-9-18	Billing and Certifying to County
6-9-9	Standard Sidewalk Specifications	6-8-19	ADAAG Compliance
6-9-10	Permits for Construction or Removal		

6-9-1 PURPOSE. The purpose of this chapter is to improve and maintain sidewalks in a safe condition, to require owners of abutting property to maintain, repair, replace, construct or reconstruct sidewalks.

6-9-2 DEFINITIONS. As used in this chapter, the following terms have these meanings:

1. Defective Sidewalk. Any public sidewalk exhibiting one or more of the following characteristics:

- a. vertical separations equal to three-fourths (3/4) inch or more.
- b. horizontal separations equal to three-fourths (3/4) inch or more.
- c. holes or depressions equal to three-fourths (3/4) inch or more and at least four (4) inches in diameter.
- d. spalling over fifty (50) percent of the surface of a single square of the sidewalk with one or more depressions equal to one-half (1/2) inch or more.
- e. spalling over less than fifty (50) percent of a single square of the sidewalk with one or more depressions equal to three-fourths (3/4) inch or more.
- f. a single square of sidewalk cracked in such a manner that no part thereof has a piece greater than one square foot.

g. a sidewalk with any part thereof missing to the full depth.

h. a change from design or construction grade equal to or greater than three-fourths (3/4) inch per foot.

2. Sidewalk Improvements. The construction, reconstruction, repair, replacement, or removal of a public sidewalk or the excavating, filling, or depositing of material in the public right-of-way in connection therewith.

3. Owner. The person owning the fee title or the contract purchaser for purposes of notification required herein. For all other purposes, "owner" shall include the lessee, or person in possession.

6-9-3 CLEANING SNOW, ICE, AND ACCUMULATIONS. It shall be the duty of the owner to keep sidewalks abutting the owner's property clear of the natural accumulations of snow or ice. If the owner fails to do so within twenty four (24) hours after deposit of accumulation, the Mayor may have the natural accumulations of snow or ice removed without notice to the property owner. The Mayor shall give the Council an itemized and verified statement of the removal costs and a legal description of the property at the next regular Council meeting. The costs shall be reviewed by the Council, and if found correct, shall be assessed against the property as taxes. The City Clerk shall be directed to certify the costs to the County Treasurer for collection as provided in Section 364.12 of the Code of Iowa.

(Code of Iowa, Sec. 364.12(2b) and (2e))

6-9-4 MAINTENANCE RESPONSIBILITY. The abutting property owner or owners shall be responsible for the repair, replacement or reconstruction of all broken or defective sidewalks to a safe condition and to maintain in a safe condition all sidewalks in the abutting street right-of-way.

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

6-9-5 LIABILITY OF ABUTTING OWNER. As provided in Section 364.14, Code of Iowa, in the event the owner of property abutting any public sidewalk fails or refuses to perform any act required of them by this Ordinance and in the event an action is brought against the City for personal injuries alleged to have been caused by a defect in or the condition of said sidewalk, the City may notify in writing the said abutting owner that it claims the injury was caused by their negligence and/or their failure to repair the defect or eliminate the condition complained of. 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 condition 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)

6-9-6 ORDERING SIDEWALK IMPROVEMENTS. The City Council may order the construction, reconstruction, repair, or replacement of permanent sidewalks upon any street or court. Notice of this order shall be sent to the owner by certified mail. The notice shall include the fact that the owner may request a hearing by the Council within fifteen (15) days or receipt of the notice.

6-9-7 REPAIRING DEFECTIVE SIDEWALKS. It shall be the duty of the abutting property owner at any time, or upon receipt of thirty (30) days' notice from the City, to repair, replace, or reconstruct all broken or defective sidewalks in the abutting street right-of-way. If, after the expiration of the thirty (30) days as provided in the notice, the required work has not been done or is not in the process of completion, the Mayor shall order the work to proceed to repair, replace, or reconstruct the sidewalk. Upon completion of the work, the Mayor shall submit to the Council an itemized and verified statement of expenditures for material and labor, and the legal description of the property abutting the sidewalk on which work has been performed. These costs shall be assessed to the property as taxes. The City Clerk shall be directed to certify the costs to the County Treasurer for collection as provided in Section 364.12 of the Code of Iowa.

(Code of Iowa, Sec. 364.12(e))

6-9-8 NOTICE OF INABILITY TO REPAIR OR BARRICADE. It shall be the duty of the owner of the property abutting the sidewalk, or of the contractor or agent of the owner, to notify the City immediately in the event the owner is unable to make necessary sidewalk improvements or to install or erect warnings and barricades as required by this chapter.

6-9-9 STANDARD SIDEWALK SPECIFICATIONS. Sidewalks constructed, repaired, or replaced under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Portland cement concrete shall be the only material used in the construction and repair of sidewalks unless otherwise authorized by the City Council.

2. Sidewalks shall be on one-course construction.

3. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a four (4) inch sub-base of compact, clean, coarse gravel, sand, or cinders shall be laid. The adequacy of the soil drainage is to be determined by the Superintendent of Public Works.

4. The sidewalk bed shall be graded to the established grade.

5. Residential sidewalks shall be at least four (4) feet wide, or match existing sidewalks, and four (4) inches thick, and each section shall be no more than four (4) feet in length. In the central business district, sidewalks shall extend from the property line to the curb unless the Council shall

establish a different distance due to the circumstances. Each section shall be four (4) inches thick and no more than six (6) feet in length and width. All driveway areas shall not be less than six (6) inches in thickness.

6. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) on the property line, unless the Council shall establish a different distance due to the circumstances.

7. All elevations of sidewalks are to be established by the City Council with assistance from the Superintendent of Public Works on a case-by-case basis.

8. All sidewalks shall slope at least one-quarter ( $1/4$ ) inch per foot toward the curb, but in no event more than one-half ( $1/2$ ) inch per foot toward the curb.

9. All sidewalks shall have a steel trowel finish followed by a "broom" or a "wood float" finish.

10. Ramps for the disabled. There shall not be less than two (2) curb cuts or ramps per lineal block which shall be located on or near the cross-walks at intersections. Each curb cut or ramp shall be at least thirty (30) inches wide, shall be sloped at not greater than one inch of rise per twelve (12) inches lineal distance, except that a slope no greater than one inch of rise per eight (8) inches lineal distance may be used where necessary, shall have a nonskid surface, and shall otherwise be so constructed as to allow reasonable access to the crosswalk for physically disabled persons using the sidewalk.

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

11. All sidewalk improvements on public property, whether performed by the owner of the abutting property or by the City, shall be performed under the supervision and inspection of the City Superintendent of Public Works, and in accordance with the standard sidewalk specifications set forth in this chapter.

6-9-10 PERMITS FOR CONSTRUCTION OR REMOVAL. No person shall make any sidewalk improvements unless such person shall obtain a permit from the City Clerk. The permit shall state that the person will comply with the Ordinances of the City and with the specifications for sidewalks adopted by the City. The permit also shall state that the work will be done under the direction and approval of the City Superintendent of Public Works. All such permits shall be issued without charge and a copy thereof, with the application, shall be filed and preserved in the office of the City Clerk. The permit shall state when the work is to be commenced and when the work is to be completed. The time of completion for the sidewalk improvements may be extended by the City Council. All permits for sidewalk improvements not ordered by resolution of the City Council shall be issued in compliance with this chapter. The City Council may withhold the issuance of any permit for any sidewalk improvements for a sufficient period to determine the necessity for the proposed improvements or when weather conditions will adversely affect the sidewalk improvements.

6-9-11 FAILURE TO OBTAIN PERMIT; REMEDIES. Whenever any sidewalk improvements are made that do not conform to the provisions of this chapter and with the specifications, or when any sidewalk improvements are made without a permit, the Mayor shall serve notice to obtain a permit upon the property owner and upon the contractor doing the work. If the sidewalk is in the course of construction, the notice shall order the work to stop until a permit is obtained and the work is corrected to comply with the specifications. If the sidewalk work has been completed, the owner shall obtain a permit immediately and perform any needed corrections within five (5) days from receipt of the permit. If the owner fails to comply with this notice, the Mayor shall have the work completed and the costs assessed to the property owner as provided in this chapter.

6-9-12 INSPECTION AND APPROVAL. Upon final completion, the Superintendent of Public Works shall inspect the work and may order corrections if the work does not meet specifications. When the work does meet all requirements of this chapter, the specifications, and the permit, the Superintendent of Public Works shall indicate this on both copies of the permit.

6-9-13 BARRICADES AND WARNING LIGHTS. Proper warning lights and barricades shall be placed to protect persons from materials, equipment, and dangerous conditions. Placement and maintenance of adequate warnings is the responsibility of the constructor, the owner, and the lessee of the property.

6-9-14 INTERFERENCE WITH SIDEWALK IMPROVEMENTS. No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while it is 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 or warning device provided by this chapter.

6-9-15 SPECIAL ASSESSMENTS FOR CONSTRUCTION AND REPAIR. The City Council may assess the cost of initial construction, improvements, and/or repair of sidewalks in the City according to the special assessment procedures established in Chapter 384, division IV, Code of Iowa.

(Code of Iowa, Sec. 384.38)

6-9-16 NOTICE OF ASSESSMENT FOR REPAIR OR CLEANING COSTS. When the Mayor submits a bill for sidewalk improvements or for removal of accumulations as provided in this chapter, the City Clerk shall send a notice of such facts to the owner of the abutting property. The notice may be given either by personal service or by certified mail to the last known address of the owner. The notice shall contain a statement of the work performed, the cost of the work that is being assessed, a description of the property affected, and the fact that the person may pay the amount assessed within thirty (30) days without interest or penalty. The notice also shall indicate that the person may object to such assessment and given the place and time at which Council will hear such objections. The time set for hearing shall be at least fifteen (15) days after the service or mailing of the notice.



(Code of Iowa, Sec. 384.50)

6-9-17 HEARING AND ASSESSMENT. At the time and place designed in the Notice, the Council shall consider all objections to the assessment, correct all errors or omissions, and adopt a corrected list as the amounts to be assessed against the property.

(Code of Iowa, Sec. 384.51)

6-9-18 BILLING AND CERTIFYING TO COUNTY. Thirty (30) days after the Council's decision, the City Clerk shall certify any unpaid amounts to the County Treasurer. The unpaid assessments shall constitute a lien against the property and shall be collected by the County Treasurer in the same manner as other taxes. Any assessment that exceeds \$100 may be paid in installments as set by Council, not exceeding ten, in the same manner and at the same interest rates as for special assessments under Chapter 384, division IV, Code of Iowa. No interest shall be charged for assessments, or parts thereof, paid within thirty (30) days of the time the Council determined the final amounts.

(Code of Iowa, Sec. 384.60)

**6-8-19 ADAAG COMPLIANCE. All construction, repair and maintenance of sidewalks shall comply with Americans with Disabilities Guidelines (ADAAG).**

## **TITLE VI PHYSICAL ENVIRONMENT**

### **CHAPTER 10 SUBDIVISION REGULATIONS**

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## GENERAL PROVISIONS

6-10-1 SHORT TITLE. This ordinance shall be known as the "Subdivision Ordinance" of the City of Dunlap, Iowa.

6-10-2 PURPOSE. The purpose of this Ordinance is to provide minimum standards for the design, development and improvement of all new subdivisions and resubdivisions of land, so that existing land uses will be protected, and so that adequate provisions are made for public facilities and services, and so that growth occurs in an orderly manner, consistent with the Comprehensive Plan, and to promote the public health, safety and general welfare of the citizens of the City of Dunlap, Iowa.

(Code of Iowa, Sec. 354.1 and 364.1)

6-10-3 APPLICATION. Every owner who divides any original parcel of land, forty (40) acres or part thereof, entered of record in the office of the County Recorder as a single lot, parcel or tract on or before the effective date of these regulations (date of original subdivision ordinance) into three or more lots, parcels, or tracts for the purpose, whether immediate or future, of laying out an addition, subdivision, building lot or lots, acreage or suburban lots, transfer of ownership or building development within the city or:

- within two (2) miles of the corporate limits of the City,

shall cause plats of such area to be made in the form, and containing the information, as hereinafter set forth before selling any lots therein contained or placing the plat on record.

**(Code of Iowa, Sec. 354.9)**

6-10-4 AMENDMENT. When necessary to further its purpose, this ordinance shall be amended in accordance with the text amendment procedure for the Zoning Ordinance by the Planning Commission and the Governing Body.

6-10-5 RECORDING OF PLAT. No subdivision plat, resubdivision plat or street dedication within the City of Dunlap, Iowa, or:

- within two (2) miles of the corporate limits of the City as recorded in the office of the County Recorder and filed with the County Auditor,

as provided in Section 354.9, Code of Iowa, shall be filed for record with the County Recorder, or recorded by the County Recorder, until a final plat of such subdivision, resubdivision, or street dedication has been reviewed and approved in accordance with the provisions of this ordinance.

Upon the approval of the final plat by the Governing Body, it shall be the duty of the subdivider to immediately file such plat with the County Auditor and County Recorder, as required by law. Such approval shall be revocable after thirty (30) days, unless such plat has been duly recorded and evidence thereof filed with the City Clerk within such thirty (30) days.

(Code of Iowa, Sec. 354.9)

6-10-6 FEES ESTABLISHED. The Governing Body shall, from time to time establish by resolution, fees for the review of plats. No plat for any subdivision or resubdivision shall be considered filed with the City Clerk, unless and until said plat is accompanied by the fee, as established by resolution of the Governing Body, and as required by this ordinance.

6-10-7 PENALTIES. Any person who shall dispose of or offer for sale any lot or lots within the area of jurisdiction of this ordinance, until the plat thereof has been approved by the Governing Body, and recorded as required by law, shall forfeit and pay one hundred dollars (\$100.00) for each lot or part of lot sold, disposed of or offered for sale. Nothing contained herein shall in any way limit the City's right to any other remedies available to the City for the enforcement of this ordinance.

6-10-8 BUILDING PERMIT TO BE DENIED. No building permit shall be issued for construction on any lot, parcel, or tract, where a subdivision is required by this ordinance, unless and until a final plat of such subdivision has been approved and recorded in accordance with this ordinance, and until the improvements required by this ordinance have been accepted by the City.

#### DEFINITIONS

6-10-9 TERMS DEFINED. For the purposes of this ordinance, certain words herein shall be defined as and interpreted as follows. Words used in this present tense shall include the future, the singular shall include the plural, the plural shall include the singular, the term "shall" is always mandatory, and the term "may" is permissive.

1. "Acquisition Plat" means the graphical representation of the division of land or rights in land, created as the result of a conveyance or condemnation for right-of-way purposes by an agency of the government or other persons having the power of eminent domain.

(Code of Iowa, Sec. 354.2(1))

2. "Aliquot Part" means a fractional part of a section within the United States public land survey system. Only the fractional parts one-half, one-quarter, one-half of one-quarter, or one-quarter of one quarter shall be considered an aliquot part of a section.

(Code of Iowa, Sec. 354.2(2))

3. "Alley" means public property dedicated to public use primarily for vehicular access to the back or side of properties otherwise abutting on a street.

4. "Auditor's Plat" means a subdivision plat required by either the Auditor or the Assessor, prepared by a surveyor under the direction of the auditor.

(Code of Iowa, Sec. 354.2(3))

5. "Block" means an area of land within a subdivision that is entirely bounded by streets, railroad rights-of-way, rivers, tracts of public land, or the boundary of the subdivision.

6. "Building Lines" means a line on a plat between which line and public right-of-way no building or structures may be erected.

7. "City Engineer" means the professional engineer registered in the State of Iowa designated as City Engineer by the Governing Body or other hiring authority.

8. "Comprehensive Plan" means the general plan for the development of the community, that may be titled master plan, comprehensive plan or some other title, which plan has been adopted by the Governing Body. Such "Comprehensive Plan" shall include any part of such plan separately adopted, and any amendment to such plan or parts thereof.

9. "Conveyance" means an instrument filed with a Recorder as evidence of the transfer of title to land, including any form of deed or contract.

(Code of Iowa, Sec. 354.2(5))

10. "Cul-de-Sac" means a street having one end connecting to another street, and the other end terminated by a vehicular turn around.

11. "Division" means dividing a tract or parcel of land into two parcels of land by conveyance or for tax purposes. The conveyance of an easement, other than public highway easement, shall not be considered a division for the purpose of this chapter.

(Code of Iowa, Sec. 354.2(6) and 355.1(2))

12. "Easement" means an authorization by a property owner for another to use a designated part of said owner's property for a specified purpose.

13. "Flood Hazard Area" means any area subject to flooding by a one percent (1%) probability flood, otherwise referred to as a one hundred (100) year flood; as designated by the Iowa Department of Natural Resources or the Federal Emergency Management Agency.

14. "Floodway" means the channel of a river or other watercourse and the adjacent lands that must be reserved in order to discharge the waters of a one hundred (100) year flood without cumulatively raising the waterway surface elevation more than one (1) foot.

15. "Forty-Acre Aliquot Part" means one-quarter of one-quarter of a section.

(Code of Iowa, Sec. 354.2(7))

16. "Governing Body" means the City Council of the City of Dunlap, Iowa.

(Code of Iowa, Sec. 354.2(8))

17. "Government Lot" means a tract, within a section, that is normally described by a lot number as represented and identified on the township plat of the United States public land survey system.

(Code of Iowa, Sec. 354.2(9) and 355.1(3))

18. "Improvements" means changes to land necessary to prepare it for building sites including but not limited to grading, filling, street paving, curb paving, sidewalks, walk ways, water mains, sewers, drainageways, and other public works and appurtenances.

19. "Lot" means a tract of land represented and identified by number or letter designation on an official plat.

(Code of Iowa, Sec. 354.2(10))

20. "Lot, Corner". The term "corner lot" means a lot situated at the intersection of two streets.

21. "Lot, Double Frontage". The term "double frontage lot" means any lot that is not a corner lot that abuts two streets.

22. "Metes and Bounds Description" means a description of land that uses distances and angles, uses distances and bearings, or describes the boundaries of the parcel by reference to physical features of the land.

(Code of Iowa, Sec. 354.2(11))

23. "Official Plat" means either an auditor's plat or a subdivision plat that meets the requirements of this chapter and has been filed for record in the offices of the Recorder, Auditor, and Assessor.

(Code of Iowa, Sec. 354.2(12))

24. "Original Parcel" means forty acres or part thereof entered of record in the office of the County Recorder as a single lot or parcel on or before the date of original subdivision ordinance.

25. "Owner" means the legal entity holding title to the property being subdivided, or such representative or agent as is fully empowered to act on its behalf.

26. "Parcel" means a part of a tract of land.

(Code of Iowa, Sec. 354.2(13))

27. "Performance Bond" means a surety bond or cash deposit made out to the City of Dunlap, Iowa, in an amount equal to the full cost of the improvements which are required by this ordinance, said cost estimated by the City and said surety bond or cash bond being legally sufficient to secure to the City that the said improvements will be constructed in accordance with this ordinance.

28. "Permanent Real Estate Index Number" means a unique number or combination of numbers assigned to a parcel of land pursuant to Section 441.29 of the Code of Iowa.

(Code of Iowa, Sec. 354.2(14))

29. "Planning Commission" means the appointed commission designated by the Governing Body for the purpose of this ordinance, and may also be the Zoning Commission, in which case such commission shall be known as the Planning and Zoning Commission.

30. "Plat" means a map drawing, or chart on which a subdivider's plan for the subdivision of land is presented, that said subdivider submits for approval and intends, in final form, to record.

31. "Plats Officer" means the individual assigned the duty to administer this ordinance by the Governing Body or other appointing authority.

32. "Plat of Survey" means the graphical representation of a survey of one or more parcels of land, including a complete and accurate description of each parcel within the plat, prepared by a registered land surveyor.

(Code of Iowa, Sec. 354.2(15) and 355.1(9))

33. "Proprietor" means a person who has a recorded interest in land, including a person selling or buying land pursuant to a contract, but excluding persons holding mortgage, easement, or lien interest.

(Code of Iowa, Sec. 354.2(16))

34. "Resubdivision" means any subdivision of land that has previously been included in a recorded plat. In appropriate context it may be a verb referring to the act of preparing a plat of previously subdivided land.

35. "Street" means public property, not an alley, intended for vehicular circulation. In appropriate context the term "street" may refer to the right-of-way bounded by the property lines of such public property, or may refer to the paving installed within such right-of-way.

36. "Street, Arterial" means a street primarily intended to carry traffic from one part of the City to another, and not intended to provide access to abutting property.

37. "Street, Collector" means a street primarily designed to connect smaller areas of the community, and to carry traffic from local streets to arterial streets.

38. "Street, Local" means a street primarily designed to provide access to abutting property.

39. "Subdivider" means the owner of the property being subdivided, or such other person or entity empowered to act on the owner's behalf.

40. "Subdivision" means the accumulative effect of dividing an original lot, tract, or parcel of land, **as of (date of original subdivision ordinance)**, into three (3) or more lots for the purpose of immediate or future sale or transfer for development purposes excluding public roadways, public utility extensions, and land taken by condemnation. The term includes a resubdivision or replatting.

When appropriate to the context, the word may relate to the process of subdividing or the land subdivided.

Any person not in compliance with the provisions of the subdivision definition at the time of its effective date shall not be required to comply with such provisions unless or until a new division, re-subdivision or replatting occurs following that effective date.

(Code of Iowa, Sec. 354.2(17) and 355.1(10))

41. "Subdivision Plat" means the graphical representation of the subdivision of land, prepared by a registered land surveyor, having a number or letter designation for each lot within the plat and a succinct name or title that is unique for the county where the land is located.

(Code of Iowa, Sec. 354.2(18) and 355.1(11))

42. "Surveyor" means a registered land surveyor who engages in the practice of land surveying pursuant to Chapter 542B of the Code of Iowa.

(Code of Iowa, Sec. 354.2(19) and 355.1(12))

43. "Tract" means an aliquot part of a section, a lot within an official plat, or a government lot.

(Code of Iowa, Sec. 354.2(20))

44. "Utilities" means systems for the distribution or collection of water, gas, electricity, wastewater, and storm water.

## IMPROVEMENTS

6-10-10 IMPROVEMENTS REQUIRED. The subdivider shall, at subdivider's expense, install and construct all improvements required by this ordinance. All required improvements shall be installed and constructed in accordance with the design standards established for such improvements by the City, and as shown on the approved preliminary plat.

6-10-11 INSPECTION. All improvements shall be inspected to insure compliance with the requirements of this ordinance. The cost of such inspection shall be borne by the subdivider and shall be the actual cost of the inspection to the City.

6-10-12 MINIMUM IMPROVEMENTS. The improvements set forth below shall be considered the minimum improvements necessary to protect the public health, safety and welfare.

(Code of Iowa, Sec. 364.1)

1. Streets. The subdivider of land being subdivided shall provide the grading of the entire street right-of-way, alley or public place and provide appropriate paving, including curb and gutter on all streets. All streets or alleys shall be of such width and shall be so constructed as to meet the standards of the City. Under some circumstances the City may require, as a condition for approval of the plat, dedication and improvement of a street having a width greater than necessary to meet the needs of the platted area, but necessary to complete the City street system as it relates to both the area being platted and other areas. In such event, the City will pay the subdivider the difference in



cost of improving the wider street and the street width reasonable to meet the foreseeable needs of the subdivision taken alone. The streets shall, upon final approval and acceptance by the City, become the property of the City.

2. Sanitary Sewer System. The subdivider of the land being platted shall make adequate provision for the disposal of sanitary sewage from the platted area with due regard being given to present or reasonably foreseeable needs. There shall be constructed, at the subdivider's expense, a sanitary sewer system including all necessary pumping stations, pumping equipment, sewer access holes, and all other necessary or desirable appurtenances to provide for the discharge of sanitary sewage from all lots or parcels of land within the platted area to a connection with the City's sanitary sewers. The sanitary sewer system shall be constructed in accordance with the plans and specifications of the City and at the sewer grades as established by the City.

Under some circumstances the City may require, as a condition for approval of the plat, installation of a sanitary sewer that is larger than necessary to meet the needs of the platted area, but necessary to complete the City sanitary sewer system as it relates to both the area being platted and other areas. In such event, the City will pay the subdivider the difference in cost of pipe and installation between the larger sewer and the diameter of sewer reasonable to meet the foreseeable needs of the area.

The above mentioned facilities for the collection and disposal of sanitary sewage from the platted area shall, upon final approval and acceptance by the City, become the property of the City.

3. Storm Sewer System. The subdivider of land being platted shall install and construct a storm sewer system adequate to serve the area, including anticipated extension of use to serve additional areas. The storm sewer system shall be constructed in accordance with plans and specifications of the City and at sewer grades established by the City.

Under some circumstances the City may require, as a condition for approval of the plat, installation of a storm sewer system that is larger than necessary to meet the needs of the platted area, but necessary to complete the city storm sewer system as it relates to both the area being platted and other areas. In such event, the City will pay the subdivider the difference in cost of pipe and installation between the larger sewer and the diameter of sewer reasonable to meet the foreseeable needs of the area.

The sewers shall, upon inspection, approval and acceptance by the City, become the property of the City. In the storm sewer design phase, consideration shall be given to alternatives and principles of storm water management, or the provisions of a storm water management plan if such plan has been adopted by the City.

4. Water Main System. The subdivider of land being platted shall install and construct a water main system to adequately serve all lots or parcels of land within the platted area, with due regard to the present and reasonably foreseeable needs of the entire area, and shall connect the same to the City's existing water mains.

Under some circumstances the City may require, as a condition for approval of the plat, installation of a water main that is larger than necessary to meet the needs of the platted area, but necessary to complete the City water distribution system as it relates to both the area being platted and other areas. In such event the City will pay the subdivider the difference in cost of pipe and installation between the larger water main and the diameter of water main reasonable to meet the foreseeable needs of the area.

The water mains shall, upon inspection, approval, and acceptance by the City, become the property of the City.

5. Other Improvements. The owner and subdivider of the land being platted shall be responsible for the installation of sidewalks within the street area; the installation of walkways as necessary; grading, seeding or sodding of all lots; the planting of any required trees in the parking area; the installation of street signs, and the provision of street lighting. All such improvements shall be under the direction of the City Engineer or director of the electric utility, as appropriate.

#### 6-10-13 EASEMENTS REQUIRED.

1. Public Utilities. Where alleys are not provided, or where otherwise required by the present or future placement of public utilities, easements of not less than ten (10) feet in width shall be granted by the owner along rear, and where necessary, along side lot lines for public utility requirements. Except where prohibited by topography, such easements shall be centered on lot lines. Easements of greater width may be required along lot lines, or across, lots when necessary for the placement and maintenance of utilities. No buildings or structures, except as necessary for utilities, shall be permitted on such easements.

2. Easements Along Streams and Watercourses. Wherever any stream or surface watercourse is located in an area that is being subdivided, the subdivider shall, at said subdivider's expense, make adequate provisions for the proper drainage of surface water and shall provide and dedicate to the City an easement along said stream or watercourse as necessary for the proper maintenance of the watercourse, and as approved by the City.

6-10-14 MAINTENANCE BOND REQUIRED. The owner and subdivider of the land being platted shall be required to provide to the City, proper maintenance bonds satisfactory to the City, so as to insure that for a period of one (1) year from the date of acceptance of any improvement, the owner and subdivider shall be responsible to maintain such improvement in good repair.

6-10-15 ALTERNATIVE SYSTEMS FOR SEWER OR WATER. Where connection to the City sewer or water system cannot reasonably be made the City may approve alternate facilities for the distribution of water or the collection and disposal of sanitary wastes. Such alternate systems shall be designed to fully protect the public health safety and welfare, and shall meet all requirements of state, county, or other applicable health regulations. Prior to granting approval of such alternate systems, the City shall require that the owner and subdivider provide to the City a waiver of

assessment protest or such other legally binding documents necessary to protect the City from the expense of the subsequent installation of sewer or water facilities.

## MINIMUM STANDARDS FOR THE DESIGN OF SUBDIVISIONS

6-10-16 STANDARDS PRESCRIBED. The standards set forth in this ordinance shall be considered the minimum standards necessary to protect the public health, safety, and general welfare.

(Code of Iowa, Sec. 364.1)

6-10-17 LAND SUITABILITY. No land shall be subdivided that is found to be unsuitable for subdividing by reason of flooding, ponding, poor drainage, adverse soil conditions, adverse geological formations, unsatisfactory topography or other conditions likely to be harmful to the public health, safety or general welfare, unless such unsuitable conditions are corrected to the satisfaction of the City.

If land is found to be unsuitable for subdivision for any of the reasons cited in this Section, the Governing Body shall state its reasons in writing and afford the subdivider an opportunity to present data regarding such unsuitability. Thereafter, the Governing Body may reaffirm, modify or withdraw its determination regarding such unsuitability.

6-10-18 LANDS SUBJECT TO FLOODING. No subdivision containing land located in a floodway or a flood hazard area shall be approved by the City without the approval of the Iowa Department of Natural Resources. No lot shall be located so as to include land located within a floodway or flood hazard area unless the lot is of such size and shape that it will contain a buildable area not within the floodway or flood hazard area, suitable for development as allowed by the Zoning Ordinance for the zone in which the lot is located.

Land located within a flood hazard area or a floodway may be included within a plat as follows, subject to the approval of the City:

1. Included within individual lots in the subdivision, subject to the limitations of this Section.
2. Reserved as open space for recreation use by all owners of lots in the subdivision, with an appropriate legal instrument, approved by the City, providing for its care and maintenance by such owners.
3. If acceptable to the City, dedicated to the City as public open space for recreation or flood control purposes.

6-10-19 PLAT TO CONFORM TO COMPREHENSIVE PLAN. The arrangement, character, extent, width, grade and location of all streets and the general nature and extent of the lots and uses proposed shall conform to the Comprehensive Plan of the City, provided such plan has been adopted by the City; and shall conform to such other plans, including but not limited to a Major Street Plan, a

Sanitary Sewer System Plan, or a Parks and Open Space Plan, provided such plan has been adopted by the City.

(Code of Iowa, Sec. 354.8)

6-10-20 CONSTRUCTION STANDARDS FOR IMPROVEMENTS. In addition to the Standards set forth in this ordinance, the City Engineer shall from time to time prepare, and the Governing Body shall from time to time adopt by resolution, technical standards for public improvements. Such technical standards for public improvements shall contain the minimum acceptable specifications for the construction of public improvements. Such technical standards may vary for classes of improvements, giving due regard to the classification of streets or other improvements, and the extent and character of the area served by the improvements.

Upon adoption by the Governing Body by resolution, such technical standards for public improvements shall have such force and effect as if they were fully set forth herein.

6-10-21 STREET STANDARDS. The following standards shall apply to all streets to be located within the subdivision:

1. Streets shall provide for the continuation of arterial and collector streets from adjoining platted areas, and the extension of such streets into adjoining unplatted areas. Where a plat encompasses the location for an arterial or collector street proposed in the Comprehensive Plan or the Street Plan, the plat shall provide for such street.

2. Street grades shall align to existing streets, and all grades for streets shall be as approved by the City.

3. Arterial streets shall be located so as to not require direct access from the arterial street to abutting lots.

4. Street right-of-way widths and pavement widths shall be as specified in the Comprehensive Plan, the Streets Plan, or technical standards for public improvements.

5. Half-streets are prohibited, except, where an existing platted half-street abuts the subdivision, a platted half-street to complete the street shall be required.

6. Local streets should be designed to discourage through traffic while safely connecting to collector or arterial streets.

7. Street jogs with centerline offsets of less than one hundred twenty five feet shall be prohibited, except where topography, or other physical conditions make such jogs unavoidable.

8. Streets shall intersect as nearly at right angles as possible; and no street shall intersect any other street at less than sixty (60) degrees.

9. At intersections of major streets, and otherwise as necessary, lot corners abutting the intersection shall be rounded with a radius sufficient to provide necessary space within the right-of-way for sidewalks, traffic control devices, and other necessary improvements without encroachment onto the corner lots.

10. Dead end streets are prohibited, except where a street is planned to continue past the subdivider's property, a temporary dead end may be allowed.

11. Streets that connect with other streets, or loop streets, are preferable for maintenance, fire protection, and circulation, but cul-de-sacs may be permitted. Cul-de-sacs should not exceed 500 feet in length unless a greater length is unavoidable. (Cities should establish the maximum length for cul-de-sacs depending on local growth activity and topography).

12. In general, alleys shall be permitted in residential areas and required in commercial areas with normal street frontage. Dead end alleys are prohibited, unless provided with a turn-around with a minimum right-of-way diameter of one hundred (100) feet.

13. When a tract is subdivided into larger than normal lots or parcels, such lots or parcels shall be so arranged as to permit the logical location and opening of future streets and appropriate resubdivision with provision for adequate utility connections for such resubdivision. Easements for the future openings and extensions for such streets or utilities may, at the discretion of the Governing Body, be made a requirement of the plat.

14. Streets that are or will become extensions of existing streets shall be given the same name as the existing streets. New street names shall not be the same or sound similar to existing street names. All street names shall be at the approval of the Governing Body.

15. Private streets, not dedicated to the City, shall be avoided. The Governing Body may approve a private street where unusual conditions make a private street desirable, provided adequate covenants or other legal documents ensure that the City will not have or need to assume any maintenance or other responsibility for such street.

**6-10-22 BLOCK AND LOT STANDARDS.** The following standards shall apply to the layout of blocks and lots in all subdivisions, and to the extent possible, in all resubdivisions:

1. No residential block shall be longer than thirteen hundred (1,300) feet or shorter than three hundred (300) feet measured from street line to street line. The width of blocks should be arranged so as to allow two tiers of lots, with utility easement.

2. In blocks over seven hundred (700) feet in length, the Governing Body may require a public way or an easement at least ten (10) feet in width, at or near the center of the block, for use by pedestrians.

3. The size and shape of blocks or lots intended for commercial or industrial use shall be adequate to provide for the use intended, and to meet the parking, loading, and other requirements for such uses contained in the zoning ordinance.

4. Lot arrangement and design shall be such that all lots will provide satisfactory building sites, properly related to topography and surrounding land uses.

5. The size and shape of all lots shall comply with all requirements of the Zoning Ordinance for the zone in which the lot is located.

6. All lots shall abut a public street, or upon an approved private street, with a minimum frontage of at least thirty-five (35) feet measured as a straight line between the two front lot corners.

7. Unless unavoidable, lots shall not front, or have direct access to arterial streets. Where unavoidable, lots shall be so arranged as to minimize the number of access points.

8. All lot lines shall be at right angles to straight street lines or radial to curved street lines, except where, in the judgment of the Governing Body, a variation to this provision will provide a better street and lot layout.

9. Corner lots shall have sufficient extra width to permit the required front yard setback as specified in the zoning ordinance, oriented to either street.

10. Reversed frontage lots are prohibited. Double frontage lots shall only be permitted where abutting a major street and a minor street, and such lots shall front only on the minor street.

11. Any lot not to be served by a sanitary sewage system shall have sufficient area to allow for a satisfactory drainfield. No subdivision to be served by septic systems shall be approved by the Governing Body until percolation tests have been performed and the results of said tests have been provided to, and reported on, by the City Engineer.

6-10-23 PARKS AND OPEN SPACE. All residential subdivisions should be so designed as to meet the neighborhood park and open space needs of their residents. Such needs may be met by dedication and acceptance of public park land and/or by reservation by covenant of private open space, provided, there shall exist sufficient covenants, running with the land, to insure adequate maintenance by the property owners benefiting from such open space.

6-10-24 PARKS AND SCHOOL SITES RESERVED. When a tract being subdivided includes lands proposed to be parks or school sites in the Comprehensive Plan or other official plan of the City, the subdivider shall indicate such areas on the plat.

(Code of Iowa, Sec. 354.6(2))

1. Proposed park sites shall be reserved for three (3) years, giving the City or other authorized public agency the option to purchase the land at the appraised raw land value prior to the subdivision as established by a certified land appraiser. The purchase price shall also include one-half (1/2) of

the cost for grading and paving, including curbs, of the portion of any streets that are contiguous to the site and any taxes and interest incurred by the subdivider between the date of reservation and date of purchase by the public agency. Should the park site not be purchased within three (3) years, the subdivider may then amend the final plat.

2. Proposed school sites shall be reserved for three (3) years, giving the appropriate school district the option to purchase the land at the appraised raw land value prior to the subdivision as established by a certified land appraiser. The purchase price shall also include one-half (1/2) of the cost for grading and paving, including curbs, of the portion of any streets that are contiguous to the site and any taxes and interest incurred by the subdivider between the date of reservation and date of purchase by the school district. Should the school sites not be purchased within three (3) years, the subdivider may then amend the final plat.

## PROCEDURES AND SUBMISSION REQUIREMENTS FOR PLATS

6-10-25 PRE-APPLICATION CONFERENCE. Whenever a subdivision located within the platting jurisdiction of the City is proposed, the owner and subdivider shall schedule a preapplication conference with the Plats Officer. The conference should be attended by the Plats Officer and such other City or Utility representative as is deemed desirable; and by the owner and said owner's engineer and/or planner, as deemed desirable.

The purpose of such conference shall be to acquaint the City with the proposed subdivision, and to acquaint the subdivider with the requirements, procedures, and any special problems relating to the proposed subdivision.

6-10-26 SKETCH PLAN REQUIRED. For the pre-application conference, the subdivider shall provide a map or sketch showing the location of the subdivision, the general location of any proposed streets and other improvements, and the general layout and arrangement of intended land uses, in relation to the surrounding area.

6-10-27 PRESENTATION TO PLANNING COMMISSION OR GOVERNING BODY. The subdivider may present the sketch plan to the Planning Commission and Governing Body for review, prior to incurring significant costs preparing the preliminary or final plat.

6-10-28 SUBDIVISION CLASSIFIED. Any proposed subdivision or resubdivision shall be classified as minor subdivision or a major subdivision.

1. Minor Subdivision. Any subdivision that contains not more than four (4) lots fronting on an existing street and that does not require construction of any public improvements, and that does not adversely affect the remainder of the parcel shall be classified as a minor subdivision.

2. Major Subdivision. Any subdivision that, in the opinion of the Governing Body, does not for any reason meet the definition of a minor subdivision, shall be classified as a major subdivision.

6-10-29 PLATS REQUIRED. In order to secure approval of a proposed subdivision, the owner and subdivider shall submit to the City, plats and other information as required by this ordinance. The owner and subdivider of any major subdivision shall comply with the requirements for a preliminary plat and the requirements for a final plat. The owner and subdivider of a minor subdivision or an auditor's plat may elect to omit the submission of a preliminary plat.

(Code of Iowa, Sec. 354.6)

6-10-30 REQUIREMENTS OF THE PRELIMINARY PLAT. The subdivider shall prepare and file with the City Clerk 4 copies of the preliminary plat, drawn at a scale of one inch equals one hundred feet (1" = 100') or larger. Sheet size shall not exceed twenty-four inches by thirty-six inches (24" x 36"). Where more than one sheet is required, the sheets shall show the number of the sheet and the total number of sheets in the plat, and match lines indicating where other sheets adjoin.

The preliminary plat shall be clearly marked "Preliminary Plat" and shall show, or have attached thereto, the following:

1. Title, scale, north point and date.

(Code of Iowa, Sec. 355.8(6))

2. Proposed name of the subdivision that shall not duplicate or resemble existing subdivision names in the county. The Plats Officer shall verify with the County Auditor that the proposed subdivision name is not duplicating an existing subdivision name in the county.

(Code of Iowa, Sec. 354.6(2) and 355.8(5))

3. The name and address of the owner and the name, address and profession of the person preparing the plan.

4. A key map showing the general location of the proposed subdivision in relation to surrounding development.

5. The names and locations of adjacent subdivisions and the names of record owners and location of adjoining parcels of unplatted land. A list of all owners of record of property located within two hundred (200) feet of the subdivision boundary shall be attached.

(Code of Iowa, Sec. 355.8(18))

6. The location of property lines, streets and alleys, easements, buildings, utilities, watercourses, tree masses, and other existing features affecting the plat.

7. Existing and proposed zoning of the proposed subdivision and adjoining property.

8. Contours at vertical intervals of not more than two (2) feet if the general slope of the site is less than ten (10) percent and at vertical intervals of not more than five (5) feet if the general slope is ten (10) percent or greater.



9. The legal description of the area being platted.
10. The boundary of the area being platted, shown as a dark line, with the approximate length of boundary lines and the approximate location of the property in reference to known section lines.
11. The layout, numbers and approximate dimensions of proposed lots.
12. The location, width and dimensions of all streets and alleys proposed to be dedicated for public use.
13. The proposed names for all streets in the area being platted. The Plats Officer shall verify that the proposed street names do not duplicate existing street names in the City unless such names are a continuation of an existing street.
14. Present and proposed utility systems, including sanitary and storm sewers, other drainage facilities, water lines, gas mains, electric utilities, and other facilities.
15. Proposed easements, showing locations, widths, purposes and limitations.
16. Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds, or other public, semi-public or community purposes, or shown for such purpose in the Comprehensive Plan or other adopted plans.
17. A general summary description of any protective covenants or private restrictions to be incorporated in the final plat.
18. Any other pertinent information, as necessary.
19. The fee, as required by this ordinance.

#### 6-10-31 PROCEDURES FOR REVIEW OF PRELIMINARY PLATS.

1. The City Clerk, upon receipt of 4 copies of the preliminary plat, shall file one copy in the records of the City, shall retain one copy for public inspection, and shall forward the remaining copies of the plat to the Plats Officer.
2. The Plats Officer shall provide copies of the plat to the City Engineer, and such other persons as necessary to review the plat; and shall schedule the plat for consideration by the Planning Commission.
3. The Planning Commission shall examine the plat and the report of the City Engineer, and such other information as it deems necessary or desirable, to ascertain whether the plat conforms to the ordinances of the City, and conforms to the Comprehensive Plan and other duly adopted plans of the City. The Planning Commission shall, within forty-five (45) days of the filing of the plat with the City Clerk, forward a report and recommendation regarding the plat to the Governing Body. If

such recommendation is to disapprove or modify the plat, the reasons therefore shall be set forth in writing in the report, and a copy of the report and recommendation shall be provided to the applicant.

4. The Governing Body shall examine the plat, the report of the City Engineer, the report of the Planning Commission, and such other information as it deems necessary or desirable. Upon such examination, the Governing Body shall ascertain whether the plat conforms to the ordinances and standards of the City, conforms to the Comprehensive Plan and other duly adopted plans of the City, and will be conducive to the orderly growth and development of the City; in order to protect the public health, safety, and welfare. Following such examination, the Governing Body may approve, subject to conditions, or disapprove the plat. If the decision of the Governing Body is to disapprove the plat, or to approve the plat subject to conditions, the reasons therefore shall be set forth in writing in the official records of the Governing Body, and such decisions shall be provided to the applicant. Action on the preliminary plat by the Governing Body shall be taken within sixty (60) days of the filing of the plat with the City Clerk.

6-10-32 DURATION OF APPROVAL OF PRELIMINARY PLAT. The approval of a preliminary plat by the Governing Body shall be valid for a period of one (1) year from the date of such approval; after which such approval shall be void, and the subdivider shall take no action requiring the precedent approval of a preliminary plat except upon application for and approval of an extension of such period of validity, by the Governing Body.

6-10-33 AUTHORIZATION TO INSTALL IMPROVEMENTS. The approval of the preliminary plat shall constitute authorization by the Governing Body for the installation of improvements as required by this ordinance, and as shown on the preliminary plat; provided no such improvement shall be constructed or installed until and unless the plans, profiles, cross sections, and specifications for the construction of such improvement have been submitted to, and approved in writing by, the City Engineer.

6-10-34 COMPLETION AND ACCEPTANCE OF IMPROVEMENTS. Before the Governing Body will approve the final plat, all of the foregoing improvements shall be constructed and accepted by formal resolution of the City Council. Before passage of said resolution of acceptance, the City Engineer shall report that said improvements meet all City specifications and ordinances or other City requirements, and the agreements between the subdivider and the City.

6-10-35 PERFORMANCE BOND PERMITTED. In lieu of the requirement that improvements be completed prior to the approval of a final plat, the subdivider may post a performance bond with the City, guaranteeing that improvements not completed shall be completed within a period of two (2) years from the date of approval of such final plat; but such approval of the plat shall not constitute final acceptance of any improvements to be constructed. Improvements will be accepted only after their construction has been completed.

6-10-36 REQUIREMENT OF THE FINAL PLAT. The subdivider shall, within one (1) year from the date of approval of the preliminary plat, unless such time period has been extended, prepare and file with the City Clerk, 4 copies of the final plat and required attachments, as set forth in this ordinance. Except for a final plat for a minor subdivision or an auditor's plat as set forth herein, no

final plat shall be considered by the Governing Body until and unless a preliminary plat for the area included in the proposed final plat has been approved and has not expired and become void as set forth above.

The final plat shall be drawn at a scale of one inch equals one hundred feet (1" = 100') or larger. Sheet size shall be no greater than eighteen inches by twenty-four inches (18" x 24") nor smaller than eight and one-half inches by eleven inches (8 1/2" x 11") and shall be of a size acceptable to the County Auditor. If more than one sheet is used, each sheet shall clearly show the number of the sheet, the total number of sheets included in the plat, and match lines indicating where other sheets adjoin.

The final plat shall be clearly marked "Final Plat" and show the following:

1. The name of the subdivision.  
(Code of Iowa, Sec. 354.6(2) and 355.8(5))
2. Name and address of the owner and subdivider.
3. Scale, and a graphic bar scale, north arrow and date on each sheet.  
(Code of Iowa, Sec. 355.8(4) and (6))
4. All monuments to be of record, as required by Chapter 355, Code of Iowa.  
(Code of Iowa, Sec. 355.8(7))
5. Sufficient survey data to positively describe the bounds of every lot, block, street, easement, or other area shown on the plat, as well as the outer boundaries of the subdivided lands.  
(Code of Iowa, Sec. 355.8(12))
6. All distance, bearing, curve, and other survey data, as required by Chapter 355, Code of Iowa.  
(Code of Iowa, Sec. 355.8)
7. All adjoining properties shall be identified, and where such adjoining properties are a part of a recorded subdivision, the name of that subdivision shall be shown. If the subdivision platted is a resubdivision of a part or the whole of a previously recorded subdivision, sufficient ties shall be shown to controlling lines appearing on the earlier plat to permit an overlay to be made. Resubdivision shall be labeled as such in a subtitle following the name of the subdivision wherever the name appears on the plat.  
(Code of Iowa, Sec. 355.8(18))
8. Street names and clear designation of public alleys.  
(Code of Iowa, Sec. 354.6(2))
9. Block and lot numbers.

(Code of Iowa, Sec. 354.6(2))

10. Accurate dimensions for any property to be dedicated or reserved for public use, and the purpose for which such property is dedicated or reserved for public use.

(Code of Iowa, Sec. 354.6(2))

11. The purpose of any easement shown on the plat shall be confined to only those easements pertaining to public utilities including gas, power, telephone, cable television, water, sewer; easements for trails, bikeways, ingress and egress; and such drainage easements as are deemed necessary for the orderly development of the land encompassed within the plat.

(Code of Iowa, Sec. 355.8(19))

12. All interior excepted parcels, clearly indicated and labeled, "not a part of this plat".

13. A strip of land shall not be reserved by the subdivider unless the land is of sufficient size and shape to be of some practical use or service as determined by the Governing Body.

(Code of Iowa, Sec. 354.6(2))

14. The minimum unadjusted acceptable error of closure for all subdivision boundaries shall be 1:10,000 and shall be 1:5,000 for any individual lot.

(Code of Iowa, Sec. 355.8(15))

15. A statement by a registered land surveyor that the plat conforms to Section 409A.8 of the Code of Iowa, was prepared by the surveyor or under the surveyor's direct personal supervision, signed and dated by the surveyor and bearing the surveyor's Iowa registration number or seal, and a sealed certification of the accuracy of the plat by the registered land surveyor who drew the plat.

(Code of Iowa, Sec. 355.8(21))

6-10-37 ATTACHMENTS TO THE FINAL PLAT. The following shall be attached to and accompany any final plat:

1. A certificate by the owner and said owner's spouse, if any, that the subdivision is with their free consent, and is in accordance with the desire of the owner and spouse. This certificate must be signed and acknowledged by the owner and spouse before some officer authorized to take the acknowledgements of deeds.

(Code of Iowa, Sec. 354.11(1))

2. A complete abstract of title and an attorney's opinion showing that the fee title to the subdivision land is in the owner's name and that the land is free from encumbrances other than those secured by an encumbrance bond.

(Code of Iowa, Sec. 354.11(3))

3. A certificate from the County Treasurer that the subdivision land is free from unpaid taxes.

(Code of Iowa, Sec. 354.11(5))

4. A certificate from the Clerk of the District Court that the subdivision land is free from all judgements, attachments, or mechanics or other liens of record in said Clerk of District Court's office.

5. A certificate from the County Recorder that the title in fee is in the owner and that it is free from encumbrances other than those secured by an encumbrance bond.

(Code of Iowa, Sec. 354.11(2))

6. The encumbrance bond, if any, as specified in Sections 354.11 and 354.12, Code of Iowa.

(Code of Iowa, Sec. 354.11(2) and 354.12)

7. A statement of restrictions of all types that run with the land and become covenants in the deeds of lots.

8. A certificate by the City Engineer that all required improvements have been satisfactorily completed in accordance with the construction plans as approved and in substantial compliance with the approved preliminary plat. Prior to such certification, "as built" plans for all improvements shall have been provided to the City Engineer. In lieu thereof, the City Clerk may certify that a performance bond guaranteeing completion has been approved by the City Attorney and filed with the Clerk, or that the Governing Body has agreed that the City will provide the necessary improvements and installations and assess the costs against the subdivider of future property owners in the subdivision.

9. Where the improvements have been installed, a resolution accepting and approving such improvements along with the maintenance bond required by this ordinance.

10. If private streets or other private improvements have been approved, an agreement in the form of a covenant running with the land, in a form approved by the City Attorney, providing for the construction or reconstruction of any improvements to meet City standards, and the assessment of all costs to the property owners in the event of annexation and dedication and acceptance, shall be required.

11. A resolution and certificate for approval by the Council and for signatures of the Mayor and Clerk.

(Code of Iowa, Sec. 354.11(4))

12. The applicable fee, if any.

#### 6-10-38 PROCEDURES FOR THE REVIEW OF FINAL PLATS.

1. The City Clerk, upon receipt of 4 copies of the final plat, shall file one copy in the records of the City, shall retain one copy for the public inspection, and shall forward the remaining copies to the Plats Officer.

2. The Plats Officer shall provide copies of the plat to the City Engineer, and such other persons as are necessary to review the plat; and shall schedule the plat for review by the Governing Body.

3. The Plats Officer and the City Engineer shall examine the plat as to its compliance with Section 409A.8 of the Code of Iowa, the ordinances and standards of the City, and its conformance with the preliminary plat; and shall set forth their findings in writing. A copy of the findings shall be provided to the subdivider.

4. If the plat is found to substantially conform to the preliminary plat as approved, the final plat shall be forwarded to the Governing Body for review. If the plat is found not to conform to the preliminary plat, it shall be referred to the Planning Commission for review, prior to review by the Governing Body. The Planning Commission shall then review the plat and shall forward a written recommendation thereon to the Governing Body within forty-five (45) days of the filing of the plat with the City Clerk. If the recommendation is to disapprove the plat, or to require modification of the plat, the reasons therefore shall be set forth in writing, and a copy of the recommendation shall be provided to the subdivider.

5. Upon receipt of the plat and written reports thereon, the Governing Body shall review the plat and attachments thereto. If the plat is found to conform to the ordinances and standards of the City and the Comprehensive Plan and other duly adopted plans, all as of the date of approval of the preliminary plat, and is found to substantially conform to the preliminary plat, the Governing Body shall approve the plat, and shall cause its approval to be entered on the plat as required by law.

6. Action on the final plat by the Governing Body shall be taken within sixty (60) days of the date of filing of the plat with the City Clerk. If the action is to disapprove the plat, the reasons therefore shall be set forth in the official records of the Governing Body and such decision shall be provided to the subdivider.

## OTHER PROVISIONS

6-10-39 VARIANCES. Where, in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirements of this ordinance would result in extraordinary hardship to the subdivider, because of unusual topography or other conditions, the Governing Body may vary, modify or waive the requirements so that substantial justice may be done and the public interest secured, provided, however, that such variance modification or waiver will not have the effect of nullifying the intent and purpose of this ordinance. In no case shall any variance or modification be more than minimum easing of the requirements as necessary to eliminate the hardship. In so granting a variance, the Governing Body may impose such additional conditions as are necessary to secure substantially the objectives of the requirements so varied, modified, or waived.

**TITLE VI PHYSICAL ENVIRONMENT**

**CHAPTER 11 RESERVED**

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 12 HOUSING CODE

6-12-1 Statement of Purpose

6-12-2 Establishment

6-12-3 Severability

6-12-4 Repealer

6-12-1 STATEMENT OF PURPOSE. The purpose of this ordinance is to adopt the Uniform Housing Code with Certain exceptions to serve as the Housing Code for the City of Dunlap, Iowa.

6-12-2 ESTABLISHMENT. There is hereby adopted by the City of Dunlap, Iowa, for the purpose of providing minimum standards to safeguard life or limb, health, property and public welfare by regulating and controlling the use and occupancy, location and maintenance of all residential buildings and structures and all business buildings used as residential buildings within this jurisdiction, the Uniform Housing Code published by the International Conference of Building Officials, 2008 Edition, save and except such portions as are hereinafter deleted, modified or amended. The Uniform Housing Code, 2008 Edition, is incorporated herein as though fully set out at length herein.

1. Subsection 103 of the Uniform Housing Code is hereby amended to read as follows:

**Section 103(a). Application.** The provisions of this code shall apply to all buildings or portion thereof used, or designed or intended to be used, for human habitation. Buildings in existence at the time of the adoption of this Code may have their existing use or occupancy continued if such use or occupancy was legal at the time of the adoption of this Code provided such continued use is not dangerous to life and provided that the structure is not found to be substandard as defined in this Code.

Where any building or portion thereof is used or intended to be used as a combination apartment house-hotel, the provisions of this Code shall apply to the separate portions as if they were separate buildings.

Every rooming house or lodging house shall comply with all the requirements of this Code for dwellings.

**(b) Alteration.** Existing buildings which are altered or enlarged shall be made to conform to this Code insofar as new work is concerned.

**(c) Relocation.** Buildings or structures moved into or within this jurisdiction shall comply with the requirements in this Code for new buildings and structures.

2. Section 201 (a) is hereby amended to read as follows:



**201(a). Authority.** The building official is hereby authorized and directed to enforce all provisions of this code. For such purposes, he shall have the powers of a law enforcement officer.

3. Section 203 is hereby amended to read as follows:

**Section 203.** In order to provide for reasonable interpretation of the provisions of this code, to mitigate specific provisions of this code, which create practical difficulties in their enforcement and to hear appeals provided hereunder, the Board of Adjustment created by Ordinance No. I-67 of the Ordinances of the City of Dunlap, Iowa, shall sit as a Housing Advisory and Appeals Board consisting of five members. The building official shall be an ex official member of and shall act as secretary to said board. The board shall be appointed by the Mayor of the City of Dunlap with the consent of the governing body and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business and shall render all decisions and findings in writing to the appellant with a copy to the building official. Appeals to the board shall be processed in accordance with the provisions contained in this Code. Copies of all rules of procedure adopted by the board shall be delivered to the building official who shall make them accessible to the public.

4. Section 301 of the Uniform Housing Code is hereby amended to read as follows:

**Section 301.** It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter or convert any building or structure regulated by this Code without first obtaining separate construction compliance certificate for each building or structure in the manner and according to the applicable conditions prescribed in the Ordinances of the City of Dunlap, Iowa.

5. Section 302 of the Uniform Housing Code is hereby amended to read as follows:

**Section 302.** Whenever a construction compliance permit is required by Section 301 of this Code, the appropriate fee shall be paid to the City Clerk.

6. Section 401 of the Uniform Housing Code is hereby amended to read as follows:

**Section 401.** For the purpose of this Code, certain terms, phrases, words and their derivatives shall be construed as specified in this chapter. Where terms are not defined, they shall have their ordinary accepted meanings within the context with which they are used. *Webster's Third New International Dictionary of the English Language, Unabridged*, copyright 2008, shall be considered as providing ordinary accepted meanings. Words in the singular include the plural and the plural the singular. Words used in the masculine gender include the feminine and the feminine the masculine.

7. **Section 401** of the Uniform Housing Code is hereby amended by deleting from the Definition of "Nuisance", subparagraphs 4 and 5.

8. Section 501 of the Uniform Housing Code is hereby amended to read as follows:

**Section 501.** All buildings shall be located with respect to property lines and to other buildings on the same property as required by the Zoning Ordinances of the City of Dunlap, Iowa.

9. **Sections 502; 503; 504 and 505** of the Uniform Housing Code are amended by deleting said sections.

10. Section 601(a) of the Uniform Housing Code is amended to read as follows:

**Section 601(a) General.** Buildings or structures may be of any type of construction permitted by the Ordinances of the City of Dunlap, Iowa. Roofs, floors, walls, foundations and all other structural components of buildings shall be capable of resisting any and all forces and loads to which they may be subjected.

11. Section 601(c) of the Uniform Housing Code is hereby amended to read as follows:

**Section 601(c) Protection of Materials.** All wood shall be protected against termite damage and decay.

12. Section 701 (a) of the Uniform Housing Code is amended to read as follows:

**Section 701(a). Heating.** Every dwelling unit and guest room shall be provided with heating facilities capable of maintaining a room temperature of 70 degrees Fahrenheit at a point of 3 feet above the floor in all habitable rooms. Such facilities shall be installed and maintained in a safe condition and in accordance with all other applicable laws. All heating devices or appliances shall be of an approved type.

13. Section 701 of the Uniform Housing Code is hereby amended by deleting the unnumbered second paragraph of Section 701(b) and all of Section 701(c).

14. Section 801 of the Uniform Housing Code is hereby amended to read as follows:

**Section 801.** Every dwelling unit or guest room shall have access directly to the outside or to a public corridor. All buildings or portions thereof shall be provided with exits, exitways and appurtenances.

15. Section 901 of the Uniform Housing Code is hereby amended to read as follows:

**Section 901.** All buildings or portions thereof shall be provided with an appropriate degree of fire-resistive construction as required for the appropriate occupancy, type of construction and location on the property.

16. Section 1001(a) is hereby amended to read as follows:

**Section 1001(a). General.** Any building or portion thereof which is determined to be a dangerous and dilapidated building in accordance with Title II, Division 3, Chapter 1 of the Ordinances of the City of Dunlap, Iowa, or any building or portion thereof, including any dwelling unit, guest room or suite of rooms, or the premises on which the same is located, in which there exists any of the following listed conditions to an extent that endangers the life, limb, health, property, safety or welfare of the public or the occupants thereof shall be deemed and hereby is declared to be a substandard building.

17. Section 1001 of the Uniform Housing Code is hereby amended by deleting Subparagraphs (b)(2); (b)(4); (b)(5); (b)(7); (b)(8); (b)(9); (b)(10); and (b)(11).

18. Section 1103(1) of the Uniform Housing Code is hereby amended to read as follows:

**Section 1103(1).** If any building is declared a substandard building under this ordinance, it shall either be repaired in accordance with the current requirements of these ordinances or shall be demolished at the option of the building owner.

19. Section 1104(b) of the Uniform Housing Code is hereby amended to read as follows:

**Section 1104(b). Compliance.** Whenever such notice is posted, the building official shall include a notification thereof in the notice and order issued by him under Subsection (b) of Section 1101, reciting the emergency and specifying the conditions which necessitate the posting. No person shall remain in or enter any building which has been so posted, except that entry may be made to repair, demolish or remove such building under permit. No person shall remove or deface any such notice after it is posted until the required repairs, demolition or removal have been completed and a Certificate of Occupancy entered pursuant to the provisions of the Ordinances of the City of Dunlap, Iowa. Any person violating this subsection shall be guilty of a misdemeanor.

6-12-3 Severability. If any section, provision or part of this Ordinance shall be adjudged invalid or unconstitutional, said adjudication shall not affect the validity of the Ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

6-12-4 Repealer. All Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 13 NUMBERING OF BUILDINGS

**6-13-1 Buildings** to be Numbered

6-13-2 Numbering System

6-13-3 Mandatory Numbering

6-13-4 Type of Numbers, Size

6-13-5 Enforcement

6-13-1 **BUILDINGS TO BE NUMBERED.** All buildings now or hereafter erected within the City limits shall be assigned numbers and the owners notified of the assigned number. The owners shall cause the numbers to be placed and maintained on their property.

6-13-2 **NUMBERING SYSTEM.** Numbers shall be assigned in accordance with the system developed by the City Council. The system consists of three-digit numbering. The even numbers shall be on the west and north sides of all streets and the odd numbers shall be on the east and south sides of all streets.

6-13-3 **MANDATORY NUMBERING.** The placing of numbers is mandatory.

6-13-4 **TYPE OF NUMBERS, SIZE.** The numbers shall be conspicuously displayed on the portion of the building or premise which faces the street. All numbers shall be of durable substance, clearly legible and the numerals shall be not less than five inches in height.

6-13-5 **ENFORCEMENT.** If numbers meeting the requirements of this ordinance have not been placed on each building, the City shall cause individual notice to be given to the owner of buildings not numbered, requiring compliance within a reasonable time set in the notice, and if not completed by such time, the City shall cause proper numbers to be installed and the reasonable cost of the installation billed to such owner.

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 14 BUILDING PERMITS

6-14-1	Purpose	6-14-10	Rear Yard Requirements
6-14-2	Structure Defined	6-14-11	Special Requirements for Residences
6-14-3	Permit Required	6-14-12	Variances
6-14-4	Application	6-14-13	Fences
6-14-5	Fees	6-14-14	Curb Cuts
6-14-6	Plans Required	6-14-15	Authority of City Council
6-14-7	Location of Structure	6-14-16	Permit Issued
6-14-8	Front Yard Requirements	6-14-17	Limitations on Permit
6-14-9	Side Yard Requirements		

6-14-1 PURPOSE. The purpose of this Chapter is to provide the City Council notice of the type of structure, the kind of construction, the location of any structure to be erected or added within the corporation, the location of any structure on any specific lot within the corporation and to provide reasonable rules for the erection, reconstruction, altering and repair of all kinds of structures.

6-14-2 STRUCTURE DEFINED. Anything constructed or erected with a fixed location on the ground that protrudes above the ground or surface level of a parcel of property. Structures include, but are not limited to, buildings, walls, fences, billboards, aboveground storage tanks, and similar uses.

6-14-3 PERMIT REQUIRED. No structure shall be erected, reconstructed, altered or added to without first securing a permit from the City Council.

6-14-4 APPLICATION. All requests for a building permit shall be submitted to the City Clerk on forms supplied by the City and accompanied with the appropriate fee for such permit.

6-14-5 FEES. There shall be a permit fee, of **\$20.00 for such permit. The fee for an expedited permit shall be \$40.00. Any person commencing construction without a permit shall pay a permit fee of \$100. If a permit is rejected the fee shall be returned to the applicant**

6-14-6 PLANS REQUIRED. Plans and specifications of any proposed structure shall be filed with the application for the permit.

6-14-7 LOCATION OF STRUCTURE. A complete showing and description of the real estate involved and the location of the structure on the real estate shall be filed with the application. The perimeter of the structure shall be staked prior to submitting an application.

6-14-8 FRONT YARD REQUIREMENTS. There shall be a front yard of not less than twenty (20) feet, except as follows:

1. Where a structure is to be erected on a parcel of land that is within one hundred (100) feet of existing structures on both sides, the minimum front yard shall be a line drawn between the closest front corners of the adjacent structures on the two sides, or

2. Where a structure is to be erected on a parcel of land that is one hundred (100) feet of an existing structure on one side only within the same block, such structure may be erected as close to the street as a line drawn from the closest front corner of that structure to a point twenty (20) feet back from the front lot line measured at the center of the lot on which the proposed structure is to be erected.

3. Where lots have a double frontage, the front yard as required herein shall be provided on both streets.

6-14-9 SIDE YARD REQUIREMENTS. No building shall be erected closer than five (5) feet to either side lot line, except in the business district where no side yard is required.

6-14-10 REAR YARD REQUIREMENTS. There shall be a rear yard provided for each structure of not less than thirty (30) feet or twenty percent (20%) of the depth of the lot, whichever amount is smaller, except in the business district where no rear yard is required.

6-14-11 SPECIAL REQUIREMENTS FOR RESIDENCES. Any structure which is to be a residence for living shall meet the following special requirements.

1. A residence shall have a minimum of 1,000 square feet of livable space on the main floor.

2. All residences shall have a permanent perimeter foundation constructed of cement, concrete blocks with mortar or other permanent material approved by the City Council. All foundations shall have footings that extend below the frost line.

6-14-12 VARIANCES. The city council may grant a variance to sections 6-14-8, 6-14-9, and 6-14-10 where the setback requirements would cause a hardship on the property owner.

6-14-13 FENCES. No setback requirements shall be applicable to the construction of a fence.

6-14-14 CURB CUTS. No curb cut shall be constructed or permitted without first obtaining a building permit.

6-14-15 AUTHORITY OF CITY COUNCIL. The City Council shall have full authority to accept or reject any plans and specifications submitted.

6-14-16 PERMIT ISSUED. Permits shall be issued by the City Clerk in duplicate, one copy for the applicant and one copy to be retained in the City records.

6-14-17 LIMITATIONS ON PERMIT. In the event that construction covered by a permit is not initiated and underway within one year from the date of issuance of a permit, such permit shall be deemed void and of no effect. All permits shall expire and be void twelve (12) months after issuance by the City Clerk. If construction is not completed a new application and fee must be submitted.

6-14-18 ZONING AND FIRE LIMITS. No provision of this chapter shall be construed to repeal or detract from any regulation contained in any fire limits or zoning ordinance now in effect or hereafter adopted.

6-14-19 UTILITY CONNECTION FEES. If any utility connections are anticipated or required, the fees therefore shall be tendered and paid to the city with the application for a building permit.

6-14-20 ADDITIONAL RESTRICTIONS. As a condition of granting any building permit, the council shall have power to place such limitations and/or restrictions thereon as it shall deem right, necessary, and proper in the public interest.

## **TITLE VI PHYSICAL ENVIRONMENT**

### **CHAPTER 15 PARK COMMISSION**

6-15-1	Park Board	6-15-9	Poles and Wires
6-15-2	Appointment – Term	6-15-10	Acquisition of Land
6-15-3	Organization	6-15-11	Sale or Lease of Property
6-15-4	Treasurer	6-15-12	Limited Leases
6-15-5	Compensation	6-15-13	Rules and Regulations
6-15-6	Budget Certified	6-15-14	Penalties
6-15-7	Records and Reports	6-15-15	Swimming Pools
6-15-8	Jurisdiction and Authority		

6-15-1 PARK BOARD. There shall be a board of park commissioners for the city consisting of three (3) citizens of legal age.

(Code of Iowa, Sec. 392.7)

6-15-2 APPOINTMENT-TERM. All board members are to be appointed by the mayor with the approval of the council. All appointments to the board shall be for six (6) years, except to fill vacancies. Each term shall commence on July first. Appointment of one commissioner shall be made every two years, thereby staggering the terms of the commissioners.

(Amended by Ordinance No. 84 passed April 2, 1986)

(Code of Iowa, as amended, Sec. 392.7)

6-15-3 ORGANIZATION. The board shall elect from its members a chairman and secretary and such other officers as it deems necessary.

(Amended by Ordinance No. 84 passed April 2, 1986)

(Code of Iowa, as amended, Sec. 392.7)

6-15-4 TREASURER. The city treasurer shall be the treasurer of the board and pay out all monies under the control of the board on orders signed by the chairman and secretary, but shall receive no compensation for his services as such treasurer.

(Code of Iowa, Sec. 392.7)

6-15-5 COMPENSATION. There shall be no compensation attached to the office of Park Commissioner, and all services performed by said commissioner shall be rendered without compensation therefore.

(Code of Iowa, Sec. 392.7)

6-15-6 BUDGET CERTIFIED. The board shall, on or before February first of each year submit to the council a proposed budget and tax levy for general park purposes for the ensuing fiscal year. The council shall include such tax levy, or so much thereof as it may deem necessary, in the levy for the general fund of the city as certified to the county auditor.

(Code of Iowa, Sec. 392.7)



6-15-7 RECORDS AND REPORTS. The board shall keep a record of all its transactions and proceedings and submit a detailed annual report to the council no later than August first of each year of the amounts of money expended and the purposes for which used.  
(Code of Iowa, Sec. 392.7)

6-15-8 JURISDICTION AND AUTHORITY. The board shall have exclusive control of all parks and pleasure grounds acquired by it or of any other ground owned by the city and set apart for like purposes within or without the city. All ordinances of the city shall be in full force and effect in and over the territory occupied by such parks.  
(Code of Iowa, Sec. 392.7)

6-15-9 POLES AND WIRES. The board may regulate or forbid the erection of poles or the stretching of wire for electric light, street railway, or other corporations or persons in such parks or in or along streets or highways or over public places laid out or controlled by it.  
(Code of Iowa, Sec. 392.7)

6-15-10 ACQUISITION OF LAND. The board may acquire real estate within or without the city for park purposes by donation, lease, purchase or condemnation, take the title to real estate in the name of the board in trust for the public and hold it exempt from taxation.  
(Code of Iowa, Sec. 392.7)

6-15-11 SALE OR LEASE OF PROPERTY. The board may sell, subject to the approval of the council, exchange, or lease any real estate acquired by it which in its discretion is unfit, not desirable, unnecessary, or not required for park purpose.  
(Code of Iowa, Sec. 392.7)

6-15-12 LIMITED LEASES. The board may lease under reasonable rates and requirements a particular park or portion thereof;

1. For a period not in excess of ten (10) days to charitable, fraternal and patriotic organizations of the conduct of celebrations, anniversaries and entertainment.
2. For such time or times, not to exceed six (6) consecutive months, for the purpose of permitting the playing of professional baseball or other professional games.  
(Code of Iowa, Sec. 392.7)

6-15-13 RULES AND REGULATIONS. The board shall have the power to make rules and regulations for the use of park or other facilities under its control, such rules shall be posted on the facility or otherwise publicized in a manner to provide adequate notice to the public.  
(Code of Iowa, Sec. 392.7)

6-15-14 PENALTIES. Any person who violates a board rule or regulation which has been approved by the council and adopted by ordinance may be subjected to the penalties provided for in the ordinance adopting the rule or regulation.  
(Code of Iowa, Sec. 392.1)

6-15-15 SWIMMING POOL. The board shall have exclusive control of the city swimming pool and real estate upon which it is located.

Code of Iowa, Sec. 392.7)

## **TITLE VI – PHYSICAL ENVIRONMENT**

### **CHAPTER 16 HOUSE MOVERS**

6-16-1 House Movers Defined	6-16-8 Time Limit
6-16-2 Permit Required	6-16-9 Violation of Time Limits
6-16-3 Application	6-16-10 Fire Hazard
6-16-4 Bond	6-16-11 Utilities
6-16-5 Insurance	6-16-12 Protect Pavement
6-16-6 Permit Fee	6-16-13 Public Safety
6-16-7 Issue of Permit	6-16-14 Restoration of Original Site

**6-16-1 HOUSE MOVERS DEFINED** A house mover is any person who undertakes to move a building or other 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.

**6-16-2 PERMIT REQUIRED** It shall be unlawful for any person to engage in the activity of house mover as defined without a valid permit from the clerk for each house, building, or similar structure to be moved.

**6-16-3 APPLICATION** Application for a house mover's permit shall be made in writing to the clerk, the application shall include:

1. Applicant's full name and address and if a corporation the name and address of its principal officers and registered agent.
2. An accurate description of the present location and future site of the building or similar structure to be moved.
3. A routing plan approved by the mayor, superintendent of public works, fire chief, and police authority shall be presented and shall be the shortest route compatible with the least public inconvenience and greatest safety.
4. An agreement on the part of the owner or owners to become responsible for any and all damage that may be done to crossing culverts, bridges, paving, curbs, sidewalks, utilities, or to any other property of the City or any individual, firm, or corporation by the moving of such building or structure and to pay all costs and expenses of raising, lowering, or moving and replacing electric light, telephone, cable television, and other wires, pipes, and poles.
5. If the building is being brought into the city limits from without the owner shall obtain a certified inspection of the structure attesting that it is free from any pests and insect infestations including termite and carpenter ants, by a person qualified to make such an inspection together with that person's guarantee and bond that said structure is free of such infestation.

6-16-4 BOND The applicant shall post with the Clerk a penal bond in the minimum sum of \$25,000.00 issued by a surety company authorized to issue such bonds in the State of Iowa. The bond shall guarantee the permittee's payment of any damage done to the City or its residents in the course of moving the building or structure.

6-16-5 INSURANCE 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 in the following minimum amounts:

1. Bodily injury -- \$100,000.00 per person; and \$300,000.00 per accident
2. Property damage -- \$100,000.00 per accident

6-16-6 PERMIT FEE A permit fee of \$10.00 shall be payable at the time of filing the application with the clerk. A separate permit fee shall be required for each house, building, or similar structure moved.

6-16-7 ISSUE OF PERMIT Upon approval of the application, filing of bond and insurance certificate, payment of the required fee, and certified infestation certificate, if required, the City Clerk shall issue a permit.

6-16-8 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 six hours without having first secured the written approval of the City. No house mover shall permit or allow a building or similar structure to interrupt public utilities for a period of more than one hour without first having obtained the written approval of the City.

6-16-9 VIOLATION OF TIME LIMITS In the event a mover shall permit or allow a building or similar structure to remain upon the streets for a period longer than provided or to interrupt utility usage for a period longer than provided, then damages may be paid to the City and to all businesses and residents for the full amount of any inconvenience and the interruption of service. Without proof of damages to the City of Dunlap shall be assessed in the sum of \$1,000.00 for each hour in excess of the six hours of moving time. Without proof damages shall be assessed to the sum of \$50.00 for each hour for any residential utility customer interrupted and \$200.00 for each hour for any business utility customer so interrupted. In the addition thereto, any residential or business utility customer may provide proof of any and all additional damages above and beyond those herein provided.

6-16-10 FIRE HAZARD No mover shall issue, permit or allow any building or similar structure to be moved during any period in which the City Fire Chief has proclaimed that the general conditions within the City of Dunlap present unduly dangerous fire hazard as a result of drought or other such causes.

6-16-11 UTILITIES The holder of the permit for moving a building shall give 10 days

notice to the owners or managers of all businesses and residences that may have their utility service or public street use interrupted and shall give all utility companies sufficient notice as may be required to remove or move all wires, pipes, and poles and such utility may either remove or direct the removal and replacing of such wire, pipes and poles. The holder of the permit shall pay the reasonable costs charged by the utility for such services.

6-16-12        **PROTECT PAVEMENT** It shall be unlawful to move any house or building or similar structure of any kind over any pavement unless the wheels or rollers upon which the house or building is moved shall be 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 any house or building the estimate of the city as to such weight shall be final. The mover shall replace and repair any damaged pavement.

6-16-13        **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 flagmen at the closest intersections or other possible channels of traffic behind, ahead, and to the side 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 flares at the intersections or channels of traffic to the sides, behind, and ahead of the building structure.

6-16-14        **RESTORATION OF ORIGINAL SITE** For the protection of the citizens of the City and to avoid attractive nuisances, if any person moves a building or similar structure the original building site shall be restored to grade by filling all basement holes. In addition, all utilities shall be disconnected to the curb or main trunk line of the utility.

## **TITLE VI PHYSICAL ENVIRONMENT**

### **CHAPTER 17 TREES**

6-17-1 Purpose	6-17-5 Assessment
6-17-2 Definitions	6-17-6 Trees to be Supervised
6-17-3 Planting Restrictions	6-17-7 Removal of Trees
6-17-4 Duty to Trim Trees	6-17-8 Professional Tree Removers

6-17-1 **PURPOSE.** The purpose of this chapter is to beautify and preserve the appearance of the city by regulating and providing for the planting, care and removal of trees.

6-17-2 **DEFINITIONS.** For use in this chapter, the following terms are defined:

1. “Parking”: shall mean 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.

2. “Superintendent”: shall mean maintenance personnel.

6-17-3 **PLANTING RESTRICTIONS.** No tree shall be planted in any street or parking except in accordance with the following:

1. **Alignment.** All trees hereafter planted in any street shall be planted in the parking midway between the outer line of the sidewalk and the curb. In the event a curb line is not established, trees shall be planted on a line 10 feet from the property line.

2. **Spacing.** Trees shall not be planted on the parking if it is less than nine (9) feet in width, or contains less than eighty-one (81) square feet of exposed soil surface per tree. Trees shall not be planted closer than twenty (20) feet to street intersections (property lines extended) and ten (10) feet to driveways. If it is at all possible, trees should be planted inside the property lines and not between the sidewalk and the curb.

3. **Prohibited trees.** No person shall hereinafter plant in any street, any fruit bearing tree or any tree of the kinds commonly known as cottonwood, poplar, boxelder, Chinese elm or evergreens.

6-17-4 **DUTY TO TRIM TREES.** The owner or agent of the abutting property shall keep the trees on, or overhanging the street trimmed so that all branches will be at least fifteen (15) feet above the surface of the street and eight (8) feet above the sidewalks.

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

6-17-5 ASSESSMENT. If the abutting property owner fails to trim the trees as required in this chapter, the city may serve notice on the abutting property owner requiring him to do so within five (5) days. If he fails to trim the trees 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 (2)(e))

6-17-6 TRIMMING TREES TO BE SUPERVISED. It shall be 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.

6-17-7 REMOVAL OF TREES. The superintendent shall remove, on the order of the council, any tree on the streets of the city which interferes with the making of improvements or with travel thereon. He shall additionally remove any trees on the street, not on private property which have become diseased, or which constitute a danger to the public, or which may otherwise be declared a nuisance.

(Code of Iowa, Sec. 364.12(2)(c) and 372.13 (4))

6-17-8 PROFESSIONAL TREE REMOVERS. Any person who removes, trims, prunes or alters any trees on the city parking shall be required to file a certificate showing proof of insurance and shall obtain a permit from the city clerk allowing said person to remove, trim, prune or alter said trees.

## **TITLE VI PHYSICAL ENVIRONMENT**

### **CHAPTER 18 FLOODPLAIN MANAGEMENT ORDINANCE**

#### **SECTION I - Statutory Authority, Findings of Fact and Purpose**

- A. 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.
- B. Findings of Fact
  - 1. The flood hazard areas of the City of Dunlap are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare of the community.
  - 2. These flood losses, hazards, and related adverse effects are caused by: (i) The occupancy of flood hazard areas by uses vulnerable to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flooding and (ii) the cumulative effect of obstructions on the floodplain causing increases in flood heights and velocities.
- C. Statement of Purpose

It is the purpose of this Ordinance to protect and preserve the rights, privileges and property of the City of Dunlap and its residents and to preserve and improve the peace, safety, health, welfare, and comfort and convenience of its residents by minimizing those flood losses described in Section IB1 of this Ordinance with provisions designed to:

- 1. Restrict or prohibit uses which are dangerous to health, safety or property in times of flood or which cause excessive increases in flood heights or velocities.
- 2. Require that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.
- 3. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.
- 4. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.
- 5. Reserve sufficient floodplain area for the conveyance of flood flows so that flood heights and velocities will not be increased substantially.

#### **SECTION II - General Provisions**



A. Lands to Which Ordinance Apply

The provisions of this Ordinance shall apply to all lands and development which have special flood hazards. The Flood Insurance Rate Map (FIRM) for Harrison County and Incorporated Areas, City of Dunlap, Panels 19085C0130C, dated January 29, 2021 which were prepared as part of the Harrison County Flood Insurance Study, shall be used to identify such flood hazard areas and all areas shown thereon to be within the boundaries of the base flood shall be considered as having significant flood hazards. The Harrison County Flood Insurance Study is hereby adopted by reference and is made part of this ordinance for the purpose of administering floodplain management regulations.

B. 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 Hazard Boundary Map. When an interpretation is needed as to the exact location of a boundary, the City Clerk shall make the necessary interpretation. The City Council shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the City Clerk in the enforcement or administration of this Ordinance.

C. Compliance

No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations which apply to uses within the jurisdiction of this Ordinance.

D. Abrogation and Greater Restrictions

It is not intended by this Ordinance to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provision of this Ordinance shall prevail. All other ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.

E. Interpretation

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

F. Warning and Disclaimer of Liability

The standards required by this Ordinance are considered reasonable for regulatory purposes. This Ordinance does not imply that areas outside the designated special flood hazard areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of Dunlap or any officer or employee thereof for any flood damages that from reliance on this Ordinance or any administrative decision lawfully made thereunder.

#### G. Severability

If a court of competent jurisdiction adjudges any section, clause, provision or portion of this Ordinance unconstitutional or invalid, the remainder of this Ordinance shall not be affected thereby.

### SECTION III – Floodplain Management Standards

All development must be consistent with the need to minimize flood damage and meet the following applicable performance standards. Where base flood elevations and floodway data have not been provided in the Flood Insurance Study, the Iowa Department of Natural Resources shall be contacted to (i) whether the land involved is either wholly or partly within the floodway or floodway fringe and (ii) the base flood elevation. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

Review by the Iowa Department of Natural Resources is not required for the proposed construction of new or replacement bridges or culverts where (i) the bridge or culvert is located on a stream that drains less than two (2) square miles, and (ii) the bridge or culvert is not associated with a channel modification that constitutes a channel change as specified in 567-71.2(2), Iowa Administrative Code.

#### A. All development within the special flood hazard areas shall:

1. Be designed and adequately anchored to prevent flotation, collapse, or lateral movement.
2. Use construction methods and practices that will minimize flood damage.
3. Use construction materials and utility equipment that are resistant to flood damage.
4. Obtain all other necessary permits from federal, state and local governmental agencies including approval when required from the Iowa Department of Natural Resources.

#### B. Residential Structures - All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the base flood elevation. Construction shall be upon compacted fill which shall, at all points, be no lower than 1.0 ft. above the base flood elevation 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 base flood.

All new residential structures located in areas that would become isolated due to flooding of surrounding ground shall be provided with a means of access that will be passable by wheeled vehicles during the base flood. However, this criterion shall not apply where the Administrator determines there is sufficient flood warning time for the protection of life and property. When estimating flood warning time, consideration shall be given to the criteria listed in 567-75.2(3), Iowa Administrative Code.

- C. Non-residential Structures - All new or substantially improved non-residential structures shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the base flood elevation, or together with attendant utility and sanitary systems, be floodproofed to such a level.

When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood; and that the structure, below the base flood elevation is watertight with walls substantially impermeable to the passage of water.

A record of the certification indicating the specific elevation (in relation to North American Vertical Datum) to which any structures are floodproofed shall be maintained by the Administrator.

- D. All new and substantially improved structures:

1. Fully enclosed areas below the "lowest floor" (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:
  - a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
  - b. The bottom of all openings shall be no higher than one foot above grade.
  - c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic entry and exit of floodwaters.Such areas shall be used solely for parking of vehicles, building access and low damage potential storage.
2. New and substantially improved structures must be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
3. New and substantially improved structures must be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

E. Factory-built homes:

1. All new and substantially improved factory-built homes, including those placed in existing factory-built home parks or subdivisions shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one (1) foot above the base flood elevation.
2. All new and substantially improved factory-built homes, including those placed in existing factory-built home parks or subdivisions shall be anchored to resist flotation, collapse, or lateral movement. Anchorage systems may include, but are not limited to, use of over-the-top or frame ties to ground anchors as required by State Building Code.

F. Utility and Sanitary Systems:

1. On-site waste disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.
2. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one (1) foot above the base flood elevation.
3. New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities (other than on-site systems) shall be provided with a level of protection equal to or greater than one (1) foot above the base flood elevation.
4. Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.

G. Storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one (1) foot above the base flood elevation. Other material and equipment must either be similarly elevated or (i) not be subject to major flood damage and be anchored to prevent movement due to flood waters or (ii) be readily removable from the area within the time available after flood warning.

H. Flood control structural works such as levees, flood walls, etc. shall provide, at a minimum, protection from a base 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.

I. 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.

J. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals (including

the installation of public utilities) shall meet the applicable performance standards of this Ordinance.

Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the base flood. Proposals for subdivisions greater than five (5) acres or fifty (50) lots (whichever is less) shall include base flood elevation data for those areas located within the Special Flood Hazard Area.

K. Accessory Structures to Residential Uses

1. Detached garages, sheds, and similar structures accessory that are incidental to a residential use are exempt from the base flood elevation requirements where the following criteria are satisfied.
  - a. The structure shall not be used for human habitation. The structure shall be used solely for low flood damage potential purposes such as vehicle parking and limited storage.
  - b. The structure shall be designed to have low flood damage potential. Its size shall not exceed 600 square feet. Those portions of the structure located less than 1 foot above the base flood elevation must be constructed of flood-resistant materials.
  - c. The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.
  - d. The structure shall be firmly anchored to prevent flotation, collapse and lateral movement which may result in damage to other structures.
  - e. The structure's service facilities such as electrical and heating equipment shall be elevated or floodproofed to at least one foot above the base flood elevation.
  - f. The structure's walls shall include openings that satisfy the provisions of Section III (D) (1) of this Ordinance.
2. Exemption from the base flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.

L. Recreational Vehicles

1. Recreational vehicles are exempt from the requirements of Section III E of this Ordinance regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.
  - a. The recreational vehicle shall be located on the site for less than 180 consecutive days, and,
  - b. The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

2. Recreational vehicles that are located on the site for more than 180 consecutive days or are not ready for highway use must satisfy requirements of Section III E of this Ordinance regarding anchoring and elevation of factory-built homes.
- M. Pipeline river and stream crossings shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.
- N. Maximum Damage Potential Development – All new or substantially improved maximum damage potential development shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the elevation of the 500-year flood, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 0.2% annual chance flood; and that the structure, below the 0.2% annual chance flood elevation is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are floodproofed shall be maintained by the Administrator. Where 0.2% chance flood elevation data has not been provided in the Flood Insurance Study, the Iowa Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determinations.

#### SECTION IV - Administration

##### A. Appointment, Duties and Responsibilities of Floodplain Administrator

1. The City Clerk is hereby appointed to implement and administer the provisions of this Ordinance and will herein be referred to as the Administrator.
2. Duties of the Administrator shall include, but not necessarily be limited to the following:
  - a. Review all floodplain development permit applications to assure that the provisions of this Ordinance will be satisfied.
  - b. Review floodplain development applications to assure that all necessary permits have been obtained from federal, state and local governmental agencies including approval when required from the Department of Natural Resources for floodplain construction.
  - c. Record and maintain a record of the elevation (in relation to North American Vertical Datum) of the lowest floor (including basement) of all new or substantially improved structures in the special flood hazard area.
  - d. Record and maintain a record of the elevation (in relation to North American Vertical datum) to which all new or substantially improved structures have been floodproofed.

- e. Notify adjacent communities/counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.
- f. Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this Ordinance.
- g. Notify the Federal Insurance Administration of any annexations or modifications to the community's boundaries.
- h. Review subdivision proposals to insure such proposals are consistent with the purpose of this ordinance and advise the BOARD OF APPEALS of potential conflict.
- i. Maintain the accuracy of the community's Flood Insurance Rate Maps when;
  - 1. Development placed within the floodway results in any of the following:
    - (i) An increase in the Base Flood Elevations, or
    - (ii) Alteration to the floodway boundary
  - 2. Development placed in Zones A, AE, AH, and A1-30 that does not include a designated floodway that will cause a rise of more than one foot in the base flood elevation; or
  - 3. Development relocates or alters the channel.

Within 6 months of the completion of the development, the applicant shall submit to FEMA all scientific and technical data necessary for a Letter of Map Revision.
- j. Perform site inspections to ensure compliance with the standards of this Ordinance
- k. Forward all requests for Variances to the City Council for consideration. Ensure all requests include the information ordinarily submitted with applications as well as any additional information deemed necessary to the City Council.

**B. Floodplain Development Permit**

- 1. Permit Required - A Floodplain Development Permit issued by the Administrator shall be secured prior to any floodplain development (any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, storage of materials and equipment, excavation or drilling operations), including the placement of factory-built homes.
- 2. Application for Permit - Application shall be made on forms furnished by the Administrator and shall include the following:
  - a. Description of the work to be covered by the permit for which application is to be made.

- b. Description of the land on which the proposed work is to be done (i.e., lot, block, track, street address or similar description) that will readily identify and locate the work to be done.
  - c. Location and dimensions of all structures and additions
  - d. Indication of the use or occupancy for which the proposed work is intended.
  - e. Elevation of the base flood.
  - f. Elevation (in relation to North American Vertical Datum) of the lowest floor (including basement) of structures or of the level to which a building is to be floodproofed.
  - g. For structures being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.
  - h. Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this Ordinance.
3. Action on Permit Application - The Administrator shall, within a reasonable time, make a determination as to whether the proposed floodplain development meets the applicable standards of this Ordinance and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefore. The Administrator shall not issue permits for variances except as directed by the City Council.
  4. Construction and Use to be as Provided in Application and Plans - Floodplain Development Permits based on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance.

The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State of Iowa, that the finished fill, building floor elevations, floodproofing, or other flood protection measures were accomplished in compliance with the provisions of this Ordinance, prior to the use or occupancy of any structure.

#### C. Variance

1. The City Council may authorize upon request in specific cases such variances from the terms of this Ordinance that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship. Variances granted must meet the following applicable standards.
  - a. Variances shall only be granted upon: (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary



- public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.
- b. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - c. In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this Ordinance, the applicant shall be notified in writing over the signature of the Administrator that: (i) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction increases risks to life and property.
2. Factors Upon Which the Decision of the Council Shall be Based - In passing upon applications for Variances, the Council shall consider all relevant factors specified in other sections of this Ordinance and:
- a. The danger to life and property due to increased flood heights or velocities caused by encroachments.
  - b. The danger that materials may be swept on to other land or downstream to the injury of others.
  - c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
  - d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
  - e. The importance of the services provided by the proposed facility to the City.
  - f. The requirements of the facility for a floodplain location.
  - g. The availability of alternative locations not subject to flooding for the proposed use.
  - h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
  - i. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
  - j. The safety of access to the property in times of flood for ordinary and emergency vehicles.
  - k. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.
  - l. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical and water systems), facilities, streets and bridges.
  - m. Such other factors which are relevant to the purpose of this Ordinance.

3. Conditions Attached to Variances - Upon consideration of the factors listed above, the Council may attach such conditions to the granting of variances as it deems necessary to further the purpose of this Ordinance. Such conditions may include, but not necessarily be limited to:
  - a. Modification of waste disposal and water supply facilities.
  - b. Limitation of periods of use and operation.
  - c. Imposition of operational controls, sureties, and deed restrictions.
  - d. Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purpose of this Ordinance.
  - e. Floodproofing measures.

#### SECTION V - Nonconforming Uses

- A. A structure or the use of a structure or premises which was lawful before the passage or amendment of this Ordinance, but which is not in conformity with the provisions of this Ordinance, may be continued subject to the following conditions:
  1. If such use is discontinued for six (6) consecutive months, any future use of the building premises shall conform to this Ordinance.
  2. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.
- B. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (50) percent of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this Ordinance. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.

#### SECTION VI - Penalties for Violation

Violations of the provisions of this Ordinance or failure to comply with any of the requirements shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than five hundred dollars (\$500.00) or imprisoned for not more than thirty (30) days. Nothing herein contained prevent the City of Dunlap from taking such other lawful action as is necessary to prevent or remedy violation.

#### SECTION VII - Amendments

The regulations and standards set forth in this Ordinance may from time to time be amended, supplemented, changed, or repealed. No amendment, supplement, change, or modification shall be undertaken without prior approval of the Department of Natural Resources.

## SECTION VIII - Definitions

Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this Ordinance its most reasonable application.

**APPURTENANT STRUCTURE** – A structure which is on the same parcel of the property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

**BASE FLOOD** - The flood having one (1) percent chance of being equaled or exceeded in any given year. (See 100-year flood).

**BASE FLOOD ELEVATION (BFE)** – The elevation floodwaters would reach at a particular site during the occurrence of a base flood event.

**BASEMENT** - Any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see "lowest floor."

**DEVELOPMENT** - Any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations. "Development" does not include "minor projects" or "routine maintenance of existing buildings and facilities" as defined in this section. It also does not include gardening, plowing, and similar practices that do not involve filling or grading.

**EXISTING CONSTRUCTION** - Any structure for which the "start of construction" commenced before the effective date of the first floodplain management regulations adopted by the community. May also be referred to as "existing structure".

**EXISTING FACTORY-BUILT HOME PARK OR SUBDIVISION** - A factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management regulations adopted by the community.

**EXPANSION OF EXISTING FACTORY-BUILT HOME PARK OR SUBDIVISION** - The preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**FACTORY-BUILT HOME** - Any structure, designed for residential use which is wholly or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for

installation or assembly and installation, on a building site. For the purpose of this Ordinance factory-built homes include mobile homes, manufactured homes and modular homes and also includes "recreational vehicles" which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.

**FACTORY-BUILT HOME PARK** - A parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.

**FLOOD** - A general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.

**FLOOD INSURANCE RATE MAP (FIRM)** - The official map prepared as part of (but published separately from) the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.

**FLOODPLAIN** - Any land area susceptible to being inundated by water as a result of a flood.

**FLOODPLAIN MANAGEMENT** - An overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of floodplain s, including but not limited to emergency preparedness plans, flood control works, floodproofing and floodplain management regulations.

**FLOODPROOFING** - Any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities, which will reduce or eliminate flood damage to such structures.

**FLOODWAY** - The channel of a river or stream and those portions of the floodplain s adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one (1) foot.

**FLOODWAY FRINGE** - Those portions of the Special Flood Hazard Area outside the floodway.

**HIGHEST ADJACENT GRADE** – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure

**HISTORIC STRUCTURE** - Any structure that is:

- a. Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing of the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,

- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by either (i) an approved state program as determined by the Secretary of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.

**LOWEST FLOOR** - The floor of the lowest enclosed area in a building including a basement except when all the following criteria are met:

- a. The enclosed area is designed to flood to equalize hydrostatic pressure during floods with walls or openings that satisfy the provisions of Section IIID1 of this Ordinance and
- b. The enclosed area is unfinished (not carpeted, dry walled, etc.) and used solely for low damage potential uses such as building access, parking or storage, and
- c. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one (1) foot above the 100-year flood level, and
- d. The enclosed area is not a "basement" as defined in this section.

In cases where the lowest enclosed area satisfies criteria a, b, c, and d above, the lowest floor is the floor of the next highest enclosed area that does not satisfy the criteria above.

**MAXIMUM DAMAGE POTENTIAL DEVELOPMENT** - Hospitals and like institutions; buildings or building complexes containing documents, data, or instruments of great public value; buildings or building complexes containing materials dangerous to the public or fuel storage facilities; power installations needed in emergency or other buildings or building complexes similar in nature or use.

**MINOR PROJECTS** - Small development activities (except for filling, grading and excavating) valued at less than \$500.

**NEW CONSTRUCTION** - (new buildings, factory-built home parks) - Those structures or development for which the start of construction commenced on or after the effective date of the first floodplain management regulations adopted by the community.

**NEW FACTORY-BUILT HOME PARK OR SUBDIVISION** - A factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the first floodplain management regulations adopted by the community.

**RECREATIONAL VEHICLE** - A vehicle which is:

- a. Built on a single chassis;
- b. Four hundred (400) square feet or less when measured at the largest horizontal projection;
- c. Designed to be self-propelled or permanently towable by a light duty truck; and

- d. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

**ROUTINE MAINTENANCE OF EXISTING BUILDINGS AND FACILITIES** – Repairs necessary to keep a structure in a safe and habitable condition that do not trigger a building permit, provided they are not associated with a general improvement of the structure or repair of a damaged structure. Such repairs include:

- a. Normal maintenance of structures such as re-roofing, replacing roofing tiles and replacing siding;
- b. Exterior and interior painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work;
- c. Basement sealing;
- d. Repairing or replacing damaged or broken window panes;

Repairing plumbing systems, electrical systems, heating or air conditioning systems and repairing wells or septic systems.

**SPECIAL FLOOD HAZARD AREA** - The land within a community subject to the "base flood". This land is identified as Zone A, A1-30, AE, AH, AO, AR and/or A99 on the community's Flood Insurance Rate Map.

**START OF CONSTRUCTION** - Includes substantial improvement, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement, was within 180 days of the permit date.

The actual start means either the first placement or permanent construction of a structure on a site, such as pouring of a slab or footings, the installation of pile, the construction of columns, or any work beyond the stage of excavation; or the placement of a factory-built home on a foundation.

Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure.

For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

**STRUCTURE** - Anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factory-built homes, storage tanks, grain storage facilities and other similar uses.

**SUBSTANTIAL DAMAGE** - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT** - Any improvement to a structure which satisfies either of the following criteria:

- a. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (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.

**VARIANCE** - A grant of relief by a community from the terms of the floodplain management regulations.

**VIOLATION** - The failure of a structure or other development to be fully compliant with the community's floodplain management regulations.







**TITLE VII FRANCHISE AGREEMENTS**

**CHAPTER 1 NATURAL GAS FRANCHISE (RESERVED)**

**TITLE VII FRANCHISE AGREEMENTS**  
**CHAPTER 2 ELECTRIC FRANCHISE (RESERVED)**

