



AGENDA
REGULAR MEETING OF THE
WINDSOR HEIGHTS CITY COUNCIL
Monday, October 20, 2025 - 6:00 PM
WINDSOR HEIGHTS COUNCIL CHAMBERS - 1133 66th ST
ZOOM: <https://us02web.zoom.us/j/7832856334>
Meeting ID: 783 285 6334

Notice to the Public: If you would like the supporting documents and information, please call City Hall by noon the day of the meeting. Copies of City Council Agendas are free to the public. In consideration of all, if you have a cell phone, please turn it off or put it on silent ring. The use of obscene and vulgar language, hate speech, racial slurs, slanderous comments, and any other disruptive behavior during the Council meeting will not be tolerated and the offender may be barred by the presiding officer from further comment before the Council during the meeting and/or removed from the meeting.

1. **Call to Order/Roll Call/Pledge of Allegiance**
2. **Approval of the Agenda**
3. **Public Forum:** This is time set aside for comments from the public on topics of City business other than those listed on the agenda. No action may be taken. Please come to the podium, state your name and address for the record and keep your comments to no more than 5 minutes.
4. **Consent Agenda:** Any item on the Consent Agenda may be removed for separate consideration.
 - A. Approve Minutes of the Regular Council Meeting on October 7, 2025
 - B. Approve Financial Reports
 - C. Approve 73rd St. Payment Application 15
 - D. Approve 68th St. Payment Application 6
 - E. Approve Resolution No. 2025-75 A Resolution Authorizing Execution of The Windsor Stormwater Maintenance Agreement
 - F. Approve Resolution No. 2025-78 - A Resolution to Set a Public Hearing and Take Bids on Walnut Creek Water Access
 - G. Approve Resolution No. 2025-79 A Resolution Approving Execution of an Agreement Between The City Of Windsor Heights And Iowa Solutions Inc.
5. **Action Items:**
 - A. Discuss 2026 73rd St. BUILD Grant Application
 - B. Consider Resolution No. 2025-76 A Resolution Waiving CEC Fees For The Valley High School Men's Swim Team

The agenda was posted on the official bulletin boards, posted to www.windsorheights.org, and city social media platforms in compliance with the requirements of city ordinances and the open meetings law. Scan the QR Code to visit our online Agenda Center. Select the meeting date and view the agenda packet including supporting documents and staff reports.



- C. Consider Resolution No. 2025-77 A Resolution Waiving CEC Fees For Lead DSM
- 6. **Reports:**
 - A. Mayor, Council Reports and Committee Updates, and Administration Reports
 - B. Code Review Update
 - C. Des Moines Water Works Proposed 2026 Rate Change And Capital Improvement Funds Report
- 7. **Closed Session** Per Iowa Code Section 21.5(1)(i) - To evaluate the professional competency of an individual whose appointment, hiring, performance, or discharge is being considered when necessary to prevent needless and irreparable injury to that individual's reputation and that individual requests a closed session
- 8. **Adjourn**

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City of Windsor Heights Regular Business Meeting Minutes
Tuesday, October 7, 2025 - 6:00 PM
WINDSOR HEIGHTS COUNCIL CHAMBERS - 1133 66th ST

1. Call to Order/Roll Call/Pledge of Allegiance

Mayor Mike Jones called the meeting to order at 6:00 PM. Members present: Susan Skeries, Joseph Jones, Michael Libbie, Lauren Campbell, and Threase Harms. Staff present: City Administrator Adam Plagge, City Attorney Erin Clanton, City Clerk Adam Strait, Fire Chief Jim Mease, Police Lieutenant Chad Norris, Public Works Director Andy Larson, City Engineer Justin Ernst

2. Approval of the Agenda

Motion by Threase Harms to APPROVE the Agenda and move Item 5I before presentations. Seconded by Joseph Jones. Motion passed 5-0.

Approve Down Syndrome Acceptance Month Proclamation

- 5I. John Claes, Executive Director of GiGi's Playhouse was present to accept the proclamation and thanked the Council for recognizing Down Syndrome Acceptance Month in Windsor Heights.

3. Presentations:

- A. Presentation from Dr. Nalo Johnson on the Central Iowa Emergency Rental Assistance Study
Dr. Nalo Johnson presented on the Central Iowa Emergency Rental Assistance Study, following the completion of the Basic Income Pilot. The new study will test one-, three-, and six-month rental assistance for 552 low-income working households in Polk, Dallas, and Warren counties, with 120 in a control group. The project, managed by Mid-Iowa Health Foundation with Grinnell College and local nonprofits, will study impacts on housing stability, health, and employment. Total cost is \$2.4 million, with enrollment starting July 2026 and results expected in 2028. Dr. Johnson requested City support between \$10,000 and \$15,000, similar to its prior contribution to the Basic Income Pilot. Councilmembers discussed current rental aid programs and thanked Dr. Johnson for her continued partnership and work on housing stability. Staff will further review the financial request and bring it to a future meeting for consideration.
- B. Presentation from IHYC's Youth Opportunity Center (YOC)
Stu Sherman, Development Director for YSS, presented information on the Iowa Homeless Youth Center (IHYC) Youth Opportunity Center and its eBED program, which provides 30–45 days of emergency shelter for youth ages 12–24 experiencing homelessness or housing insecurity. Sherman explained that the eBED program costs about \$400,000 annually to operate, with only \$65,000 currently funded through grants, leaving a significant shortfall. Recent commitments include \$150,000 per year for three years from Polk County (approved in August), a one-time \$75,000 contribution from the City of Des Moines, and a \$250,000 private donation placed in an endowment fund to generate ongoing support. He requested a one-time contribution from the City of Windsor Heights, suggesting a minimum of \$5,000 either in the current or next budget year. Sherman confirmed that the request is a one-time contribution. Staff will further review the financial request and bring it to a future meeting for consideration
- C. Presentation from Bridges of Iowa on Colby Park Public Art Project
Amy and Jamie from Bridges of Iowa presented an update on the Colby Park Public Art Project. The bridge artwork will feature panels displaying uplifting recovery stories from Bridges participants, messages such as "Cross the Bridge to a Better Life," and colorful designs reflecting the City's color palette. The interior panels will include artwork, program information, and a QR code for recovery resources. The project's unveiling will coincide with Bridges' graduation celebration, featuring food, music, and an anniversary cake. The presenters expressed appreciation to the City for hosting the installation at Colby Park and invited

community members to help with painting or add fingerprints as part of the artwork. Painting is scheduled to begin the following week.

4. **Public Forum:** This is time set aside for comments from the public on topics of City business other than those listed on the agenda. No action may be taken. Please come to the podium, state your name and address for the record and keep your comments to no more than 5 minutes.

No public comments given.

5. **Consent Agenda:** Any item on the Consent Agenda may be removed for separate consideration.

Motion by Threase Harms to APPROVE. Seconded by Susan Skeries. Motion passed 5-0.

- A. Approve Minutes of the Regular Council Meeting on September 15, 2025
- B. Approve Financial Reports
- C. Approve 73rd Street Phase 1 STP-U-8477(615)—70-77 Change Order 10
- D. Approve 2023 Colby Park Pay App 13
- E. Approve University Avenue Maintenance Project Pay Request 1
- F. Approve Wilshire Blvd Storm Sewer Change Order 2
- G. Approve Resolution No. 2025-74 - A Resolution Approving an Urban Revitalization Tax Abatement Application for 1148 63rd Street
- H. Approve Arbor Day Proclamation
- J. Approve Central Iowa Salt Group Road Salt Purchase
- K. Approve Public Works Shop Floor Repair
- L. Approve 74th Street Improvements Sanitary Sewer Service Televising

6. **Action Items:**

7. **Reports:**

- A. Mayor, Council Reports and Committee Updates, and Administration Reports
Mayor Mike Jones - Took a moment to honor the late Senator Claire Celsi and shared he has asked that flags be flown half-staffed in Windsor Heights on Thursday.
Councilor Threase Harms expressed condolences to the family of former Senator Claire and noted that a special election for her seat is expected in December. She reported attending the APWA meeting with staff and the Bolton & Menk and Caliber Concrete teams, where Windsor Heights' park project received recognition and praise for its quality and community impact. She

congratulated Susan and Lauren for organizing another successful Fall Festival, noting positive community feedback and appreciation for their hard work. She also provided an update on plans for Windsor Wonderland, mentioning the potential addition of a maker's market and requesting feedback from colleagues before finalizing the decision.

Councilor Lauren Campbell reported attending Sample Urbandale on September 25 as a sponsor supporting the Windsor Heights–Urbandale Chamber. She highlighted the Fall Festival as the major recent event, expressing gratitude to staff and volunteers for their efforts. She thanked staff for event planning, food vendor coordination, and parade management. She recognized Andy and the Public Works team for their exceptional dedication, with Andy working over 17 hours on event day and staying late to oversee a water main repair. Campbell also thanked Chiefs Roth and Meese for managing numerous public safety issues, including coordinating fireworks and parking challenges. Finally, she extended special thanks to Susan for leading sponsorship efforts, vendor coordination, and overall event organization.

Councilor Michael Libbie praised the Fall Festival as a great success, sharing that while knocking on doors the following day, many residents expressed how much they enjoyed the event and appreciated being able to watch the fireworks from their homes. He thanked Councilors Susan and Lauren, along with city staff, for their hard work in organizing and executing the event. He announced plans to host a Coffee with Council on Saturday, October 11, pending his health. Councilor Libbie also voiced full support for lowering the flags in Windsor Heights in memory of former Senator Claire Celsi, honoring her as a longtime friend, dedicated educator, and tireless advocate whose leadership will be deeply missed.

Councilor Joseph Jones commended Lauren and Susan for their leadership and hard work on the Fall Festival, noting the positive energy and smiles they maintained throughout the event. He highlighted the strong community turnout, including residents from surrounding cities, and said the festival, along with recent park improvements, has brought renewed life to Windsor Heights. He also provided an update from the DART Commission. Consultants presented public input on the proposed network redesign, with feedback focusing on accessibility concerns, longer travel times, and service gaps—particularly in areas like West Des Moines and the airport. Despite these issues, overall public sentiment remains supportive of the redesign. Upcoming meetings include a submission workshop on October 20, the final network presentation on November 4, and a vote in December. Jones noted discussions about revising DART's funding formula to better align service distribution and cost sharing among member cities, which may result in Windsor Heights moving from Tier 3 to Tier 4. The commission is also considering allowing cities that opt out of the full network to maintain paratransit-only service. Lastly, he mentioned that Des Moines has raised the possibility of reviewing DART's governance structure in the future, though significant changes are unlikely before next year.

Councilor Susan Skeries reported that the weeks leading up to the Fall Festival were extremely busy for her and Councilor Campbell but well worth the effort after seeing the event's success. The festival received strong media coverage with six television segments from We Are Iowa and WHO, highlighting Windsor Heights' community spirit. She thanked Councilor Campbell for her leadership and organization, as well as city staff, volunteers, and Public Works for their hard work throughout the event. Special appreciation was given to Mayor Jones, Joseph, Therese, AJ, and Tiffany from the Chamber for their significant contributions. Skeries noted record attendance, estimating over 2,000 attendees for the Movie in the Park, 750 for the parade, and more than 4,700 visitors at Colby Park throughout the day. She expressed pride that a small city like Windsor Heights could host such large, high-quality events without a dedicated parks department. She thanked business sponsors for keeping the event free and community-focused and praised everyone who followed event communications to help the weekend run smoothly. She reminded the Council about the upcoming Wake Up Windsor Heights meeting at New Look Exteriors and the Veterans Day Luncheon on November 11. Skeries also noted the passing of former council member and community leader Flo Hunter, whose Celebration of Life will be held at the Community Event Center on Friday, and thanked Chief Meese and the Fire Department for their support at both Hunter's and Assistant Chief

Burns' memorials. Finally, Skeries shared that she would attend the Catch Des Moines Annual Celebration the next day, where she will receive the 2025 Community Champion Award in recognition of her efforts to engage residents and promote community events.

B. Q3 Code Enforcement

8. **Closed Session** Per Iowa Code §21.5.1 (j): To discuss the purchase of particular real estate only where premature disclosure could be reasonably expected to increase the price the governmental body would have to pay for that property. The minutes and the tape recording of a session closed under this paragraph shall be available for public examination when the transaction discussed is completed.

Motion by Susan Skeries to enter Closed Session at 7:08PM. Seconded by Threase Harms. Motion Passed 5-0.

Motion by Threase Harms to exit Closed Session at 7:22PM. Seconded by Susan Skeries. Motion Passed 5-0.

9. **Adjourn**

Motion by Threase Harms to adjourn at 7:22PM. Seconded by Susan Skeries. Motion passed 5-0.

Mike Jones, Mayor

Adam Strait, City Clerk



**STAFF REPORT
CITY COUNCIL**
October 20, 2025

TO: CITY COUNCIL
FROM: Rachelle Swisher, Finance Director
SUBJECT: Approve Financial Reports

GENERAL INFORMATION

ATTACHMENTS

1. CHECK DETAIL REGISTER

***Check Detail Register©**

October 25-26

Check #	Check Date	Vendor Name	Amount	Invoice	Comment
1110 CASH					
594 e	10/08/25	FEDERAL TAX DEPOSIT			
G 001-2120		FEDERAL W/H PAYABLE	\$13,078.17		
G 001-2121		FICA W/H PAYABLE	\$17,235.26		
		Total	\$30,313.43		
595 e	10/08/25	ISOLVED BENEFIT SERVICES			
G 001-2131		FSA AND DEPENDENT C	\$1,318.52		
		Total	\$1,318.52		
596 e	10/08/25	IPERS			
G 001-2123		IPERS PAYABLE	\$17,740.19		
		Total	\$17,740.19		
597 e	10/08/25	STATE OF IOWA			
G 001-2122		STATE W/H PAYABLE	\$3,229.76		
		Total	\$3,229.76		
598 e	10/08/25	MANHATTANLIFE			
G 001-2132		MANHATTAN LIFE	\$31.25		DAVISON, MARK
G 001-2132		MANHATTAN LIFE	\$3.38		JONES, BRIAN
G 001-2132		MANHATTAN LIFE	\$22.42		MEASE, JAMES
G 001-2132		MANHATTAN LIFE	\$6.63		PRICE, JEFF
G 001-2132		MANHATTAN LIFE	\$21.60		ROBERTS, JASON
G 001-2132		MANHATTAN LIFE	\$11.13		ROTH, PETE
G 001-2132		MANHATTAN LIFE	\$10.00		STAPLETON, BRIAN
		Total	\$106.41		
599 e	10/08/25	ASSURITY			
G 001-2128		ASSURITY	\$10.21		SWISHER, RACHELLE ASSURITY
G 001-2128		ASSURITY	\$18.31		AHRENS, TYLER ASSURITY
G 001-2128		ASSURITY	\$5.88		BROWN, CODY ASSURITY
G 001-2128		ASSURITY	\$36.07		DAVISON, MARK ASSURITY
G 001-2128		ASSURITY	\$45.10		IRLBECK, MICHAEL ASSURITY
G 001-2128		ASSURITY	\$33.62		MEASE, JAMES ASSURITY
G 001-2128		ASSURITY	\$18.75		NORRIS, CHAD ASSURITY
G 001-2128		ASSURITY	\$19.70		PRICE, JEFF ASSURITY
G 001-2128		ASSURITY	\$16.84		ROBERTS, JASON ASSURITY
G 001-2128		ASSURITY	\$39.82		ROTH, PETE ASSURITY
G 001-2128		ASSURITY	\$9.84		STRAIT, ADAM ASSURITY
		Total	\$254.14		
600 e	10/08/25	ICMA RETIREMENT TRUST			
G 001-2125		DEF COMP PAYABLE IC	\$396.87		ICMA DEFERRED COMP
G 001-2125		DEF COMP PAYABLE IC	\$1,821.95		ICMA - EMPLOYER
		Total	\$2,218.82		
601 e	10/08/25	FEDERAL TAX DEPOSIT			
G 001-2120		FEDERAL W/H PAYABLE	\$1,298.13		
G 001-2121		FICA W/H PAYABLE	\$984.18		
		Total	\$2,282.31		



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Check #	Check Date	Vendor Name	Amount	Invoice	Comment
602 e	10/08/25	STATE OF IOWA			
G 001-2122		STATE W/H PAYABLE	\$187.13		
		Total	\$187.13		
603 e	10/09/25	BANKERS TRUST COMPANY			
E 001-620-6405		COURT & RECORDING F	\$37.90		CC FEES
		Total	\$37.90		
604 e	10/09/25	BANKERS TRUST COMPANY			
E 001-620-6405		COURT & RECORDING F	\$246.41		CC FEES
		Total	\$246.41		
605 e	10/09/25	BANKERS TRUST COMPANY			
E 001-620-6405		COURT & RECORDING F	\$249.64		CC FEES
		Total	\$249.64		
606 e	10/09/25	CLEARFLY			
E 001-615-6373		COMMUNICATIONS	\$183.22	INV749677	CELL PHONES
		Total	\$183.22		
607 e	10/09/25	DAIDA			
E 001-110-6507		OPERATING SUPPLIES	\$545.53	208302	RADIX MONTHLY SUB
		Total	\$545.53		
608 e	10/09/25	DELTA DENTAL OF IOWA			
E 112-110-6150		INSURANCE	\$1,071.20		DENTAL INS
E 112-150-6150		INSURANCE	\$538.44		DENTAL INS
E 112-210-6150		INSURANCE	\$752.70		DENTAL INS
E 112-620-6150		INSURANCE	\$301.66		DENTAL INS
E 112-110-6150		INSURANCE	\$200.04		VISION INS
E 112-150-6150		INSURANCE	\$105.36		VISION INS
E 112-210-6150		INSURANCE	\$126.88		VISION INS
E 112-620-6150		INSURANCE	\$59.04		VISION INS
		Total	\$3,155.32		
609 e	10/09/25	EMPLOYEE BENEFIT SYSTEMS			
E 112-110-6150		INSURANCE	\$6,279.11		MED INS
E 112-110-6180		ALLOWANCES	\$1,966.65		MED INS
E 112-110-6190		ADMIN FEES	\$822.60		MED INS
E 112-150-6150		INSURANCE	\$2,930.25		MED INS
E 112-150-6180		ALLOWANCES	\$902.55		MED INS
E 112-150-6190		ADMIN FEES	\$403.80		MED INS
E 112-210-6150		INSURANCE	\$3,627.93		MED INS
E 112-210-6180		ALLOWANCES	\$1,133.75		MED INS
E 112-210-6190		ADMIN FEES	\$478.60		MED INS
E 112-620-6150		INSURANCE	\$1,534.89		MED INS
E 112-620-6180		ALLOWANCES	\$440.15		MED INS
E 112-620-6190		ADMIN FEES	\$254.20		MED INS
		Total	\$20,774.48		
610 e	10/09/25	ISOLVED BENEFIT SERVICES			
E 112-110-6180		ALLOWANCES	\$25.20	W42749	FSA

***Check Detail Register©**

October 25-26

Check #	Check Date	Vendor Name	Amount	Invoice	Comment
E 112-150-6180		ALLOWANCES	\$12.60	W42749	FSA
E 112-210-6180		ALLOWANCES	\$4.20	W42749	FSA
E 112-620-6180		ALLOWANCES	\$8.40	W42749	FSA
Total			\$50.40		
59222	10/10/25	AMAZON CAPITAL SERVICES			
E 001-620-6507		OPERATING SUPPLIES	\$45.99	17J1-3Y9X-3	FALL FEST PARADE CANDY
E 001-110-6502		PROMO/COMMUNITY RE	\$380.12	1G9V-77HP-	PROMOTIONAL ITEMS
E 001-110-6506		OFFICE SUPPLIES	\$25.06	1LDW-NHW	OFFICE SUPPLIES
E 001-150-6599		MISCELLANEOUS	\$20.89	1PT9-NQ7H-	GRILL IGNITOR
E 001-110-6506		OFFICE SUPPLIES	\$28.49	1XLK-T7RL-V	KEYBOARD
Total			\$500.55		
59223	10/10/25	ANIMAL RESCUE LEAGUE OF IOWA			
E 001-190-6413		CONTRIBUTIONS & PAY	\$125.00	INV0265	AUG ANIMAL SERVICES
Total			\$125.00		
59224	10/10/25	BOLTON & MENK			
E 001-620-6407		PROF FEES/ENGINEERI	\$945.00	0375336	PLANNING SERVICES
E 321-210-6407		PROF FEES/ENGINEERI	\$12,237.50	0375353	WALNUT CREEK ACCESS ENG
Total			\$13,182.50		
59225	10/10/25	BOUND TREE MEDICAL LLC			
E 001-160-6498		MEDICAL SUPPLIES	\$47.79	85921770	MEDICAL SUPPLIES
E 001-160-6498		MEDICAL SUPPLIES	\$166.55	85932210	MEDICAL SUPPLIES
Total			\$214.34		
59226	10/10/25	BULLZEYE, INC			
E 001-620-6409		JANITORIAL	\$591.00	10005	CH SEPT CLEANINGS
E 001-480-6511		BLDG & GROUNDS OPE	\$2,195.00	10032	CEC SEPT CLEANINGS
E 001-480-6511		BLDG & GROUNDS OPE	\$5,300.00	10039	CEC FLOOR REFINISHING
E 001-110-6409		JANITORIAL	\$570.13	9972	PSB SUPPLIES
E 001-110-6409		JANITORIAL	\$955.00	9981	PSB SEPT CLEANINGS
Total			\$9,611.13		
59227	10/10/25	CALIBER CONCRETE LLC			
E 303-430-6760		CAP OUTLAY	\$94,625.71		COLBY PARK PAY REQUEST #13
Total			\$94,625.71		
59228	10/10/25	CHARLES GABUS FORD			
E 001-110-6332		REPAIR - VEHICLES & E	\$1,451.35	481868	CAR 29 REPAIRS
Total			\$1,451.35		
59229	10/10/25	CINTAS			
E 001-150-6310		BUILDING REPAIR	\$51.09	5294337804	FIRST AID CABINET SUPPLIES
Total			\$51.09		
59230	10/10/25	CITY OF WEST DES MOINES			
E 001-110-6180		ALLOWANCES	\$17.94	032634768	G NAME TAPE FOR PETE ROTH
Total			\$17.94		
59231	10/10/25	CONSTRUCTION MATERIALS TESTING			
E 326-210-6761		CAP OUTLAY	\$766.50	56416	68TH ST MATERIAL TESTING



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Check #	Check Date	Vendor Name	Amount	Invoice	Comment
Total			\$766.50		
59232	10/10/25	CRYSTAL CLEAR WATER CO.			
E 001-620-6506		OFFICE SUPPLIES	\$10.50	900928	WATER
Total			\$10.50		
59233	10/10/25	DES MOINES WATER WORKS			
E 001-620-6371		UTILITIES	\$5.74		1145 66TH ST
E 001-480-6371		UTILITIES	\$39.88		6800 SCHOOL ST
E 001-150-6371		UTILITIES	\$61.91		1133 66TH ST
Total			\$107.53		
59234	10/10/25	FREEDOM TIRE & AUTO CENTER INC			
E 001-110-6332		REPAIR - VEHICLES & E	\$35.00	14954	CAR 22 TIRE FIX
Total			\$35.00		
59235	10/10/25	GALLS LLC			
E 001-110-6180		ALLOWANCES	\$19.54	032696039	CLOTHING ALLOWANCE
Total			\$19.54		
59236	10/10/25	GOLF CARS OF IOWA			
E 001-470-6497		FALL FESTIVAL	\$1,125.00	2025-2666	GOLF CARS
Total			\$1,125.00		
59237	10/10/25	IMWCA			
E 112-150-6160		WORKER'S COMP	\$2,965.65	INV95812	INSTALLMENT 4 WORK COMP PREM
E 112-210-6160		WORKER'S COMP	\$697.80	INV95812	INSTALLMENT 4 WORK COMP PREM
E 112-110-6160		WORKER'S COMP	\$2,093.40	INV95812	INSTALLMENT 4 WORK COMP PREM
E 112-620-6160		WORKER'S COMP	\$2.91	INV95812	INSTALLMENT 4 WORK COMP PREM
E 740-865-6160		WORKER'S COMP	\$55.24	INV95812	INSTALLMENT 4 WORK COMP PREM
Total			\$5,815.00		
59238	10/10/25	IOWA DOT			
E 001-110-6507		OPERATING SUPPLIES	\$210.24	CI-0029522	VEHICLE PRINTER PAPER
Total			\$210.24		
59239	10/10/25	IOWA LEAGUE OF CITIES			
E 001-620-6490		OTHER PROF SERVICE	\$3,500.00	106669	GOV INVEST DUES
Total			\$3,500.00		
59240	10/10/25	NYEMASTER LAW FIRM			
E 001-110-6411		LEGAL	\$1,650.00	962849	AUG LEGAL FEES
Total			\$1,650.00		
59241	10/10/25	PREMIER AUTOMOTIVE			
E 001-150-6332		REPAIR - VEHICLES & E	\$37.33	9073935	C500 OIL CHANGE
E 001-150-6332		REPAIR - VEHICLES & E	\$1,093.90	9073941	C500 FUEL PUMP REPLACEMENT
E 001-160-6332		REPAIR - VEHICLES & E	\$1,474.56	9074030	A553 FUEL LINE REPAIR
E 001-110-6332		REPAIR - VEHICLES & E	\$37.33	9074091	CAR 28 OIL CHANGE
Total			\$2,643.12		
59242	10/10/25	QPS EMPLOYMENT GROUP			
E 001-620-6020		SALARIES - PARTTIME	\$460.80	0887785	HANKINS, ALLIE 9/27/25



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October 25-26

Check #	Check Date	Vendor Name	Amount	Invoice	Comment
E 001-620-6020		SALARIES - PARTTIME	\$345.60	0888264	HANKINS, ALLIE 10/4/25
		Total	\$806.40		
59243	10/10/25	QUALITY STRIPING, Inc.			
E 314-210-6761		CAP OUTLAY	\$158,778.33		UNIV AVE MAINTENANCE PROJECT
		Total	\$158,778.33		
59244	10/10/25	ROY'S TOWING AND RECOVERY			
E 001-160-6332		REPAIR - VEHICLES & E	\$150.00	25-43921	A553 TOW
		Total	\$150.00		
59245	10/10/25	SAFE BUILDING COMPLIANCE			
E 001-170-6407		PROF FEES/ENGINEERI	\$1,888.79	4092398-10	BUILDING INSPECTIONS
E 001-150-6407		PROF FEES/ENGINEERI	\$160.00	4092398-26	SEPT INSPECTIONS
		Total	\$2,048.79		
59246	10/10/25	THE SHREDDER			
E 001-620-6507		OPERATING SUPPLIES	\$60.00	301735	SHRED BOX
		Total	\$60.00		
59247	10/10/25	THE UPS STORE			
E 001-110-6508		POSTAGE & SHIPPING	\$24.96		CASE 23-00712 SHIPPING
		Total	\$24.96		
59248	10/10/25	T-MOBILE			
E 001-110-6373		COMMUNICATIONS	\$94.92		CELL PHONES
		Total	\$94.92		
59249	10/10/25	TRANSUNION RISK & ALTERNATIVE			
E 001-110-6507		OPERATING SUPPLIES	\$75.00		SEPT BILLING
		Total	\$75.00		
59250	10/10/25	CAPITAL ONE			
E 110-210-6507		OPERATING SUPPLIES	\$16.86		SUPPLIES
E 001-150-6599		MISCELLANEOUS	\$37.37		PR BREAKFAST ITEMS
E 001-150-6599		MISCELLANEOUS	\$17.30		PR BREAKFAST ITEMS
E 001-160-6332		REPAIR - VEHICLES & E	\$157.46		A553 BATTERY
		Total	\$228.99		
59251	10/14/25	CAMPBELL, LAUREN			
E 001-470-6497		FALL FESTIVAL	\$1,430.24		REIMBURSEMENT SIGNS/POSTERS/BANNERS/STICKERS/PRIZES
E 001-110-6502		PROMO/COMMUNITY RE	\$206.25		REIMBURSEMENT FOR PS NIGHT OUT BANNERS/SIGNS
		Total	\$1,636.49		
59252	10/14/25	IA DEPT OF PUBLIC SAFETY			
E 001-110-6413		CONTRIBUTIONS & PAY	\$300.00	2452	FY26 1ST QTR FEE
		Total	\$300.00		
1110			\$382,759.53		



***Check Detail Register©**

October 25-26

Check #	Check Date	Vendor Name	Amount	Invoice	Comment
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Fund Summary

1110 CASH

001 GENERAL	\$86,539.43
110 ROAD USE TAX	\$16.86
112 EMPLOYEE BENEFITS	\$29,739.96
303 COLBY PARK	\$94,625.71
314 UNIVERSITY AVENUE PROJECT	\$158,778.33
321 WALNUT CREEK STREAM PROJ	\$12,237.50
326 68TH STREET SOUTH	\$766.50
740 STORM WATER	\$55.24
	\$382,759.53



STAFF REPORT
CITY COUNCIL
October 20, 2025

TO: CITY COUNCIL

FROM:

SUBJECT: Approve 73rd St. Payment Application 15

GENERAL INFORMATION

ATTACHMENTS

1. LTR-73rd Street-Pay App 15
2. payment_15_20251006



**BOLTON
& MENK**

Real People. Real Solutions.

430 E Grand Avenue
Suite 101
Des Moines, IA 50309

Ph: (515) 259-9190
Fax: (515) 233-4430
Bolton-Menk.com

October 14, 2025

Mr. Adam Plagge
City Administrator
City of Windsor Heights, Iowa

RE: 73rd Street Phase 1
STP-U-8477(615)—70-77
Pay Request 15

Dear Mr. Plagge:

Submitted for your approval is Pay Request 15 for the above-mentioned project. The pay request is for a total payment of \$479,904.43. The total payments to date: \$4,549,299.76. Please see the pay request for a full summary of the items completed that are included in this payment.

Bolton & Menk, Inc., recommends the approval of Pay Application 15. Upon approval of the pay request, the City Clerk or City Administrator to electronically sign in DocExpress and mail payment to the Absolute Concrete Construction, Inc.

Please let me know if you have any questions.

Sincerely,

Bolton & Menk, Inc.

Justin Ernst, PE
Municipal Assistant Practice Leader | Principal

Enclosures



City of Windsor Heights - Iowa

Detailed Payment

77-8477-615

Description	STP-U-8477(615)--70-77, Letting Date- March 19, 2024 73rd st Phase 1
Payment Number	15
Pay Period	09/01/2025 to 09/30/2025
Prime Contractor	ABSOLUTE CONCRETE CONSTRUCTION, INC.
Payment Status	Pending
Awarded Project Amount	\$6,739,027.05
Authorized Amount	\$6,927,623.62

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
Section: 0001 - STP-U-8477(615)--70-77, Roadway Items - Division 1										
0010	2101-0850002	UNIT	\$440.000	22.300	0.000	58.000	58.000	58.000	\$0.00	\$25,520.00
CLEARING AND GRUBBING										
0020	2102-0425071	CY	\$50.000	50.000	0.000	234.000	234.000	234.000	\$0.00	\$11,700.00
SPECIAL BACKFILL										
0030	2102-2710070	CY	\$15.000	10,333.000	861.083	6,888.667	7,749.750	7,749.750	\$12,916.24	\$116,246.25
EXCAVATION, CLASS 10, ROADWAY AND BORROW										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
0040	2102-2710080	CY	\$15.000	165.000	0.000	321.366	321.366	321.366	\$0.00	\$4,820.49
EXCAVATION, CLASS 10, UNSUITABLE OR UNSTABLE MATERIAL										
0050	2105-8425015	CY	\$8.000	2,124.000	0.000	354.000	354.000	354.000	\$0.00	\$2,832.00
TOPSOIL, STRIP, SALVAGE AND SPREAD										
0060	2109-8225100	STA	\$1,000.000	53.600	0.000	23.030	23.030	23.030	\$0.00	\$23,030.00
SPECIAL COMPACTION OF SUBGRADE										
0070	2113-0001100	SY	\$5.000	5,000.000	0.000	280.922	280.922	280.922	\$0.00	\$1,404.61
SUBGRADE STABILIZATION MATERIAL, POLYMER GRID										
0080	2115-0100000	CY	\$60.000	4,035.000	319.000	2,458.722	2,777.722	2,777.722	\$19,140.00	\$166,663.32
MODIFIED SUBBASE										
0090	2115-0100000	CY	\$60.000	181.000	0.000	68.519	68.519	68.519	\$0.00	\$4,111.14
MODIFIED SUBBASE: , TRAIL										
0100	2123-7450020	STA	\$150.000	81.700	0.000	23.500	23.500	23.500	\$0.00	\$3,525.00
SHOULDER FINISHING, EARTH										
0110	2301-1033080	SY	\$75.000	19,678.000	2,381.369	11,135.699	13,517.068	13,517.068	\$178,602.67	\$1,013,780.10
STANDARD OR SLIP FORM PORTLAND CEMENT CONCRETE PAVEMENT, CLASS C, CLASS 3 DURABILITY, 8 IN.										
0120	2301-6911722	LS	\$10,000.000	1.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
PORTLAND CEMENT CONCRETE PAVEMENT SAMPLES										
0130	2304-0101000	SY	\$60.000	1,500.000	11.213	71.750	82.963	82.963	\$672.78	\$4,977.78
TEMPORARY PAVEMENT										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
0140	2312-8260051	TON	\$40.000	500.000	0.000	593.820	593.820	593.820	\$0.00	\$23,752.80
GRANULAR SURFACING ON ROAD, CLASS A CRUSHED STONE										
0150	2435-0140148	EACH	\$5,500.000	6.000	0.000	3.000	3.000	3.000	\$0.00	\$16,500.00
MANHOLE, STORM SEWER, SW-401, 48 IN.										
0160	2435-0140160	EACH	\$7,800.000	7.000	0.000	5.000	5.000	5.000	\$0.00	\$39,000.00
MANHOLE, STORM SEWER, SW-401, 60 IN.										
0170	2435-0140172	EACH	\$10,000.000	1.000	0.000	1.000	1.000	1.000	\$0.00	\$10,000.00
MANHOLE, STORM SEWER, SW-401, 72 IN.										
0180	2435-0140196	EACH	\$17,000.000	0.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
MANHOLE, STORM SEWER, SW-401, 96 IN.										
0190	2435-0250500	EACH	\$5,600.000	34.000	0.000	19.000	19.000	19.000	\$0.00	\$106,400.00
INTAKE, SW-505										
0200	2435-0250600	EACH	\$12,000.000	17.000	0.000	13.000	13.000	13.000	\$0.00	\$156,000.00
INTAKE, SW-506										
0210	2435-0250900	EACH	\$7,300.000	1.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
INTAKE, SW-509										
0220	2435-0251000	EACH	\$8,500.000	3.000	0.000	2.000	2.000	2.000	\$0.00	\$17,000.00
INTAKE, SW-510										
0230	2435-0251230	EACH	\$4,100.000	1.000	0.000	1.000	1.000	1.000	\$0.00	\$4,100.00
INTAKE, SW-512, 30 IN.										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
0240	2435-0251236	EACH	\$4,800.000	1.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
INTAKE, SW-512, 36 IN.										
0250	2435-0600010	EACH	\$2,300.000	33.000	1.000	18.000	19.000	19.000	\$2,300.00	\$43,700.00
MANHOLE ADJUSTMENT, MINOR										
0260	2435-0600020	EACH	\$6,000.000	1.000	0.000	2.000	2.000	2.000	\$0.00	\$12,000.00
MANHOLE ADJUSTMENT, MAJOR										
0270	2435-0600110	EACH	\$1,800.000	2.000	0.000	1.000	1.000	1.000	\$0.00	\$1,800.00
INTAKE ADJUSTMENT, MINOR										
0280	2435-0600120	EACH	\$7,500.000	1.000	0.000	1.000	1.000	1.000	\$0.00	\$7,500.00
INTAKE ADJUSTMENT, MAJOR										
0290	2435-0700010	EACH	\$3,700.000	2.000	0.000	3.000	3.000	3.000	\$0.00	\$11,100.00
CONNECTION TO EXISTING MANHOLE										
0300	2502-8212206	LF	\$22.000	5,105.000	0.000	3,019.100	3,019.100	3,019.100	\$0.00	\$66,420.20
SUBDRAIN, PERFORATED PLASTIC PIPE, 6 IN. DIA.										
0310	2502-8221006	EACH	\$800.000	17.000	0.000	2.000	2.000	2.000	\$0.00	\$1,600.00
SUBDRAIN RISER, 6 IN., AS PER PLAN										
0320	2502-8221303	EACH	\$400.000	17.000	0.000	9.000	9.000	9.000	\$0.00	\$3,600.00
SUBDRAIN OUTLET, DR-303										
0330	2503-0114212	LF	\$200.000	8.000	0.000	16.000	16.000	16.000	\$0.00	\$3,200.00
STORM SEWER GRAVITY MAIN, TRENCHED, REINFORCED CONCRETE PIPE (RCP), 2000D (CLASS III), 12 IN.										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
0340	2503-0114215	LF	\$80.000	991.000	0.000	682.000	682.000	682.000	\$0.00	\$54,560.00
STORM SEWER GRAVITY MAIN, TRENCHED, REINFORCED CONCRETE PIPE (RCP), 2000D (CLASS III), 15 IN.										
0350	2503-0114218	LF	\$85.000	778.000	0.000	168.000	168.000	168.000	\$0.00	\$14,280.00
STORM SEWER GRAVITY MAIN, TRENCHED, REINFORCED CONCRETE PIPE (RCP), 2000D (CLASS III), 18 IN.										
0360	2503-0114224	LF	\$110.000	2,556.000	0.000	1,907.000	1,907.000	1,907.000	\$0.00	\$209,770.00
STORM SEWER GRAVITY MAIN, TRENCHED, REINFORCED CONCRETE PIPE (RCP), 2000D (CLASS III), 24 IN.										
0370	2503-0114230	LF	\$130.000	543.000	0.000	416.000	416.000	416.000	\$0.00	\$54,080.00
STORM SEWER GRAVITY MAIN, TRENCHED, REINFORCED CONCRETE PIPE (RCP), 2000D (CLASS III), 30 IN.										
0380	2503-0114236	LF	\$170.000	108.000	0.000	33.000	33.000	33.000	\$0.00	\$5,610.00
STORM SEWER GRAVITY MAIN, TRENCHED, REINFORCED CONCRETE PIPE (RCP), 2000D (CLASS III), 36 IN.										
0390	2503-0114248	LF	\$450.000	8.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
STORM SEWER GRAVITY MAIN, TRENCHED, REINFORCED CONCRETE PIPE (RCP), 2000D (CLASS III), 48 IN.										
0400	2503-0114254	LF	\$610.000	8.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
STORM SEWER GRAVITY MAIN, TRENCHED, REINFORCED CONCRETE PIPE (RCP), 2000D (CLASS III), 54 IN.										
0410	2503-0114266	LF	\$850.000	8.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
STORM SEWER GRAVITY MAIN, TRENCHED, REINFORCED CONCRETE PIPE (RCP), 2000D (CLASS III), 66 IN.										
0420	2503-0200036	LF	\$25.000	3,335.000	0.000	1,440.400	1,440.400	1,440.400	\$0.00	\$36,010.00
REMOVE STORM SEWER PIPE LESS THAN OR EQUAL TO 36 IN.										
0430	2503-0200136	LF	\$45.000	79.000	0.000	38.000	38.000	38.000	\$0.00	\$1,710.00
REMOVE STORM SEWER PIPE GREATER THAN 36 IN.										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
0440	2504-0200404	LF	\$130.000	160.000	0.000	54.000	54.000	54.000	\$0.00	\$7,020.00
SANITARY SEWER SERVICE STUB, POLYVINYL CHLORIDE PIPE (PVC), 4 IN.										
0450	2510-6745850	SY	\$10.000	17,965.000	1,563.649	12,360.281	13,923.930	13,923.930	\$15,636.49	\$139,239.30
REMOVAL OF PAVEMENT										
0460	2510-6750600	EACH	\$900.000	50.000	0.000	31.000	31.000	31.000	\$0.00	\$27,900.00
REMOVAL OF INTAKES AND UTILITY ACCESSES										
0470	2511-0300000	SY	\$10.000	550.000	0.000	370.596	370.596	370.596	\$0.00	\$3,705.96
REMOVAL OF RECREATIONAL TRAIL										
0480	2511-0302600	SY	\$49.000	715.000	0.000	412.801	412.801	412.801	\$0.00	\$20,227.25
RECREATIONAL TRAIL, PORTLAND CEMENT CONCRETE, 6 IN.										
0490	2511-0310100	STA	\$750.000	7.700	0.000	4.500	4.500	4.500	\$0.00	\$3,375.00
SPECIAL COMPACTION OF SUBGRADE FOR RECREATIONAL TRAIL										
0500	2511-6745900	SY	\$10.000	3,506.000	152.000	2,175.940	2,327.940	2,327.940	\$1,520.00	\$23,279.40
REMOVAL OF SIDEWALK										
0510	2511-7526004	SY	\$49.750	4,023.000	648.034	1,744.094	2,392.128	2,392.128	\$32,239.69	\$119,008.37
SIDEWALK, P.C. CONCRETE, 4 IN.										
0520	2511-7526006	SY	\$77.000	267.000	84.187	186.619	270.806	270.806	\$6,482.40	\$20,852.06
SIDEWALK, P.C. CONCRETE, 6 IN.										
0530	2511-7528101	SF	\$51.000	362.000	78.300	164.000	242.300	242.300	\$3,993.30	\$12,357.30
DETECTABLE WARNINGS										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
0540	2512-1725206	LF	\$79.000	10.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
CURB AND GUTTER, P.C. CONCRETE, 2.0 FT.										
0550	2514-0000200	STA	\$1,000.000	0.500	0.000	0.000	0.000	0.000	\$0.00	\$0.00
REMOVAL OF CURB										
0560	2515-2475006	SY	\$52.500	2,550.000	212.429	1,105.071	1,317.500	1,317.500	\$11,152.52	\$69,168.75
DRIVEWAY, P.C. CONCRETE, 6 IN.										
0570	2515-2475007	SY	\$54.000	1,047.000	273.347	301.611	574.958	574.958	\$14,760.74	\$31,047.73
DRIVEWAY, P.C. CONCRETE, 7 IN.										
0580	2515-6745600	SY	\$10.000	3,212.000	19.710	1,223.590	1,243.300	1,243.300	\$197.10	\$12,433.00
REMOVAL OF PAVED DRIVEWAY										
0590	2523-0000310	EACH	\$1,235.000	6.000	1.000	0.000	1.000	1.000	\$1,235.00	\$1,235.00
HANDHOLES AND JUNCTION BOXES										
0600	2524-6765110	EACH	\$300.000	72.000	0.000	16.000	16.000	16.000	\$0.00	\$4,800.00
REMOVAL OF TYPE A SIGN										
0610	2524-6765210	EACH	\$100.000	21.000	0.000	4.000	4.000	4.000	\$0.00	\$400.00
REMOVAL OF TYPE A SIGN ASSEMBLY										
0620	2524-9276010	LF	\$35.000	390.000	0.000	100.000	100.000	100.000	\$0.00	\$3,500.00
PERFORATED SQUARE STEEL TUBE POSTS										
0630	2524-9276021	EACH	\$100.000	39.000	0.000	10.000	10.000	10.000	\$0.00	\$1,000.00
PERFORATED SQUARE STEEL TUBE POST ANCHOR, BREAK-AWAY SOIL INSTALLATION										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
0640	2524-9325001	SF	\$35.000	392.500	0.000	120.500	120.500	120.500	\$0.00	\$4,217.50
TYPE A SIGNS, SHEET ALUMINUM										
0650	2525-0000100	LS	\$100,000.000	1.000	0.900	0.000	0.900	0.900	\$90,000.00	\$90,000.00
TRAFFIC SIGNALIZATION										
0660	2527-9263109	STA	\$86.000	136.000	0.000	18.610	18.610	18.610	\$0.00	\$1,600.46
PAINTED PAVEMENT MARKING, WATERBORNE OR SOLVENT-BASED										
0670	2527-9263117	STA	\$116.000	168.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
PAINTED PAVEMENT MARKINGS, DURABLE										
0680	2527-9263137	EACH	\$130.000	25.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
PAINTED SYMBOLS AND LEGENDS, WATERBORNE OR SOLVENT-BASED										
0690	2527-9263143	EACH	\$185.000	25.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
PAINTED SYMBOLS AND LEGENDS, DURABLE										
0700	2527-9270111	STA	\$83.000	168.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
GROOVES CUT FOR PAVEMENT MARKINGS										
0710	2527-9270120	EACH	\$220.000	25.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
GROOVES CUT FOR SYMBOLS AND LEGENDS										
0720	2528-8445110	LS	\$75,000.000	1.000	0.000	0.670	0.670	0.670	\$0.00	\$50,250.00
TRAFFIC CONTROL										
0730	2528-9290050	CDAY	\$200.000	60.000	0.000	38.000	38.000	38.000	\$0.00	\$7,600.00
PORTABLE DYNAMIC MESSAGE SIGN (PDMS)										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
0740	2529-5070110	SY	\$100.000	51.000	0.000	100.678	100.678	100.678	\$0.00	\$10,067.80
PATCHES, FULL-DEPTH FINISH, BY AREA										
0750	2533-4980005	LS	\$600,000.000	1.000	0.000	1.000	1.000	1.000	\$0.00	\$600,000.00
MOBILIZATION										
0760	2552-0000220	CY	\$75.000	975.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
REPLACEMENT OF UNSUITABLE BACKFILL MATERIAL										
0770	2599-9999010	LS	\$15,000.000	1.000	0.000	0.480	0.480	0.480	\$0.00	\$7,200.00
('LUMP SUM' ITEM): MAINTENANCE OF SOLID WASTE COLLECTION										
0780	2599-9999010	LS	\$1,850.000	1.000	0.000	0.500	0.500	0.500	\$0.00	\$925.00
('LUMP SUM' ITEM): REMOVE AND REINSTALL ELECTRONIC SPEED SIGN										
0790	2599-9999010	LS	\$7,200.000	1.000	0.000	0.660	0.660	0.660	\$0.00	\$4,752.00
('LUMP SUM' ITEM): SWPPP MANAGEMENT										
0800	2599-9999010	LS	\$80,000.000	1.000	0.000	0.440	0.440	0.440	\$0.00	\$35,200.00
('LUMP SUM' ITEM): VIBRATION MONITORING										
0810	2601-2634105	ACRE	\$4,110.000	2.630	0.000	0.310	0.310	0.310	\$0.00	\$1,274.10
MULCHING, BONDED FIBER MATRIX										
0820	2601-2639010	SQ	\$65.000	1,150.000	0.000	355.720	355.720	355.720	\$0.00	\$23,121.80
SODDING										
0830	2601-2643110	MGAL	\$75.000	690.000	0.000	49.000	49.000	49.000	\$0.00	\$3,675.00
WATERING FOR SOD, SPECIAL DITCH CONTROL, OR SLOPE PROTECTION										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
0840	2602-0000150	LF	\$15.000	300.000	25.000	75.000	100.000	100.000	\$375.00	\$1,500.00
STABILIZED CONSTRUCTION ENTRANCE, EC-303										
0850	2602-0000309	LF	\$3.000	10,000.000	18.000	350.000	368.000	368.000	\$54.00	\$1,104.00
PERIMETER AND SLOPE SEDIMENT CONTROL DEVICE, 9 IN. DIA.										
0860	2602-0000351	LF	\$0.010	10,000.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
REMOVAL OF PERIMETER AND SLOPE OR DITCH CHECK SEDIMENT CONTROL DEVICE										
0870	2602-0000500	LF	\$10.000	32.000	0.000	16.000	16.000	16.000	\$0.00	\$160.00
OPEN-THROAT CURB INTAKE SEDIMENT FILTER, EC-602										
0880	2602-0000530	EACH	\$95.000	110.000	6.000	44.000	50.000	50.000	\$570.00	\$4,750.00
GRATE INTAKE SEDIMENT FILTER BAG, EC-604										
0890	2602-0010010	EACH	\$600.000	1.000	0.000	4.000	4.000	4.000	\$0.00	\$2,400.00
MOBILIZATIONS, EROSION CONTROL										
0900	2602-0010020	EACH	\$1,200.000	1.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
MOBILIZATIONS, EMERGENCY EROSION CONTROL										
8001	2599-9999005	EACH	\$14,250.000	1.000	0.000	1.000	1.000	1.000	\$0.00	\$14,250.00
('EACH' ITEM): INTAKE, SW-506 MOD, CAST-IN-PLACE										
8002	2435-0250610	EACH	\$14,410.000	2.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
INTAKE, SW-506 MOD										
8009	2599-9999018	SY	\$0.300	19,678.000	2,203.035	11,135.699	13,338.734	13,338.734	\$660.91	\$4,001.62
('SQUARE YARDS' ITEM): (REINFORCEMENT ADJ)										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
8010	2430-0000100	SF	\$74.000	144.000	0.000	144.000	144.000	144.000	\$0.00	\$10,656.00
MODULAR BLOCK RETAIN WALL										
8011	2599-9999005	EACH	\$4,325.750	2.000	0.000	2.000	2.000	2.000	\$0.00	\$8,651.50
('EACH' ITEM): INSTALLATION AND REMOVAL OF TEMPORARY INTAKE										
8013	2599-9999005	EACH	\$3,300.000	1.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
('EACH' ITEM): CONNECT TO EXISTING BOX CULVERT										
8014	2599-9999005	EACH	\$3,829.650	1.000	0.000	1.000	1.000	1.000	\$0.00	\$3,829.65
('EACH' ITEM): MODIFY EXISTING INTAKE										
8015	2599-9999005	EACH	\$1,925.000	2.000	0.000	1.000	1.000	1.000	\$0.00	\$1,925.00
('EACH' ITEM): REMOVE AND REINSTALL PUSHBUTTONS										
8016	2599-9999005	EACH	\$8,730.150	1.000	0.000	1.000	1.000	1.000	\$0.00	\$8,730.15
('EACH' ITEM): 18" NYLOPLAST INTAKE W/ CONNECTION										
8017	2599-9999010	LS	\$544.500	1.000	0.000	1.000	1.000	1.000	\$0.00	\$544.50
('LUMP SUM' ITEM): POT HOLE UTILITIES										
8018	2599-9999010	LS	\$1,485.000	1.000	0.000	1.000	1.000	1.000	\$0.00	\$1,485.00
('LUMP SUM' ITEM): STORM SEWER REMOVAL AND INSTALLATION										
8019	2599-9999010	LS	\$6,510.570	1.000	0.000	1.000	1.000	1.000	\$0.00	\$6,510.57
('LUMP SUM' ITEM): 6" SANITARY SEWER SERVICE										
8020	2599-9999005	EACH	\$562.650	13.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
('EACH' ITEM): MH CASTING (MECHANICAL)										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
8021	2599-9999010	LS	\$47,700.800	1.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
('LUMP SUM' ITEM): Cast In Place SW-406										
8022	2599-9999010	LS	\$5,989.500	1.000	1.000	0.000	1.000	1.000	\$5,989.50	\$5,989.50
('LUMP SUM' ITEM): Tracer Wire Test Station										
8023	2599-9999010	LS	\$6,041.300	1.000	1.000	0.000	1.000	1.000	\$6,041.30	\$6,041.30
('LUMP SUM' ITEM): Traffic Signal Footing Adjustment										
Section Totals:									\$404,539.64	\$3,701,265.26
Section: 0002 - STP-U-8477(615)--70-77, Roadway Items - Division 2										
0910	2554-0114004	LF	\$65.000	35.000	0.000	24.000	24.000	24.000	\$0.00	\$1,560.00
WATER MAIN, TRENCHED, POLYVINYL CHLORIDE PIPE (PVC), 4 IN.										
0920	2554-0114006	LF	\$60.000	101.000	0.000	148.000	148.000	148.000	\$0.00	\$8,880.00
WATER MAIN, TRENCHED, POLYVINYL CHLORIDE PIPE (PVC), 6 IN.										
0930	2554-0114008	LF	\$55.000	558.000	84.000	540.000	624.000	624.000	\$4,620.00	\$34,320.00
WATER MAIN, TRENCHED, POLYVINYL CHLORIDE PIPE (PVC), 8 IN.										
0940	2554-0114008	LF	\$80.000	455.000	0.000	99.000	99.000	99.000	\$0.00	\$7,920.00
WATER MAIN, TRENCHED, POLYVINYL CHLORIDE PIPE (PVC), 8 IN.: RESTRAINED JOINT										
0950	2554-0114012	LF	\$80.000	3,703.000	340.000	1,782.000	2,122.000	2,122.000	\$27,200.00	\$169,760.00
WATER MAIN, TRENCHED, POLYVINYL CHLORIDE PIPE (PVC), 12 IN.										
0960	2554-0114012	LF	\$105.000	631.000	107.000	779.000	886.000	886.000	\$11,235.00	\$93,030.00
WATER MAIN, TRENCHED, POLYVINYL CHLORIDE PIPE (PVC), 12 IN.: RESTRAINED JOINT										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
0970	2554-0134008	LF	\$165.000	100.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
WATER MAIN WITH CASING PIPE, TRENCHED, POLYVINYL CHLORIDE PIPE (PVC), 8 IN.										
0980	2554-0134012	LF	\$240.000	100.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
WATER MAIN WITH CASING PIPE, TRENCHED, POLYVINYL CHLORIDE PIPE (PVC), 12 IN.										
0990	2554-0203000	LB	\$20.000	6,162.000	713.000	6,050.000	6,763.000	6,763.000	\$14,260.00	\$135,260.00
FITTINGS BY WEIGHT, DUCTILE IRON										
1000	2554-0207008	EACH	\$2,700.000	12.000	1.000	9.000	10.000	10.000	\$2,700.00	\$27,000.00
VALVE, GATE, DIP, 8 IN.										
1010	2554-0207012	EACH	\$4,500.000	9.000	2.000	5.000	7.000	7.000	\$9,000.00	\$31,500.00
VALVE, GATE, DIP, 12 IN.										
1020	2554-0210201	EACH	\$8,500.000	15.000	2.000	10.000	12.000	12.000	\$17,000.00	\$102,000.00
FIRE HYDRANT ASSEMBLY, WM-201										
1030	2554-0211002	EACH	\$1,750.000	6.000	1.000	12.000	13.000	13.000	\$1,750.00	\$22,750.00
FLUSHING DEVICE (BLOWOFF), 2 IN.										
1040	2599-9999005	EACH	\$6,500.000	2.000	0.000	1.000	1.000	1.000	\$0.00	\$6,500.00
('EACH' ITEM): PREPARE EXCAVATION FOR TAPPING SLEEVE & VALVE										
1050	2599-9999005	EACH	\$410.000	51.000	4.000	24.000	28.000	28.000	\$1,640.00	\$11,480.00
('EACH' ITEM): TAP FEE, 1-IN, REPLACEMENT TAP FOR WATER SERVICE TRANSFER										
1060	2599-9999005	EACH	\$1,725.000	3.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
('EACH' ITEM): TAP FEE, 2-IN, REPLACEMENT TAP FOR WATER SERVICE TRANSFER										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
1070	2599-9999005	EACH	\$3,800.000	11.000	0.000	5.000	5.000	5.000	\$0.00	\$19,000.00
('EACH' ITEM): WATER SERVICE TRANSFER, COPPER, 1-IN, OPPOSITE SIDE										
1080	2599-9999005	EACH	\$3,000.000	40.000	4.000	19.000	23.000	23.000	\$12,000.00	\$69,000.00
('EACH' ITEM): WATER SERVICE TRANSFER, COPPER, 1-IN, SAME SIDE										
1090	2599-9999005	EACH	\$5,400.000	1.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
('EACH' ITEM): WATER SERVICE TRANSFER, COPPER, 2-IN, OPPOSITE SIDE										
1100	2599-9999005	EACH	\$3,400.000	2.000	0.000	1.000	1.000	1.000	\$0.00	\$3,400.00
('EACH' ITEM): WATER SERVICE TRANSFER, COPPER, 2-IN, SAME SIDE										
1110	2599-9999005	EACH	\$6,100.000	1.000	0.000	2.000	2.000	2.000	\$0.00	\$12,200.00
('EACH' ITEM): WATER SERVICE TRANSFER, EQUAL TO OR GREATER THAN 3, SAME SIDE										
1120	2599-9999009	LF	\$45.000	1,005.000	0.000	515.000	515.000	515.000	\$0.00	\$23,175.00
('LINEAR FEET' ITEM): REMOVAL OF EXISTING WATER MAIN IN CONFLICT WITH NEW CONSTRUCTION										
1130	2599-9999020	TON	\$65.000	100.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
('TONS' ITEM): FOUNDATION ROCK										
8003	2504-0114018	LF	\$572.000	20.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
SAN SWR G-MAIN, TRENCHED, PVC, 18"										
8004	2554-0112008	LF	\$247.500	8.000	0.000	5.000	5.000	5.000	\$0.00	\$1,237.50
WATER MAIN, TRENCHED, DIP, 8"										
8005	2554-0112012	LF	\$154.000	260.000	0.000	280.000	280.000	280.000	\$0.00	\$43,120.00
WATER MAIN, TRENCHED, DIP, 12"										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
8006	2554-0207006	EACH	\$3,509.000	3.000	1.000	2.000	3.000	3.000	\$3,509.00	\$10,527.00
VALVE, GATE, DIP, 6"										
8007	2554-0112012	LF	\$176.000	83.000	0.000	72.000	72.000	72.000	\$0.00	\$12,672.00
WATER MAIN, TRENCHED, DIP, 12": (RESTRAINED JOINT)										
8008	2599-9999005	EACH	\$1,760.000	8.000	0.000	10.000	10.000	10.000	\$0.00	\$17,600.00
('EACH' ITEM): 32 LB MAGNESIUM ANODE										
8012	2599-9999005	EACH	\$10,859.750	1.000	0.000	1.000	1.000	1.000	\$0.00	\$10,859.75
('EACH' ITEM): WATER MAIN, CONNECT TO EXISTING MAIN										
Section Totals:									\$104,914.00	\$874,751.25
Section: 3 - Description										
Section Totals:									\$0.00	\$0.00
Total Payments:									\$509,453.64	\$4,576,016.51

Time Charges

Time Limit	Original Deadline	Authorized Deadline	Charges This Period	Damages This Period	Days Completed To Date	Days Remaining To Date	Damages To Date
Working Days, Late Start Date - 05/06/2024, Liquidated Damage Rate - 2,500	300.0 Days	298.0 Days	20.5 Days	\$0.00	250.0 Days	48.0 Days	\$0.00
Total Damages:							\$0.00

Stockpiles

Stockpile	Fund Package		Current Advancements	Advancements To Date	Current Recoveries	Recoveries To Date
#1 - 2554-0203000	77-8477-615-CAT-2	77-8477-615-CAT-2 77-8477-615	\$0.00	\$12,845.16	\$0.00	\$12,845.16
FITTINGS BY WEIGHT, DUCTILE IRON						
#2 - 2554-0207008	77-8477-615-CAT-2	77-8477-615-CAT-2 77-8477-615	\$0.00	\$5,580.00	\$0.00	\$5,580.00
VALVE, GATE, DIP, 8 IN.						
#3 - 2554-0114012	77-8477-615-CAT-2	77-8477-615-CAT-2 77-8477-615	\$0.00	\$3,430.00	\$0.00	\$3,430.00
WATER MAIN, TRENCHED, POLYVINYL CHLORIDE PIPE (PVC), 12 IN.						
#4 - 2554-0211002	77-8477-615-CAT-2	77-8477-615-CAT-2 77-8477-615	\$0.00	\$185.93	\$0.00	\$185.93
FLUSHING DEVICE (BLOWOFF), 2 IN.						
#5 - 2599-9999005	77-8477-615-CAT-2	77-8477-615-CAT-2 77-8477-615	\$0.00	\$4,000.00	\$0.00	\$4,000.00
('EACH' ITEM): WATER SERVICE TRANSFER, COPPER, 1-IN, SAME SIDE						
#6 - 2525-0000100	77-8477-615-CAT-1	77-8477-615-CAT-1 77-8477-615	\$0.00	\$32,832.46	\$29,549.21	\$29,549.21
TRAFFIC SIGNALIZATION						
Totals:			\$0.00	\$58,873.55	\$29,549.21	\$55,590.30

Summary

Current Approved Work:	\$509,453.64
Current Stockpile Advancement:	\$0.00
Current Stockpile Recovery:	\$29,549.21
Current Retainage:	\$0.00
Current Retainage Released:	\$0.00
Current Liquidated Damages:	\$0.00
Current Adjustment:	\$0.00
Current Payment:	\$479,904.43
Previous Payment:	\$948,033.29

Funding Details

77-8477-615-CAT-1 77-8477-615-CAT-1 77-8477-615:	\$408,048.64
77-8477-615-CAT-2 77-8477-615-CAT-2 77-8477-615:	\$101,405.00
77-8477-615-CAT-3 NON-PARTICIPATING:	\$0.00
Current Payment:	\$509,453.64

Approved Work To Date:	\$4,576,016.51
Stockpile Advancement To Date:	\$58,873.55
Stockpile Recovery To Date:	\$55,590.30
Retainage To Date:	\$30,000.00
Retainage Released To Date:	\$0.00
Liquidated Damages To Date:	\$0.00
Adjustments To Date:	\$0.00
Payments To Date:	\$4,549,299.76
Previous Payments To Date:	\$4,069,395.33

77-8477-615-CAT-1 77-8477-615-CAT-1 77-8477-615 To Date:	\$3,797,281.51
77-8477-615-CAT-2 77-8477-615-CAT-2 77-8477-615 To Date:	\$778,735.00
77-8477-615-CAT-3 NON-PARTICIPATING To Date:	\$0.00
Payments To Date:	\$4,576,016.51

Doc Express® Document Signing History

Contract: 77-8477-615 Document: payment-15-20251006

This document is in the process of being signed by all required signatories using the Doc Express® service. Following are the signatures that have occurred so far.

Date	Signed By
10/08/2025	Logan Petersen Absolute Concrete Construction Inc. Electronic Signature (Approved by Contractor (Optional))
10/14/2025	Justin Ernst Bolton & Menk, Inc. - Iowa Electronic Signature (Recommended by Engineer)
	(Approved by PIRC (when applicable))



**STAFF REPORT
CITY COUNCIL**
October 20, 2025

TO: CITY COUNCIL

FROM:

SUBJECT: Approve 68th St. Payment Application 6

GENERAL INFORMATION

ATTACHMENTS

1. LTR-68th Street-Pay App 6
2. 133739_Pay Application_006_Signed



**BOLTON
& MENK**

Real People. Real Solutions.

430 E Grand Avenue
Suite 101
Des Moines, IA 50309

Ph: (515) 259-9190
Fax: (515) 233-4430
Bolton-Menk.com

October 16, 2025

Mr. Adam Plagge
City Administrator
City of Windsor Heights, Iowa

RE: 68th Street Improvements Project
Pay Request 6

Dear Mr. Plagge:

Submitted for your approval is Pay Request 6 for the above-mentioned project. Pay request is for a total payment of \$308,127.85. The total payments to date: \$1,149,528.37. Please see enclosure for a full summary of the items completed that are included in this payment.

Bolton & Menk, Inc., recommends the approval of Pay Request 6. Upon approval, please sign 3 copies in the space provided. Return one executed copy of the pay request to our office and one executed copy of the pay request to Shekar Engineering, P.L.C. with payment.

Please let me know if you have any questions.

Sincerely,

Bolton & Menk, Inc.

Justin Ernst, PE
Municipal Assistant Practice Leader, Principal

Enclosure



City of Windsor Heights - Iowa

Detailed Payment

68th Street Improvements

Description Reconstruction of 68th Street

Payment Number 6

Pay Period 09/01/2025 to 09/30/2025

Prime Contractor SHEKAR ENGINEERING, PLC

Payment Status Pending

Awarded Project Amount \$1,878,164.17

Authorized Amount \$1,886,537.86

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
Section: 0001 - Base Bid - Quantities										
0001	2010-C	LS	\$10,237.500	1.000	0.000	1.000	1.000	1.000	\$0.00	\$10,237.50
CLEARING AND GRUBBING										
0002	2010-D-1	CY	\$10.200	948.000	237.000	0.000	237.000	237.000	\$2,417.40	\$2,417.40
TOPSOIL, ON-SITE										
0003	2010-E	CY	\$15.300	2,606.000	0.000	1,334.000	1,334.000	1,334.000	\$0.00	\$20,410.20
EXCAVATION, CLASS 10										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
0004	2010-F	CY	\$20.400	795.000	0.000	158.502	158.502	158.502	\$0.00	\$3,233.44
BELOW GRADE EXCAVATION (CORE OUT)										
0005	2010-G	SY	\$1.020	7,950.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
SUBGRADE PREPARATION										
0006	2010-I	SY	\$2.040	795.000	0.000	438.756	438.756	438.756	\$0.00	\$895.06
SUBGRADE TREATMENT, GEOGRID, TYPE 2										
0007	2010-J	SY	\$16.830	7,950.000	0.000	4,270.301	4,270.301	4,270.301	\$0.00	\$71,869.17
SUBBASE, MODIFIED, 8 INCHES										
0008	3010-D	CY	\$81.600	100.000	0.000	58.800	58.800	58.800	\$0.00	\$4,798.08
REPLACEMENT OF UNSUITABLE BACKFILL MATERIAL										
0009	4020-A-1	LF	\$44.280	12.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
STORM SEWER, TRENCHED, PP, 8 INCH										
0010	4020-A-1	LF	\$46.890	1,550.000	8.000	1,040.900	1,048.900	1,048.900	\$375.12	\$49,182.92
STORM SEWER, TRENCHED, 15 INCH										
0011	4020-A-1	LF	\$83.040	27.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
STORM SEWER, TRENCHED, 18 INCH										
0012	4020-A-1	LF	\$151.470	47.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
STORM SEWER, TRENCHED, 36 INCH										
0013	4020-A-1	LF	\$232.490	50.000	0.000	40.000	40.000	40.000	\$0.00	\$9,299.60
STORM SEWER, TRENCHED, RCP, 37" X 23" ARCH										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
0014	4020-D	LF	\$9.930	348.000	0.000	148.000	148.000	148.000	\$0.00	\$1,469.64
REMOVAL OF STORM SEWER, LESS THAN 36 INCH										
0015	4040-A	LF	\$14.520	3,330.000	0.000	1,951.000	1,951.000	1,951.000	\$0.00	\$28,328.52
SUBDRAIN, PERFORATED HDPE, 6 INCH										
0016	4040-C-1	EA	\$501.030	16.000	4.000	6.000	10.000	10.000	\$2,004.12	\$5,010.30
SUBDRAIN CLEANOUT, TYPE A-1, 6 INCH										
0017	4040-D-1	EA	\$475.310	14.000	0.000	8.000	8.000	8.000	\$0.00	\$3,802.48
SUBDRAIN OUTLETS AND CONNECTIONS, CMP, 6 INCH										
0018	4050-H-1	EA	\$5,397.010	3.000	3.500	7.000	10.500	10.500	\$18,889.54	\$56,668.61
SPOT REPAIRS BY PIPE REPLACEMENT, PVC, 4 INCH										
0019	SPEC. PROV.	LF	\$790.910	10.000	4.000	12.000	16.000	16.000	\$3,163.64	\$12,654.56
WATER MAIN, TRENCHED, PVC C900 (DR 18), 6 INCH WITH TRACER WIRE										
0020	SPEC. PROV.	LF	\$50.630	1,880.000	211.300	1,168.000	1,379.300	1,379.300	\$10,698.12	\$69,833.96
WATER MAIN, TRENCHED, PVC C900 (DR 18), 8 INCH WITH TRACER WIRE										
0021	SPEC. PROV.	LB	\$8.580	1,779.000	124.000	1,887.000	2,011.000	2,011.000	\$1,063.92	\$17,254.38
FITTING BY WEIGHT, DUCTILE IRON										
0022	SPEC. PROV.	EA	\$1,264.190	23.000	3.000	13.000	16.000	16.000	\$3,792.57	\$20,227.04
WATER SERVICE TRANSFER, COPPER, 1 INCH , SAME SIDE										
0023	SPEC. PROV.	EA	\$2,022.360	26.000	3.000	16.000	19.000	19.000	\$6,067.08	\$38,424.84
WATER SERVICE TRANSFER, COPPER, 1 INCH, OPPOSITE SIDE										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
0024	SPEC. PROV.	LF	\$8.220	410.000	8.500	46.800	55.300	55.300	\$69.87	\$454.57
WATER MAIN REMOVAL										
0025	SPEC. PROV.	EA	\$2,210.620	1.000	0.000	3.000	3.000	3.000	\$0.00	\$6,631.86
VALVE, GATE, 6 INCH										
0026	SPEC. PROV.	EA	\$2,923.700	4.000	1.000	5.000	6.000	6.000	\$2,923.70	\$17,542.20
VALVE, GATE, 8 INCH										
0027	SPEC. PROV.	EA	\$7,946.350	5.000	1.000	4.000	5.000	5.000	\$7,946.35	\$39,731.75
FIRE HYDRANT ASSEMBLY										
0028	SPEC. PROV.	EA	\$1,439.150	5.000	0.000	3.000	3.000	3.000	\$0.00	\$4,317.45
FLUSHING DEVICE (BLOW OFF), 4 INCH										
0029	SPEC. PROV.	EA	\$727.440	5.000	0.000	2.000	2.000	2.000	\$0.00	\$1,454.88
FIRE HYDRANT ASSEMBLY REMOVAL										
0030	SPEC. PROV.	EA	\$92.130	3.000	0.000	1.000	1.000	1.000	\$0.00	\$92.13
VALVE BOX REMOVAL										
0031	SPEC. PROV.	EA	\$524.630	49.000	6.000	28.000	34.000	34.000	\$3,147.78	\$17,837.42
TAP FEE, 1", REPLACE TAP FOR WATER SERVICE										
0032	SPEC. PROV.	EA	\$2,228.390	3.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
PREPARE EXCAVATION FOR TAPPING SLEEVE AND VALVE										
0033	6010-A	EA	\$6,546.880	1.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
STORM MANHOLE, SW-401, 60 INCH										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
0034	6010-A	EA	\$8,531.000	1.000	0.000	1.000	1.000	1.000	\$0.00	\$8,531.00
STORM MANHOLE, SW-401, 72 INCH										
0035	6010-B	EA	\$4,066.390	1.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
INTAKE, SW-501										
0036	6010-B	EA	\$5,673.030	12.000	1.000	6.750	7.750	7.750	\$5,673.03	\$43,965.98
INTAKE, SW-505										
0037	6010-B	EA	\$4,046.560	2.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
INTAKE, SW-507										
0038	6010-B	EA	\$2,042.730	2.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
INTAKE, SW-512										
0039	6010-B	EA	\$11,693.510	1.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
INTAKE, SW-516, MODIFIED										
0040	6010-E	EA	\$2,002.560	5.000	0.000	5.000	5.000	5.000	\$0.00	\$10,012.80
SANITARY MANHOLE ADJUSTMENT, MINOR										
0041	6010-E	EA	\$1,458.720	1.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
STORM MANHOLE ADJUSTMENT, MINOR										
0042	6010-F	EA	\$3,385.790	3.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
SANITARY MANHOLE ADJUSTMENT, MAJOR										
0043	6010-G	EA	\$784.810	1.000	0.000	1.000	1.000	1.000	\$0.00	\$784.81
CONNECTION TO EXISTING MANHOLE										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
0044	6010-H	EA	\$889.920	9.000	0.000	5.000	5.000	5.000	\$0.00	\$4,449.60
REMOVE INTAKE										
0045	7010-A	SY	\$57.260	6,100.000	790.900	2,793.823	3,584.723	3,584.723	\$45,286.94	\$205,261.24
PAVEMENT, PCC, 7 INCH										
0046	7010-A	SY	\$123.170	200.000	0.000	167.000	167.000	167.000	\$0.00	\$20,569.39
PAVEMENT, PCC, 10 INCH										
0047	7010-999-A	LF	\$1.020	12,350.000	0.000	4,831.000	4,831.000	4,831.000	\$0.00	\$4,927.62
JOINT PREVENTATIVE SEALANT										
0048	7010-N	SY	\$5.250	1,800.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
COLD WEATHER PROTECTION										
0049	7030-A-1	SY	\$10.200	100.000	0.000	117.700	117.700	117.700	\$0.00	\$1,200.54
REMOVAL OF SIDEWALK										
0050	7030-A-3	SY	\$10.200	1,190.000	399.400	756.000	1,155.400	1,155.400	\$4,073.88	\$11,785.08
REMOVAL OF DRIVEWAY										
0051	7030-E	SY	\$45.900	820.000	130.600	340.260	470.860	470.860	\$5,994.54	\$21,612.47
SIDEWALK, PCC, 4 INCH										
0052	7030-E	SY	\$66.300	10.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
SIDEWALK, PCC, 4 INCH, REINFORCED										
0053	7030-E	SY	\$56.100	130.000	0.000	100.200	100.200	100.200	\$0.00	\$5,621.22
SIDEWALK, PCC, 6 INCH										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
0054	7030-G	SY	\$51.000	96.000	0.000	76.800	76.800	76.800	\$0.00	\$3,916.80
DETECTABLE WARNING										
0055	7030-H-1	SY	\$59.670	1,020.000	331.400	388.680	720.080	720.080	\$19,774.63	\$42,967.17
DRIVEWAY, PAVED, PCC, 6 INCH										
0056	7030-H-3	TON	\$45.900	50.000	0.000	11.500	11.500	11.500	\$0.00	\$527.85
TEMPORARY GRANULAR SURFACING, CLASS A ROAD STONE										
0057	7040-H	SY	\$12.140	5,630.000	1,743.900	3,886.100	5,630.000	5,630.000	\$21,170.95	\$68,348.20
PAVEMENT REMOVAL										
0058	8020-C	STA	\$1,785.000	2.000	2.000	0.000	2.000	2.000	\$3,570.00	\$3,570.00
PAINTED PAVEMENT MARKINGS, DURABLE										
0059	8020-M	STA	\$918.000	2.000	2.000	0.000	2.000	2.000	\$1,836.00	\$1,836.00
GROOVES CUT FOR PAVEMENT MARKINGS										
0060	8030-A	LS	\$13,158.000	1.000	0.100	0.400	0.500	0.500	\$1,315.80	\$6,579.00
TEMPORARY TRAFFIC CONTROL										
0061	8040-A	EA	\$153.000	13.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
TRAFFIC SIGNS, TYPE A										
0062	8040-D	EA	\$204.000	13.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
PERFORATED SQUARE STEEL TUBE POSTS										
0063	9010-D	MGAL	\$71.400	93.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
WATERING										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
0064	9020-A	SQ	\$66.300	350.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
SOD										
0065	9030-B	EA	\$408.000	2.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
PLANTS WITH WARRANTY, ORNAMENTAL TREE										
0066	9030-B	EA	\$464.100	2.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
PLANTS WITH WARRANTY, DECIDUOUS TREE										
0067	9040-A-1	LS	\$1,530.000	1.000	0.000	1.000	1.000	1.000	\$0.00	\$1,530.00
SWPPP PREPARATION										
0068	9040-A-2	LS	\$3,468.000	1.000	0.100	0.500	0.600	0.600	\$346.80	\$2,080.80
SWPPP MANAGEMENT										
0069	9040-D-1	LF	\$1.730	6,000.000	0.000	742.000	742.000	742.000	\$0.00	\$1,283.66
FILTER SOCK, 9 INCH										
0070	9040-O-1	SY	\$10.200	300.000	0.000	100.000	100.000	100.000	\$0.00	\$1,020.00
STABILIZED CONSTRUCTION ENTRANCE										
0071	9040-Q-2	AC	\$1,489.200	1.000	0.000	0.388	0.388	0.388	\$0.00	\$577.81
EROSION CONTROL MULCHING, HYDRO MULCHING										
0072	9040-T-1	EA	\$102.000	31.000	0.000	12.000	12.000	12.000	\$0.00	\$1,224.00
INLET PROTECTION DEVICE, MAINTENCE, AND REMOVAL										
0073	9070-A	SF	\$49.980	160.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
MODULAR BLOCK RETAINING WALL										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
0074	11020-A	LS	\$109,882.500	1.000	0.750	0.250	1.000	1.000	\$82,411.87	\$109,882.50
MOBILIZATION										
0075	9040-D-1	LS	\$4,725.000	1.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
MAINTENANCE OF POSTAL SERVICE										
0076	9040-O-1	LS	\$5,250.000	1.000	0.000	0.200	0.200	0.200	\$0.00	\$1,050.00
MAINTENANCE OF SOLID WASTE COLLECTION										
0077	9040-Q-2	LS	\$3,150.000	1.000	0.200	0.800	1.000	1.000	\$630.00	\$3,150.00
TEMPORARY PEDESTRIAN RESIDENTIAL ACCESS										
0078	11030-A	LS	\$3,672.000	1.000	0.200	0.400	0.600	0.600	\$734.40	\$2,203.20
CONCRETE WASHOUT										
8010	2599-9999010	LS	\$2,410.320	1.000	0.000	1.000	1.000	1.000	\$0.00	\$2,410.32
('LUMP SUM' ITEM): Water Main Casing Pipe - School Street & 68th Street										
8020	2599-9999010	LS	\$4,058.400	1.000	0.000	1.000	1.000	1.000	\$0.00	\$4,058.40
('LUMP SUM' ITEM): Sanitary Sewer Wye Replacement										
8030	2599-9999005	EACH	\$1,904.970	1.000	0.000	1.000	1.000	1.000	\$0.00	\$1,904.97
('EACH' ITEM): Sump Connection with Yard Drain Box										
Section Totals:									\$255,378.05	\$1,112,922.39
Section: 0002 - Alternate A - Quantities										
A1	2010-C	LS	\$12,285.000	1.000	0.000	1.000	1.000	1.000	\$0.00	\$12,285.00
CLEARING AND GRUBBING										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
A2	2010-D-1	CY	\$10.200	156.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
TOPSOIL, ON-SITE										
A3	2010-E	CY	\$15.300	309.000	309.000	0.000	309.000	309.000	\$4,727.70	\$4,727.70
EXCAVATION, CLASS 10										
A4	2010-F	CY	\$20.400	102.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
BELOW GRADE EXCAVATION (CORE OUT)										
A5	2010-G	SY	\$1.020	1,020.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
SUBGRADE PREPARATION										
A6	2010-I	SY	\$2.040	102.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
SUBGRADE TREATMENT, GEOGRID, TYPE 2										
A7	2010-J	SY	\$16.830	1,020.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
SUBBASE, MODIFIED, 8 INCHES										
A8	3010-D	CY	\$81.600	30.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
REPLACEMENT OF UNSUITABLE BACKFILL MATERIAL										
A9	4020-A-1	LF	\$109.720	145.000	120.000	0.000	120.000	120.000	\$13,166.40	\$13,166.40
STORM SEWER, TRENCHED, 36 INCH										
A10	4020-A-1	LF	\$237.760	132.000	132.000	0.000	132.000	132.000	\$31,384.32	\$31,384.32
STORM SEWER, TRENCHED, RCP, 44" X 27" ARCH										
A11	4020-D	LF	\$10.060	275.000	275.000	0.000	275.000	275.000	\$2,766.50	\$2,766.50
REMOVAL OF STORM SEWER, LESS THAN 36 INCH										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
A12	4040-A	LF	\$13.950	524.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
SUBDRAIN, PERFORATED HDPE, 6 INCH										
A13	4040-C-1	EA	\$500.960	2.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
SUBDRAIN CLEANOUT, TYPE A-1, 6 INCH										
A14	4040-D-1	EA	\$475.210	2.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
SUBDRAIN OUTLETS AND CONNECTIONS, CMP, 6 INCH										
A15	SPEC. PROV.	LF	\$36.260	260.000	47.000	220.000	267.000	267.000	\$1,704.22	\$9,681.42
WATER MAIN, TRENCHED, PVC C900 (DR 18), 8 INCH WITH TRACER WIRE										
A16	SPEC. PROV.	LB	\$9.640	76.000	92.000	46.000	138.000	138.000	\$886.88	\$1,330.32
FITTING BY WEIGHT, DUCTILE IRON										
A17	SPEC. PROV.	LF	\$8.250	40.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
WATER MAIN REMOVAL										
A18	6010-A	EA	\$8,088.270	1.000	0.250	0.000	0.250	0.250	\$2,022.07	\$2,022.07
STORM MANHOLE, SW-401, 72 INCH										
A19	6010-B	EA	\$12,150.330	1.000	0.750	0.000	0.750	0.750	\$9,112.75	\$9,112.75
INTAKE, SW-516, MODIFIED										
A20	6010-E	EA	\$1,261.680	2.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
INTAKE ADJUSTMENT, MINOR										
A21	6010-H	EA	\$917.530	1.000	1.000	0.000	1.000	1.000	\$917.53	\$917.53
REMOVE INTAKE										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
A22	7010-A	SY	\$57.260	800.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
PAVEMENT, PCC, 7 INCH										
A23	7010-999-A	LF	\$1.020	1,804.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
JOINT PREVENTATIVE SEALANT										
A24	7030-A-1	SY	\$10.200	10.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
REMOVAL OF SIDEWALK										
A25	7030-A-3	SY	\$10.200	110.000	0.000	50.400	50.400	50.400	\$0.00	\$514.08
REMOVAL OF DRIVEWAY										
A26	7030-E	SY	\$45.900	150.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
SIDEWALK, PCC, 4 INCH										
A27	7030-E	SY	\$56.100	10.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
SIDEWALK, PCC, 6 INCH										
A28	7030-G	SF	\$51.000	20.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
DETECTABLE WARNING										
A29	7030-H-1	SY	\$61.200	110.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
DRIVEWAY, PAVED, PCC, 6 INCH										
A30	7030-H-3	TON	\$45.900	50.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
TEMPORARY GRANULAR SURFACING, CLASS A ROAD STONE										
A31	7040-H	SY	\$10.200	770.000	133.400	678.500	811.900	811.900	\$1,360.68	\$8,281.38
PAVEMENT REMOVAL										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
A32	8040-A	EA	\$459.000	3.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
TRAFFIC SIGNS, TYPE A										
A33	8040-D	EA	\$408.000	2.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
PERFORATED SQUARE STEEL TUBE POSTS										
A34	9010-D	MGAL	\$71.400	14.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
WATERING										
A35	9020-A	SQ	\$66.300	50.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
SOD										
A36	9040-D-1	LF	\$1.730	840.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
FILTER SOCK, 9 INCH										
A37	9040-T-1	EA	\$122.400	4.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
INLET PROTECTION DEVICE, MAINTENCE, AND REMOVAL										
A38	9060-D	LF	\$57.750	80.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
REMOVAL AND REINSTALLATION OF EXISTING FENCE, CHAIN LINK FENCE, RESIDENTIAL										
A39	11040-A	LS	\$1,890.000	1.000	0.000	0.000	0.000	0.000	\$0.00	\$0.00
TEMPORARY PEDESTRIAN RESIDENTIAL ACCESS										
A40	11050-A	LS	\$3,672.000	1.000	0.250	0.000	0.250	0.250	\$918.00	\$918.00
CONCRETE WASHOUT										
Section Totals:									\$68,967.05	\$97,107.47
Total Payments:									\$324,345.10	\$1,210,029.86

Time Charges

Time Limit	Original Deadline	Authorized Deadline	Charges This Period	Damages This Period	Days Completed To Date	Days Remaining To Date	Damages To Date
Final Completion - Liquidated Damages \$500/Day	05/29/2026	05/29/2026	N/A	\$0.00	N/A	241.0 Days	\$0.00
Substantial Completion - Liquidated Damages \$500/Day	11/21/2025	11/21/2025	N/A	\$0.00	N/A	52.0 Days	\$0.00
Total Damages:							\$0.00

Summary

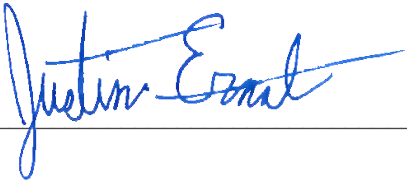
Current Approved Work:	\$324,345.10	Approved Work To Date:	\$1,210,029.86
Current Stockpile Advancement:	\$0.00	Stockpile Advancement To Date:	\$0.00
Current Stockpile Recovery:	\$0.00	Stockpile Recovery To Date:	\$0.00
Current Retainage:	\$16,217.25	Retainage To Date:	\$60,501.49
Current Retainage Released:	\$0.00	Retainage Released To Date:	\$0.00
Current Liquidated Damages:	\$0.00	Liquidated Damages To Date:	\$0.00
Current Adjustment:	\$0.00	Adjustments To Date:	\$0.00
Current Payment:	\$308,127.85	Payments To Date:	\$1,149,528.37
Previous Payment:	\$151,799.96	Previous Payments To Date:	\$841,400.52

SIGNATURE LINE FOR PAYMENT REPORTS

ENGINEER'S CERTIFICATION:

In accordance with the Contract Documents, based on on-site observations and the data comprising this Payment Application, the Construction Project Manager certifies to the City of Windsor Heights that to the best of the Construction Project Manager's knowledge, information, and belief, the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and Contractor is entitled to payment of Amount Certified.

AMOUNT CERTIFIED: \$ 308,127.85

By:  Date: 10.16.2025

CONTRACTOR'S CERTIFICATION:

Contractor certifies that to the best of Contractor's knowledge, information and belief, the Work covered by this Payment Application has been completed in accordance with the Contract Documents, that all amounts have been paid by Contractor for Work for which payments were issued and payments received from the City of Windsor Heights, and that the current payment applied herein is now due.

By: _____ Date: 10/16/2025

CITY OF WINDSOR HEIGHTS REVIEW / APPROVAL:

By: _____ Date: _____



**STAFF REPORT
CITY COUNCIL**
October 20, 2025

TO: CITY COUNCIL

FROM:

SUBJECT: Approve Resolution No. 2025-75 A Resolution Authorizing Execution of The Windsor Stormwater Maintenance Agreement

GENERAL INFORMATION

The Windsor ownership group has signed the attached stormwater maintenance agreement drafted by staff, legal and engineering. The agreement provides access to the City of Windsor Heights to inspect stormwater systems on The Windsor Property and The Windsor access to inspect and maintain their stormwater system on City property, consisting of the retention basin and spreader to the SW of The Windsor. The stormwater system design and system in place have been inspected by engineering and been determined to meet the City's Ordinance requirements.

Staff Recommendation: Approve Resolution authorizing staff to execute Stormwater Agreement.

ATTACHMENTS

1. The Windsor Stormwater Agreement
2. Resolution No. 2025-75 A Resolution Authorizing Execution of The Windsor Stormwater Agreement

STORMWATER FACILITY MAINTENANCE AGREEMENT

This Stormwater Facility Maintenance Agreement (herein "Agreement") is entered into between Windsor Millang, LLC, The Windsor, L.L.C., and Jensfam, LLC (the "Grantor") and the City of Windsor Heights, Iowa (the "City"), in consideration for the approval by the City of The Windsor Apartments, 1148 63rd Street, Project No. 23-047. The Grantor and City enter into this Agreement to control and address stormwater runoff from and for the following described property:

Parcel "A" of that Plat of Survey of part of Lot 1 in Hopkins Place, an Official Plat, filed in Book 9221, Page 674 in the Office of the Recorder for Polk County, Iowa; and Lots 2, 3 and 4 in Hopkins Place, an Official Plat, except those portions acquired in fee simple interest by condemnation recorded in Book 7465 at Page 428 in the Office of the Recorder for Polk County, Iowa; and Lot 5 in Hopkins-Woehler Place, an Official Plat, except that portion acquired in fee simple interest by condemnation recorded in Book 7465 at Page 428 in the Office of the Recorder for Polk County, Iowa; and the East 265.4 feet of Lot 11 in Hopkins-Woehler Place, an Official Plat; and Lot 12 (except the West 155 feet thereof) in Hopkins-Woehler Place, an Official Plat; and Lot 22 in Hopkins-Woehler Place, an Official Plat, except the South 15 feet thereof and except that portion acquired in fee simple interest by condemnation recorded in Book 7465 at Page 428 in the Office of the Recorder for Polk County, Iowa; and the West 17.5 feet of the South 15 feet of Lot 22 in Hopkins-Woehler Place, an Official Plat; and Lots 23 and 24 in Hopkins-Woehler Place, an Official Plat except that portion acquired in fee simple interest by condemnation recorded in Book 7465 at Page 428 in the Office of the Recorder for Polk County, Iowa, now included in and forming a part of the City of Windsor Heights, Polk County, Iowa; (the "Benefited Property")

PART 1– COVENANTS ON THE BENEFITED PROPERTY

The following provisions shall be covenants running with the land to the City, binding on Grantor and all successors and assigns of the Benefited Property. This Agreement shall not be amended or released except with the written permission of the City.

- A. Grantor hereby agrees that the stormwater runoff for the Benefited Property shall be controlled through installation, construction and maintenance of a Stormwater Management Facility (also known as "Best Management Practice" or "BMP") upon, over, under, through and across easements located in the Benefited Property and that are more particularly described and depicted on **Exhibits A, B, C, and D** attached hereto.
- B. Grantor covenants and agrees that the design, construction and maintenance of the Stormwater Management Facility shall comply with all the stormwater runoff control requirements of Chapter 161 of the Municipal Code of the City.

- C. It is hereby agreed and covenanted that the Benefited Property receives benefit from the Stormwater Management Facility by controlling runoff from the Benefited Property to meet the requirements of Chapter 161 of the Municipal Code of the City. In recognition of such benefit and to meet the maintenance, repair and replacement obligations of the Municipal Code of the City, Grantor and every owner of any portion of the Benefited Property hereby consents and agrees to the covenants and obligations of this Agreement and by virtue of their ownership of the Benefited Property.
- D. It is hereby agreed that Grantor is solely responsible for constructing, installing and ensuring the Stormwater Management Facility meets the standards set forth in Chapter 161 of the Municipal Code of the City and the storm water system design, attached hereto as Exhibit E.
- E. Grantor hereby designates, appoints and agrees on behalf of Grantor and all successors and assigns that Grantor is solely responsible for inspection, replacement, reconstruction, repair, grading, maintenance and plantings of the Stormwater Management Facility. It is further covenanted and agreed that the Agreement shall not be dissolved or discontinued without the written consent of the City.
- F. Grantor hereby covenants, agrees, and binds Grantor and all successors and assigns to accept notices and service of process for the Benefited Property as it relates to the inspection, replacement, reconstruction, repair, plantings, grading and maintenance of the Stormwater Management Facility and the easement areas set forth in Exhibits A, B, C and D or notice of assessment for replacement, reconstruction, repair, grading and maintenance of the Stormwater Management Facility or the easement areas set forth in Exhibits A, B, C and D. Grantor acknowledges that the City owns the property set forth in Exhibit D, and agrees, on behalf of its successors and assigns, to be obligated to inspection, replacement, reconstruction, repair, plantings, grading and maintenance of the Stormwater Management Facility in the area set forth in Exhibit D.
- G. Grantor shall be responsible for maintenance, repair, plantings and replacement of the Stormwater Management Facility. Should the Grantor do anything in conflict with or in violation of this Agreement, the Grantor shall be responsible for the correction and mitigation of such conflict or violation to ensure proper operation and function of the Stormwater Management Facility. Grantor and all successors and assigns shall comply with all terms of the easements set forth in Part II herein.
- H. Grantor shall inspect the Stormwater Management Facility in accordance with Chapter 161 of the City Code. The inspections shall be conducted, at a minimum, annually. The inspection report shall be made available to the City for review upon request and shall be kept and maintained for a period of five years. Inspection of a Stormwater Management Facility includes but is not limited to inspecting all pipes,

inlets, outlets, for defects, for sedimentation, for any obstructions, and for any changes in the Stormwater Management Facility from the original design of the facility.

- I. Any deficiencies or defects noted by the inspection shall be corrected by the Grantor within 30 days of identification of such maintenance and repair needs. In the event the identified maintenance or repair cannot be completed within 30 days of notice or identification, the Grantor must contact the city with 30 days of notice to explain why repair or maintenance cannot be completed within 30 days and provide a plan acceptable to the City Engineer or Public Works Director for completing repair or maintenance.
- J. Should the Grantor fail to maintain, reconstruct, repair, grade or dredge the Storm Water Management Facility or the easement areas set forth in Exhibits A, B, C and D upon notice from the City, the City may cause such action to be done and assessed to the Benefited Property or collected from Grantor as allowed by law. The assessment shall be a lien on the Benefited Property and placed on the tax bill and collected as ordinary tax.
- K. Grantor hereby agrees and consents on behalf of itself and all successors and assigns of any and all parts of the Benefited Property to the assessment of the costs of maintaining, reconstructing, repairing, grading or dredging the easement areas set forth in Exhibits A, B, C and D and Stormwater Management Facility on any and all portions of the Benefited Property and further waives any right to appeal such assessment excepting the corrections of any errors in the calculation of the reasonable and necessary costs incurred by the City to restore the Stormwater Management Facility to substantial compliance with Chapter 161, and any error in the allocation of such costs against any portion of the Benefited Property.

PART II – EASEMENTS FOR STORM WATER MANAGEMENT FACILITY

- A. Grantor hereby grants the City Permanent Stormwater Management Facility Easements under, over, through and across the easement areas as set forth in Exhibit A, B, and C for the purpose of constructing, reconstructing, repairing, grading and maintaining the Stormwater Management Facility and the surface of the easement areas in a manner that will permit the free and unobstructed flow of surface water over the easement area described therein. The Stormwater Management Facility Easements shall be in the form set forth in Exhibit F.
- B. The City hereby grants the Grantor a Permanent Stormwater Management Facility Maintenance Easement under, over, through and across the easement area set forth in Exhibit D for the purpose of constructing, reconstructing, repairing, grading and maintaining the Stormwater Management Facility, landscaping and the surface of the easement area in a manner that will permit the free and unobstructed flow of surface water over the easement area described therein. The Stormwater Management Facility Maintenance Easement shall be in the form set forth in Exhibit

- G.
- C. No chemicals or any substance shall be applied to the Stormwater Management Facility that may harm or impair the effectiveness of the Stormwater Management Facility.
 - D. No structure shall be erected over or within the easement areas set forth in Exhibits A, B, C and D without obtaining the prior written approval of the City Engineer.
 - E. Vegetation shall not be removed or changed within the easement areas set forth in Exhibits A, B, C and D without the prior written consent of the City Engineer or Public Works Director except for facilities that must be mowed.
 - F. No structure, vehicle, material, device, thing or matter which could possibly obstruct or impede any flow of water over the surface of the easement areas set forth in Exhibits A, B, C and D shall be erected or caused to be placed in or on the easement areas, whether temporary or permanent, without obtaining the prior written approval of the City Engineer or Public Works Director.
 - G. No yard debris, soil, rocks or concrete, or similar materials, shall be placed within the easement areas set forth in Exhibits A, B, C and D without the prior written consent of the City Engineer or Public Works Director.
 - H. The easement areas set forth in Exhibits A, B, C and D shall not be re-graded without the prior written consent of the City Engineer or Public Works Director.
 - I. The City and its agents, contractors, employees and assigns shall have full rights of access to the easement areas set forth in Exhibits A, B, and C and shall have all rights of ingress and egress reasonably necessary for the use and enjoyment of such easement areas as herein described, including, but not limited to, the right to remove any unauthorized plantings, structures, or obstructions placed or erected on the easement areas and the rights to do maintenance, repair, reconstruction, grading and dredging. This also includes the right to enter a property when the City has a reasonable basis to believe that a violation is occurring or has occurred, and to enter when necessary for abatement of a public nuisance or correction of a violation.
 - J. This Stormwater Facility Maintenance Agreement and permanent Easements granted herein shall be deemed to run with the land and shall be binding on Grantor and Grantor's successors and assigns.
 - K. If the City expands the stormwater facility shown in Exhibit D beyond the stormwater facility easement, a new Stormwater Facility Maintenance Agreement applicable to the Exhibit D facility shall be entered into by benefiting parties.

Grantor does hereby covenant with the City that Grantor holds the Benefited Property by title in fee simple; that Grantor has good and lawful authority to obligate the same; and Grantor hereby covenants to warrant and defend the said premises against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in triplicate.

Signed this 15th day of OCTOBER, 2025.

WINDSOR MILLANG, LLC

By: [Signature]

Todd Millang, Manager

STATE OF IOWA, COUNTY OF Polk

This record was acknowledged before me on 15 day of October, 2025 by
Todd Millang



[Signature]
Notary Public in and for the State of Iowa

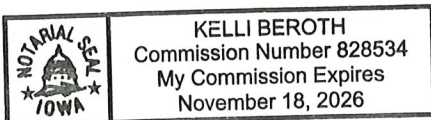
My Commission Expires: 11/18/26

THE WINDSOR, L.L.C.

By: [Signature]
Nick Jensen, Manager

STATE OF IOWA, COUNTY OF Polk

This record was acknowledged before me on 15 day of October, 2025 by
Nick Jensen



[Signature]
Notary Public in and for the State of Iowa

My Commission Expires: 11/18/2026

JENSFAM, LLC

By: Duane E. Jensen
Duane Jensen, Manager

STATE OF IOWA, COUNTY OF Polk

This record was acknowledged before me on 15 day of October, 2025 by
Duane Jensen



Kelli Beroth
Notary Public in and for the State of Iowa
My Commission Expires: 11/18/26

ACCEPTED AND APPROVED by the City of Windsor Heights, Iowa, on____, 20__.

**CITY of Windsor Heights,
Iowa**

By : _____

STATE OF IOWA, COUNTY OF _____

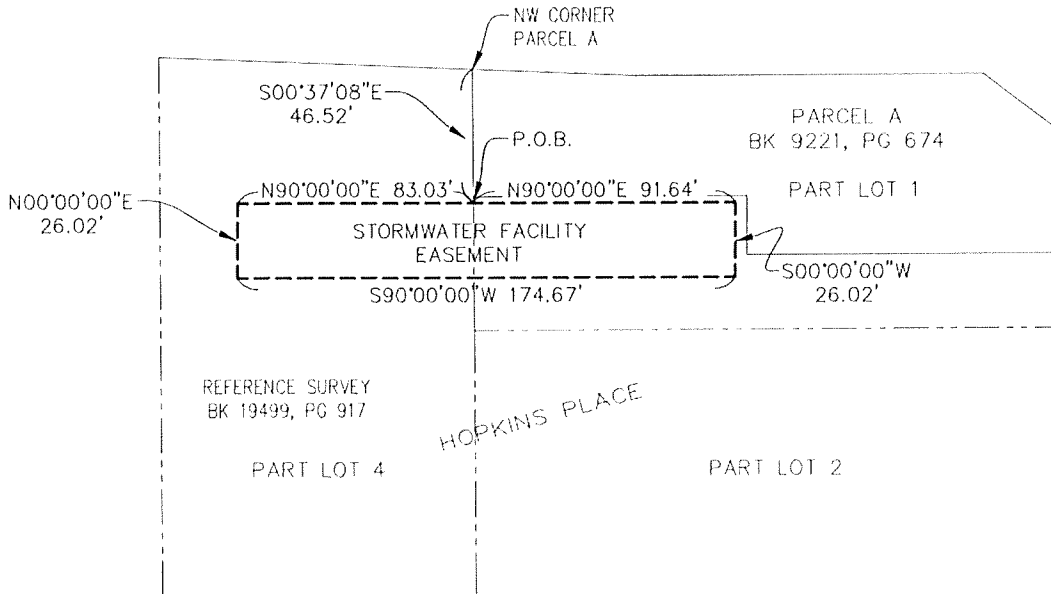
This record was acknowledged before me on _____ day of _____, _____ by

Notary Public in and for the State of Iowa

My Commission Expires: _____

EXHIBIT A

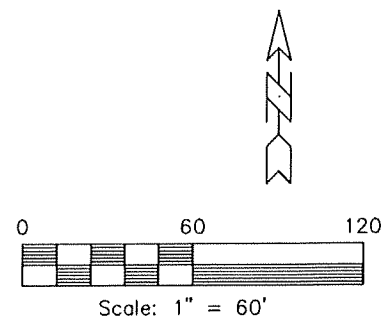
STORMWATER FACILITY EASEMENT



STORMWATER FACILITY EASEMENT

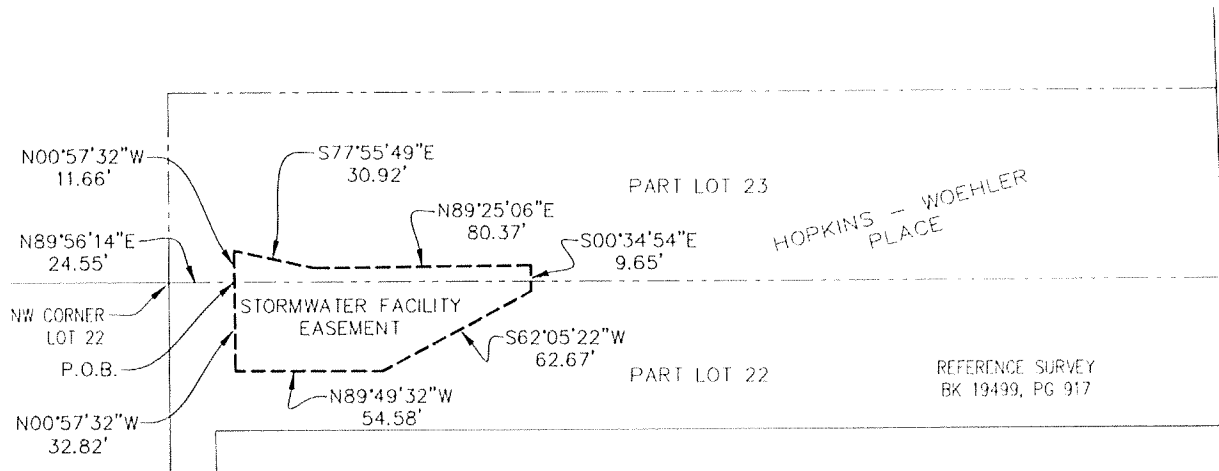
Part of Parcel A of Lot 1 in Hopkins Place, an Official Plat, per that Plat of Survey filed in Book 9221 at Page 674 in the Office of the Recorder for Polk County, Iowa, and Part of Lot 4 in Hopkins Place, an Official Plat, all now included and forming a part of the City of Windsor Heights, Polk County, Iowa, being more particularly described as follows:

Commencing at the Northwest corner of said Parcel A; thence South 00°37'08" East, 46.52 feet along the West line of said Lot 1 to the Point of Beginning; thence North 90°00'00" East, 91.64 feet; thence South 00°00'00" West, 26.02 feet; thence South 90°00'00" West, 174.67 feet; thence North 00°00'00" East, 26.02 feet; thence North 90°00'00" East, 83.03 feet to the point of beginning.



CGA/ERG #23-047
3/04/2024

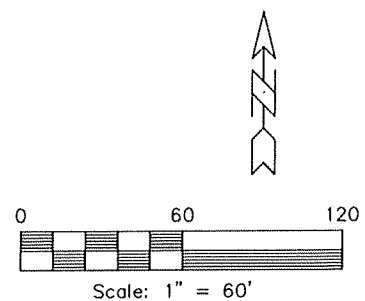
EXHIBIT B STORMWATER FACILITY EASEMENT



STORMWATER FACILITY EASEMENT

Part of Lots 22 and 23 in Hopkins-Woehler Place, an Official Plat, now included in and forming a part of the City of Windsor Heights, Polk County, Iowa, being more particularly described as follows:

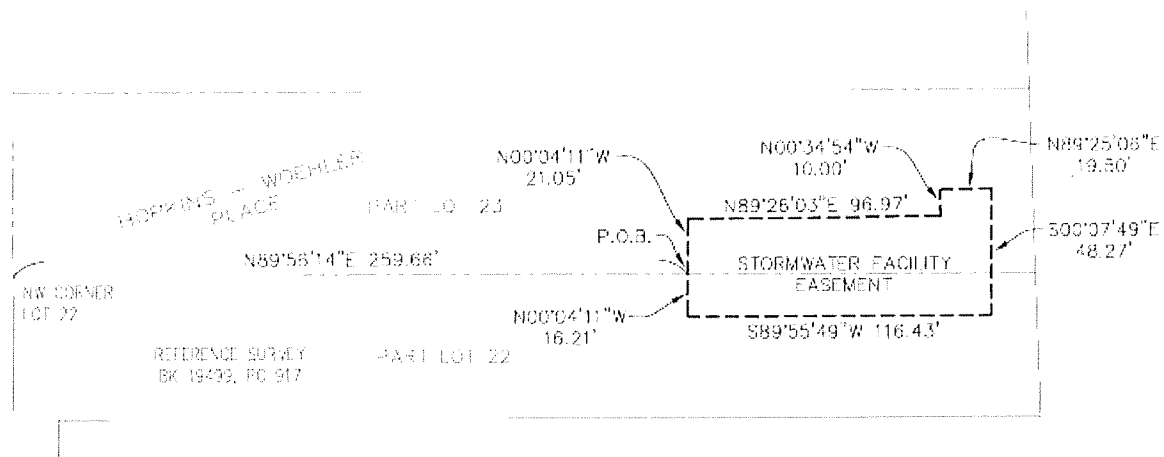
Commencing at the Northwest corner of said Lot 22; thence North 89°56'14" East, 24.55 feet along the North line of said Lot 22 to the Point of Beginning; thence North 00°57'32" West, 11.66 feet; thence South 77°55'49" East, 30.92 feet; thence North 89°25'06" East, 80.37 feet; thence South 00°34'54" East, 9.65 feet; thence South 62°05'22" West, 62.67 feet; thence North 89°49'32" West, 54.58 feet; thence North 00°57'32" West, 32.82 feet to the point of beginning.



CGA/ERG #23-047
3/04/2024

EXHIBIT C

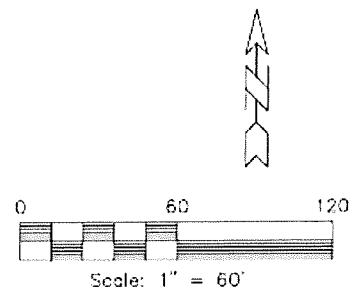
STORMWATER FACILITY EASEMENT



STORMWATER FACILITY EASEMENT

Part of Lots 22 and 23 in Hopkins-Woehler Place, an Official Plat, now included in and forming a part of the City of Windsor Heights, Polk County, Iowa, being more particularly described as follows:

Commencing at the Northwest corner of said Lot 22; thence North 89°56'14" East, 259.68 feet along the North line of said Lot 22 to the Point of Beginning; thence North 00°04'11" West, 21.05 feet; thence North 89°26'03" East, 96.97 feet; thence North 00°34'54" West, 10.00 feet; thence North 89°25'08" East, 19.50 feet; thence South 00°07'49" East, 48.27 feet; thence South 89°55'49" West, 116.43 feet; thence North 00°04'11" West, 16.21 feet to the point of beginning.



CGA/ERG #23-047
5/29/2024

EXHIBIT D
West Basin Maintenance And EasementArea

The Windsor Pond Maintenance
City of Windsor Heights

Figure 1: Pond Layout
August 2025

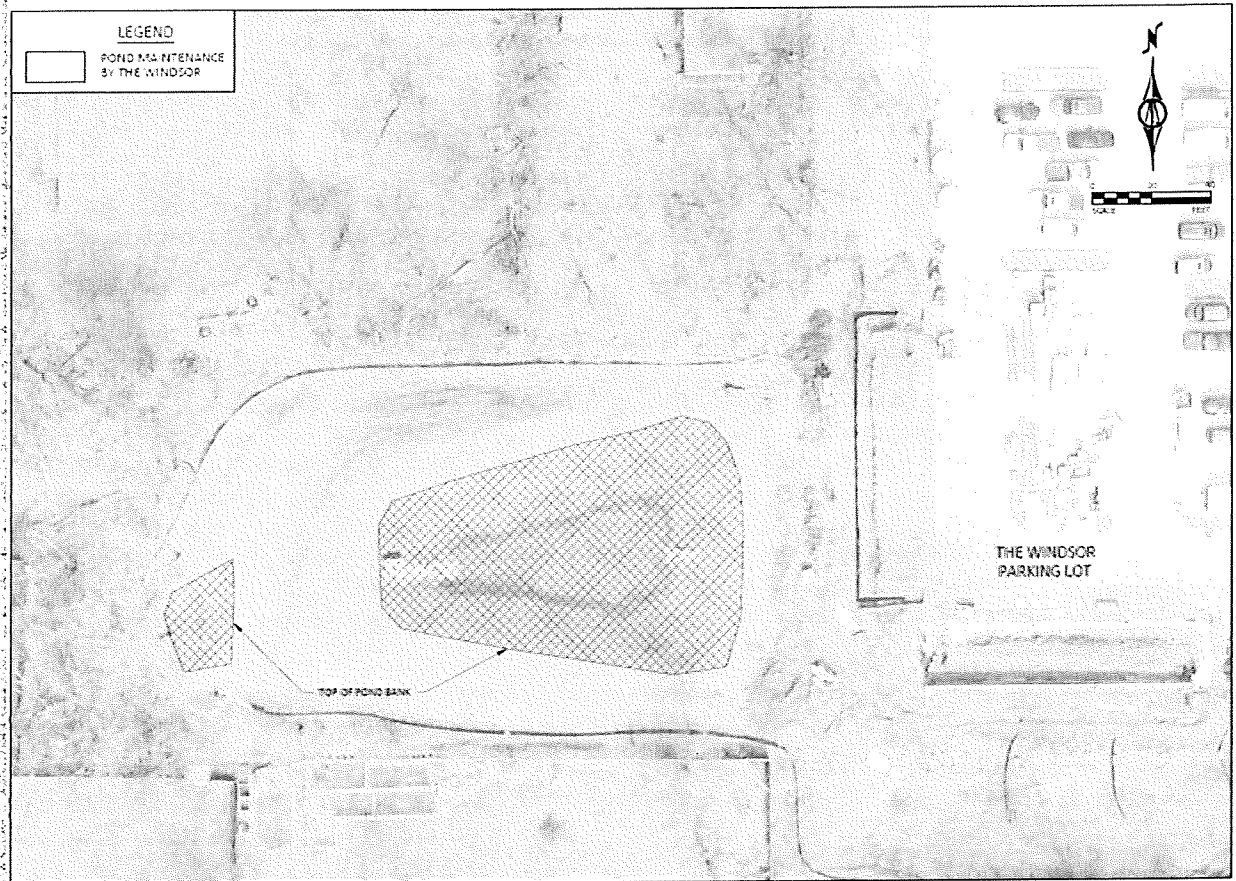


EXHIBIT E

Due to the large size, this Exhibit is available at Windsor Heights City Hall.
Please request: Windsor Apartments – Storm Sewer Plan Site Plan.

EXHIBIT F

STORMWATER MANAGEMENT FACILITY EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

That the undersigned, Windsor Millang, LLC, The Windsor, L.L.C., and Jensfam, LLC, of the City of _____, County of _____, State of Iowa, hereinafter referred to as "Grantor", in consideration of the sum of one dollar (\$1.00), and other valuable consideration, in hand paid by the City of Windsor Heights, Iowa, receipt of which is hereby acknowledged, do hereby sell, grant and convey unto the City of Windsor Heights, Iowa, a municipal corporation, in the County of Polk, State of Iowa, hereinafter referred to as "Grantee" or "City", a permanent easement under, through, and across the following described real estate:

[See Exhibit A, B, C]

That the above-described easement is granted unto the City of Windsor Heights, Iowa, for the purpose of constructing, reconstructing, repairing, replacing, enlarging, inspecting and maintaining the following public improvements:

Stormwater Management Facility

1. Erection and Placement of Structures, Obstructions, Plantings or Materials Prohibited. Grantor and its grantees, assigns and transferees shall not erect any fence or other structure under, over, on, through, across or within the Easement Area without obtaining the prior written consent of the City, nor shall Grantor cause or permit any obstruction, planting or material to be placed under, over, on, through, across or within the Easement Area without obtaining the prior written consent of the City.
2. Change of Grade Prohibited. Grantor and its grantees, assigns and transferees shall not change the grade, elevation or contour of any part of the Easement Area without obtaining the prior written consent of the City. The City shall have the right to restore any changes in grade, elevation or contour without prior written consent of the Grantor, its grantees, assigns or transferees.
3. Right of Access. The City shall have the right of access to the Easement Area and have all rights of ingress and egress reasonably necessary for the use and enjoyment of the Easement Area from property adjacent thereto as herein described, including but not limited to, the right to remove any unauthorized fences, structures, obstruction, planting or material placed or erected under, over, on, through, across or within the Easement Area.
4. Property to be Restored. The City shall restore the Easement Area after exercising its rights hereunder, provided, however, that the City's duty of restoration shall be limited to grading and replacing grass, sod or any other ground cover (but not including any structures, trees or shrubs). The City shall not be responsible for any construction, reconstruction, replacement, repair or maintenance of any improvements located within the Easement Area.
5. Liability. Except as may be caused by the negligent acts or omissions of the City, its employees, agents or its representatives, the City shall not be liable for injury or property damage occurring in or to the Easement Area, the property abutting said Easement Area, nor for property damage or any improvements or obstructions thereon resulting from the City's exercise of this Easement. Grantor agrees to indemnify and hold City, its employees, agents and representatives harmless against any loss, damage, injury or any claim or lawsuit for loss, damage or injury arising out of or resulting from the

negligent or intentional acts or omissions of Grantor or its employees, agents or representatives.

6. Easement Benefit. This Easement shall be for the benefit of the City, its successors and assigns, and its permittees and licensees.

7. Easement Runs with Land. This Easement shall be deemed perpetual and to run with the land and shall be binding on Grantor and on Grantor's heirs, successors and assigns.

8. Consent and Subordination of Mortgage Holder(s). By signing this Agreement, the undersigned lender, its successors and assigns consents to the terms of this easement agreement and hereby subordinates its interest in the Easement Area to the interest of the City and its successors and assigns.

9. Approval by City Council. This Easement shall not be binding until it has received the final approval and acceptance by the City Council by Resolution which approval and acceptance shall be noted on this Easement by the City Clerk.

That the Grantor does hereby covenant with the said Grantee, and successor-in-interest, that said Grantor holds said real estate by title and fee simple; that it has good and lawful authority to sell and convey the same; that said premises are free and clear of all liens and encumbrances whatsoever, except as may be herein stated; that said Grantor covenants to warrant and defend the said premises against the lawful claims of all persons whomsoever, except as may be herein stated.

IN WITNESS WHEREOF, we have hereunto affixed our hands this _____ day of _____, 20__.

EXHIBIT G

STORMWATER MANAGEMENT FACILITY MAINTENANCE EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

That the undersigned, City of Windsor Heights, Iowa hereinafter referred to as "Grantor" or "City", in consideration of the sum of one dollar (\$1.00), and other valuable consideration, does hereby sell, grant and convey unto Windsor Millang, LLC, The Windsor, L.L.C., and Jensfam, LLC, of the City of _____, County of _____, State of Iowa ("Grantee"), a permanent easement under, through, and across the following described real estate:

[See Exhibit D]

That the above-described easement is granted unto Grantee, for the purpose of constructing, reconstructing, repairing, replacing, enlarging, inspecting and maintaining the following public improvements:

Stormwater Management Facility

1. Maintenance of Stormwater Management Facility. The Grantee shall at all times be responsible for inspection, replacement, reconstruction, repair, grading, maintenance and plantings of the Stormwater Management Facility located within the Easement Area.

2. Erection and Placement of Structures, Obstructions, Plantings or Materials Prohibited. Grantee and their grantees, assigns and transferees shall not erect any fence or other structure under, over, on, through, across or within the Easement Area without obtaining the prior written consent of the City, nor shall Grantee cause or permit any obstruction, planting or material to be placed under, over, on, through, across or within the Easement Area without obtaining the prior written consent of the City.

2. Change of Grade Prohibited. Grantee and its grantees, assigns and transferees shall not change the grade, elevation or contour of any part of the Easement Area without obtaining the prior written consent of the City. The City shall have the right to restore any changes in grade, elevation or contour without prior written consent of the Grantee, its grantees, assigns or transferees.

3. Right of Access. The Grantor shall have the right of access to the Easement Area and have all rights of ingress and egress reasonably necessary for the maintenance of the Stormwater Management Facility in the Easement Area from property adjacent thereto as herein described.

4. Property to be Restored. Grantor shall restore the Easement Area after exercising its rights hereunder. The City shall not be responsible for any construction, reconstruction, replacement, repair or maintenance of any improvements located within the Easement Area.

5. Liability. Except as may be caused by the negligent acts or omissions of the City, its employees, agents or its representatives, the City shall not be liable for injury or property damage occurring in or to the Easement Area, the property abutting said Easement Area, nor for property damage or any improvements or obstructions thereon resulting from the Grantor's exercise of this Easement. Grantor agrees to indemnify and hold City, its employees, agents and representatives harmless against any loss, damage, injury or any claim or lawsuit for loss, damage or injury arising out of or resulting from the negligent or intentional acts or omissions of Grantor or its employees, agents or representatives.

6. Easement Benefit. This Easement shall be for the benefit of the Grantor, its successors and assigns, and its permittees and licensees.

7. Easement Runs with Land. This Easement shall be deemed perpetual and to run with the land and shall be binding on Grantor and on Grantor's heirs, successors and assigns.

8. Approval by City Council. This Easement shall not be binding until it has received the final approval and acceptance by the City Council by Resolution which approval and acceptance shall be noted on this Easement by the City Clerk.

That the Grantor does hereby covenant with the said Grantee, and successor-in-interest, that said Grantor holds said real estate by title and fee simple; that it has good and lawful authority to sell and convey the same; that said premises are free and clear of all liens and encumbrances whatsoever, except as may be herein stated; that said Grantor covenants to warrant and defend the said premises against the lawful claims of all persons whomsoever, except as may be herein stated.

IN WITNESS WHEREOF, we have hereunto affixed our hands this ____ day of _____, 20__.

RESOLUTION NO. 2025-75

A RESOLUTION AUTHORIZING EXECUTION OF THE WINDSOR STORMWATER AGREEMENT

WHEREAS, the City of Windsor Heights (“City”) and Windsor Millang, LLC; The Windsor, L.L.C.; and Jensfam, LLC (“Grantors”) have prepared and agreed to execute The Windsor Stormwater Agreement, which establishes covenants, easements, and maintenance responsibilities related to the construction and perpetual operation of a Stormwater Management Facility serving the benefited property located at 1148 63rd Street, within the City of Windsor Heights, Polk County, Iowa; and

WHEREAS, said Agreement is necessary to provide for the control and management of stormwater runoff from the benefited properties and to ensure compliance with Chapter 161 of the Windsor Heights Municipal Code and related stormwater management standards; and

WHEREAS, the City Council finds it advisable and in the best interest of the City of Windsor Heights and its residents to approve and authorize execution of the said Agreement to preserve the public health, safety, and welfare by promoting proper stormwater management;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Windsor Heights, Polk County, Iowa, that:

1. The City Council hereby approves The Windsor Stormwater Agreement between the City of Windsor Heights and Windsor Millang, LLC; The Windsor, L.L.C.; and Jensfam, LLC, in substantially the form presented to the Council.
2. The Mayor and City Clerk are hereby authorized and directed to execute The Windsor Stormwater Agreement on behalf of the City of Windsor Heights.
3. The City Clerk is further directed to record the executed Agreement and any associated easements in the Office of the Recorder for Polk County, Iowa, as appropriate.
4. This Resolution shall be in full force and effect from and after the date of its

approval and adoption as provided by law.

PASSED AND APPROVED this ___ day of _____, 2025.

Mike Jones, Mayor

ATTEST:

Adam Strait, City Clerk



STAFF REPORT
CITY COUNCIL
October 20, 2025

TO: CITY COUNCIL

FROM:

SUBJECT: Approve Resolution No. 2025-78 - A Resolution to Set a Public Hearing and
Take Bids on Walnut Creek Water Access

GENERAL INFORMATION

This action delays the previously scheduled bid opening and City Council consideration to allow potential bidders additional time to complete submissions.

ATTACHMENTS

1. Resolution No. 2025-78 - A Resolution to Set a Public Hearing and Take Bids on Walnut Creek Water Access

Resolution No. 2025-78

A RESOLUTION TO PROVIDE FOR A NOTICE OF PUBLIC HEARING ON THE PROPOSED PLANS, SPECIFICATIONS, FORM OF CONTRACT, AND ESTIMATED TOTAL COST FOR THE WALNUT CREEK ACCESS PROJECT AND FOR THE TAKING OF BIDS ON SAID PROJECT

WHEREAS, it is proposed that the City of Windsor Heights authorize the construction of public improvements as described in the proposed plans, specifications, and form of contract prepared by Bolten and Menk (the “Project Engineer”), which may be hereinafter referred to as the “Walnut Creek Access” (the “Project”); and

WHEREAS, the proposed plans, specifications, form of contract and estimated total cost for the project (the “Contract Documents”) are on file with the City Clerk; and

WHEREAS, it is necessary to set a time and place for a public hearing on the Contract Documents, to publish Notice of Public Hearing on the Contract Documents, and to advertise for sealed bids on the Project.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WINDSOR HEIGHTS, IOWA:

1. The City hereby approves the proposed Contract Documents referred to in this Resolution, as prepared by the Project Engineer, in their preliminary form.
2. The City hereby determines that the Project is necessary and desirable for the City and finds that it is in the best interest of the City to proceed towards construction of the Project.
3. The City shall hold a public hearing on the proposed Contract Documents on Nov. 3rd 2025 at 6:00 pm at City Hall, at which time any interested person may appear and file objections to the proposed Contract Documents, and, after hearing objections, the City may proceed with approval of said Contract Documents.
4. The City hereby authorizes and directs the City Clerk to publish the notice of public hearing on the Contract Documents for the Project at least once, not less than four (4) not more than twenty (20) days before the date of the hearing.
5. The City hereby delegates Bolten and Menk the duty of publishing notice to bidders not less than 13 or more than 45 days before the date of filing bids.
6. The City hereby sets Oct. 29th, 2025 at 10:00 AM in a virtual meeting room as outlined in the Notice to Bidders as the time and place that the City’s designee will open and announce the bids received for construction of the Project.
7. The City hereby authorizes and directs advertisement for sealed bids for the Project in accordance with Iowa Code Chapter 26.

Passed and approved this 20th day of October 2025.

Mike Jones, Mayor

Attest: _____
Adam Strait, City Clerk



STAFF REPORT
CITY COUNCIL
October 20, 2025

TO: CITY COUNCIL

FROM:

SUBJECT: Approve Resolution No. 2025-79 A Resolution Approving Execution of an Agreement Between The City Of Windsor Heights And Iowa Solutions Inc.

GENERAL INFORMATION

The City changed to Iowa Solutions as the City's Managed Services Provider in 2024. After discussion with key staff, there is a high level of satisfaction with the service they have provided over the past year with the change having resulted in less city staff time committed to IT related issues, fewer overall IT issues and enhancements to data backup and security.

The Managed Services contract is up for renewal and Administration recommends executing a three-year contract. The cost is projected to be \$3,700 a month, though this can vary depending on hardware/software additions and removals. The current monthly payment to Iowa Solutions is typically in the \$3,600-\$4,000 depending on these factors. The proposed contract essentially maintains the status quo in pricing and service.

The Managed Services Agreement includes several components:

1. Offsite backup services for server data.
2. Managed Labor: Includes a biweekly physical visit to address any outstanding issues.
3. Managed Devices: The remotely monitored, maintained and secured hardware and software.
4. Multi Factor Authorization, added since the initial contract per insurance recommendations.
5. Remote monitoring of the Server, firewall and infrastructure.

IT projects completed in the last 12 months include installation of conference room equipment at City Hall, end-of-life equipment replacement, adding multi factor authorization, and camera replacements.

ATTACHMENTS

1. Iowa Solutions Proposal Redacted



We have prepared a document for you

Governance - Signature Update

Quote # 000766
Version 1

Prepared for:

City of Windsor Heights

Adam Plagge
aplagge@windsorheights.org

 Existing Items: (no changes)

Service	Details	Monthly
BDR Offsite Backup		\$240.00
BDR Offsite Storage (1TB)		\$300.00
Managed Devices - Essentials Package		\$960.00
Managed Labor (Devices) (Level 2/3)	\$43 per device (if absent level: 50% increase)	\$2,064.00
MFA/2FA Multi Factor Authorization		\$70.00
SaaS Network Probe		\$30.00
Server - (RMM) Remote Monitor & Maint	Running on [REDACTED]	\$20.00
Server - (RMM) Remote Monitor & Maint	Running on [REDACTED]	\$20.00
Server - (RMM) Remote Monitor & Maint	Running on [REDACTED]	\$20.00
Server - (RMM) Remote Monitor & Maint	Running on [REDACTED]	\$20.00
Server - (RMM) Remote Monitor & Maint	Running on [REDACTED]	\$20.00
Server - (RMM) Remote Monitor & Maint	Running on [REDACTED]	\$20.00
Server - (RMM) Remote Monitor & Maint	Running on [REDACTED]	\$20.00
Server - (RMM) Remote Monitor & Maint	Running on [REDACTED]	\$20.00
Server - (RMM) Remote Monitor & Maint	Running on [REDACTED]	\$20.00
Site Monitoring (Firewall & Infrastructure)		\$120.00



Governance - Signature Update

Prepared by:

Iowa Solutions Inc

Austin Lourens
515-297-6942
austin@iowasolutions.com

Prepared for:

City of Windsor Heights

1145 66th St, Ste 1
Windsor Heights, IA 50324
Adam Plagge
(515) 645-6808
aplagge@windsorheights.org

Quote Information:

Quote #: 000766

Version: 1
Delivery Date: 10/16/2025
Expiration Date: 10/22/2025

Time Frames and Discounts

Description	Payments	Interval	Amount
A One-Time Credit (if selected) will appear on next month's invoice.			
One Year (No changes)	1	One-Time	(\$0.01)
Three Year (I will receive a credit for)	1	One-Time	(\$3,000.00)

EXPIRATION OF PROPOSAL. Unless executed by the parties hereto, this Proposal will expire at the earliest of, (i) fifteen (15) days from the date of Iowa Solutions, Inc's execution thereof, (ii) the expiration date shown on the signature page of this Proposal or (iii) expiration of any manufacturer's discount included in this Proposal.

Provider reserves the right to correct any errors, inaccuracies or omissions, and to change or update information or cancel orders if any information, including Services or pricing is inaccurate.

Acceptance and Incorporation by Reference

This Order together with the Master Services Agreement and Service Attachments and other terms and conditions identified on Exhibit A, all of which are incorporated herein by reference (collectively, the "Agreement") is between Iowa Solutions (sometimes referred to as "we," "us," "our," or "Provider"), and the customer identified on the Order (sometimes referred to as "you," "your," or "Client"). This Agreement is effective as of the date the Client accepts the Order (the "Effective Date").

By signing or accepting this Order, Client acknowledges, represents, and warrants that it has read and agrees to the terms and conditions identified on Exhibit A to this Order which are incorporated as if fully set forth herein.

The parties hereby agree that electronic signatures to this Order shall be relied upon and will bind them to the obligations stated herein. Each party hereby warrants and represents that it has the express authority to execute this Agreement(s).

Provider may make changes to the Agreement at any time. If there are changes, Provider will revise the date at the top of the document. Provider may or may not provide Client with additional notice regarding such changes. Client should review the terms



<https://www.iowasolutions.com/legal.html>

The parties, acting through their authorized officers, hereby execute this Agreement.

IN WITNESS WHEREOF, this Order Form is agreed to by the parties below and entered into as of the Order Effective Date.

Iowa Solutions Inc

City of Windsor Heights

Signature: Austin Lourens
Name: Austin Lourens
Title: Customer Success Manager
Date: 10/16/2025

Signature: _____
Name: Adam Plagge
Date: _____



Exhibit A

Agreement	Description
Master Services Agreement	General terms and conditions applicable to all Provider products and services.
Service Attachment for Managed Services	Core managed services including monitoring, remote management, and help-desk.
Schedule of Services	Description of managed services offered by Provider.
Data Processing Agreement	Data security and privacy agreement including statutorily required terms.
Service Level Objectives	Targeted response times by tier of severity.
Schedule of Third-Party Services	Notice of third-party services and waiver of claims.



STAFF REPORT
CITY COUNCIL
October 20, 2025

TO: CITY COUNCIL

FROM:

SUBJECT: Discuss 2026 73rd St. BUILD Grant Application

GENERAL INFORMATION

Subject: BUILD/RAISE Grant Application

A debrief meeting with a consultant for the Department of Transportation was held last week regarding the BUILD/RAISE program.

In 2024, the 73rd Street project received the following category scores: **1 high, 5 medium, and 1 low** out of six scoring categories. This year, the project improved to **3 high and 3 medium**. Changes to the application included adding pedestrian traffic counts, photos, road sensors, innovative road materials, a pedestrian bridge and obtaining financial support commitments from Des Moines and West Des Moines. The goal moving forward is to achieve high scores in at least five of the six categories. Last year's application is available [here](#).

This year's BUILD awards were significantly reduced due to the prior administration's decision to overfund 2024 applications. For the upcoming cycle, at least \$1.5 billion is anticipated to be available under the same 2024 and 2025 selection criteria. The Notice of Funding Opportunity (NOFO) is expected to be released in November, with a 90-day application window.

The MPO, BMI, and city staff have begun discussions on potential adjustments to strengthen the 2026 application. One key strategy involves moving certain data and supporting information from the analysis section—which is only reviewed if a specific scoring threshold is met—into the narrative section of the application. This change alone is expected to potentially elevate two additional categories into the high-scoring range.

As part of the application process, Letters of Support will once again need to be solicited. Administration will circulate at the dias a list of organizations for outreach. Anyone with connections to these organizations, or suggestions for additional partners, is requested to contact Administration to assist in gathering letters.

Preliminary discussions with the MPO indicate they are likely to again assist with preparing the application in coordination with BMI and city staff.

Reconstruction of 73rd St. south of University Ave. is currently in the CIP for 2030-2031 and \$2 million in STBG funds were awarded for FY 2029 and \$700,0000 for FY 2028.

Administration is also working with adjoining cities and the MPO to discuss with Norfolk Southern and Union Pacific the potential to acquire the railroad spur or a portion of the railroad property along 73rd st. to allow for the sidewalk/trail to shift onto this property, thus eliminating the need to reconfigure the I235 on/offramps and saving millions of dollars in reconstruction.

ATTACHMENTS

None



STAFF REPORT
CITY COUNCIL
October 20, 2025

TO: CITY COUNCIL

FROM:

SUBJECT: Consider Resolution No. 2025-76 A Resolution Waiving CEC Fees For The Valley High School Men's Swim Team

GENERAL INFORMATION

The Valley High School Men's Swim Team is affiliated with the West Des Moines Community Schools Foundation, a non-profit that supports educational and extracurricular programs within the district. They have requested the use of the CEC March 8th, 2026, for their annual season celebration.

The Team has requested the use of the full space in the CEC from 11 AM to 3 PM on March 8th, 2026. There are no events currently scheduled for this date/time.

The non-profit rate for the full space in the CEC is \$176 per hour on Sundays, for a total amount of \$704. They have committed to returning the spaces to the state in which they were found (no cleaning fees required). They are requesting that all rental fees be waived.

Staff would like to urge Council to consider historic precedent for this request. For instance, a cross country event is scheduled for November of this year, in which the team paid for the use of the space. This type of event is exactly what the non-profit rate at the CEC is designated for. That said, staff would like to commend the team captains for exercising their rights to submit their request and the team plans to be in attendance to make this request and answer any City Council questions. Staff appreciates Council's consideration.

ATTACHMENTS

1. Valley High School Men's Swim Team Letter
2. Resolution No. 2025-76 - Resolution Waiving CEC Fees for Valley High Men's Swim Team's Annual Season Celebration on March 8, 2026



Valley High School Men's Swim Team
3650 Woodland Avenue
West Des Moines, IA 50266

October 8, 2025

Windsor Heights City Council
1145 66th Street, Suite 1
Windsor Heights, IA 50324

Dear Members of the Windsor Heights City Council,

On behalf of the Valley High School Men's Swim Team, we respectfully request that the City Council consider waiving the rental fees for the Windsor Heights Community Center on Sunday, March 8, 2026, from 11:00 a.m. to 3:00 p.m.

We would like to use the facility to host our annual season celebration, recognizing the hard work, dedication, and achievements of our student-athletes. The Valley High School Men's Swim Team is affiliated with the West Des Moines Community Schools Foundation, a 501(c)(3) nonprofit organization that supports educational and extracurricular programs within our district.

A fee waiver would help us keep costs to families low and ensure that all families can participate in this special event, regardless of financial circumstances.

We greatly appreciate your consideration of this request and your continued support of families in our community.

Sincerely,
Valley High School Men's Swim Team Captains

Landen Chen

Cris Dacre

Eli DeJong

Drew Emanuel

RESOLUTION NO. 2025-76

**A RESOLUTION WAIVING CEC FEES FOR THE VALLEY HIGH SCHOOL
MEN'S SWIM TEAM'S ANNUAL SEASON CELEBRATION**

WHEREAS, the Valley High School Men's Swim Team, affiliated with the West Des Moines Community Schools Foundation, will be hosting its annual season celebration on March 8th, 2026, for the its student athletes and their families; and

WHEREAS, the Valley High School Men's Swim Team will be using the Windsor Heights Community Event Center for this event; and

WHEREAS, the Valley High School Men's Swim Team is requesting that the City waive all fees for this event.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY
OF WINDSOR HEIGHTS, IOWA:**

That rental fees associated with the rental of the Windsor Heights Community Event Center by the Valley High School Men's Swim Team on March 8th, 2026, be waived.

Passed and approved this 20th day of October, 2025.

Mike Jones, Mayor

Adam Strait, City Clerk



STAFF REPORT
CITY COUNCIL
October 20, 2025

TO: CITY COUNCIL

FROM:

SUBJECT: Consider Resolution No. 2025-77 A Resolution Waiving CEC Fees For Lead DSM

GENERAL INFORMATION

Lead DSM is a nonprofit leadership organization committed to developing, connecting, inspiring, and challenging community champions through transformational leadership experiences. They have requested the use of the CEC on October 30, 2025, for a Social Capital session of their Greater Des Moines Leadership Institute program.

Lead DSM would like to thank Councilmember Joseph Jones for his assistance in connecting them with Windsor Heights Staff. They would also like to invite Windsor Heights leadership to speak at the session.

Lead DSM has requested the use of the full space in the CEC from 8 AM to 5:30 PM on October 30th, 2025. There are no events currently scheduled for this date.

The non-profit rate for the full space in the CEC is \$176 per hour on Thursdays, for a total amount of \$1672. They have committed to returning the spaces to the state in which they were found (no cleaning fees required). They are requesting that all rental fees be waived.

ATTACHMENTS

1. Resolution No. 2025-77 - Resolution Waiving CEC Fees for Lead DSM's Event on October 30th, 2025
2. Lead DSM Request Letter

RESOLUTION NO. 2025-77

**A RESOLUTION WAIVING CEC FEES FOR LEAD DSM'S SOCIAL CAPITAL
SESSION OF THE GREATER DES MOINES LEADERSHIP INSTITUTE
PROGRAM**

WHEREAS, Lead DSM will be hosting a Social Capital session for their Greater Des Moines Leadership Institute program on October 30th; and

WHEREAS, Lead DSM will be using the Windsor Heights Community Event Center for this event; and

WHEREAS, Lead DSM is requesting that the City waive all fees for this event.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY
OF WINDSOR HEIGHTS, IOWA:**

That rental fees associated with the rental of the Windsor Heights Community Event Center by Lead DSM on October 30th, 2025, be waived.

Passed and approved this 20th day of October, 2025.

Mike Jones, Mayor

Adam Strait, City Clerk

Dear Mayor Jones and Members of the Windsor Heights City Council,

I am writing on behalf of Lead DSM to respectfully request a waiver of the rental fee for the Windsor Heights Community Center for our upcoming Social Capital session for our Greater Des Moines Leadership Institute program.

About Lead DSM

Lead DSM is a nonprofit leadership organization committed to developing, connecting, inspiring, and challenging community champions through transformational leadership experiences. Since 1982, Lead DSM has graduated more than 3,000 leaders through multiple programs, and its alumni now serve in leadership roles across over 286 community organizations throughout the region. Lead DSM's vision is for a thriving community for all, and it works to achieve this by fostering collaboration, civic engagement, and capacity-building among local leaders.

About the Greater Des Moines Leadership Institute

The Greater Des Moines Leadership Institute is a nine-month curriculum that prepares leaders from across Central Iowa to be effective stewards of our community's future. The program provides participants with a comprehensive view of Greater Des Moines from multiple perspectives, deepens their understanding of community issues, strengthens leadership skills, and fosters collaboration for positive change. Each year, a diverse cohort of emerging leaders from the private, public, and nonprofit sectors participate with the shared goal of making Greater Des Moines stronger and more connected.

About the Social Capital Class

The Social Capital class is one of the most impactful sessions of the Leadership Institute program. This session focuses on the importance of relationships, networks, and trust in strengthening communities. Participants engage in interactive learning and discussion about how building authentic connections can address community challenges, break down barriers, and create opportunities for civic engagement.

Holding this class in Windsor Heights would highlight and align with the City's own investments in community improvements, engagement, and inclusion. The setting of the Community Center is particularly meaningful as it serves as a gathering place for residents and reflects the City's commitment to bringing people together.

Our Request

We are seeking to reserve the full space on Thursday, October 30th from 8am-5:30pm for approximately 50 participants. Given the alignment between the goals of the Social Capital class and the City of Windsor Heights' mission of fostering community, we respectfully request that the City Council waive the rental fee for this use. Councilman Joseph Jones is a friend of Lead DSM and has been a gracious conduit for this request.

By partnering with Lead DSM in this way, Windsor Heights would be showcased as a leader in community-building and would directly contribute to the leadership development of individuals who will continue shaping Central Iowa's future.

Thank you for your time and consideration. We would be honored to hold this program in Windsor Heights and highlight the City's important role in building and strengthening community relationships.

With gratitude,

Mallory Riesberg

Learning and Programs Director, Lead DSM

Email: Mallory@LeadDSM.org | Cell: 816-797-2056



STAFF REPORT
CITY COUNCIL
October 20, 2025

TO: CITY COUNCIL

FROM:

SUBJECT: Mayor, Council Reports and Committee Updates, and Administration Reports

GENERAL INFORMATION

ATTACHMENTS

None



STAFF REPORT
CITY COUNCIL
October 20, 2025

TO: CITY COUNCIL
FROM: Adam Strait, City Clerk
SUBJECT: Code Review Update

GENERAL INFORMATION

Staff has completed the review of the remaining chapters, including the legal review. The redlines in these chapters to a large extent reflect ordinances that have been passed but not yet codified during the review process. Most other revisions are minor and intended to improve clarity and ease of understanding, particularly for our partners such as Bolton & Menk and the City of Urbandale, with respect to sanitary regulations. No major procedural code changes have been made.

We are currently awaiting recommendations from Safe Building regarding proposed updates to Chapter 156, Property Maintenance and Rental Housing. These changes are expected to be minor and will primarily update references from the 2012 editions of the International Building Code and International Residential Code to the 2021 editions. Staff anticipates receiving these recommendations prior to the next Council meeting and will share the updates once they are available.

The next step in the process will be to provide Simmering-Cory with the redlined Chapters 90 through 185. They will prepare a clean draft of the code for staff's final review to ensure that all recommendations have been accurately incorporated. Once that draft is complete, staff will be able to provide a more precise timeline for when Council can expect to consider adoption.

Staff has scheduled a meeting with the ARL to bring forward an agreement for a Community Cat Catch Neuter Release Program for City Council to consider alongside final adoption of the Code Update which allows for such a program.

Regarding Electric Rideables, a work group with area partners is working to develop an ordinance that all local communities could adopt in an attempt to be consistent throughout the metro. Chief Roth will share some additional information on this effort, depending on timing

and regional consensus, City Council may be able to consider incorporation of additional language into the final code update.

ATTACHMENTS

1. City Code CH 90-185 (minus Zoning)
2. Windsor Heights Code Update Questions Chapter 101 - 163

CHAPTER 90
WATER SERVICE SYSTEM

90.01 Definitions	90.07 Compliance with Plumbing Code
90.02 Mandatory Connections	90.08 Plumber Required
90.03 Water Service Provided by Des Moines Water Works	90.09 Failure to Maintain
90.04 Permits	90.10 Completion by the City
90.05 Fees and Charges	90.11 Operation of Curb Valve and Hydrants
90.06 Collections and Liens	

90.01 DEFINITIONS.

The following terms are defined for use in the chapters in this Code of Ordinances pertaining to the Water Service System:

1. “Customer” means, in addition to any person receiving water service from the City, the owner of the property served, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.
2. “Des Moines Water Works” means the City water utility organized under Chapter 388, Code of Iowa, which is officially known as the Board of Water Works Trustees of the City of Des Moines, Iowa.
3. “Water service pipe” means the pipe from the water main to the building served.
4. “Water system” means all public facilities for securing, collecting, storing, pumping, treating, and distributing water.

90.02 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 system, if it is reasonably available and if the building is not furnished with pure and wholesome water from some other source.

90.03 WATER SERVICE PROVIDED BY DES MOINES WATER WORKS.

Water service to all customers, within and without the City, that are connected to the water system of the City shall be provided by the Des Moines Water Works, pursuant to the terms of a Chapter 28E Agreement between the City and the Des Moines Water Works. All such service shall be provided directly by Des Moines Water Works as the water service provider to customer and shall be pursuant to the rates, fees, rules, and regulations established by the Des Moines Water Works from time to time.

90.04 PERMITS.

Before any person makes a connection with the public water system, a written permit must be obtained from the Des Moines Water Works as provided in its rules and regulations.

90.05 FEES AND CHARGES.

Fees and charges for permits, taps, connections, and all other services, including system development fees, shall be established by, collected by, and subject to the policies and procedures of the Des Moines Water Works.

90.06 COLLECTIONS AND LIENS.

The Des Moines Water Works shall have, and may exercise, all authority for collection of water rates and charges granted by law, including discontinuing service and imposition of liens as provided by law.

90.07 COMPLIANCE WITH PLUMBING CODE.

The installation of any water service pipe and any connection with the water system shall comply with all pertinent and applicable provisions, whether regulatory, procedural, or enforcement provisions, of the Plumbing Code of the City and the laws of the State of Iowa.

90.08 PLUMBER REQUIRED.

All installations of water service pipes and connections to the water system shall be made by a State-licensed plumber, except that Des Moines Water Works shall be allowed to make routine service line repairs in connection with water main repairs.

90.09 FAILURE TO MAINTAIN.

When any portion of the water service pipe which is the responsibility of the property owner becomes defective or creates a nuisance and the owner fails to correct such nuisance, the Des Moines Water Works may do so, and the City may assess the costs thereof to the property.

90.10 COMPLETION BY THE CITY.

Should any excavation be left open or only partly refilled for twenty-four hours after the water service pipe is installed and connected with the water system, or should the work be improperly done, the City shall have the right to finish or correct the work, and the Council shall assess the costs to the property owner or the plumber. If the plumber is assessed, the plumber must pay the costs before receiving another permit, and the plumber's bond or cash deposit shall be security for the assessment. If the property owner is assessed, such assessment may be collected with, and in the same manner as, general property taxes.

90.11 OPERATION OF CURB VALVE AND HYDRANTS.

It is unlawful for any person, except the Des Moines Water Works or authorized City personnel, to turn water on at the curb valve, and no person, unless specifically authorized by the City or the Des Moines Water Works, shall open or attempt to draw water from any fire hydrant for any purpose whatsoever.

CHAPTER 91
CROSS CONNECTION CONTROL

91.01 Definitions	91.07 Required Backflow Prevention Assemblies for Containment – Fire Protection Systems
91.02 Administrative Authority	91.08 Backflow Prevention Assembly Technicians
91.03 New Water Services	91.09 Installation of Backflow Prevention Assemblies
91.04 Existing Water Services	91.10 Testing of Backflow Prevention Assemblies
91.05 Customer Responsibilities	91.11 Repair of Backflow Prevention Assemblies
91.06 Required Backflow Prevention Assemblies for Containment – Water	91.12 Customer Noncompliance

Services

91.01 DEFINITIONS.

The following definitions apply only to this chapter. For the purpose of this chapter, these definitions supersede definitions given elsewhere in this Code of Ordinances.

1. "Administrative authority" means Des Moines Water Works and the City of Windsor Heights.
2. "Approved backflow prevention assembly for containment" means a backflow prevention assembly which is listed by the University of Southern California Foundation for Cross Connection Control and Hydraulic Research as having met the requirements of ANSI-AWWA Standard C510-97, Double Check Valve Backflow Prevention Assemblies, of ANSI-AWWA Standard C511-97, Reduced Pressure Principle Backflow Prevention Assemblies, for containment. The listing shall include the limitations of use based on the degree of hazard. The backflow prevention assembly must also be listed by the International Association of Plumbing and Mechanical Officials.
3. "Approved backflow prevention assembly for containment in a fire protection system" means a backflow prevention assembly to be used in a fire protection system which meets the requirements of Factory Mutual Research Corporation (FM) and Underwriters Laboratory (UL), and the requirements of the Fire Code and the Building Code of Windsor Heights, in addition to the requirements of Section 91.07 of this chapter. Devices sized smaller than 2½ inches which have not been listed by Underwriters Laboratory (UL) and tested by Factory Mutual Research Corporation (FM) may be allowed if they meet the requirements of the Fire Code and the Building Code.
4. "Auxiliary water supply" means any water supply on or available to the premises other than City of Windsor Heights or its designee's approved public water supply, such as (but not limited to) a private well, pond, or river.
5. "Containment" means a method of backflow prevention which requires the installation of a backflow prevention assembly at the water service entrance.
6. "Cross connection" means any actual or potential connection or arrangement, physical or otherwise, between a potable water supply system and any plumbing fixture or tank, receptacle, equipment, or device, through which it may be possible for non-potable, used, unclean, polluted, and contaminated water or other substance to enter into any part of such potable water system under any condition.
7. "Customer" means the owner, operator, or occupant of a building or property which has a water service from a public water system, or the owner or operator of a private water system which has a water service from a public water system.

8. “Degree of hazard” means the rating given by the administrative authority of a cross connection or water service which indicates its potential to cause contamination or pollution of the public water supply.

9. “Double check valve backflow prevention assembly” means a backflow prevention device consisting of two independently acting internally loaded check valves, four properly located test cocks, and two isolation valves.

10. “High hazard cross connection” means a cross connection which may cause an impairment of the quality of the public potable water supply by creating an actual hazard to public health, through poisoning or through the spread of disease by sewage, industrial fluids, or waste.

11. “Isolation” means a method of backflow prevention in which a backflow prevention assembly is located at the cross connection rather than at the water service entrance.

12. “Low hazard cross connection” means a cross connection which may cause an impairment of the quality of the public potable water supply to a degree which does not create a hazard to public health, but which does adversely and unreasonably affect the aesthetic qualities of such potable waters for domestic use.

13. “Reduced pressure principle backflow prevention assembly” means a backflow prevention device consisting of two independently acting internally loaded check valves, a pressure relief valve, four properly located test cocks, and two isolation valves.

14. “Registered backflow prevention assembly technician” means a person who is registered by the State of Iowa to test and repair backflow prevention assemblies and report on the condition of those assemblies.

15. “Thermal expansion” means volumetric increase of water due to heating resulting in increased pressure in a closed system.

16. “Water service” means, depending on the context, the physical connection between a public water system and a customer’s building, property, or private water system, or the act of providing potable water to a customer.

17. “Public water supplier,” for the purpose of this section, means the entity providing public water for human consumption through pipes or other constructed conveyances to at least 15 service connections or serving an average of at least 25 people for at least 60 days a year.

91.02 ADMINISTRATIVE AUTHORITY.

1. The City of Windsor Heights or Des Moines Water Works shall have the right to enter, with the consent of the customer or upon the basis of a suitable warrant issued by a court of appropriate jurisdiction, any property to inspect for possible cross connections.

2. Des Moines Water Works shall maintain records of cross connection hazard surveys, and the installation, testing, and repair of all backflow prevention assemblies installed for containment purposes.

91.03 NEW WATER SERVICES.

1. Plans shall be submitted to Des Moines Water Works for review on all new water services to determine the degree of hazard.
2. Des Moines Water Works shall determine the type of backflow prevention assembly required for containment based on the degree of hazard.
3. The Des Moines Water Works shall inspect the installation of the required backflow prevention assembly for containment before the initiation of water service.

91.04 EXISTING WATER SERVICES.

1. Upgrades of existing water services shall be treated as new water services for the purpose of this section.
2. Customers whose premises are not classified as single-family residential shall complete and return a "Water Usage Inventory" to Des Moines Water Works to be used to determine the degree of hazard of the facility.
3. Des Moines Water Works shall, on the basis of information received from the Water Usage Inventory or gathered through on-site investigations or surveys, determine the degree of hazard and type of backflow prevention assembly required for containment.
4. Within the time frame specified in writing by Des Moines Water Works, the customer shall install a backflow prevention assembly for containment.
5. For existing water services, Des Moines Water Works may inspect the premises to determine the degree of hazard. When high hazard cross connections are present, Des Moines Water Works shall assign a deadline for the installation of a backflow prevention assembly for containment.
6. Failure of the customer to install a backflow prevention assembly by the deadline as required will result in termination of the water service until the installation is complete.
7. Failure of Des Moines Water Works to notify a customer that a high hazard cross connection exists and that a backflow prevention assemblies for containment must be installed in no way relieves a customer of the responsibility to comply with all requirements of this section.

91.05 CUSTOMER RESPONSIBILITIES.

1. The customer shall be responsible for ensuring that no cross connections exist without approved backflow protection within his or her premises, starting at the point of service from the public potable water system.
2. The customer shall, at his or her own expense, cause installation, operation, testing, and maintenance of backflow prevention assemblies.
3. The customer shall ensure that copies of records of the installation and of all tests and repairs made to all backflow prevention assemblies be submitted to the Des Moines Water Works on the approved form within fifteen (15) days after testing and/or repairs are completed.
4. In the event of a backflow incident, the customer shall immediately notify Des Moines Water Works of the incident, and the Des Moines Water Works will recommend steps to confine the contamination or pollution.

91.06 REQUIRED BACKFLOW PREVENTION ASSEMBLIES FOR CONTAINMENT – WATER SERVICES.

1. An air gap or an approved reduced pressure principle backflow prevention assembly is required for water services having one or more cross connections which the administrative authority has classified as high hazard.
2. An approved double check valve assembly is required for water services having no high hazard cross connections but having one or more cross connections which Des Moines Water Works has classified as low hazard.

91.07 REQUIRED BACKFLOW PREVENTION ASSEMBLIES FOR CONTAINMENT – FIRE PROTECTION SYSTEMS.

1. A reduced pressure principle backflow prevention assembly shall be installed on all new and existing fire protection systems, which are determined to have any one of the following:
 - A. Direct connections from public water mains with an auxiliary water supply on or available to the premises for pumper connection.
 - B. Interconnections with auxiliary supplies such as reservoirs, rivers, ponds, wells, mills, or other industrial water systems.
 - C. Use of antifreezes or other additives in the fire protection system.

D. Combined industrial and fire protection systems supplied from public water mains only, with or without gravity storage or pump suction tanks.

E. Any other facility, connection, or condition, which may cause contamination.

2. A double check valve assembly will be required for all other fire protection systems. The double check valve assembly shall be required on all new systems at the time of installation and on existing systems at the time that they are upgraded.

3. Submittal of proposed backflow prevention devices to Des Moines Water Works does not relieve the designer or the sprinkler contractor of the responsibility of submitting plans, including backflow prevention devices to the City of Windsor Heights for approval.

91.08 BACKFLOW PREVENTION ASSEMBLY TECHNICIANS.

1. A backflow prevention assembly technician registered by the State of Iowa shall include his or her registration number on all correspondence and forms required by or associated with this chapter.

2. Noncompliance with any of the following by a registered technician shall be grounds for reporting said individual to the State Health Department.

A. Improper testing or repair of backflow prevention assemblies.

B. Improper reporting of the results of testing or of repairs made to backflow prevention assemblies.

C. Failure to meet registration requirements.

D. Related unethical practices.

91.09 INSTALLATION OF BACKFLOW PREVENTION ASSEMBLIES.

1. The required backflow prevention assemblies for containment shall be installed in horizontal plumbing immediately following the meter or as close to that location as deemed practical by Water Works. In any case, it shall be located upstream from any branch piping. Installation at this point does not eliminate the responsibility of the customer to protect the water supply system from contamination or pollution between the backflow prevention assembly and the water main.

2. Reduced pressure principle backflow prevention assemblies shall be installed so as to be protected from flooding.

3. Reduced pressure principle backflow prevention assemblies shall not be installed in underground vaults or pits.

4. All backflow prevention assemblies shall be protected from freezing. Those devices used for seasonal water services may be removed in lieu of being protected from freezing; however, the devices must be reinstalled and tested by a registered backflow prevention technician prior to service being reactivated.

5. If hot water is used within the water system, thermal expansion shall be provided for when installing a backflow prevention assembly for containment.

6. Provisions shall be made to convey the discharge of water from reduced pressure principle backflow prevention assemblies to a suitable drain.

7. No backflow prevention assemblies shall be installed in a place where it would create a safety hazard, such as, but not limited to over an electrical panel, or above ceiling level.

8. If interruption of water service during testing and repair of backflow prevention assemblies for containment is unacceptable, another backflow prevention assembly, sized to handle the temporary water flow needed during the time of test or repair, should be installed in parallel piping.

9. All backflow prevention assemblies shall be installed so that they are accessible for testing.

10. All shut-off valves shall conform to the current edition of the Manual of Cross Connection Control (University of Southern California) requirements for either ball or resilient seat gate valves at the time of installation. Ball valves shall be used on assemblies installed in piping two inches and smaller and resilient seat gate valves on assemblies installed in piping larger than two inches.

11. Location and protection of the containment assembly shall be approved by Des Moines Water Works prior to installation.

91.10 TESTING OF BACKFLOW PREVENTION ASSEMBLIES.

Testing of backflow prevention assemblies shall be performed by a registered backflow prevention assembly technician. The costs of tests required in the following subsections shall be borne by the customer.

1. Backflow prevention assemblies shall be tested upon installation and tested and inspected at least annually.

2. Backflow prevention assemblies, which are in place, but have been out of operation for more than three months, shall be tested before being put back into operation. Backflow prevention assemblies used in seasonal applications shall be tested before being put into operation each season.

3. Any backflow prevention assembly which fails a periodic test shall be repaired or replaced. When water service has been terminated for noncompliance, the backflow prevention assembly shall be repaired or replaced prior to the resumption of water service. Backflow prevention assemblies shall be retested by a registered backflow prevention assembly technician immediately after repair or replacement.

4. Des Moines Water Works may require backflow prevention assemblies to be tested at any time in addition to the annual testing requirement.

5. The registered backflow prevention assembly technician shall report the successful test of a backflow prevention assembly to the customer and to Des Moines Water Works within fifteen (15) days of the test.

Des Moines Water Works may require, at the owner's expense, additional tests of individual backflow prevention assemblies as it shall deem necessary to verify test procedures and results.

91.11 REPAIR OF BACKFLOW PREVENTION ASSEMBLIES.

1. All repairs to backflow prevention assemblies shall be performed by registered backflow prevention assembly technicians.

2. The registered backflow prevention assembly technician shall not change the design, material, or operational characteristics of a backflow prevention assembly during repair or maintenance, and shall use only original manufacturer replacement parts.

3. The registered backflow prevention assembly technician shall report the repair of a backflow prevention assembly to the customer and to the Des Moines Water Works within fifteen (15) days of the repair. The report shall include the list of materials or replacement parts used.

4. Any time fire services are discontinued for a period of time longer than necessary to test the device; the tester is required to notify the Fire Marshal's office that the fire service is shut off for repair.

91.12 CUSTOMER NONCOMPLIANCE.

The water service may be discontinued in the case of noncompliance with this section. Noncompliance includes (but is not limited to) the following:

1. Refusal to allow Des Moines Water Works access to the property to inspect for cross connections.

2. Removal of a backflow prevention assembly, which has been required by Des Moines Water Works and/or the City of Windsor Heights.

3. Bypassing of a backflow prevention assembly which has been required by Des Moines Water Works and/or the City of Windsor Heights.

4. Providing inadequate backflow protection when cross connections exist.

5. Failure to install a backflow prevention assembly, which has been required by Des Moines Water Works and/or the City of Windsor Heights.

6. Failure to test and/or properly repair a backflow prevention assembly as required by Des Moines Water Works and/or the City of Windsor Heights.

7. Failure to comply with the requirements of this chapter.

CHAPTER 95 SANITARY SEWER SYSTEM

95.01 Purpose	95.06 Service Outside the City
95.02 Definitions	95.07 Access to Premises
95.03 Superintendent	95.08 Use of Easements
95.04 Prohibited Acts	95.09 Special Penalties
95.05 Sewer Connection Required	95.10 Fees and Charges

95.01 PURPOSE.

The purpose of the chapters of this Code of Ordinances pertaining to Sanitary Sewers is to establish rules and regulations governing the treatment and disposal of sanitary sewage within the City in order to protect the public health, safety, and welfare.

95.02 DEFINITIONS.

For use in these chapters, unless the context specifically indicates otherwise, the following terms are defined:

1. "B.O.D." (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees (20°) C, expressed in milligrams per liter or parts per million.

2. "Building drain" means that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes inside the

walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.

3. "Building sewer" means that part of the horizontal piping from the building wall to its connection with the main sewer or the primary treatment portion of an on-site wastewater treatment and disposal system conveying the drainage of one building site.

4. "Combined sewer" means a sewer receiving both surface run-off and sewage.

5. "Customer" means any person responsible for the production of domestic, commercial, or industrial waste which is directly or indirectly discharged into the public sewer system.

6. "Garbage" means solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of food products and produce.

7. "Industrial wastes" means solid, liquid, or gaseous substances from any industrial, manufacturing, commercial, or business establishment, or process, or from the development, recovery, or processing of any natural resource which any person discharges or allows to be discharged into the public sewer, but does not include any wastes from a building used exclusively for residential purposes which contains eight dwelling or rooming units or less.

8. "Inspector" means the person duly authorized by the Council to inspect and approve the installation of building sewers and their connections to the public sewer system; and to inspect such sewage as may be discharged therefrom.

9. "Natural outlet" means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

10. "On-site wastewater treatment and disposal system" means all equipment and devices necessary for proper conduction, collection, storage, treatment, and disposal of wastewater from four or fewer dwelling units or other facilities serving the equivalent of fifteen persons (1500 gpd) or less.

11. "Parts per million (ppm)" means a weight-to-weight ratio; the parts-per-million value multiplied by the factor 8.345 is equivalent to pounds per million gallons of water, and for the purposes of these Sanitary Sewer chapters, it means the same as milligrams per liter (mg/l).

12. "Paunch manure" means any material found in the stomachs or paunches of livestock.

13. "pH" means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

14. "Public sewer" means a sanitary sewer provided by or under the jurisdiction of the City or a sewer provided by or under the jurisdiction of any other city or sewer district which ultimately discharges into a sewer under the jurisdiction of the City.

15. "Sanitary sewer" means a sewer that conveys sewage or industrial wastes or a combination of both, and into which storm, surface, and ground waters or unpolluted industrial wastes are not intentionally admitted.

16. "Sewage" means the water-carried human, animal, and household wastes in a public or private drain, together with such groundwater infiltration, surface drainage and industrial wastes as may be present.

17. "Sewage treatment plant" means the arrangement of devices and structures and equipment of the City of Des Moines for treating sewage and industrial wastes.

18. "Sewage works" means all facilities for collecting, pumping, treating, and disposing of sewage and industrial wastes.

19. "Sewer" means a pipe or conduit for carrying sewage or any other wastes liquids, including storm, surface, and ground water drainage.

20. "Slug" means any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average 24-hour concentration or flows during normal operation.

21. "Standard methods" means the examination and analytical procedures set forth in the most recent edition of Standard Methods for the Examination of Water, Sewage, and Industrial Wastes, published jointly by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation.

22. "Storm drain" or "storm sewer" means a sewer which carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.

23. "Storm water runoff" means that portion of rainfall that is drained into the sewers.

24. "Superintendent" means the Public Works Director of the City or any authorized deputy, agent, or representative.

25. "Suspended solids" means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

26. "Unpolluted water or liquids" means any water or liquid containing none of the following: free or emulsified grease or oil; substances that may impart taste-and-odor or color characteristics; volatile, explosive, toxic, or poisonous substances in suspension, colloidal state, or solution; explosive, odorous, or otherwise obnoxious gases. Such water or

liquids shall not contain more than 25 mg/l of suspended solids, and not more than 25 mg/l of B.O.D.

27. "Watercourse" means a channel in which a flow of water occurs, either continuously or intermittently.

95.03 SUPERINTENDENT.

The Superintendent shall exercise the following powers and duties:

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

1. Operation and Maintenance. Operate and maintain the City sewage system.
2. Inspection and Tests. Conduct necessary inspections and tests to assure compliance with the provisions of these Sanitary Sewer chapters.
3. Records. Maintain a complete and accurate record of all sewers, sewage connections and manholes constructed showing the location and grades thereof.

95.04 PROHIBITED ACTS.

No person shall do, or allow, any of the following:

1. Damage Sewer System. Maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the sewer system.

(Code of Iowa, Sec. 716.1)

2. Surface Run-off or Groundwater. Connect a roof downspout, sump pump, exterior foundation drain, areaway drain, or other source of surface run-off or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

3. Manholes. Open or enter any manhole of the sewer system, except by authority of the Superintendent.

4. Objectionable Wastes. Place or deposit in any unsanitary manner on public or private property within the City, or in any area under the jurisdiction of the City, any human or animal excrement, garbage, or other objectionable waste.

5. Septic Tanks. Construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage except as provided in these chapters.

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

6. Untreated Discharge. Discharge to any natural outlet within the City, or in any area under its jurisdiction, any sanitary sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of these chapters.

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

95.05 SEWER CONNECTION REQUIRED.

The owners of any houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the City and abutting on any street, alley, or right-of-way in which there is now located, or may in the future be located, a public sanitary or combined sewer, are hereby required to install, at such owner's expense, suitable toilet facilities therein and a building sewer connecting such facilities directly with the proper public sewer, and to maintain the same all in accordance with the provisions of these Sanitary Sewer chapters. Such compliance shall be completed within sixty (60) days after date of official notice from the City to do so, provided that said public sewer is located within 200 feet of the property line of such owner and is of such design as to receive and convey by gravity such sewage as may be conveyed to it.

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

(IAC, 567-69.1[3])

95.06 SERVICE OUTSIDE THE CITY.

The owners of property outside the corporate limits of the City so situated that it may be served by the City sewer system may apply to the Council for permission to connect to the public sewer upon the terms and conditions stipulated by resolution of the Council.

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

95.07 ACCESS TO PREMISES.

The City shall be entitled access to the premises of any customer for the purpose of inspection, observation, measurement, sampling, and testing at any reasonable time and to such extent as may be necessary to carry out the provisions of these chapters, and it shall be deemed a part of the agreement on the part of the customer, as a condition to permission to connect with the public sewer, that such access be granted.

95.08 USE OF EASEMENTS.

The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

95.09 SPECIAL PENALTIES.

The following special penalty provisions shall apply to violations of these Sanitary Sewer chapters:

1. Notice of Violation. Any person found to be violating any provision of these chapters except subsections 1, 3, and 4 of Section 95.04, shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.
2. Continuing Violations. Any person who shall continue any violation beyond the time limit provided for in subsection 1 hereof shall be in violation of this Code of Ordinances. Each day in which any such violation shall continue shall be deemed a separate offense.
3. Liability Imposed. Any person violating any of the provisions of these chapters shall become liable to the City for any expense, loss, or damage occasioned the City by reason of such violation.

95.10 FEES AND CHARGES.

Fees and charges for all sewer services shall be established by the Urbandale/Windsor Heights Sanitary Sewer District, and shall be collected by the Des Moines Water Works.

CHAPTER 96 BUILDING SEWERS AND CONNECTIONS

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|-------------------------------|--|
| 96.01 Permit; Fees | 96.06 Inspection Required |
| 96.02 Plumber Required | 96.07 Property Owner's Responsibility |
| 96.03 Excavations | 96.08 Abatement of Violations |
| 96.04 Connection Requirements | 96.09 Sewer Lateral Repair/Replacement |

96.05 Sewer Tap

96.01 PERMIT; FEES.

No unauthorized person shall uncover, make any connection with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City. The person who makes the building sewer connection application shall pay a permit fee to the Clerk to cover the cost of issuing the permit and supervising, regulating, and inspecting the work. All permit fees under this chapter shall outlined in the Fee Schedule. be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such permit fees may, from time to time, be amended by the Council by resolution. A copy of the resolution setting forth the currently effective permit fees shall be kept on file in the office of the City Administrator, and be open to inspection during regular business hours. Sewer service connection fees are charged for the addition of a new service onto a City sewer. \Connection fees are not to be charged for the replacement of an existing service lateral. Fees are charged as follows:

- ~~1. Residential Sewer Connection Fee. A fee of \$200 is to be paid prior to the issuance of any permits.~~
- ~~2. Non-Residential Sewer Connection Fee. A fee of \$300 is to be paid prior to the issuance of any permits.~~

Commented [AS1]: Eliminating connection fees as the Urbandale Winsor Heights Sanitary District collects the fee. No connection fees are handled by the City

96.02 PLUMBER REQUIRED.

All installations of building sewers and connections to the public sewer shall be made by a State-licensed plumber.

96.03 EXCAVATIONS.

All trench work, excavation, and backfilling required for the installation of a building sewer shall be performed in accordance with the provisions of the International Plumbing Code and the provisions of Chapter 135 of this Code of Ordinances.

96.04 CONNECTION REQUIREMENTS.

The installation of the building sewer and its connection to the public sewer shall conform to the requirements of the International Plumbing Code, the laws of the State and other applicable rules and regulations of the City.

96.05 SEWER TAP.

Connection of the building sewer into the public sewer shall be made at the "Y" branch, if such branch is available at a suitable location. If no properly located "Y" branch is available, a saddle "Y" shall be installed at the location specified by the Superintendent. The public sewer shall be tapped with a tapping machine and a saddle appropriate to the type of public sewer shall be glued or attached with a gasket and stainless steel clamps to the sewer. At no time shall a building sewer be constructed so as to enter a manhole unless special written permission is received from the Superintendent and in accordance with the Superintendent's direction if such connection is approved.

96.06 INSPECTION REQUIRED.

No building sewer shall be covered, concealed, or put into use until it has been tested, inspected, and accepted as prescribed in the International Plumbing Code.

96.07 PROPERTY OWNER'S RESPONSIBILITY.

All costs and expenses incident to the installation, connection, and maintenance of the building sewer shall be borne by the owner. The property owner is responsible for the "Y," or any other type of connection or connecting device, that connects the City sewer to the sewer service lateral. The property owner is responsible for the delivery of sewage to the sewer main.

96.08 ABATEMENT OF VIOLATIONS.

Construction or maintenance of building sewer lines, whether located upon the private property of any owner or in the public right-of-way, which construction or maintenance is in violation of any of the requirements of this chapter, shall be corrected, at the owner's expense, within thirty (30) days after date of official notice from the Council of such violation. If not made within such time, the Council shall, in addition to the other penalties herein provided, have the right to finish and correct the work and assess the cost thereof to the property owner. Such assessment shall be collected with and in the same manner as general property taxes.

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

96.09 SEWER LATERAL REPAIR/REPLACEMENT.

1. Requirements for Sewer Lateral Repair and/or Replacement. The Superintendent shall issue a notice to repair to the property owner when the sewer lateral has conditions which would result in an unacceptable amount of inflow or infiltration to enter the sewer system or which would result in an unacceptable risk of blockages. The Superintendent shall have the sole discretion to determine when repair and/or replacement is required due to unacceptable conditions of a sewer lateral. A sewer lateral shall be considered in compliance with the provisions of this chapter if inspection verifies all of the following conditions to the satisfaction of the Superintendent:

A. The sewer lateral is free of roots, deposits of fat, oil and grease (FOG), and/or other solids which may impede or obstruct the flow of sewage.

B. There are no illicit or illegal connections to the sewer lateral which would cause inflow, such as roof leaders, sump pumps or yard drains.

C. All joints in the sewer lateral are tight and sound to prevent the exfiltration of sewage and/or the infiltration of groundwater.

D. The sewer lateral is free of structural defects, cracks, breaks, or missing portions and the grade is reasonably uniform without major sags or offsets.

E. The sewer lateral is equipped with cleanouts, if required, as determined by Superintendent.

F. The sewer lateral is constructed of materials that are corrosive resistant, nonabsorbent, durable, and with a remaining design life of at least twenty-five years. "Orangeburg pipe," a bituminized fiber pipe made from layers of wood pulp and pitch pressed together, shall be considered to be at the end of its design life and not compliant with the provisions of this chapter.

G. A sewer relief valve, if required, is installed.

H. A sewer backwater valve, if required, is installed.

2. Owners' Duty to Make Connection. When any street or alley is ordered to be paved or otherwise permanently improved, it shall be the duty of all owners of property abutting upon such street or alley upon written notice from the City to at once make permanent and substantial connections meeting the conditions listed within this ordinance with sewer, along such street or alley at their own cost and expense. The City shall order such connections made as are necessary, stating generally the location of the street, and the kind and character of connections to be made with the kind of materials to be used, and when the work of making such connections shall be completed.

3. Method and Material. The connections made within the street or alley from the mains to and right of way in front of the abutting property and shall be in accordance with the most current version of the Statewide Urban Design and Specifications (SUDAS).

4. Method. All the connections shall be made in a thorough and substantial manner under the direction and order of the Superintendent, and in the manner provided by plans or resolution for making connections therewith, so that whenever any such paving is once laid it need not be disturbed for the making of any such connection. No repairs are allowed to be made to "Orangeburg" pipe without the written permission of the Superintendent. When encountered, "Orangeburg" is to be replaced in its entirety of the sewer service.

5. Notice to Connect. In case any property owner or title holder fails to make such connections within the time allotted within the provided notice for the improvements of any such street or alley, the Council may order the same and cause the Superintendent to prepare notices to such delinquent property owners to make such connections within 10 days thereafter. The notices shall be mailed by certified mail to the last known address of the property owner or personally served on the property owner. The Superintendent may at his/her option, also publish notice in a newspaper in the City stating the particular lot or lots or parcel of ground in front of which connections shall be made. The publication shall be made as required by law.

6. Completion of Work. The City shall include the connections the property owners fail to make within the capital improvement project (CIP).

7. Connections Made by City. If any owner of abutting property fails to comply with the provisions of this section by the time stated in the notice to connect, the City may proceed to have such connections made under the supervision and direction of the Superintendent, and keep an accurate account of the expenses incurred.

8. Assessment. The City Clerk shall send a statement of the total expense incurred, by certified mail, to the last known address of the property owner who has failed to abide by the notice to connect. If the amount shown on the statement is not paid within 30 days of mailing, the cost and expense of putting in connections by the City as provided herein shall be levied as a special tax against the property abutting or adjacent thereto and the method of estimating, assessing, levying, and collecting the tax shall be the same as that prescribed for general taxes.

9. Excavations. After Pavement Laid. Whenever any street or alley has been ordered to be paved, and property owners owning property abutting or lying along such street or alley, have been notified by the City to connect their property by laying down pipes within the right of way in front of or along the property, any person so notified who has refused to comply with the requirements of the notice shall not enter upon such street or alley after it has been paved and make any excavation in the paved portion thereof for the purpose of connecting their property with such mains within 4 years after such paving is laid and not thereafter except by special resolution of the Council.

10. Permit Requirements. Property owner shall request permit from the City of Windsor Heights. Permit fees are waived for permits related to CIP.

(Ch. 96 – Ord. 19-06 – Jul. 19 Supp.)

CHAPTER 97
USE OF PUBLIC SEWERS

97.01 STORM WATER.

1. ~~Drainage Required. Roofs, paved areas, yards, courts, courtyards, areaways, and sump pump drainage shall be drained into a storm sewer when such a storm sewer is within twenty-five (25) feet of the property, or otherwise available as required by the Superintendent. Such drainage may be discharged into a combined sewer system where such a system is available and where not prohibited by the administrative authority having jurisdiction.~~

2. Prohibited Drainage. Storm water runoff, roof runoff, subsurface drainage, and sump pump drainage shall not be drained:

- A. Into sanitary sewers ~~intended for sanitary sewage only~~;
- B. Within ten (10) feet of the property line or any public right-of-way; or
- C. ~~Onto any publicly-owned street or alley.~~

3. Disposal of Subsurface Drainage and Storm Water. Where a storm sewer is not available, the disposition of storm water and subsurface drainage shall be as follows:

A. For one- and two-family dwellings, to sump and pump to grade or drywell seepage pit as shown in the illustration of proper disposal of subsurface drainage and storm water, on file in the office of the Superintendent.

B. For other than one- and two-family dwellings, to sump and pump to drywell seepage pit, or use lateral system similar to septic system with overflow on end.

C. Exception to Paragraphs A and B of this subsection, gravity drainage approved if footing and area drainage elevation is higher than drywell seepage pit drain discharge flow line.

~~4. Traps. Leaders or downspouts, when connected to a combined sewer, shall be trapped.~~

5. Expansion Joints. Expansion joints or sleeves shall be provided where warranted by temperature variations or physical conditions.

Commented [AS2]: Recommended by AJ/Tim Stovie to delete.

"In reality most of this drainage goes to the street and then a storm sewer. The code basically says that this water needs to be captured and connected to a storm sewer. I would delete this section"

Commented [AS3]: Removing as most drain to a street then a storm sewer

6. Subsoil Drainage. No subsoil drainage system shall be installed to drain into a sewer intended for sanitary sewage.

7. Subsoil Drain. Where subsoil drains are placed under the cellar or basement floor or are used to surround the outer walls of a building, they shall be installed in accordance with the Building Code and shall be made of open-jointed, horizontally split, ~~or perforated clay tile or asbestos-cement pipe~~ or rigid plastic pipe not less than four inches in diameter. They shall be drained into an open sump with protective cover. Such sumps need not be vented. The building storm and subsoil drainage systems shall be connected to a storm sewer when such a sewer abuts the property. Where a sump pump is used, the discharge piping to the storm sewer, drywell seepage pit, or lateral system shall be inspected and approved before use.

8. Parking Lot and Retention Pond Drains. Parking lot and retention pond drains shall be installed as directed by the City Engineer and in accordance with the approved site plan, a copy of which shall be available on the job site.

9. Connection Required. The City may, at its sole discretion, require that a property owner connect a sump pump drain to the storm sewer or to a collector line when provided by the City or a developer when it is within twenty-five (25) feet of the property owner's property.

10.

Prohibited Acts. No person shall do, or allow, any of the following:

(1) The installation or maintenance of a substandard drainage pipe in a private drainageway, in a city street right-of-way, in a city maintained easement area, or in a city stormwater drainage area, resulting in the flooding of properties adjacent to said drainageway either upstream or downstream from said pipe or in said watershed, or resulting in the obstruction or surcharging of or damage to public drainageways, public storm sewers, sanitary sewers or the MS4.

(2) Failing to adequately maintain or periodically clean a private drainage pipe installed in a private drainageway, resulting in the flooding of properties adjacent to said drainageway either upstream or downstream from said pipe or in said watershed, or resulting in the obstruction or surcharging of or damage to public drainageways, public storm sewers, sanitary sewers or the MS4.

(3) Failing to adequately maintain or periodically clean a public drainageway on private property or a private drainageway, resulting in the flooding of properties adjacent to said drainageway either upstream or downstream from the inadequately maintained or cleaned portion thereof, or resulting in the obstruction or surcharging of or damage to public drainageways, public storm sewers, sanitary sewers or the MS4.

11. Right of Entry. The Public Works Director and other authorized employees of the City, bearing proper credentials and identification, shall be permitted to enter all private

Commented [AS4]: Adding in to create a framework for chapter violations and process to inspect as well as flow into the abatement process for violations

properties for the purpose of inspection, observation, measurement, sampling, and testing all private stormwater discharges directly or indirectly entering into any public stormwater management system or facility in accordance with the provisions of this chapter.

~~Nuisance. The failure of a property owner to cause storm water and/or sump pump drainage to drain in accordance with this chapter shall be a nuisance. Upon determination that a nuisance exists, in addition to any other remedies available at law, the Superintendent or their designee may require a property owner to connect a sump pump water discharge hose or other device for storm water runoff to a dedicated City drain tile or storm sewer system, provided such drain tile or storm sewer system is located within twenty-five (25) feet of the property causing the nuisance.~~

~~124. Connections Made by City. In the event the property owner fails to comply with a connection requirement pursuant to this chapter, the City may proceed to have such connections made under the supervision and direction of the Public Works Director Superintendent, and keep an accurate account of the expenses incurred. The City Clerk shall send a statement of the total expense incurred, by certified mail, to the last known address of the property owner who has failed to abide by the notice to connect. If the amount shown on the statement is not paid within 30 days of mailing, the cost and expense of putting in connections by the City as provided herein shall be levied as a special tax against the property abutting or adjacent thereto and the method of estimating, assessing, levying, and collecting the tax shall be the same as that prescribed for general taxes.~~

13. Abatement. Whenever the City Administrator or other authorized municipal officer finds that a violation of this chapter has occurred, such officer has the authority to determine on a case-by-case basis whether to utilize the nuisance abatement procedure described in Section 50.05 of this chapter or the municipal infraction procedure referred to in Section 50.06.

(Section 97.01 – Ord. 21-04 – May 21 Supp.)

CHAPTER 98 ON-SITE WASTEWATER SYSTEMS

98.01 When Prohibited	98.06 Maintenance of System
98.02 When Required	98.07 Systems Abandoned
98.03 Compliance with Regulations	98.08 Septic Systems Required to Switch to City Sewer
98.04 Permit Required	98.09 Disposal of Septage
98.05 Discharge Restrictions	

(Supp. No. 30)

Created: 2024-04-16 13:54:37 [EST]

98.01 WHEN PROHIBITED.

Except as otherwise provided in this chapter, it is unlawful to construct or maintain any on-site wastewater treatment and disposal system or other facility intended or used for the disposal of sewage.

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

98.02 WHEN REQUIRED.

When a public sanitary sewer is not available under the provisions of Section 95.05, every building wherein persons reside, congregate or are employed shall be provided with an approved on-site wastewater treatment and disposal system complying with the provisions of this chapter. Upon the effective date of this Code of Ordinances, any person that sells a home which utilizes a private septic system or on-site wastewater treatment and disposal system must install a building sewer connecting the property to the public sewer system.

(IAC, 567-69.1[3])

98.03 COMPLIANCE WITH REGULATIONS.

The type, capacity, location, and layout of a private on-site wastewater treatment and disposal system shall comply with the specifications and requirements set forth by the Iowa Administrative Code 567, Chapter 69, and with such additional requirements as are prescribed by the regulations of the County Board of Health.

(IAC, 567-69.1[3 & 4])

98.04 PERMIT REQUIRED.

No person shall install or alter an on-site wastewater treatment and disposal system without first obtaining a permit from the County Board of Health.

98.05 DISCHARGE RESTRICTIONS.

It is unlawful to discharge any wastewater from an on-site wastewater treatment and disposal system (except under an NPDES permit) to any ditch, stream, pond, lake, natural or artificial waterway, drain tile or to the surface of the ground.

(IAC, 567-69.1[3])

98.06 MAINTENANCE OF SYSTEM.

The owner of an on-site wastewater treatment and disposal system shall operate and maintain the system in a sanitary manner at all times and at no expense to the City.

98.07 SYSTEMS ABANDONED.

At such time as a public sewer becomes available to a property served by an on-site wastewater treatment and disposal system, as provided in Section 95.05, a direct connection shall be made to the public sewer in compliance with these Sanitary Sewer chapters and the on-site wastewater treatment and disposal system shall be abandoned and filled with suitable material.

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

98.08 SEPTIC SYSTEMS REQUIRED TO SWITCH TO CITY SEWER.

All septic systems used by commercial, home-based business, rental, or contract sales homes must switch over to the public sewer within one year after the adoption of this Code of Ordinances. Residential homes must switch over from septic to City sewer prior to the transfer of title or sale of property. A yearly inspection of all septic systems by a licensed plumber is required, with a report to be given to the City for the Building Inspector's review.

98.09 DISPOSAL OF SEPTAGE.

No person shall dispose of septage from an on-site treatment system at any location except an approved disposal site.

CHAPTER 100 REGULATION OF INDUSTRIAL WASTEWATER AND COMMERCIAL WASTEWATER

100.01 Definitions

100.49 Reinstatement of Service

100.02 Abbreviations

100.50 Emergency Disconnection of Service

(Supp. No. 30)

Created: 2024-04-16 13:54:37 [EST]

100.03 General Adoption	100.51 Elimination of Discharge; Reinstatement of Permit
100.04 Intent and Construction	100.52 Additional Remedies
100.05 Purpose and Policy	100.53 Notices to the WRA, the WRA Board, the WRA Director or the WRA Steering Committee
100.06 Jurisdiction	
100.07 Severability	100.54 Reserved
100.08 Interpretation	100.55 Purpose
100.09 Reserved	100.56 Definitions
100.10 User Requirements	100.57 Effective Date of Fog Regulations
100.11 Discharge Prohibitions	100.58 Grease Interceptor Installation Required and Effective Date
100.12 Local Limits for Specific Pollutants	
100.13 National Categorical Pretreatment Standards	100.59 Exemption from Grease Interceptor Installation Requirements for Existing Facilities
100.14 State Requirements	
100.15 City's Right of Revision	100.60 Compliance Procedures
100.16 Pretreatment	100.61 Installation of Grease Interceptors and Grease Traps
100.17 Dilution Prohibited	
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DIVISION 1. GENERAL PROVISIONS REGARDING INDUSTRIAL WASTE

100.01 DEFINITIONS.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. “Act or Clean Water Act” means the 1972 Federal Water Pollution Control Act, the 1977 Clean Water Act, and the 1987 Water Quality Act, as amended.
2. “Approval authority” means the Iowa Department of Natural Resources.
3. “Authorized representative” means:
 - A. An executive officer of a corporation.
 - B. A general partner of a partnership.
 - C. The proprietor of a proprietorship.
 - D. The conservator, trustee, attorney in fact, receiver or other person or agent authorized in law and in fact to act on behalf of users which are not corporations, partnerships, or proprietorships or on behalf of other entities which must legally act through an agent.
 - E. Any other authorized representative of a person or entity identified in Subsections (A), (B), (C), or (D) of this definition, if the authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the discharge originates, such as the position of plant manager or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company and the written authorization is submitted to the director.
 - F. Any other person authorized by law to act on behalf of any entity.
4. “Baseline monitoring report” means the report required by 40 CFR 403.12(b)(1-7).
5. “Biochemical oxygen demand (BOD)” means the analysis of BOD as described in Environmental Protection Agency methods.
6. “Building drain” means that part of the lowest horizontal piping of a drainage system which receives the discharge from waste and other drainage pipes inside the wall of the building and conveys it to the building sewer, beginning three feet outside the building wall.
7. “Building sewer” or “lateral sewer” means the sewer extending from the building drain to the connection with the POTW.

8. "Bypass" means the intentional diversion of waste streams from any portion of an industrial user's pretreatment facility.

9. "Carbonaceous Biochemical Oxygen Demand (CBOD)" means the analysis of BOD as described in Environmental Protection Agency methods while inhibiting the nitrogenous oxygen demand.

10. "Categorical user" means a user subject to National Categorical Pretreatment Standards.

11. "Chemical oxygen demand (COD)" means the measurement of the susceptibility of a sample to oxidation by a strong chemical oxidant expressed in mg/l and using Environmental Protection Agency methods.

12. "City" means the political subdivision known as the City of Windsor Heights, Iowa, and also means the territory within the corporate boundaries of the City of Windsor Heights.

13. "City sanitary sewer system" or "sanitary sewer system" means the local outfall sewers, trunk sewers, pumping stations, force mains, and wastewater equalization basins, and all other structures, devices and appliances appurtenant thereto, which are used for collecting, conveying or storing wastewater and which serve and are owned, operated and maintained by the City or by a sanitary district serving the City.

14. "Combined waste stream formula" means the formula as found in 40 CFR 403.6(e).

15. "Composite sample" means a representative sample using a minimum of three grab sample aliquots obtained over a period of time and mixed using either a flow proportional or time proportional method.

16. "Conventional pollutant" means BOD, COD, O&G, suspended solids, pH, ammonia nitrogen, total Kjeldahl nitrogen and fecal coliform bacteria.

17. "Discharge" or "indirect discharge" means the introduction of treated or untreated wastewater into the POTW.

18. "Dissolved solids" means the concentration of residue left in an evaporating dish after evaporation and drying at defined temperatures using Environmental Protection Agency methods or standard methods.

19. "Domestic wastewater" means all household-type waste discharged from places of human habitation, including toilet, bath, kitchen and laundry wastewater. "Domestic wastewater" is further defined as waste which does not exceed daily maximum limits of 300 mg/l COD, 200 mg/l BOD, 250 mg/l suspended solids, 100 mg/l oil & grease, 30 mg/l TKN, and 15 mg/l NH₃-N at a discharge rate of 100 gallons per capita per day. This loading is equal to 0.25 pound of COD, 0.17 pound of BOD, 0.20 pound of suspended solids, 0.083 pound of oil & grease, 0.025 pound of TKN and 0.013 pound of NH₃-N per capita per day.

20. "Domestic user" means a person discharging only domestic wastewater to the POTW, which wastewater is discharges from any building or parts of a building designed for or occupied by one or more persons as a single housekeeping unit, including such units within multifamily dwellings and apartment buildings, which building or premises is a source of wastewater discharge into a POTW.

21. "Environmental Protection Agency" or "EPA" means the U.S. Environmental Protection Agency.

22. "Environmental Protection Agency methods" means standard procedures for wastewater analysis approved by the U.S. Environmental Protection Agency and prescribed in 40 CFR 136, and includes alternate methods approved by the approval authority.

23. "E. Coli or Escherichia coli" means bacteria that are a member of the fecal coliform group and whose presence indicates fecal contamination in water.

24. "Fecal coliform" means bacteria common to the intestinal tracts of humans and animals whose presence in water is an indication of pollution.

25. "Fat, oil, and grease" or "oil and grease" or "FOG" means those substances which are detectable and measurable using analytical test procedures established in 40 CFR 136, as may be amended from time to time. All are sometimes referred to herein as "grease" or "greases".

26. "Garbage" means solid waste from the domestic and commercial preparation, cooking and dispensing of food, and from the commercial handling, storage and sale of produce.

27. "Grab sample" means a single aliquot sample collected either directly or by means of a mechanical device.

28. "Headworks" means the main wet well at the WRF prior to any treatment process.

29. "Industrial user" means a person whose property, building or premises is a source of wastewater discharge into the POTW, other than a domestic user.

30. "Industrial waste" means the liquid waste from industrial users as distinct from domestic sewage.

31. "Interference" means a discharge which, alone or in conjunction with a discharge or discharges from other sources, which both:

A. Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal, and

B. Causes a violation of any requirement of the WRA's National Pollutant Discharge Elimination System permit (including an increase in the magnitude or duration of a

violation) or prevents sewage sludge use or disposal in compliance with any federal, state or local regulations or permits.

32. "Limit" means the maximum allowable discharge of a given pollutant as in the following definitions:

A. "Daily maximum limit" or "daily instantaneous maximum limit" means the maximum allowable discharge of pollutant as measured at any time during a calendar day, expressed as either a concentration limit or a daily mass limit. It is a violation if the concentration limit on any single sample taken exceeds that discharge limits in the discharge permit for the user, or the discharge limits set forth in Section 100.12.

B. "Monthly average limit" means the maximum allowable value for the average of all measurements of a pollutant obtained during one calendar month.

33. "National Categorical Pretreatment Standards (NCPS)" or "categorical standards" means any limitations on pollutant discharges to POTW promulgated by the U.S. Environmental Protection Agency that apply to specified process wastewater of particular industrial categories.

34. "National Pollutant Discharge Elimination System (NPDES) permit" means a permit issued pursuant to the Act.

35. "New source" means a source as defined by 40 CFR 403.3(k).

36. "Nonconventional pollutants" means all pollutants which are not included in the definition of conventional pollutants.

37. "NH₃-N" means the ammonia nitrogen concentration in mg/l as determined using Environmental Protection Agency methods.

38. "O&M" means operation and maintenance.

39. "Pass through" means a discharge which exits the POTW into water of the state in quantities or concentrations which, alone or in conjunction with a discharge from other sources, is a cause of a violation of any requirement of the WRA's National Pollutant Discharge Elimination System permit, including an increase in the magnitude or duration of a violation, or other permit issued to the WRA by the Iowa Department of Natural Resources or the U.S. Environmental Protection Agency.

40. "Person" means any individual, partnership, co-partnership, firm, company, association, joint stock company, society, corporation trust, estate, municipality, governmental entity, group, or any other legal entity, or their legal representatives, agents, or assigns.

41. "pH" means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

42. "Pollution" means the alteration of chemical, physical, biological, or radiological integrity of water as a result of human activity or enterprise.

43. "POTW treatment plant" means that portion of the publicly owned treatment works which is designed to provide treatment, including recycling and reclamation, of municipal sewage and industrial waste.

44. "Pretreatment" means the reduction, elimination, or alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into the POTW.

45. "Pretreatment facility" means the equipment used to accomplish pretreatment.

46. "Pretreatment requirements" means any substantive or procedural requirement related to pretreatment standards, imposed on an industrial user.

47. "Pretreatment standards" means, for any specified pollutant, the prohibitive discharge standards as set forth in Section 100.11 of this chapter, the specific limitations on discharge as set forth in Section 100.12 of this chapter, the state pretreatment standards or the National Categorical Pretreatment Standards, whichever standard is most stringent.

48. "Properly shredded garbage" means the waste from the preparation, cooking and dispensing of food that has been shredded to such a degree that all particles are carried freely under the flow conditions normally prevailing in the POTW, with no particle greater than one-half inch in any dimension.

49. "Publicly owned treatment works" or "POTW" means and includes "POTW" treatment works as defined by Section 212 of the Act, and which is owned by the Des Moines Metropolitan Wastewater Reclamation Authority or any of participating communities that make up the WRA.

This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances if they convey wastewater to a POTW treatment plant.

50. "Sampling chamber" or "sampling maintenance hole" means a device or structure suitable and appropriate to permit sampling and flow measurement of a wastewater stream to determine compliance with this chapter.

51. "Sanitary district" means the Urbandale Sanitary Sewer District and Urbandale-Windsor Heights Sanitary District incorporated pursuant to Iowa Code Chapter 358 and serving the cities of Urbandale and Windsor Heights.

52. "Severe property damage" means substantial physical damage to property, damage to a pretreatment facility causing it to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a

bypass. Severe property damage does not mean economic loss caused by delays in production.

53. "Sewage" means and includes wastewater as herein defined.

54. "Sewage system" means sewers, intercepting sewers, pipes or conduits, pumping stations, force mains, and all other constructions, devices and appliances appurtenant thereto used for collecting or conducting sewage to a point of treatment or ultimate disposal.

55. "Significant user" means:

A. All categorical users.

B. All industrial users that:

(1) Discharge 25,000 gallons per day or more of process wastewater (excludes sanitary, non-contact cooling, and boiler blowdown wastewater);

(2) Contribute a process waste stream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the WRF; or

(3) Contribute a discharge that has a reasonable potential, in the opinion of the director, to adversely affect the POTW treatment plant by causing interference or pass through.

56. "Sludge" means the solids separated from the liquids during the wastewater treatment process.

57. "Slug" or "slug load" means any discharge of water or wastewater which, in concentration of any pollutant, measured using a grab or composite sample, is more than five times the allowable concentration as set forth in Sections 100.11 and 100.12 of this chapter or in a user's most recent wastewater discharge permit or which exceeds a slug concentration level specified in a wastewater discharge permit. A discharge with pH outside the allowable range by more than one standard unit (S.U.) shall also be considered a slug.

58. "Standard industrial classification (SIC)" means a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, most recent edition.

59. "Standard Methods" means the laboratory procedures set forth in the latest USEPA approved edition of Standard Methods for the Examination of Wastewater prepared and published jointly by the American Public Health Association, the American Water Works Association, and the Water Environment Federation.

60. "Storm sewer" means a sewer which carries stormwater, surface water and drainage but excludes sewage and industrial waste other than unpolluted cooling water.

61. "T," when used as a portion of a chemical name, shall designate "total" such as in "cyanide-T" where "T" means "total" cyanide.

62. "TKN" means the Total Kjeldahl Nitrogen concentration expressed in mg/l as determined using Environmental Protection Agency methods or standard methods.

63. "Total metal" means the sum total of the suspended and dissolved concentrations of a metal specified in a wastewater discharge permit or as specified in Section 100.12 hereof.

64. "Total suspended solids (TSS)" means the portion of total solids retained by a filter using Environmental Protection Agency methods or standard methods.

65. "Total Toxic Organics (TTO)" means the summation of all quantified values greater than 0.01 milligram per liter for the toxic organics as specified in the applicable regulation.

66. "Toxic Pollutant" means any pollutant or combination of pollutants listed in 40 CFR 403, Appendix B.

67. "Unpolluted Water" means water containing none of the following: free or emulsified oil and grease; substances that may impart taste, odor or color characteristics; volatile, explosive, toxic or poisonous substances in suspension or solution; explosive, odorous or otherwise obnoxious gases. Such water shall not contain more than 25 mg/l of suspended solids, and not more than 25 mg/l of BOD.

68. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed pretreatment facilities, inadequate pretreatment facilities, lack of preventive maintenance, or careless or improper operation.

69. "User" means a person discharging anything other than domestic wastewater into the POTW, and includes categorical users as herein defined.

70. "Waste hauler" means a private contractor licensed by the WRA to deliver wastewater to the WRF or other locations approved by the WRA Director, and includes all persons required to have a license under Section 100.74 of this chapter.

(Ord. 22-07 – Oct. 22 Supp.)

71. "Wastewater" means and includes "sewage" as defined in federal law and regulation, or a combination of the liquid and water-carried waste from residences, commercial buildings, institutions and industrial establishments, together with such groundwater, surface water, and stormwater as may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

72. "Wastewater discharge permit" means the document issued to a user by the WRA in accordance with the terms of this chapter which permits such user to discharge wastewater to the POTW.

73. "Water of the state" means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the state or any portion thereof.

74. "WRA" or "wastewater reclamation authority" means the Des Moines Metropolitan Wastewater Reclamation Authority, an entity organized and existing under Chapters 28E and 28F of the Iowa Code, and established pursuant to the WRA Agreement. The term "WRA" means and includes the representatives of the participating communities on the WRA Board, and the officers and employees of the WRA.

75. "WRA agreement" means the Amended and Restated Agreement for the Des Moines Metropolitan Wastewater Reclamation Authority, approved and executed by the WRA and its participating communities and effective as of July 1, 2004.

76. "WRA Director" or "director" means the person appointed by the WRA Board, or by the WRA operating contractor upon consultation with the board, as provided in Section 2.63 of the WRA operating contract, who is charged with the administration and management of the WRA system and of the provision of all services outlined in operating contract. Unless otherwise indicated in the text, the director shall mean and include the person acting as the director's authorized designee in the director's absence in carrying out the director's duties under this chapter.

77. "WRA operating contractor" or "operating contractor" means the City of Des Moines, pursuant to the Initial Operating Contractor executed by the City of Des Moines and the WRA Board on and as of July 1, 2004, or such successor operating contractor as the WRA shall contract with to provide operation and management services to the WRA.

78. "WRA participating community" or "WRA participating communities" means, individually or collectively, depending on context, the cities of Altoona, Ankeny, Bondurant, Clive, Cumming, Des Moines, Grimes, Johnston, Norwalk, Pleasant Hill, Polk City, Waukee, and West Des Moines, and Polk County, Warren County, the Urbandale Sanitary Sewer District, the Urbandale-Windsor Heights Sanitary District and the Greenfield Plaza/Hills of Coventry Sanitary District, together with any other cities, counties, or sanitary districts that become participating communities under the provisions of the WRA agreement.

(Ord. 22-07 - Oct. 22 Supp.)

79. "WRA wastewater collection and conveyance system" or "WCCS" means the WRA sanitary sewer interceptors and extensions to same, detention basins, equalization basins, storage facilities, pumping stations, force mains and all related property and improvements.

80. "WRA wastewater reclamation facility" or "WRF" means the wastewater treatment plant located generally at 3000 Vandalia Road, Des Moines, Iowa, as the same may be

expanded or improved in the future, and any other wastewater treatment plants hereafter acquired or constructed and operated by the WRA.

81. "WRA system" means and includes the WRF, the WCCS, satellite wastewater and CSO treatment facilities hereafter constructed, all real and personal property of every nature hereinafter owned by the WRA and comprising part of or used as a part of the WRA system, and all appurtenances, contracts, leases, franchises and other intangibles of the WRA.

82. "Non-significant categorical industrial user" (NSCIU) is a categorical user which never discharges more than 100 gallons per day of total categorical wastewater, as defined in 40 CFR 403.3(v)(2).

(Ord. 22-07 – Oct. 22 Supp.)

83. "Waste generator" means any person which hauls or has hauled on its behalf wastewater it generates to the WRF.

(Ord. 22-07 – Oct. 22 Supp.)

100.02 ABBREVIATIONS.

The following abbreviations, when used in this chapter, shall have the designated meanings:

BETX	Benzene, ethylbenzene, toluene, and xylenes (total)
BOD	Biochemical oxygen demand
BMR	Baseline monitoring report
C	Celsius
CFR	Code of Federal Regulations
COD	Chemical oxygen demand
EPA	Environmental Protection Agency
F	Fahrenheit
FOG	Fat oil, and grease
GPD	Gallons per day
IDNR	Iowa Department of Natural Resources
lb/day	Pounds per day
mgd	Million gallons per day
mg/l	Milligrams per liter
NCPS	National Categorical Pretreatment Standards or categorical standards
NH3-N	Ammonia nitrogen
NPDES	National Pollutant Discharge Elimination System

O&G	Oil and grease
POTW	Publicly owned treatment works
SCP	Spill control plan
SIC	Standard industrial classification
SNC	Significant noncompliance
RCRA	Resource Conservation and Recovery Act
TCLP	Toxicity characteristic leaching procedure
TFE	Trichlorotrifluoroethane
TKN	Total Kjeldahl nitrogen
TOH	Total organic hydrocarbons
TRC	Technical review criteria
TSS	Total suspended solids
TTO	Total toxic organics
USC	United States Code
U.S. EPA	United States Environmental Protection Agency
VPH	Volatile petroleum hydrocarbons

100.03 GENERAL ADOPTION.

The provisions of this chapter are enacted to aid in the enforcement of the pretreatment regulations set forth in this chapter and may be placed in a separate portion of the municipal or county code of any WRA participating community which adopts these provisions. Each WRA participating community by enacting this chapter designates the WRA and its operating contractor as the enforcement agency under this chapter. Employees, agents and officers of the WRA and of its operating contractor, while acting to enforce this chapter for the WRA, are empowered to make such inspections, issue such orders or permits and take such actions within the corporate boundaries of the City within the boundaries of the sanitary district as are authorized by this chapter. The WRA or its operating contractor is also authorized to impose and collect all fees or penalties authorized by this chapter, and are authorized to directly bill and collect from contributors penalties, fees charges and surcharges from all users within the City. A user's failure to pay any fee, charge, penalty or surcharge is a municipal infraction and shall also be grounds to discontinue sewer service to the user, all as hereafter more particularly provided. The enforcement of this chapter in the sanitary district is not dependent upon passage of this chapter or a similar ordinance by other WRA participating communities.

100.04 INTENT AND CONSTRUCTION.

This chapter seeks to implement provisions of the Act, the general pretreatment regulations found at 40 CFR, Part 403, and the Iowa Administrative Code, Chapter 567, Sections 62.4 and 62.8. This chapter is to be construed and applied in accordance with the Clean Water Act amendments, the general pretreatment regulations, the Iowa Administrative Code and the purpose and policy provision set forth in Section 100.05 of this chapter.

100.05 PURPOSE AND POLICY.

1. This chapter regulates the use of sanitary sewers; private wastewater disposal; the installation and connection of building sewers; and the discharge of wastewater or waste into the POTW.

This chapter sets forth uniform requirements for discharges into the POTW, and the deposit of wastewater and waste hauled to the WRF or to other locations approved by the WRA Director for disposal and treatment.

2. The objectives of this chapter are to:

A. To prevent the introduction of pollutants into the POTW that may interfere with the operation of the system or interfere with sludge management and disposal.

B. Prevent the introduction of pollutants into the POTW that may pass through the system inadequately treated and ultimately into receiving water, the atmosphere, or otherwise be incompatible with the system.

C. Protect workers' safety and health and protect against damage to the POTW.

D. Provide for equitable distribution of treatment and industrial pretreatment costs resulting from pollutants introduced into the POTW.

100.06 JURISDICTION.

The sections of this chapter are applicable in their entirety to all users who contribute wastewater, directly or indirectly, into the POTW without regard to whether the physical facilities of such users are situated within or outside the corporate limits of the sanitary district or City.

100.07 SEVERABILITY.

If any provision of this chapter or the application thereof to any particular person or particular circumstance is held invalid, the invalidity shall not affect other provisions or

application of this chapter which can be given effect without the invalid provision or application. To this end the provisions of this chapter are severable.

100.08 INTERPRETATION.

This chapter shall be construed and interpreted to conform with 40 CFR I, and it is the intent of this chapter that it comply with the federal regulations.

100.09 RESERVED.

DIVISION 2. WASTEWATER TREATMENT AND PRETREATMENT.

100.10 USER REQUIREMENTS.

1. The following requirements shall apply to all users of the POTW:

A. All users shall promptly notify the WRA Director in advance of any substantial change in the volume or character of pollutants in their discharge.

B. New or increased contributions of pollutants or changes in the nature of pollutant discharged to the POTW shall require prior approval by the WRA Director.

C. Industrial users shall notify the WRA Director, the Environmental Protection Agency Regional Waste Management Division Director, and state hazardous waste authorities in writing of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR 261. The notification shall comply with the requirements set forth in 40 CFR 403.12(p).

D. Discharge of any pollutants without the notice and approval required by this section is prohibited. Upon the receipt of notice required by this section, the WRA Director shall within 180 days or less approve the discharge if he or she finds the proposed discharge meets applicable pretreatment standards and requirements and would not cause the WRA to violate its National Pollutant Discharge Elimination System permit. The WRA Director shall deny permission for the discharge if he or she finds applicable pretreatment standards and requirements are not met or the discharge would cause a violation of the National Pollutant Discharge Elimination System permit for the WRF.

In lieu of denial of permission for discharge, the WRA Director may allow such discharge or contribution upon conditions which would not violate applicable pretreatment standards or requirements and would not cause a violation of the National Pollutant Discharge Elimination System permit for the WRF.

E. Food service establishments shall be regulated first under Division 5 of this ordinance but may be required to obtain a wastewater discharge permit and be subject to the requirements of Divisions 1-4 if the WRA Director determines that additional pretreatment is required in order to comply with fat, oil, & grease discharge limits.

2. Any part of this section notwithstanding, upon receipt of the notice required by this section, the WRA Director may require, in addition to the requirements of this section, that an industrial user obtain a permit under this chapter.

3. Users who are determined to be industrial users as herein defined and who refuse to apply for or obtain a wastewater discharge permit shall be subject to termination of sewer services as provided in Section 100.47 hereof.

100.11 DISCHARGE PROHIBITIONS.

The following general prohibitions shall apply to all users of the POTW unless the user is subject to a more restrictive National Categorical Pretreatment Standards, the Iowa Department of Natural Resources, or wastewater discharge permit limit. The following substances are prohibited from discharge to the POTW:

1. Pollutants creating a fire or explosion hazard in the POTW, including but not limited to waste streams with a closed cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Celsius) using test methods referenced in 40 CFR 261.21. Waste streams shall not be ignitable at ambient temperatures. At no time shall two successive readings on a meter capable of reading L.E.L. (lower explosive limit) at the nearest accessible point to the POTW, at the point of discharge into the POTW or at any point in the POTW, be more than five percent nor any single reading greater than ten percent.

2. Any substance which will cause corrosive structural damage to the POTW, but in no case discharges with pH lower than 5.0 or greater than 12.0.

3. Solid or viscous pollutants which will cause obstruction to the flow in the POTW resulting in interference. Such pollutants include but are not limited to grease, garbage with particles greater than one-half inch any dimension, animal tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, wipes, spent grains, spent hops, wastepaper, wood, plastics, tar, asphalt residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing waste, or tumbling and de-burring stones, and wastewater containing fat, wax, O&G, or other substances which may solidify or become viscous at temperatures between 32 and 150 degrees Fahrenheit (0 and 65 degrees Celsius).

4. Any pollutant, including oxygen demanding pollutants (BOD, etc.) released in a discharge at a flow rate or pollutant concentration which will cause interference or pass through at the WRF or which constitutes a slug load as defined in this chapter.

5. Heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no case wastewater or vapor having a temperature higher than 150 degrees Fahrenheit (65 degrees Celsius) at the point of introduction into the POTW, and in no case wastewater or vapor which alone or in concert with other discharges produces a temperature at the WRF greater than 104 degrees Fahrenheit (40 degrees Celsius).

6. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.

7. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems or a public nuisance.

8. Any trucked or hauled pollutants, except at discharge points designated by the WRA.

9. Any radioactive material as defined in the Atomic Energy Act of 1954, as amended, and as defined in I.C. §136C.1, except materials which meet conditions of disposal by release into sanitary sewerage pursuant to 10 CFR 20.2003.

(Subsection 9 – Ord. 22-07 – Oct. 22 Supp.)

10. Any wastewater containing concentrations of inert suspended solids, such as but not limited to fuller's earth, lime slurries, and lime residues, or of dissolved solids, such as but not limited to, sodium chloride and sodium sulfate, which exceed 3,000 mg/l nonvolatile or 3,000 mg/l total dissolved solids unless approved by the WRA Director.

11. Pollutants causing excessive discoloration, such as but not limited to dye waste and vegetable tanning solutions.

12. Hazardous waste pharmaceuticals for human or animal use as defined in 40 CFR 266.500.

(Subsection 12 – Ord. 22-07 – Oct. 22 Supp.)

100.12 LOCAL LIMITS FOR SPECIFIC POLLUTANTS.

1. Generally. Local limits for specific pollutants discharged pursuant to this chapter shall be as follows:

A. Dilution. Dilution of the discharge from a pretreatment facility or from a regulated process is prohibited as a method for treatment of wastes in order to meet the limits set forth in this chapter.

B. Sample location. Measurement of pollutant concentrations to determine compliance shall be made at the point immediately following the pretreatment facility and before mixture with other waters, unless another point is designated by the WRA Director. If

necessary, the concentrations so measured shall be recomputed to exclude the effect of any dilution that is improper using the combined waste stream formula.

2. Headworks limits; average mass. The average composite loading of all industrial users contributing the following specific pollutants to the POTW shall not exceed the allowable total pounds. The allocation of pollutants between industrial and nonindustrial sources may be adjusted by the director provided that the allowable total loading for any pollutant at the headworks of the WRF is not exceeded.

30-Day Average Allowable Pounds/Day

Pollutant	Total	Industrial
BOD	195,600	135,153
TSS	300,400	208,463
NH3	13,000	6,959
TKN	27,760	16,950

Maximum Allowable Headworks Loading Pounds/Day		Maximum Allowable Industrial Loading Pounds/Day
Pollutant	Total	Industrial
Arsenic-T	7.58	3.81
Cadmium-T	3.65	2.16
Chromium-T	136.35	120.90
Copper-T	148.56	125.51
Cyanide-T	17.08	8.28
Lead-T	28.17	20.94
Mercury-T	0.999	0.747
Nickel-T	87.27	75.75
Silver-T	23.30	19.77
Zinc-T	360.59	283.53

3. Discharge concentration limits and review criteria. Discharge concentration limits and review criteria shall be as follows:

A. The discharge into the POTW of any materials, water or waste having a pollutant concentration greater than the limits in Subsections (3)(C), (D), and (E) of this section or containing pollutants not listed in this subsection shall be subject to the review and approval of the WRA Director. After review of the proposed discharges, the WRA Director may:

- (1) Reject the waste for reasons consistent with Section 100.05 of this chapter.
- (2) Require pretreatment to an acceptable pollutant concentration for discharge to the POTW.
- (3) Require control of the quantities and rates of discharge of the water or waste.
- (4) Require payment to cover the added cost of handling and treatment of water and waste or any combination thereof.
- (5) Reduce the maximum or average mass loading of present and prospective individual users on any reasonable prorated basis to meet headworks loading limits at the WRF.
- (6) Require the user to obtain a wastewater discharge permit and be subject to any of the rules and regulations contained therein.
- (7) Require the user to meet local limits when local limits are more restrictive than National Categorical Pretreatment Standards, provided that headworks loading limits are met.
- (8) Initiate enforcement action in response to any noncompliance with this chapter using the enforcement procedures outlined in this chapter.
- (9) Take any combination of the steps in Subsections 3(A)(1) through 3(A)(7), as appropriate.

B. Users discharging wastewater to the POTW whose pollutant concentrations or flows are greater than the following shall be considered industrial users for purposes of sewer charges and may be regulated or permitted by the WRA Director as appropriate:

Pollutant	Daily Maximum (mg/l)
-----------	----------------------

Pollutant	
-----------	--

Daily Maximum (mg/l)	
----------------------	--

a.	
----	--

BOD	
-----	--

200

b.

TSS

250

c.

COD

300

d.

O&G-T

100

e.

TKN

30

f.

NH3-N

15

g.

An average daily flow greater than 5,000 gallons or having an unusual concentration of flow.

C. Pollutant limits. Average and maximum concentration limits for users without National Categorical Pretreatment Standards for these pollutants shall be as follows:

Pollutant	Daily Maximum (mg/l)	Monthly Average (mg/l)
Pollutant	Daily Maximum (mg/l)	Monthly Average (mg/l)
Arsenic-T	0.38	0.25
Cadmium-T	0.08	0.05
Chromium-T	6.43	4.29
Copper-T	10.21	6.80
Cyanide-T	0.53	0.36
Lead-T	1.43	0.95

Mercury-T	0.042	0.028
Nickel-T	7.22	4.81
O&G-T	400.0	--
O&G-Mineral	100.0	--
Silver-T	1.30	0.87
VPH	10.0	--
Zinc-T	19.64	13.09

pH range shall be not lower than 5.0 or greater than 12.0.

Temperatures (liquids or vapors) shall be not greater than 150 degrees Fahrenheit at the point of entry into the POTW.

D. Daily maximum pollutant limits for hauled waste. Wastes delivered to the WRF by truck or rail shall not exceed the following concentrations in any load or overall daily loading limits unless otherwise approved by the WRA Director:

Pollutant	Concentration (mg/l)	Loading (pounds/day)
Pollutant	Concentration (mg/l)	Loading (pounds/day)
COD	100,000	--
O&G-T	50,000	--
VPH	10.0	--
Arsenic-T	--	0.014
Cadmium-T	--	0.93
Chromium-T	--	24.74
Copper-T	--	23.71
Cyanide-T	--	0.29
Lead-T	--	6.70
Mercury-T	--	0.12
Nickel-T	--	3.71
Silver-T	--	0.26
Zinc-T	--	87.62

pH range shall be not lower than 5.0 or greater than 12.0.

E. Daily maximum limit for gasoline cleanup projects. Discharge of wastewater from sites where gasoline is being removed from the soil or groundwater shall meet the following limits prior to discharge to the POTW:

Pollutant	mg/l
Benzene	0.050
BETX	0.750

4. No subsection of this section shall be construed to provide lesser discharge standards than are or that may be imposed and required by U.S. Environmental Protection Agency or the Iowa Department of Natural Resources, nor to allow the average allowable total loading for any pollutant at the headworks of the WRF to be exceeded.

100.13 NATIONAL CATEGORICAL PRETREATMENT STANDARDS.

Users subject to National Categorical Pretreatment Standards (NCPS) as contained in 40 CFR I, Subchapter N, Part 405-471 shall comply with the standards and applicable reporting requirements under 40 CFR 403.12. New sources of categorical discharge shall meet National Categorical Pretreatment Standards in the shortest feasible time, but in no case longer than 90 days from the commencement of discharge. Failure to comply shall be a violation of this chapter and subject the user to enforcement action. The WRA is required to notify all known affected categorical users of the applicable reporting requirements under 40 CFR 403.12. Failure of the WRA to notify a user shall not relieve the user of the duty, if any, to comply with National Categorical Pretreatment Standards.

100.14 STATE REQUIREMENTS.

State of Iowa requirements and limitations on discharges pursuant to this chapter shall apply when they are more stringent than U.S. Environmental Protection Agency or WRA requirements and limitations unless allowed by the Iowa Department of Natural Resources.

100.15 CITY'S RIGHT OF REVISION.

The City, acting at the direction of the WRA, reserves the right to establish more stringent limitations or requirements on discharges to the POTW than those contained in this

chapter if deemed necessary to comply with the purpose and policy objectives presented in Section 100.05 of this chapter.

100.16 PRETREATMENT.

1. A user discharging or with potential to discharge any waste into the POTW as set forth in Section 100.11, 100.12 or 100.13 of this division shall be required by the WRA Director to construct, install and operate, at the user's sole expense, such pretreatment facilities as may be required in order to:

A. Reduce the objectionable characteristics or constituents of wastewater to within the maximum limits provided for in Sections 100.11, 100.12, 100.13, or 100.14 of this chapter.

B. Control the quantities and rates of discharge of such wastewater.

C. Reduce the pollutants to such concentration and flows as may be contained in the user's wastewater discharge permit.

D. Prevent the discharge of liquid waste containing FOG, sand in excessive amounts, any flammable waste, or other harmful pollutants. All traps or similar devices shall be of a type and capacity needed to perform effectively and shall be readily and easily accessible for cleaning and inspection. All traps or devices shall be provided and maintained in efficient operating condition at all times. Materials removed from traps shall be considered unacceptable for disposal at the WRF unless specifically approved by the WRA Director.

2. All plans, specifications, technical operating data and other information pertinent to the proposed operation and maintenance of pretreatment facilities shall be reviewed and approved by the WRA Director prior to construction. Design and installation of such facilities shall be subject to the requirements of all applicable codes, chapters and laws, including local zoning regulations. The review and approval of such plans and operating procedures shall, in no way, relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the WRA Director under this chapter. Any subsequent changes in the pretreatment facilities or method of operations shall be reported to and be acceptable to the WRA Director prior to the user's initiations of the changes.

3. Users shall continuously maintain all pretreatment facilities required by this chapter in satisfactory and effective operating condition at the sole expense of such user.

4. No section contained in this chapter shall be construed to prevent or prohibit a separate or special agreement between the WRA and any user whereby wastewater containing waste of unusual strength, character or composition may be accepted for treatment, subject to additional payment by such user; provided, however, that such agreement shall have the prior approval of the WRA Board, shall not conflict with the Iowa Department of Natural Resources and U.S. Environmental Protection Agency requirements,

and shall be consistent with Subsection 100.66(2) and Sections 100.13 and 100.14 of this chapter, and Subsection 6 of this section.

5. The WRA Director may reject any waste which, in the opinion of the director, may cause interference or pass through.

6. Users shall obtain the specific approval of the WRA Director prior to discharging any waste resulting from a pretreatment facility to the POTW.

The WRA Director may develop a documentation system to track the transportation and final disposition of any pretreatment waste. Pretreatment waste regulated by this subsection shall include waste generated as a result of pretreatment processes used to comply with National Pollutant Discharge Elimination System permits, air pollution permits, wastewater discharge permits, soil/groundwater reclamation processes, and pollutants resulting from a spill of any liquid or solid material or the cleanup of any such spill. Pretreatment waste is prohibited from disposal to the water of the state except as specifically permitted by the Iowa Department of Natural Resources.

100.17 DILUTION PROHIBITED.

Users shall not increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate pretreatment to achieve compliance with the limitations contained in the National Categorical Pretreatment Standards, or with any other pollutant-specific limitation developed by the WRA or its operating contractor.

100.18 SPILL CONTAINMENT.

1. Users having the ability to cause interference or pass through or to discharge a slug shall provide protection from accidental discharge to the POTW of prohibited materials or other substances regulated by this chapter. Facilities to prevent accidental discharge of prohibited materials shall be constructed, installed, operated and maintained at the user's sole cost and expense.

2. Users meeting the criteria in Subsection 1 of this section shall develop a spill containment plan. The plan shall require the approval of the WRA Director and shall contain the following:

- A. A description of discharge practices, including non-routine batch discharges.
- B. A description of stored chemicals.

C. Procedures for immediately notifying the WRA of slug discharges, including any that would violate the discharge prohibitions in Section 100.11 of this division. Notification procedures shall comply with Subsections 3 and 4 of this section.

D. A description of procedures and structures necessary to prevent adverse impacts upon the POTW from accidental spills including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants including solvents, and/or measures and equipment for emergency response.

E. A schedule for the completion or implementation of necessary procedures and structures. Complete implementation and installation of any procedures or structures shall be according to the shortest possible schedule, but in no case longer than one year. Review and approval of such plans and operating procedures shall not relieve the user from the responsibility to modify and operate its facility as necessary to meet the requirements of this chapter.

3. Users shall immediately telephone and notify the WRA of any accidental or deliberate discharge of pollutants which violates Section 100.11 of this division or which is a slug load. Any discharge into the POTW of a substance which is a listed or characteristic waste under Section 3001 of RCRA must be immediately reported to the U.S. Environmental Protection Agency Regional Director, the Iowa Department of Natural Resources, and the WRA.

Notifications required in this subsection shall include the name of caller, location and time of discharge, pollutant concentration, volume and the corrective actions taken.

4. Users shall submit a written report to the WRA Director within five days following such an accidental or deliberate discharge describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Users shall submit follow-up reports as may be required by the WRA Director. Such report shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property, nor shall such report relieve the user of any fines, civil penalties, or other liability which may be imposed by this chapter or otherwise. Failure to report accidental or deliberate discharges may, in addition to any other remedies available to the City and sanitary district, result in the revocation of the discharger's wastewater discharge permit.

5. Users shall control production or all discharges to the extent necessary to maintain compliance with all applicable regulations upon reduction, loss, or failure of its pretreatment facility until the facility is restored or an alternative method of pretreatment is provided. This requirement applies in the situation where, among other things, the primary source of power to the user's pretreatment facility is reduced, lost or fails.

6. Users required to have a spill containment plan must permanently post a notice in English and the language of common use on the user's bulletin board or other prominent place advising employees whom to call if a prohibited discharge occurs. Users shall ensure that all employees who are in a position to cause, discover, or observe such an accidental discharge are advised of the emergency notification procedures.

100.19 TREATMENT UPSETS.

1. Users shall inform the WRA Director within one hour of becoming aware of an upset in operations that places it in a temporary state of noncompliance with the pollutant limits in this chapter. Users shall provide a follow-up written report to the WRA Director within five days. The report must demonstrate that the pretreatment facility was being operated in a prudent and appropriate manner and shall contain:

- A. A description of the upset, its cause, and impact on the user's compliance status.
- B. The duration of noncompliance, including exact dates and times of noncompliance, and, if the noncompliance is continuing, the time by which compliance is reasonably expected to be restored.
- C. All steps taken or planned to reduce, eliminate, and prevent recurrence of such an upset.

100.20 TREATMENT BYPASS.

1. Under this chapter, bypass is prohibited unless it is unavoidable to prevent loss of life, personal injury, or severe property damage or no feasible alternatives exist such as the use of auxiliary treatment facilities, retention of untreated waste, or maintenance during normal periods of equipment downtime.

2. The user may allow a bypass to occur which does not cause a violation of pretreatment standards, but only if it is for essential maintenance to ensure efficient operation.

3. Notification of bypass shall be submitted in accordance with the following:

A. Anticipated bypass. If the user knows in advance of the need for a bypass, it shall submit prior written notice, at least ten days before the date of the bypass, to the WRA Director.

B. Unanticipated bypass. The user shall immediately notify the WRA Director and submit a written report to the WRA within five days. This report shall specify the following:

- (1) A description of the bypass, its cause, and the duration.

(2) Whether the bypass has been corrected.

(3) The steps being taken or to be taken to reduce, eliminate and prevent a reoccurrence of the bypass.

4. Proper notification shall not relieve the user of liability for treatment costs and fees or other remedies as provided for in Section 100.16 of this division.

100.21 FEES.

To provide for the recovery of costs from users of the POTW and for the implementation of the pretreatment program established by this chapter, the following fees are hereby established and shall be applicable to discharges by all users:

1. All users shall be subject to the following fees and charges:

A. The one-time wastewater discharge permit application fee shall be \$200.00 for a Class A permit and \$100 for a Class B permit.

B. The annual fee for a Class A wastewater discharge permit, including annual inspection of permitted users, shall be \$1,500.00.

C. The annual fee for a Class B wastewater discharge permit, including annual inspection of permitted users if completed or applicable, shall be \$750.00.

D. The fee paid by each industrial user when an accidental discharge or slug load occurs shall be the total of all costs incurred by the WRA as a result of said discharge or load. Said fee may be charged by the WRA separately from and in addition to a civil penalty of up to \$1,000.00 charged to the user under Section 100.45 of this chapter related to said discharge or load.

E. The trip charge for sampling or inspecting a user's discharge shall be \$50.00 per event. An equipment fee of \$50.00 per event shall also apply when using a WRA-owned automatic sampler. When a sampling or inspection event must be rescheduled due to failure of the user's sampling equipment, a sampler seal (used to detect sample tampering) being broken, monitoring facilities not being readily accessible or operational, or any other reason beyond the control of the WRA, a trip charge of \$50.00 shall be assessed.

(Paragraphs A-E – Ord. 22-07 – Oct. 22 Supp.)

F. Laboratory analysis fees for those analyses performed by the WRA shall be as follows:

LABORATORY ANALYSIS FEES

Test	Cost/Sample
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Test	
Cost/Sample	
BOD	
\$20.00	
COD	
20.00	
Total Organic Carbon (TOC)	
20.00	
TSS	
10.00	
pH	
5.00	
Oil and grease – Total	
35.00	
Mineral/nonmineral	
35.00	
Nitrogen, ammonia	
15.00	
Nitrogen, nitrate	
15.00	
TKN	
30.00	
Phosphorous, total	
25.00	
Potassium	
12.00	
Calcium carbonate equivalent	

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15.00

Soil analysis, each pollutant

20.00

Phenols

28.00

Cyanide

30.00

Metals:

Arsenic

20.00

Selenium

20.00

Mercury

25.00

Other metals (per parameter)

15.00

BETX (OA-1)

40.00

VPH (OA-1)

40.00

BETX & VPH (OA-1)

45.00

USEPA Tests:

608 Organochlorine Pesticides & PCBs

70.00

624 Volatile Organic Compounds

140.00

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625 Base/Neutral Organic Compounds
and/or

290.00

625 Acid/Organic Compounds

290.00

G. Fees for analysis performed by laboratories other than the WRA laboratory shall be the full cost of each analysis.

H. Fees for rescheduling a scheduled inspection with WRA personnel, with less than 24 hours' notice or if appropriate facility managers are unavailable at the scheduled time of inspection, shall be \$100.00 per rescheduled inspection.

(Paragraph H – Ord. 22-07 – Oct. 22 Supp.)

I. Fees for copying and mailing documents shall be \$1.00 for the initial page and \$0.25 for each additional page plus postage. No charges shall be assessed for requests for copies received from individuals or agencies served by the WRA, provided the number of pages requested does not exceed ten.

J. Fees for past due reminders sent each 30 days that a balance remains unpaid shall be \$5.00.

K. Prohibitive waste charges for each pollutant discharged in excess of permit or ordinance limits shall be \$50.00 per violation for Class B permit holders and \$100.00 per violation for Class A permit holders. Charges shall double if discharges exceed slug threshold values. Payment of fees does not preclude other enforcement action and may not be paid in lieu of compliance with discharge limitations.

(Ord. 22-07 – Oct. 22 Supp.)

L. At the WRA's discretion, administrative cost recovery fees may be assessed separately to a user or added to a user's disposal fee for actions or occurrence subject to Division 6 of this article which result in the need for additional labor, equipment, and/or materials from the WRA or its contractors, including but not limited to cleanup of spills, infrastructure maintenance, improper scale transactions, improper disposal, and waste source verification. Fees shall be assessed based on the actual costs incurred by the WRA, or on the estimated costs incurred by the WRA rounded down to the nearest multiple of twenty based on actual rates for labor, materials, and equipment with a minimum fee of not less than \$20.00. Fees under this Section I will be charged in addition to charges, fines, fees, or other costs associated with rejected, unapproved, or atypical wastes under Sections 100.81 and 100.82 of this chapter.

(Ord. 22-07 – Oct. 22 Supp.)

2. All users contributing wastewater in excess of the following concentrations shall be assessed a surcharge, which shall be in addition to the rates and charges ordinarily billed to such users for sewer use. Commencing October 1, 2022 until June 30, 2025, surcharges shall be assessed in accordance with the following rate schedule:

Surcharge per Pound of Pollutant for the Period:

Pollutant

10/1/2022 – 6/30/2023

7/1/2023 – 6/30/2024

7/1/2024 – 6/30/2025

Total suspended solids in excess of 250 mg/l

\$0.18

\$0.20

\$0.22

BOD or CBOD in excess of 200 mg/l

0.14

0.17

0.21

TKN in excess of 30 mg/l

0.55

0.49

0.42

Oil and grease in excess of 100 mg/l

0.08

0.10

0.11

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Commencing on July 1, 2025, surcharge rates listed in the above table shall be annually adjusted as of July 1 of each year to increase two percent per annum rounded to the nearest whole cent.

Chemical oxygen demand (COD) in excess of 300 mg/l may be used at the discretion of the WRA Director in lieu of CBOD.

In such case the excess COD concentration shall be multiplied by the known CBOD/COD ratio or by a ratio of two-thirds to establish an equivalent CBOD concentration.

Ammonia nitrogen (NH₃-N) in excess of 15 mg/l may be used at the discretion of the WRA director in lieu of TKN by multiplying the excess NH₃-N concentration times two to establish an equivalent TKN concentration.

(Subsection 2 – Ord. 22-07 – Oct. 22 Supp.)

3. The establishment and imposition of new or different fees or charges, in addition to or in substitution for those provided above in this section, shall be by ordinance amending this chapter. The amounts of the fees and charges established in this section shall be and remain in effect until such time as the WRA Board shall by resolution revise said fee amounts. Said revised fees and charges shall take effect after the board causes said resolution to be sent to this City Council and the sanitary district board thereafter causes same to be published in a newspaper of general circulation in each county in which participating communities are located.

(Subsection 3 – Ord. 22-07 – Oct. 22 Supp.)

100.22 RESERVED.

DIVISION 3. INDUSTRIAL WASTEWATER DISCHARGE PERMITS AND REPORTING REQUIREMENTS.

100.23 CLASSES OF PERMITS.

Discharge permit classifications shall be as follows:

1. Class A permit issued to a user discharging 25,000 gallons per day or more of process wastewater (excludes sanitary, non-contact cooling, and boiler blowdown).
2. Class B permits issued to a user discharging less than 25,000 gallons per day of process wastewater.

100.24 PERMIT REQUIREMENTS.

1. All new industrial users shall notify the WRA Director of the nature and characteristics of their proposed discharge 180 days prior to commencing discharge. A notification form prescribed by the WRA shall be used for this purpose.
2. Significant users shall discharge wastewater, either directly or indirectly, into the POTW only after obtaining a wastewater discharge permit from the WRA Director. Obtaining a wastewater discharge permit does not relieve a user of the obligation to obtain other permits required by federal, state, or local law.
3. Other users, including waste haulers, shall obtain permits as required by the WRA Director.

100.25 PERMIT APPLICATIONS; BASELINE MONITORING REPORTS; COMPLIANCE SCHEDULES.

Users applying for a wastewater discharge permit or categorical users submitting a baseline monitoring report shall submit the following information as required by 40 CFR 403.12 or by the WRA Director:

1. Users applying for a wastewater discharge permit must submit an application form prescribed by the WRA and accompanied by the application fee. All new significant users must submit such application 180 days prior to the date of any wastewater discharge.
2. Existing users subject to new National Categorical Pretreatment Standards must, within 180 days after the effective date of the standard, submit a baseline monitoring report prescribed by the WRA. New users subject to National Categorical Pretreatment Standards must submit a baseline monitoring report prescribed by the WRA at least 90 days prior to commencement of discharge to the POTW. A baseline monitoring report shall include:
 - A. Name, address, and location of the facility, if different from the mailing address.
 - B. Name of the operator and owners of the facility.
 - C. A list of all environmental control permits held by or for the facility.
 - D. A description of the operations including the average rate of production, applicable Standard Industrial Classification (SIC) codes, schematic process diagrams, and points of discharge to the POTW from regulated processes.
 - E. Daily average and daily maximum flow measurements for regulated process waste streams and nonregulated waste streams where necessary.
 - F. The categorical user shall identify the pretreatment standards applicable to each regulated process and shall submit the results of sampling and analysis identifying the

nature and concentration (or mass, where required) of pollutants contained therein which are limited by the applicable pretreatment standards from each regulated process.

G. The user shall take a minimum of one representative sample immediately downstream of any pretreatment facility or immediately downstream of each regulated process if no pretreatment exists and prior to mixing with other waste to compile that data necessary to comply with this requirement. If non-regulated wastewater is mixed with regulated wastewater prior to pretreatment, the user must measure the flows and concentrations necessary to allow use of the combined waste stream formula of 40 CFR 403.6(e) in order to evaluate compliance with pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e), this adjusted limit along with supporting data shall be submitted to the WRA director. Sampling and analysis shall be performed in accordance with 40 CFR 136 or other verified method approved by the WRA director.

H. The time, date, and place of sampling, methods of analysis, and certification that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.

I. Historical data may be allowed by the WRA director so long as the data provides information sufficient to determine the need for industrial pretreatment measures.

J. Certification by an authorized representative of the user as referenced in Section 100.35 and certified to by a qualified professional indicating whether pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance or additional pretreatment is required for the user to meet pretreatment standards and requirements.

K. If additional pretreatment or O&M will be required to meet pretreatment standards, requirements, discharge limits as set forth in Section 100.11, 100.12, 100.13 of this chapter, or any other limit set by the WRA director, the user shall supply a compliance schedule indicating the shortest time schedule necessary to accomplish installation or adoption of such additional pretreatment of O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. The following conditions apply to this schedule:

(1) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards. Such schedule shall include, where applicable, but shall not be limited to dates for the hiring of an engineer, completing preliminary plans, executing contracts for major components, commencing construction, beginning operation, and conducting routine operations.

(2) No increment referred to in Subsection (2)(K-I) of this section shall exceed nine months, nor shall the total compliance period exceed 18 months.

(3) No later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the WRA director, including, at a minimum, whether or not it complied with the increment of progress, the reason for any delay, and the steps being taken by the user to return to the established schedule. In no event shall more than nine months elapse between such progress reports to the WRA director.

L. A minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. For all other pollutants required, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques where feasible. The WRA director may waive flow-proportional composite sampling for any user who demonstrates that flow-proportional sampling is not feasible. In such cases, samples may be obtained through time-proportional techniques or through a minimum of four grab samples where the user demonstrates that such sampling will provide a representative sample of the effluent being discharged.

3. New significant users not subject to categorical standards shall submit analysis of wastewater representative of the effluent discharged to the POTW as required in Subsection (2)(G-I) of this section for all parameters deemed necessary by the WRA director.

4. New or existing industrial users nor subject to categorical pretreatment standards who fail to meet local, State, or federal pretreatment standards or other permit requirements on a consistent basis shall be subject to compliance schedules for additional pretreatment or O&M as outlined in Subsection (2)(K) of this section.

5. All applications and reports must contain the certification statement and be signed in accordance with Section 100.35 of this division.

(Section 100.25 – Ord. 22-07 – Oct. 22 Supp.)

100.26 REPORT ON COMPLIANCE BY CATEGORICAL USERS.

Users subject to National Categorical Pretreatment Standards shall submit a report to the WRA Director containing the information described in Section 100.25(2) within 90 days following the date for final compliance with applicable National Categorical Pretreatment Standards or, if a new source, following commencement of discharge. Users subject to equivalent mass or concentration limits shall provide a reasonable measure of the user's long-term production rate. For all other users subject to National Categorical Pretreatment Standards expressed in terms of allowable pollutant discharge per unit of production or other measure of operation, this report shall include the user's actual production during the appropriate sampling period. All reports must contain the certification statement and be signed in accordance with Section 100.35 of this chapter.

(Ord. 22-07 – Oct. 22 Supp.)

100.27 PERMIT CONTENTS.

Wastewater discharge permits shall include such conditions as are reasonably deemed necessary by the WRA director to prevent pass through or interference; protect the quality of the water body receiving effluent from the POTW; protect worker health and safety; facilitate the WRA's sludge management and disposal program; and protect against damage to the POTW. The WRA director may include the following items in the permit, and such additional items as the director determines necessary or prudent.

(Ord. 22-07 – Oct. 22 Supp.)

1. Limits on the average or maximum rate of discharge, time of discharge, or requirements for flow regulation and equalization.
2. Limits on the average or maximum concentration, mass, or other measure of identified wastewater constituents or properties.
3. Requirements for the installation of pretreatment technology or construction of appropriate containment devices, etc., designed to reduce, eliminate, or prevent the introduction of pollutants into the POTW.
4. Development and implementation of spill control plans or other special conditions including additional management practices necessary to adequately prevent accidental, unanticipated, or prohibited discharges.
5. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW.
6. Requirements for installation and maintenance of inspection, sampling, and flow monitoring facilities and equipment for each separate discharge into the POTW.
7. Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.
8. Compliance schedules.
9. Requirements for submission of technical reports or discharge reports and which may include production data.
10. Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the WRA Director and affording the director or the director's representatives access thereto.
11. Requirements for the notification of any substantial change in the manufacturing processes, pretreatment processes, quantity or quality of waste discharged to the POTW 90 days prior to such change. The WRA Director shall approve, deny or condition a changed

discharge prior to a change occurring in accordance with Subsection 100.10(1)(D) of this chapter.

12. Requirements for notification of excessive, accidental, or slug discharges.

13. Other conditions as deemed appropriate by the WRA Director to ensure compliance with this chapter, and state and federal laws, rules, and regulations.

14. A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable federal pretreatment standards, including those which become effective during the term of the permit.

100.28 PERMIT DURATION AND RENEWAL.

Permits required under this division shall be issued for a specified time period, not to exceed five years. Permit fees shall be due annually to the WRA regardless of the term of the permit. Permitted users shall apply for a new permit by submitting a completed permit application a minimum of 90 days prior to the expiration of the user's existing permit.

100.29 CONTINUATION OF EXPIRED PERMITS.

Expired permits issued pursuant to this division shall remain effective and enforceable until the permit is reissued unless the user is notified of permit termination by the WRA Director.

100.30 PERMIT MODIFICATIONS.

1. The WRA Director may modify the permit issued pursuant to this division for good cause, including but not limited to the following:

A. To incorporate any new or revised federal, state, or local pretreatment standard or requirement. After becoming aware of more stringent standards or requirements, the WRA will, as necessary, update permits within 90 days;

B. To make material or substantial alterations or additions to the discharger's operation processes, or discharge volume or character which were not considered in drafting the effective permit;

C. To make a change in any condition in either the industrial user or the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

D. Upon receipt of information indicating that the permitted discharge poses a threat to the POTW, to the City, sanitary district, the WRA or operating contractor personnel, or to the receiving water;

E. Upon occurrence of a violation of any terms or conditions of the permit;

F. Misrepresentation of, or grant of variance from, such categorical standards pursuant to 40 CFR 403.13;

G. To correct typographical or other errors in the permit;

H. To reflect transfer of ownership or operation of the permitted facility to a new owner or operator; or

I. Upon request of the permittee, provided such request does not create a violation of any applicable requirements, standards, laws, or rules and regulations.

2. The filing of a request by the permittee for permit modification, revocation and reissuance, termination, or a notification of planned changes or anticipated noncompliance shall not have the effect of staying or delaying the implementation or effective date of any permit condition.

100.31 PERMIT TRANSFER.

An industrial wastewater discharge permit is not transferable to any other person or entity. A new owner or operator must apply for a new wastewater discharge permit 60 days prior to taking ownership or undertaking operation of a permitted facility.

100.32 DENIAL OF PERMIT.

The WRA Director may deny a wastewater discharge permit to any user whose discharge of material to the POTW, whether shown upon application, including test results submitted by the applicant, or determined after inspection or testing conducted by the WRA or its operating contractor, is not in conformity with this chapter or whose application is incomplete or does not comply with the requirements of Section 100.25 of this division.

100.33 PERMIT VIOLATIONS.

Any violation of the terms, conditions, or limits of a user's wastewater discharge permit shall be deemed a violation of this chapter and shall subject the user to all enforcement procedures outlined in this chapter.

100.34 PERIODIC COMPLIANCE REPORTS.

Under this division, periodic compliance reports are required as follows:

1. Significant users shall submit to the WRA Director, during the months of January and July, a report indicating the nature, concentration, and flow of pollutants in the effluent which are limited by permit or pretreatment standards for the preceding six-month period. This report shall include a record of the monthly average flows and the daily flow for each analysis date during the reporting period. At the discretion of the WRA Director and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the WRA Director may agree to alter the months during which the reports are to be submitted. More frequent reports may be required by the WRA Director.
2. The WRA Director may impose mass limitations on users. In such cases, the report required by Subsection 1 of this section shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. All analyses shall be performed using Environmental Protection Agency approved methods using sampling techniques approved by the Iowa Department of Natural Resources.
3. Users shall meet the certification and signatory requirements in Section 100.35 of this division for each report submitted under this section. Where the WRA itself collects all the information required for the report, including flow data, the industrial user will not be required to submit a periodic compliance report.
4. A user must notify the WRA Director of all violations identified as a result of self-monitoring to the POTW by telephone, during normal business hours, within 24 hours of the time the user becomes aware of such violation. The user must also submit the results of repeat analyses to the WRA within 30 days after becoming aware of the violation, together with a complete report on all steps taken to resolve the violation. The user need not repeat the analyses if:
 - A. The WRA performs sampling of the industrial user at a frequency of at least once per month; or
 - B. The WRA performs sampling of the user between the time when the user performs its initial sampling and the time when the user receives the results of this sampling.
5. A user who monitors any pollutant more frequently than required by the WRA or who self-monitors in addition to WRA monitoring, using Environmental Protection Agency methods or standard methods, shall report the monitoring results to the WRA Director in accordance with Subsections 1, 3 and 4 of this section.

100.35 CERTIFICATION AND SIGNATORY REQUIREMENTS.

1. All applications or reports submitted by a user pursuant to this division shall contain the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

2. All applications and reports shall be signed by an authorized representative of the user as defined in Section 100.01 of this chapter. A user shall maintain a current and accurate authorization on file with the WRA Director.

100.36 MONITORING FACILITIES.

1. When required by the WRA Director pursuant to this division, each permitted user shall at its expense provide and operate monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer or internal drainage systems. The WRA Director may require the placement of such monitoring facilities at the end of each process where pollutants are used, produced, or treated. The monitoring facility should normally be situated on the user's premises and located so that it will not be obstructed by landscaping or parked vehicles.

2. When required by the wastewater discharge permit and within 90 days of written notification, a user shall install a sampling chamber for each separate discharge of the building sewer in accordance with plans and specification approved by the WRA Director. A user shall provide ample room in or near such sampling chamber to allow accurate sampling and preparation of samples for analysis. Each user shall at its expense maintain all sampling and measuring equipment in a safe and proper operating condition at all times, which equipment shall be safely, easily and independently accessible to authorized representatives of the WRA.

Users shall certify all flow measuring devices to be in proper working condition at a frequency specified in the permit or in writing by the WRA Director, using a qualified technician acceptable to the WRA Director. Sampling shall be in accordance with the following:

A. Each sampling chamber shall contain a flume unless another device is approved by the WRA Director, with a recording and totalizing device for measurement of the liquid quantity.

B. At the discretion of the WRA Director, metered water supply to a user may be used as the volume quantity where it is substantiated that the metered water supply and waste quantities are approximately the same, or where a measurable adjustment agreed to by the director is made in the metered water supply to determine the liquid waste quantity.

Separate meters may be used to subtract water which is not discharged to the POTW or is discharged to a sewer other than the sampled location.

C. Samples shall be taken at a frequency and volume determined by the WRA Director and shall be properly refrigerated and preserved in accordance with Environmental Protection Agency approved methods. The sample shall be composited in proportion to the flow for a representative 24-hour sample. A time proportioned 24-hour sample may be used if flow proportioned sampling is determined by the WRA Director to be impractical. Grab samples shall be used where appropriate.

3. A user must inform the WRA Director prior to breaking a sampler seal, used by the WRA to detect sample tampering, unless necessary to prevent loss of life, personal injury, or severe property damage. A user shall not place additional seals or locks upon a sampler which may be used by the WRA without first obtaining approval from the WRA Director.

100.37 INSPECTION, SAMPLING, AND RECORD KEEPING AUTHORITY.

Under this division, users shall be deemed to have given the following authorities to the WRA and its operating contractor:

1. Users shall permit authorized representatives or agents of the WRA to enter upon all properties and all parts of the premises, or upon properties of users with wastewater discharge permits, for the purposes of inspection, sampling, records examination, records copying, or the performance of any of their duties. This shall include the right to set up, on the user's property, such devices as are necessary to conduct sampling, inspection, compliance monitoring, or metering operations as may be required in pursuance of the implementation and enforcement of this chapter.

A. Where a user has security measures in force which would require proper identification and clearance before entry into the premises, the user shall make necessary arrangements in the security measures so that, upon presentation of suitable identification, WRA or operating contractor personnel will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

B. All users subject to any of the reporting requirements of this chapter shall maintain copies of reports and records of all information as required in 40 CFR 403.12(o) resulting from any monitoring activities required by this chapter for a minimum of three years and shall make such records available for inspection and copying by the WRA and its operating contractor. This period of retention shall be extended until the completion of any unresolved negotiation, hearing, or litigation involving a purported violation.

100.38 CONFIDENTIAL DOCUMENTS, DATA, AND INFORMATION.

1. Except as provided in this section, documents, data and information obtained from user reports, questionnaires, permit applications and inspections pursuant to this division shall be made available to the public or other governmental agencies without restriction. If the user specifically requests and is able to demonstrate that the release of such information would divulge information concerning processes or methods of production entitled to protection under law as trade secrets of the user or would give advantage to competitors and serve no public purpose, the WRA Director may determine that such information should be kept confidential and not made available for public examination, but such information shall be available to the U.S. Environmental Protection Agency or the Iowa Department of Natural Resources.

2. Decisions by the WRA Director to deny confidential status for information may be appealed using the procedures in Section 100.39 of this division. In determining whether information is confidential, the provisions of Iowa Code Chapter 22 shall prevail.

3. Effluent data and enforcement actions by the WRA or its operating contractor will not be considered confidential records of information.

100.39 APPEAL OF DENIAL OF CONFIDENTIAL STATUS.

1. Any person aggrieved by the WRA Director's decision to release information or data obtained as provided in Subsection 100.38(1) of this division and who can demonstrate a direct and substantial interest in the information or data sought to be kept confidential may appeal the WRA Director's decision. A request for appeal shall be filed in writing with the WRA Director not less than five days after the WRA Director's decision to deny confidential status to such information or data. The appeal request shall include a statement of the basis upon which the request for confidential status is made, as well as the appealing party's interest in the information or data sought to be kept confidential. The WRA Director may request additional information from the appealing party.

2. Based upon the information provided by the appealing party, the WRA Director shall make a determination with respect to the confidentiality of the information or data at issue. The WRA Director shall notify the parties, in writing, of the WRA Director's decision within 7 days after receipt of the appeal.

3. If still aggrieved by the WRA Director's determination on appeal, a party may file an action in Polk County district court, seeking a declaratory ruling with respect to the confidentiality of such documents, data and information, or seeking an injunction to prevent the disclosure of same.

4. During the pendency of an appeal to the WRA Director, the documents, data or information at issue shall be kept confidential. However, if during the pendency of such appeal, a request for examination or copying of such documents, data or information is made of the WRA or its operating contractor pursuant to Iowa Code Chapter 22, the WRA or its operating contractor will notify the appealing party of such request for disclosure and

will keep confidential the requested documents, data or information, pending action by the appealing party to defend its confidentiality request. In that notification, the appealing party requesting confidentiality will be given not more than 5 calendar days within which to file suit in Polk County district court seeking the entry of a declaratory order and/or injunction to protect and keep confidential such documents, data or information. If the appealing party fails to initiate suit within the time requested, the WRA Director shall release the documents, data or information at issue for public examination.

5. If during the pendency of such appeal, a lawsuit is initiated pursuant to Iowa Code Chapter 22 seeking the release of such documents, data or information, the appealing party shall take action to defend its confidentiality request in said lawsuit. If the appealing party fails to defend its confidentiality request in said suit, the WRA Director shall release the documents, data or information at issue for public examination.

100.40 RESERVED.

DIVISION 4. ENFORCEMENT OF INDUSTRIAL WASTEWATER REGULATIONS.

100.41 PUBLIC NOTIFICATION OF SIGNIFICANT NONCOMPLIANCE.

The WRA will annually publish, in the largest daily newspaper published in the WRA community, a list of users who at any time during the previous 12 months were in significant noncompliance as defined in Section 100.42 of this division.

100.42 SIGNIFICANT NONCOMPLIANCE.

1. Any violation of pretreatment requirements under this chapter (i.e. including but not limited to those relating to limits, sampling, analysis, reporting, meeting compliance schedules, and regulatory deadlines) is an instance of noncompliance for which the user is liable for enforcement, including penalties and injunctive relief. Instances of significant noncompliance are user violations which meet one or more of the following criteria:

A. Violations of wastewater discharge limits as follows:

(1) Chronic violations. Sixty-six percent or more of the measurements exceed the same daily maximum limit or the same average limit in a six-month period (any magnitude of exceedance).

(2) Technical review criteria (TRC) violations. Thirty-three percent or more of the measurements exceed the same daily maximum limit or the same average limit by more than the TRC in a six-month period. (e.g., limit x TRC = the point at which a violation becomes a TRC violation). There are two groups of TRCs as follow:

Group I for conventional pollutants (BOD, TSS, FOG) TRC = 1.4
Group II for all other pollutants TRC = 1.2

(3) Any other violation of a wastewater discharge permit limit (average or daily maximum) that the WRA Director believes has caused, alone or in combination with other discharges, interference, including slug loads, or pass through or which endangers the health of City, sanitary district, WRA or operating contractor personnel or the public.

(4) Any discharge of a pollutant that has caused imminent endangerment to human health/welfare or to the environment and has resulted in the WRA's exercise of its emergency authority to halt or prevent such a discharge.

B. Violations of compliance schedule milestones, contained in a wastewater discharge permit or enforcement order, for starting construction, completing construction, or attaining final compliance by 90 days or more after the schedule date.

C. Failure to provide reports for compliance schedules, self-monitoring data, or any other report required by the WRA within 45 days from the due date.

D. Failure to accurately report noncompliance.

E. Any other violation or group of violations, which may include a violation of Best Management Practices, that the WRA Director considers to be significant.

2. When a user is in significant noncompliance, the WRA Director is directed to:

A. Report the information to the Iowa Department of Natural Resources as part of the annual pretreatment performance summary of permitted user noncompliance.

B. Include the user in the annual public notification according to Section 100.41 of this division.

C. Address significant noncompliance through appropriate enforcement actions or document in a timely manner the reasons for withholding enforcement.

100.43 ADMINISTRATIVE ACTIONS.

1. The WRA Director may issue a written notice to the user giving the specific nature of violations which shall include the frequency, magnitude and impact of the violation upon the POTW.

The notice may also include the following:

-
- A. An order requiring a plan of action for preventing reoccurrence of the violation.
 - B. An order requiring specific action for accomplishing remediation.
 - C. An order requiring the user to respond in writing within 30 days.

2. The WRA Director is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the user responsible for any noncompliance. Such orders will include specific action to be taken by the user to correct noncompliance within a time period specified by the order.

3. The WRA Director may issue enforceable orders or schedules to require compliance with pretreatment standards including appropriate interim limits. Such orders and schedules may be incorporated as a revision to an existing wastewater discharge permit and shall not require the consent of the user.

100.44 ACTIONS AUTHORIZED.

1. Where there has been noncompliance with any section of this chapter, the WRA Director may request the WRA operating contractor's attorney, or the attorney retained by the WRA for that purpose, to bring an action in equity or at law to seek the issuance of a preliminary or permanent injunction, or both, or such other relief as may be appropriate, to compel the user's compliance with this chapter.

2. In addition to other remedies provided under this section or other sections of this chapter, in any action brought at the request of the WRA Director to enforce this chapter, the WRA operating contractor's attorney or the attorney retained by the WRA is authorized to seek to recover all actual damages suffered by the City, sanitary district, or the WRA, including all actual damages and losses related to costs of repair and remediation of the POTW, costs of investigation and administration reasonably related to any particular violation and attorneys' fees.

100.45 CIVIL PENALTIES.

1. Each violation of any section of this chapter or of a permit issued under this chapter is declared to be a municipal infraction. Each day that a violation of a section of this chapter continues, and each day that a violation of a permit issued under this chapter continues, shall be considered a separate municipal infraction.

2. Any person who knowingly makes a false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this chapter or a wastewater discharge permit, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this

chapter, commits a municipal infraction punishable by a civil penalty as provided in Subsection 4 hereof.

3. Any person who fails to perform an act required by the provisions of this chapter, or who commits an act prohibited by the provisions of this chapter, commits an environmental violation and shall be guilty of a municipal infraction, punishable by a civil penalty. Violation of a pretreatment standard or requirement referred to in 40 CFR 403.8 is an environmental violation punishable by a civil penalty as hereafter provided in Subsection 4 hereof.

4. Whenever in this division any act is prohibited and is declared to be a municipal infraction or whenever in in this division the doing of any act is required and the failure to do that act is declared to be a municipal infraction, the violation of any such provision shall be punishable by a civil penalty of not more than \$750.00 for each violation or, if the infraction is a repeat offense, \$1,000.00 for each repeat offense. However, a municipal infraction which is classified as an environmental violation or which arises from noncompliance with a pretreatment standard or requirement referred to in 40 CFR 403.8, by an industrial user may be punishable by a civil penalty of not more than \$1,000 for each day a violation exists or continues. Each day a violation of a provision of this division continues shall be considered a separate of a provision of this division continues shall be considered a separate municipal infraction.

100.46 PERFORMANCE AND PAYMENT BONDS.

1. The WRA director may decline to reissue a permit to any user who has failed to comply with this article or any order or previous permit issued under this article unless such user first files a satisfactory bond payable to the WRA in a sum not to exceed the value determined by the WRA director to be necessary to achieve compliance giving due consideration to the number and magnitude of previous violations, potential need for remediation and stating the reasons which support the amount of bond in a written order directed to the user, but in no case shall the bond be required to be greater than \$100,000.00. The user shall use a bond form prescribed by the WRA.

2. The WRA director may require any user, including any permitted or non-permitted waste generator which sends its wastewater by truck to the WRF, to obtain a bond payable to the WRA with reasonable surety in a penal sum which will adequately cover treatment costs, surcharges, fees, or any other charges associated with discharge of wastewater to the POTW in the amount as listed in Section 100.75. The user shall use a bond form prescribed by the WRA.

(Section 100.46 – Ord. 22-07 – Oct. 22 Supp.)

100.47 REVOCATION OF DISCHARGE PERMIT; TERMINATION OF SEWER SERVICE.

1. Grounds for Revocation of Discharge Permit and/or for Termination of Sewer Service. Any user who violates this article, any condition of its wastewater discharge permit, or any of the following is subject to having its discharge permit revoked and/or its sewer service terminated in accordance with the procedures of this section:

(Ord. 22-07 – Oct. 22 Supp.)

- A. Failure to accurately report the wastewater constituents and characteristics of its discharge.
- B. Failure of the user to report substantial changes in process activity or in volume or character of pollutants being discharged into the POTW at least 90 days prior to such change.
- C. Tampering with monitoring equipment.
- D. Refusal to allow reasonable access by WRA or operating contractor personnel to the user's premises for the purpose of inspection, monitoring, or sampling.
- E. Violation of permit conditions.
- F. Failure to report an upset, failure, or bypass of the user's pretreatment facilities.
- G. Failure to pay fines, fees, surcharges, or sewer user charges.

(Ord. 22-07 – Oct. 22 Supp.)

- H. Failure to follow enforcement orders or compliance schedules.
- I. Failure to correct a condition that impedes or alters the WRA's ability to monitor the user's discharge or has the potential to cause interference or pass through.
- J. Failure to obtain a wastewater discharge permit as required by this chapter after notification by the WRA Director that such permit is required.
- K. Failure to pay actual costs for negligent damage, or actual costs and penalties charged for grossly negligent or intentional damage, to the POTW not addressed elsewhere in this article.

(Paragraph K – Ord. 22-07 – Oct. 22 Supp.)

2. Procedure for Revocation of Discharge Permit and for Termination of Sewer Service. The procedure for revocation of a discharge permit and termination of sewer service shall be as follows:

(Ord. 22-07 – Oct. 22 Supp.)

- A. Any permit issued to a user pursuant to this chapter may be revoked, and sewer service terminated, by written order of the WRA Director, specifying the grounds for such revocation and termination as outlined in Subsection 1 of this section, which order shall

not take effect until hearing thereon as hereafter provided. Upon determining that grounds exist for an order to revoke a user's discharge permit and terminate sewer service, the WRA Director shall cause a notice of hearing to be prepared, specifying the violations of Subsection 1 of this section which are deemed to have occurred, and the time, date and place that such hearing will be held. The notice shall be sent to the user by regular mail addressed to the user's address listed on the wastewater discharge permit a minimum of ten days prior to the date set for hearing, and shall be deemed delivered when placed in the mail.

B. Sewer service may be terminated by written order of the WRA Director, specifying the grounds for such revocation and termination as outlined in Subsection 1(J) of this section, which order shall not take effect until hearing thereon as hereafter provided. Upon determining that grounds exist for an order to terminate sewer service, the WRA Director shall cause a notice of hearing to be prepared, specifying the violation of Subsection 1(J) of this section which is deemed to have occurred, and the time, date and place that such hearing will be held. The notice shall be sent to the user by regular mail addressed to the user's address a minimum of ten days prior to the date set for hearing, and shall be deemed delivered when placed in the mail.

C. If after such a hearing the WRA Director makes a finding based on substantial evidence that violations under Subsection 1 of this section have occurred as alleged, the director may issue an order immediately revoking the permit, if a permit had previously been issued, and terminating sewer service to the user's premises. The determination to revoke such permit and terminate service, shall be in the discretion of WRA Director and shall be dependent upon the circumstances surrounding the user's violations of Subsection 1 of this section and the severity of those violations. If the user does not appear for the hearing, the WRA Director shall issue the order revoking the discharge permit and/or terminating sewer service, which shall take effect immediately.

D. The decision and order of the WRA Director to revoke the permit of a user may be appealed to the WRA appeal committee. Such appeal request shall be in writing, shall include the grounds for appeal including any factual findings which are disputed, and shall be delivered to WRA not less than 10 days after the director's entry of the order of revocation of permit and/or termination of sewer service. Such appeal request shall be considered delivered when placed in the mail, return receipt requested, addressed to:

WRA Appeal Committee

% Des Moines Metropolitan Wastewater Reclamation Authority

3000 Vandalia Road

Des Moines, IA 50317

The chair of the appeal committee shall schedule the appeal and shall cause notice of the time, date and place of the hearing to be mailed to the appealing user. Such appeal shall be decided by majority vote of the appeal committee. If the appeal committee affirms the

order of the WRA Director revoking the permit and/or terminating sewer service, the appeal committee shall so state and order in its written decision.

E. A user whose permit has been revoked shall not be eligible for another permit until 30 days after the violating conditions have been corrected to the satisfaction of the WRA Director.

F. Upon determination by the WRA director that the user's sewer service connection to the POTW be terminated, the director's written order shall be sent to the City Public Works Department who shall cause the user's connection to the sewer to be severed or plugged. The manner of severance and procedure for disconnection shall be determined by the City Public Works Department. Upon completion of the disconnection, the City Public Works Department shall certify to the WRA director the City's cost to disconnect the user's sewer service. Upon receipt of such certification of costs, the WRA director shall forward to the user whose service was disconnected by registered mail return receipt requested, certified mail, or personal service a bill for the cost of making the disconnection, including all costs for labor and materials, and a service charge of \$500.00 for WRA supervision.

(Ord. 22-07 – Oct. 22 Supp.)

G. Any building at which sewer service is disconnected as herein provided shall be inspected by the City Building Official and if appropriate shall be red-tagged as unfit for human occupancy.

100.48 RESERVED.

100.49 REINSTATEMENT OF SERVICE.

If service is severed pursuant to this division, the service may be reinstated in the following manner:

1. Upon payment to the WRA of any delinquency in full, supervision fee of \$500.00, and an inspection by the WRA director to determine whether the original cause for termination has been corrected, the WRA will issue a permit for reconnection of the building service line to the POTW. Such reconnection costs, plus inspection fees for the City in accordance with this Code, shall be at the sole expense of the user.

(Subsection 1 – Ord. 22-07 – Oct. 22 Supp.)

2. Upon reconnection and payment of all costs described in Subsection 1 of this section, the City or sanitary district, through its agents, shall remove the red tag from the building, and the building shall, so far as the City or sanitary district is concerned, be fit for human occupancy.

100.50 EMERGENCY DISCONNECTION OF SERVICE.

1. Conditions for immediate disconnection of service. The WRA Director may, after informal notice, suspend the wastewater discharge permit of, and sewer service to, a user whenever such suspension is necessary in order to stop an actual or threatened discharge presenting or causing an imminent or substantial endangerment to the health or welfare of persons, the POTW, or the environment.

2. Procedure for immediate disconnection. The procedure for immediate disconnection shall be as follows:

A. When the WRA Director determines that a discharge as described in Subsection 1 of this section exists, an oral order shall be issued, followed immediately by a written order, to the user stating the problem and requiring immediate cessation of the discharge. A user orally notified of a suspension of its wastewater permit or sewer service shall immediately stop or eliminate all discharges. If a user fails to immediately and voluntarily comply with the suspension order, the WRA Director shall take immediate action to eliminate the discharge, including disconnection from the POTW.

Methods of informal notice to a user shall include but not be limited to any of the following: personal conversations between user and personnel or the WRA or its operating contractor, telephone calls, letters, hand-delivered messages or notices posted at the user's premises or point of discharge.

B. A user responsible, in whole or in part, for imminent endangerment shall submit to the WRA Director, prior to the hearing described in Subsection 100.47(2) of this division, a detailed written report describing the causes of the endangerment and the measures taken to prevent any future occurrence.

100.51 ELIMINATION OF DISCHARGE; REINSTATEMENT OF PERMIT.

A user notified by the WRA Director of revocation of its discharge permit and/or disconnection of its sewer service under Section 100.47 or 100.50 of this division shall immediately cease discharging wastewater to the POTW.

If the user fails to comply voluntarily with the revocation and/or disconnection order, the City or sanitary district shall take such steps as are deemed necessary by the WRA, including immediate severance of the sewer connection. The WRA Director shall reinstate the wastewater discharge permit or the sewer service upon proof of the elimination of the non-complying discharge.

100.52 ADDITIONAL REMEDIES.

1. In addition to remedies available to the WRA set forth elsewhere in this chapter, if the WRA is fined by the Iowa Department of Natural Resources or the U.S. Environmental Protection Agency for violations of the National Pollutant Discharge Elimination System permit for the WRF, or for violations of water quality standards as the result of a discharge of pollutants by an identifiable user, the fine, and all legal, sampling, analytical testing costs and any other related costs, shall be charged to the responsible user. Such charge shall be in addition to any other remedies the WRA may have under this chapter at law or in equity.

2. If the discharge from any user results in a deposit, obstruction, damage or other impairment to the POTW, the user shall become liable to the City or sanitary district and/or the WRA for any expense, loss, or damage caused by the violations or discharge. The WRA may add to the user's charges and fees the costs incurred by the WRA and by the City or sanitary district for any cleaning, repair, or replacement work caused by the violations or discharge.

3. The remedies provided in this chapter shall not be exclusive, and the WRA may seek whatever other remedies are authorized by statute, at law or in equity against any persons violating this chapter.

4. In addition to any other remedies provided in this chapter, the City or the sanitary district and/or the WRA may initiate an action, either in law or in equity, to obtain an injunction against further violations of this chapter and for judgment for all costs incurred by the City, sanitary district and/or the WRA occasioned by the user's violation of any requirements of this chapter.

100.53 NOTICES TO THE WRA, THE WRA BOARD, THE WRA DIRECTOR OR THE WRA STEERING COMMITTEE.

Notices which are required to be given or which may be given to the WRA, the WRA Board, the WRA Director or the WRA appeal committee, as provided in this chapter, shall be mailed to such entity, body or person at the following address:

Des Moines Metropolitan Wastewater Reclamation Authority
Des Moines Wastewater Reclamation Facility
3000 Vandalia Road
Des Moines, IA 50317

100.54 RESERVED.

DIVISION 5. REGULATIONS OF FAT, OIL AND GREASE DISCHARGE BY FOOD SERVICE ESTABLISHMENTS.

100.55 PURPOSE.

The purpose of this section shall be to aid in the prevention of sanitary sewer blockages and obstructions from contribution and accumulation of fat, oil, and grease (FOG) into the POTW.

Such discharges from commercial kitchens, restaurants, food processing facilities and all other establishments, where fat, oil, and grease of vegetable or animal origin are discharged directly or indirectly into the POTW, can contribute to line blockages and/or spills in violation of Title 40, Code of Federal Regulations 40 CFR, Part 403.

100.56 DEFINITIONS.

The definitions found in Section 100.01 shall apply to the provisions of this division, provided however that the following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. "Best management practices" or "BMPs" means and includes schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. For purposes of this division, "best management practices" include procedures and practices that reduce the discharge of FOG to the building sewer, to the City sanitary sewer system and to the POTW.
2. "Design liquid depth" means the maximum depth of liquid when the tank is filled with water.
3. "Effective date" means the date set forth in Section 100.57 upon which the regulatory provisions of this division take place.
4. "Food Service Establishment" or "FSE" means an operation or enterprise that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption. Such facilities may include, but are not limited to, those that process meat or other food ingredients as an intermediate step or for final human consumption, food service operations in a summer camp, residential substance abuse treatment facility, halfway house, correctional facility, school, restaurant, commercial kitchen, caterer, church, hotel, bars, hospital, prison, care institution or similar facility.
5. "Grease interceptor" means a tank that serves one or more fixtures and is remotely located. Grease interceptors include, but are not limited to, tanks that capture wastewater from dishwashers, garbage disposals, floor drains, pot and pan sinks and trenches as

allowed by local plumbing codes. For purposes of this ordinance, a grease interceptor is a multi-compartment tank located underground outside of a building that reduces the amount of FOG in wastewater prior to its discharge into the POTW.

6. "Grease trap" means a device designed to retain grease from one to a maximum of four fixtures. Not all grease traps are approved by the manufacturer for use on heated water (e.g., dishwasher) or in-line to a waste disposal unit (e.g., garbage disposal and grinders). For purposes of this ordinance, a grease trap is a small device located within a building.

7. "Minimum design capability" means the design features of a grease interceptor and its ability or volume required to effectively intercept and retain greases from grease-laden wastewaters discharged to the POTW.

8. "Non-routine inspection" means an impromptu, unscheduled inspection of an FSE made without prior notification or arrangement.

9. "Routine inspection" means an inspection of an FSE which is scheduled in advance or according to a pre-arranged schedule.

10. "User" as used in this division has the same meaning as the definition in Section 100.01, but also includes persons who discharge wastewater to the POTW from mobile sources, such as mobile food vendors.

100.57 EFFECTIVE DATE OF FOG REGULATIONS.

The provisions of this division shall be effective upon passage by the City Council and publication.

100.58 GREASE INTERCEPTOR INSTALLATION REQUIRED AND EFFECTIVE DATE.

The owner of a building or facility in which as FSE is located, and the owner or operator of an FSE shall be required to install an approved grease interceptor, and to thereafter operate and maintain same as provided in this division.

100.59 EXEMPTION FROM GREASE INTERCEPTOR INSTALLATION REQUIREMENT FOR EXISTING FACILITIES.

The requirements of Section 100.58 shall not apply to that portion of a building or facility within which an FSE is in existence on the effective date if:

1. The FSE has an existing grease interceptor or grease trap in place as of the effective date and provided that (1) the owner or occupant of the FSE continues to use the interceptor or trap, (2) the interceptor or trap is of sufficient capacity and design, and (3)

the interceptor or trap is operated and maintained so as to comply with FOG discharge limits; and

2. Any repair, remodeling or renovation of the wastewater plumbing system in the existing FSE involves only (1) the repair of leaks or the clearing of stoppages in drains, soil, waste or vent piping, or (2) the removal and reinstallation of a sink, toilet or hot water heater; provided that such work does not involve replacement, rearrangement or moving of wastewater pipes, floor sinks, drainage fixtures or grease traps; and

(Subsection 2 – Ord. 22-07 – Oct. 22 Supp.)

3. None of the following conditions are present:

A. A building or facility exists on the effective date and is thereafter expanded or renovated, or a portion thereof, to include an FSE where such FSE did not previously exist; or

B. An FSE exists on the effective date within a building or facility, or portion of a building or facility, and application is thereafter made for a building permit(s) for such building or facility with valuation of \$50,000 or more within a twelve (12) month period; or

C. A building or facility, or portion thereof, that contained an FSE on the effective date but in which an FSE ceases to operate for one year or more, as determined by Iowa Department of Inspections & Appeals, Food and Consumer Safety Bureau records.

100.60 COMPLIANCE PROCEDURES.

1. After the effective date, any permitted construction under Section 100.58 shall be deemed compliant upon issuance of a certificate of compliance or certificate of occupancy for such construction by the City Building Official or designee.

2. An FSE shall be deemed compliant, unless the WRA Director or local building official or designee determines that an existing grease trap or grease interceptor is incapable of adequately retaining FOG.

In such cases, the Director may order the FSE to install an adequate grease interceptor within a specified time period if:

A. The FSE is found to contribute FOG in quantities above FOG discharge limits; or

B. The FSE discharges necessitate increased maintenance on the publicly owned treatment works (POTW) in order to keep stoppages from occurring therein; or

C. The FSE's discharge to the POTW is at any time determined to exceed four hundred (400) mg/l total FOG.

(Paragraph C – Ord. 22-07 – Oct. 22 Supp.)

3. An order directing an existing FSE or the owner or operator of the FSE or the owner of the building or facility in which the FSE is located to install a grease interceptor shall be in writing from the WRA Director in the form of a notice of violation including a corrective action order, as provided in Section 100.67 of this division.

4. FSEs or owners of buildings or facilities within which an FSE is located which are unable to install or replace a grease interceptor due to exceptional physical constraints or economic hardship may appeal to the WRA Director for approval of an alternative grease control technology by requesting a hearing in accordance with the provisions of this division. Such requests shall be submitted in writing and shall include detailed descriptions of the FSE's physical or financial constraints and the alternative grease control technology which it proposes to install and utilize.

A. In order to demonstrate exceptional economic hardship, the owner or operator of the FSE shall submit to the WRA Director balance sheets and profit and loss statements for FSE for the preceding three (3) years. A new FSE shall submit profit/loss projections or a detailed business plan with projections for twenty-four (24) months. Each request shall be evaluated on a case-by-case basis.

B. Notwithstanding approval of alternative grease control technology, when the WRA Director determines that such alternative is not performing adequately, the FSE or owner of the building or facility in which the FSE is located shall be required to take additional grease control measures, which may include the installation of a grease interceptor.

C. In order to demonstrate exceptional physical site constraints preventing the installation of a grease interceptor, the owner or operator of the FSE or owner of the building or facility in which the FSE is located shall submit to the WRA Director documentation and plats showing the location of City sanitary sewer and any private easements in relation to the building sewer for the building housing the FSE, and showing available space inside or outside the building and drawings of existing plumbing at or in a site that uses common plumbing for all services at that site.

D. An FSE that is given an exemption from installing a properly sized grease interceptor is prohibited from installing or using a dishwasher or garbage disposal without approval of the director and must comply with the conditions of such approval, if any.

100.61 INSTALLATION OF GREASE INTERCEPTORS AND GREASE TRAPS.

Grease interceptors and grease traps, when required, shall be installed as follows:

1. Grease interceptors and grease traps shall be installed at the expense of the owner or operator of the FSE or owner of the building or facility in which the FSE is located which is contributing wastewater to the POTW.

2. All wastewater streams containing FOG or reasonably likely to contain FOG within FSEs or other FOG generating operations shall be directed into one or more appropriately sized grease interceptor before discharge to the POTW.

Grease interceptors shall be either sized by adding the peak design flow rates for all fixtures leading to the grease interceptor and allowing a minimum retention time of thirty (30) minutes or as follows:

Grease Interceptor Sizing

Peak meals per hour

Seating capacity of FSE

Occupancy of FSE _____ *

Seating or occupancy x meal factor of 1.3 (45-minute meal) or 1.0 (intermittent-use FSEs) = Peak meals per hour

Church: include all area(s) used for meal service

Assisted Living / nursing facility: equal to maximum number of residents (per State license)

Waste flow rate, gallons of flow

Commercial, equipped kitchen with dishwasher & one garbage disposal* 7

Commercial, equipped kitchen with dishwasher, no garbage disposal 6

Commercial, equipped kitchen with no dishwasher, one garbage disposal* 6

Commercial, equipped kitchen with no dishwasher, no garbage disposal 5

Single service kitchen** 2

Each additional garbage disposal, add one (1) gallon

** Single service kitchen = no garbage disposal, no dishwasher and all service is single use

Retention time, hours

Commercial kitchen 2.5

Single service kitchen 1.5

Storage factor

a. Commercial kitchen up to 8 hours of operation 1

b. Commercial kitchen up to 12 hours of operation 1.5

c. Commercial kitchen up to 16 hours of operation 2

d. Commercial kitchen up to 20 hours of operation 2.5

e. Commercial kitchen up to 24 hours of operation 3

f. Single service kitchen 1.5

Peak Meals Waste Flow Retention Storage Calculated

per Hour X Rate X Time X Factor = Interceptor Size

3. Concrete grease interceptors whether precast or poured in place, shall be designed and manufactured in accordance with ASTM C 1613-08 Standard Specification for Precast

Concrete Grease Interceptor Tanks or IAPMO/ANSI Z1001 Grease Interceptors and shall be installed in accordance with the codes adopted by the jurisdiction in which the FSE is located. Where no code is adopted, the construction and installation shall be in accordance with the Iowa State Plumbing Code and this division. Grease interceptors using materials other than concrete require approval by the Director, and shall comply with the conditions of such approval, if any.

4. The Building Official or other designated official of the governmental subdivision within which the FSE is located shall inspect each grease interceptor installation made pursuant to this division, shall review all relevant information regarding the rated performance of the grease interceptor, and the building plan and facility site plan for the building and site where the grease interceptor has been installed, and shall approve such grease interceptor installation upon determination that the grease interceptor meets all applicable standards and requirements.

5. Grease interceptors shall have a minimum capacity of one thousand (1000) gallons and shall not exceed five thousand (5000) gallons for a single unit. Where a capacity greater than five thousand (5000) gallons is required, several smaller units shall be installed in series, however the capacity shall not exceed ten thousand (10,000) gallons for any single series of interceptors without approval of the Director.

6. Grease interceptors shall be installed outside the building housing the FSE and below surface grade, and shall have access manholes, with a minimum diameter of twenty-four (24) inches, over each chamber and sanitary tee. Access manholes shall extend from the grease interceptor to at least the finished surface grade and be designed and maintained to prevent storm or surface water inflow and groundwater infiltration. The manholes shall also have readily removable covers to facilitate inspection and grease removal.

7. Sewer lines which are not grease laden, which are not likely to contain FOG, or which contain sanitary wastes shall not be connected to a grease interceptor.

8. Grease interceptors shall be equipped with an accessible discharge sampling port with a minimum six (6) inch diameter, which shall extend from the grease interceptor to at least the finished surface grade.

9. Where grease interceptors are shared by more than one FSE, the building owner shall be the responsible party for record keeping and cleaning of the interceptor.

100.62 OPERATION, MAINTENANCE AND CLEANING OF GREASE INTERCEPTORS AND GREASE TRAPS AND GREASE HAULER CERTIFICATION.

1. The owner or operator of an FSE which is required to pass wastewater through a grease interceptor or trap shall operate and maintain the grease interceptor or trap so that wastewater exiting the grease interceptor or trap shall not exceed four hundred (400) milligrams per liter of FOG.

2. The owner or operator of the FSE shall cause the grease interceptor or trap to be cleaned as hereinafter required when FOG and solids reach 25 percent of the design liquid level of the grease interceptor or trap, or sooner if necessary to prevent carry over of FOG from the grease interceptor or trap into the City sanitary sewer system. Interceptors and traps shall be cleaned at three (3) month intervals or less. A longer cleaning interval must be approved by the WRA director. The owner or operator of the FSE shall employ a waste hauler licensed by the WRA pursuant to Division 6 of this chapter to clean the grease interceptor or trap, provided that the waste hauler personnel performing the cleaning has a current grease hauler certification from the WRA indicating satisfactory completion of the course of training offered by the WRA on the cleaning of grease interceptors and traps.

(Ord. 22-07 – Oct. 22 Supp.)

3. Any person who cleans a grease interceptor or trap shall do so in accordance with the following procedures and requirements. The person cleaning the grease interceptor or trap shall:

A. Completely empty and remove the contents (liquids and sludge) of all vaults of the grease interceptor or trap and remove the grease mat and scrapings from the interior walls. As part of each cleaning of a grease interceptor or trap, the licensed waste hauler employed by the FSE owner or operator shall perform the following maintenance activities:

(Ord. 22-07 – Oct. 22 Supp.)

(1) Check that the sanitary “tees” on the inlet and outlet sides of the grease interceptor are not obstructed, loose, or missing.

(2) Verify that the baffle is secure and in place.

(3) Inspect the grease interceptor or trap for any cracks or other defects.

(4) Check that lids are securely and properly seated after completion of cleaning.

B. Not deposit waste and wastewater removed from a grease interceptor/trap back into the grease interceptor/trap from which the waste or wastewater was removed, or into any other grease interceptor/trap or drainage fixture connected to the sanitary sewer, for the purpose of reducing the volume of waste and wastewater to be disposed of.

(Ord. 22-07 – Oct. 22 Supp.)

C. Not introduce enzymes, emulsifying chemicals, hot water or other agents into a grease interceptor or trap to dissolve or emulsify grease or as a grease abatement method. Introduction of bacteria as a grease degradation agent is permitted with prior written approval by the WRA Director.

D. Dispose of waste and wastewater removed from a grease interceptor or trap at the WRF or at a facility approved for disposal of such waste by the WRA Director. Waste and wastewater removed from a grease interceptor or trap shall not be discharged to any

private sanitary or storm sewer or to the City sanitary or storm sewer system. The waste hauler shall provide a copy of the disposal receipt for all waste and wastewater removed from a grease interceptor or trap to the owner or operator of the FSE.

E. Not use an automatic grease removal system to clean a grease interceptor without prior written approval of the WRA Director, and if, the use of an automatic grease removal system is approved, shall operate same in a manner that the grease wastewater discharge limit, as measured from the system's outlet, is consistently achieved.

4. The WRA Director may make exceptions to the above requirements, or may approve alternative operational requirements or cleaning and maintenance methods, provided that such exceptions or approvals shall be made in writing by the WRA Director.

5. The WRA director may issue a grease hauler certification upon satisfactory completion of the course of training offered by the WRA on the proper maintenance and cleaning of grease interceptors and traps, disposal procedures, and record keeping. Such certification shall be for a period of 5 years and shall be in effect for the person receiving such training. Grease haulers certified by the WRA shall be subject to a grease interceptor cleanout inspection by WRA personnel, not less than once every two years, for purposes of the hauler demonstrating its compliance with requirements in this section. Such inspections shall be scheduled at a time which coincides with normal working hours for WRA personnel, shall involve all individuals employed by the same company who have been issued a grease hauler certification by the WRA, and shall be conducted at an FSE within the WRA service area. Failure to follow WRA's cleanout procedures or other requirements of this section may result in fines, additional scheduled cleanout inspections, and loss of grease hauler certification status, individually or company-wide, with the WRA.

(Ord. 22-07 – Oct. 22 Supp.)

100.63 RECORDS AND RECORD KEEPING.

1. Required Records. The owner or operator of an FSE which is required to pass wastewater through a grease interceptor or trap shall maintain a written record of grease interceptor or trap maintenance, including a log showing the dates upon which the grease interceptor or trap was inspected and the estimated amount of FOG present in the grease interceptor or trap at each inspection, the date upon which waste and wastewater was removed from the grease interceptor or trap and disposed of, and the location and means of such disposal of waste and wastewater, and the name and employer or the person or persons performing each of said tasks. The log shall further include a record of the placement of any approved or unapproved additive into the grease interceptor, grease trap or building sewer on a constant, regular or scheduled basis, including the type and amount of additive placed on each such occasion. Only additives approved by the WRA director pursuant to Section 100.62(3)(C) may be used in a grease interceptor.

(Ord. 22-07 – Oct. 22 Supp.)

2. Record Keeping. The log shall at all times be kept and maintained on a day-to-day basis, so as to show a record of waste and wastewater removal, waste and wastewater disposal and approved additive placement for a continuous period of three (3) years. All such records shall be kept secure at the premises of the FSE for a continuous period of three years and shall be made available for non-routine inspection by the City, the sanitary district, the WRA and its operating contractor, or the employees and agents of any of them at any time during normal business hours.

100.64 INSPECTION OF GREASE INTERCEPTORS AND RELATED SEWERS AND EQUIPMENT.

The owner or operator of an FSE shall:

1. Provide, operate and maintain, at its expense, safe and accessible monitoring facilities (such as a suitable manhole), and shall make such monitoring facilities available for inspection, for routine cleanouts by the owner or operator's licensed grease hauler, and for sampling and flow measurement of the building sewer or internal drainage systems. There shall be ample room in or near such monitoring facility to allow for proper inspection, accurate sampling and preparation of samples for analysis. The monitoring facilities shall be maintained such that the device(s) is readily and immediately accessible for inspections and cleanouts being free of coverings, building materials, pavements, or any other obstructions.
2. Allow personnel authorized by the WRA director or by the City Building Official or designee, bearing proper credentials and identification, to enter upon or into any building, facility or property housing an FSE at any reasonable time and without prior notification, for the purpose of inspection, observation, measurement, sampling, testing or record review, in accordance with this division.
3. Upon request by the WRA director's authorized representative, open any grease interceptor or grease trap for the purpose of confirming that maintenance frequency is appropriate, that all necessary parts of the installation are in place including, but not limited to, baffles, and effluent tees, and that all grease interceptors, traps, and related equipment and piping is maintained in efficient operating condition.
4. Accommodate compliance inspections and sampling events by the authorized representatives of the WRA director or of the City Building Official. Staff may conduct routine inspections and sampling events of any food service establishment. Non-routine inspection and sampling events shall occur more frequently when there is a history of non-compliance with this division and when blockages occur in the City's sanitary sewer system downstream of the FSE.

(Section 100.64 – Ord. 22-07 – Oct. 22 Supp.)

100.65 INSPECTION FEES.

The fees for inspection of an FSE shall be as provided in Section 100.21 and shall be paid within 30 days of the date of the invoice for such fees. A trip charge of \$50.00, as referenced in Section 100.21(1)(E), shall be assessed in conjunction with the violation of any requirement of Section 100.64 which results in the need for WRA personnel to reschedule such inspection of grease interceptor/trap or food service establishment, and shall be paid within 30 days of the date of the invoice for such charge.

(Ord. 22-07 – Oct. 22 Supp.)

100.66 ENFORCEMENT.

The WRA Director is authorized to enforce this division as hereinafter provided. The City Building Official or designee, or such other governmental official hereafter designated by the WRA, is also authorized to enforce this division.

100.67 NOTICE OF VIOLATION – ADMINISTRATIVE PENALTIES – CORRECTIVE ACTION ORDER.

1. The director, or such other designated officers or officials with enforcement authority as provided in Section 100.66, are authorized to issue a notice of violation imposing an administrative penalty upon any person who fails to perform an act required by this division or who commits an act prohibited by this division. Such notice may include a corrective action order requiring the user to take one or more of the following corrective actions within thirty (30) days:

- A. Conform to best management practices;
- B. Submit copies of the grease interceptor or trap maintenance log;
- C. Develop, submit and implement a FOG compliance plan to be approved by the Director or designated enforcement official; or
- D. Install a compliant grease interceptor.

2. The administrative penalty for such violations shall be as provided in the schedule of administrative penalties adopted by the City Council by resolution.

3. Notice of violation, with the applicable penalty for such violation noted thereon, shall be issued to and served upon the violator. Service of the notice may be by regular mail or by delivery in person.

4. Penalties assessed pursuant to notice of violation shall be paid by the violator in full as directed in the notice within thirty (30) days of its issuance.

5. The administrative penalties set out in the schedule of administrative penalties shall be charged in lieu of the fines and penalties provided for in Section 100.68, unless the violator refuses to correct the violation and pay the scheduled administrative penalty, or the WRA Director determines that immediate enforcement action by misdemeanor or municipal infraction prosecution is, in view of the particular circumstances of the case, necessary to achieve compliance with the requirements of this chapter. A record of all violations, administrative penalties charged or other enforcement actions taken shall be maintained by the WRA for a period of three years.

100.68 PENALTIES.

1. Any person who fails to perform an act required by this division or who commits an act prohibited by this division shall be guilty of a misdemeanor punishable by fine ~~or imprisonment~~ or shall be guilty of a municipal infraction punishable by a civil penalty.

Commented [AS5]: Removing mentions of imprisonment re: SF374

2. Any person who fails to comply with a pretreatment standard applicable to an FSE shall be guilty of a municipal infraction punishable by a civil penalty of not more than one thousand dollars for each day the violation exists or continues, as provided by Section 364.22 or 331.307 of the Iowa Code.

3. When enforcement is sought through a municipal infraction proceeding, the Director, or such other designated officers or officials with enforcement authority as provided in Section 100.66, may enter into consent orders, assurances of voluntary compliance or other similar documents establishing an agreement with the user responsible for noncompliance. Such orders will include specific action to be taken by the user to correct the noncompliance within a time period specified by the order.

100.69 ORDER TO CEASE OPERATION OF FSE.

1. Where a violation of this division has not been timely corrected, and results in or threatens interference or pass through as herein defined, the WRA Director, or such other designated officers or officials with enforcement authority as provided in Section 100.66, shall have the authority to issue an order in writing to the owner or operator of the FSE, ordering such person or persons to cease and desist from further operation of the FSE and from further discharge of wastewater to the sanitary sewer system. The order shall be delivered by personal service unless the owner or operator cannot be found within the City or sanitary district, in which event notice shall be by ordinary mail addressed to the owner's or operator's last known address and by posting a copy of the notice in a conspicuous place upon the premises of the FSE.

2. Operation of the FSE shall cease on the date stated in the order and shall not recommence without the prior written approval of the WRA Director.

3. The applicant may make a written request to the director for a reconsideration and hearing on the cease and desist order within ten (10) days from the issuance of the order, provided, however, that operation of the FSE shall cease pending the outcome of the hearing.

4. The owner's or operator's request for hearing shall identify the appealing party, include the address of the person requesting the hearing and to which all further notices shall be mailed or served, and shall state the basis for the appeal.

5. The hearing shall be scheduled to be held as soon as practicable and no later than fourteen (14) days after the request for hearing was filed with the WRA Director. The person requesting the hearing shall be notified in writing or by telephone of the date and place of such hearing at least three (3) days in advance thereof. At such hearing the Director and the person requesting the hearing may be represented by counsel, examine witnesses, and present evidence as necessary.

6. The determination by the Director or by that the violation occurred shall be considered a final administrative decision, unless appealed to the WRA.

100.70 APPEAL OF CORRECTIVE ACTION ORDER OR CEASE AND DESIST ORDER.

1. Any person aggrieved by a corrective action order or a cease and desist order issued by the WRA Director or by such other designated officers or officials with enforcement authority as provided in Section 100.66, may, file an appeal and request a ruling that such order be modified or rescinded.

2. Such appeal request shall be in writing, shall include the grounds for appeal including any factual findings which are disputed, and shall be delivered to the WRA within ten (10) days after the WRA Director's issuance of the order. Such appeal request shall be considered delivered when placed in the mail, return receipt requested, addressed to:

WRA Appeal Committee

Des Moines Metropolitan Wastewater Reclamation Authority

3000 Vandalia Road

Des Moines, IA 50317

3. The chair of the appeal committee shall schedule the appeal and shall cause notice of the time, date and place of the hearing to be mailed to the appealing party. Such appeal shall be decided by majority vote of the appeal committee. The appeal committee may affirm, modify or rescind the order of the Director and shall so state and order in its written decision.

100.71 ADDITIONAL REMEDIES.

The WRA or the City or the sanitary district is not precluded from seeking alternative relief from the court, including an order for abatement or injunctive relief or for recovery of investigational or remedial costs resulting from a non-complying discharge, in the event that the WRA or the City files a misdemeanor citation, notice of administrative penalty, and/or files a municipal infraction for the same violation of this division.

100.72 RESERVED.

DIVISION 6. REGULATION OF HAULED WASTE

100.73 DEFINITIONS.

The definitions found in Sections 100.01 and 100.56 shall apply to the provisions of this division, provided however that the following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. "Vehicle" means a commercial device equipped with a tank and used to remove or transport waste.
2. "Waste" means human excreta, water, scum, sludge, septage, FOG, food waste or grease solids, and non-hazardous industrial wastewaters and solids removed from public and private wastewater disposal systems, holding tanks, impervious vaults, portable or chemical toilets, or from devices used to trap grease resulting from food preparation. Waste also means liquid wastes resulting from spill clean-up.

100.74 LICENSE.

No waste hauler shall remove waste from within the City or sanitary district or shall dispose of waste, whether from a source inside or outside the City or sanitary district, into the POTW without first obtaining a waste hauler license from the WRA, with the following exceptions:

1. WRA participating communities that operate vehicles to remove waste from their sewer systems.
2. Waste haulers hired by WRA participating communities to remove waste from their sewer systems and which bring no other wastes to the WRF.

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3. Waste haulers utilized by industrial users issued a wastewater discharge permit by the WRA.
 4. Waste haulers granted temporary authorization by the WRA Director in order to deal with an emergency.

100.75 ISSUANCE OF LICENSE; PAYMENT BOND REQUIREMENTS.

The waste hauler's license shall be issued by the WRA director upon written application that shall consist of the following minimum requirements:

1. Inspection. The WRA director, upon application, shall inspect the trucks, hoses, valves, and associated equipment of the applicant for a waste hauler's license and determine if they meet the minimum qualifications for complying with the conditions of this division.
2. License Fee and Bond. An application shall require the payment of a fee of \$60.00 for each vehicle used by the applicant and the posting of a bond with reasonable surety in the penal sum which shall cover no less than two months of average or estimated treatment fees at the WRF for the faithful compliance with this division, including prompt payment of treatment costs, surcharges, fees and fines. Bond amounts shall be up to \$100,000.00 but not less than \$20,000.00 and structured as follows or as required by the WRA director:

Total Monthly Treatment Fees	Surety Bond Amount
< \$10,000	\$20,000.00
\$10,001 - \$20,000	\$40,000.00
\$20,001 - \$40,000	\$60,000.00
> \$40,001	\$100,000.00

WRA participating communities that contract with waste haulers in order to clean and rehabilitate storm and sanitary sewers owned by the community or that own and operate waste hauling vehicles may provide proof of self-insurance or provide a letter guaranteeing payment of up to \$20,000.00 in lieu of providing a surety bond.

(Subsection 2 - Ord. 22-07 - Oct. 22 Supp.)

3. Renewal. A waste hauler license shall expire on June 30 next after its issuance. The renewal application must be made in the same manner as the initial application and must be received by the Director 30 days prior to expiration. Failure to apply 30 days prior to expiration may result in an interruption in the license and the privileges of such license.
4. Transferability. Waste hauler licenses are not transferable.

100.76 STANDARDS FOR VEHICLES AND EQUIPMENT.

As to all vehicles and equipment used by a waste hauler, the licensee shall:

1. Prevent waste and wastewater from leaking, spilling, or discharging onto roads or rights-of-way.
2. Ensure proper construction and repair of the equipment to allow cleaning.
3. Maintain vehicles and equipment in an essentially rust free and sanitary condition and appearance.
4. Display the business name as it appears on the waste hauler license in three-inch or larger letters on the left and right sides of the vehicle.

100.77 DISPOSAL.

Hauled waste shall only be disposed at the WRF at the designated disposal station or as authorized by the Iowa Department of Natural Resources for land application. Waste haulers shall maintain the WRF designated disposal location in a clean and orderly condition to avoid noxious odors and unsanitary conditions. Hours of operation at the WRF disposal station shall be set by the WRA Director. In the event of emergency situations, special arrangements between the waste hauler and the WRA Director regarding disposal at an alternative disposal site shall be allowed to permit response to such emergency. Any violation of an Iowa Department of Natural Resources rule or regulation for land disposal of hauled wastes by a waste hauler shall be grounds for rejection of a hauled waste load in Section 100.81 by such waste hauler or shall be grounds for denial, suspension and revocation of such waste hauler's license in Section 100.86.

100.78 IDENTIFICATION OF SOURCE AND WASTELOAD APPROVAL.

1. Waste haulers must document the nature and origin of wastes collected and the site and method of disposal for wastes that are removed from any locations or are delivered to the WRF. Such information shall be provided on a manifest form provided by the WRA and shall also include: (i) the name and address of the waste generator(s), (ii) the type of waste collected, (iii) any other information consistent with identification and tracking of wastes. The WRA director or his or her designee shall have the right to verify all information required by this section, including the right to measure, sample and analyze any waste regulated by this division.
2. The waste hauler or waste generator shall obtain approval from the WRA director or his or her designee prior to loading wastes originating from an industrial/commercial

source unless prior approval is on record with the WRA. A hauled waste profile form prescribed by the WRA must be completed by the waste generator and submitted to the WRA director or his or her designee for consideration for waste load disposal at the WRF. Such profile form shall include information regarding the waste generator's name, address, phone number, authorized representative, waste description and product information, anticipated volume and frequency of disposals, waste transporter information, process waste characteristics including pollutant concentrations, declarations, certifications, and signature of authorized official.

(Section 100.78 – Ord. 22-07 – Oct. 22 Supp.)

100.79 MIXING WASTES.

1. For the purposes of this division, wastes from residential and nonresidential sources shall not be mixed. Wastes from an industrial/commercial source shall not be mixed with wastes of any type from another location. Portable toilet and FSE grease trap wastes may be mixed with similar wastes from different locations. Residential wastes from several sources may be mixed as long as each source is identified.

2. Any tanks used for hauling waste to the WRF or equipment that comes in contact with waste shall not be used for hauling hazardous wastes or hazardous substances, as defined in I.C. § 567.1 et seq., Chapter 131 of the Iowa Administrative Code and in 40 CFR 261, or other wastes which may be detrimental to the POTW, the receiving waters, or the health of WRF employees, private contractors, or the public.

(Subsection 2 - Ord. 22-07 - Oct. 22 Supp.)

100.80 STANDARDS OF DISPOSAL AT WRF.

1. Under this division, disposal of wastes at the WRF shall be carried out in accordance with pretreatment standards and requirements established by federal, State, County and City governments including categorical standards developed for the waste generator's industrial category. The WRA director may reject wastes from waste haulers who do not comply with this section or with any other section of this chapter. Waste haulers shall not deliver wastes to the WRF, or to any other disposal location approved by the WRA director which are:

A. Prohibited by Section 100.11 or exceed the limits found in Subsection 100.12(3)(D), Sections 100.13 and 100.14 of this chapter.

B. Hazardous wastes or hazardous substances as defined in 40 CFR Part 261 or 567 I.A.C., Chapter 131.

C. Originate from mineral oil unless first treated to remove the oil and grease.

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D. Not completely identified or are from industrial/ commercial sources that are not approved by the WRA director as required in Section 100.78.

E. Mixed in a manner prohibited in Section 100.79.

F. Wastes other than residential from outside the WRA, except through requests to the WRA director.

2. All disposal transactions at the WRF shall consist of waste haulers scaling in and scaling out on the WRF scales system. Prior to discharging any contents from their vehicle, a waste hauler shall:

A. Collect onsite at the WRF a sufficient sample of the waste material onboard.

B. Test and record the pH and immediately report any results that do not meet disposal limits as listed in 100.11(2).

C. Document on the WRF manifest all contents of the waste load including waste type, source information, and any other information consistent with identification and tracking of wastes as required in Section 100.78.

D. Request and obtain approval from WRF operations to begin unloading at the WRF digesters.

(Section 100.80 – Ord. 22-07 – Oct. 22 Supp.)

100.81 REJECTION OF WASTE LOADS.

1. The WRA Director may reject any hauled waste load that violates or is suspected of violating the requirements of this division or that fails to meet any other guidelines established by the WRA Director to protect personnel, equipment, and the WRF.

Waste haulers must:

A. Remove rejected waste from the WRF.

B. Immediately remove any additional wastes contaminated by the rejected waste while contained at the WRF prior to introduction into the sewer.

C. Properly dispose of all rejected wastes in accordance with state and federal law.

D. Provide the WRA Director with a written statement, signed by the waste hauler license holder, stating the location, date, and time the rejected load was disposed of. The statement is due within five calendar days after the waste is rejected.

2. A vehicle used to haul rejected wastes shall not thereafter be allowed to dispose of additional wastes at the WRF until the statement required by this section is delivered to the WRA Director.

100.82 TREATMENT FEES FOR HAULED WASTES.

1. A treatment fee shall be charged per pound of hauled waste disposed of at the WRF and assessed based on the waste type, pollutant loading, approved disposal location, and location of the source material. The fee for treatment shall include electrical, chemical, labor, equipment, fuel, maintenance, and any capital costs associated with the treatment processes utilized. The treatment fee shall reflect a total cost per gallon or per pound of hauled waste equaling the sum of the total cost of pollutants per gallon or per pound plus, if applicable, total cost of flow per gallon, based on: (1) the parameters of chemical oxygen demand (COD), estimated biochemical oxygen demand (BOD), total suspended solids (TSS) and/or total solids (TS), volatile solids (VS), total Kjeldahl nitrogen (TKN), oil and grease (O&G), and, if applicable, total phosphorus (TP) contained in trucked waste to the WRF; (2) net weight of the wasteload in pounds; and (3) the treatment surcharge component rate per pound of pollutant as found in Section 118-352 of this division. Wasteloads disposed of at an unapproved location at the WRF, or containing pollutant concentrations different from typical pollutant concentrations or from original disclosures made during the wasteload approval process, may be subject to the following additional costs: treatment fees, charges, or fines may also be applied pursuant to Section 100.21(1)(L).

2. Treatment costs shall be reviewed and updated annually per the U.S. Bureau of Labor Statistics Consumer Price Index. The WRA shall provide 30 days' notice prior to assessing updated disposal rates with such notices posted, at a minimum, on the WRA website. The treatment fee for loads originating outside of the WRA participating communities shall be 1.5 times the fee for loads originating within the WRA participating communities unless otherwise approved by the WRA director.

3. Wasteload disposal weights shall be computed and recorded at the WRF truck scales and the resulting treatment fees shall be paid by the waste hauler or waste generator, at the WRA's discretion, on the basis of monthly billings by the operating contractor. Limits of credit shall not exceed 60 days. Abuse of such credit shall be grounds for liability on the waste hauler or waste generator's bond and for refusal of disposal services to any waste hauler or waste generator under this division.

4. Waste haulers and waste generators may elect to have their routine waste streams tested for actual concentration at their expense as set forth in Section 100.21 and as approved by the WRA director. When a waste hauler or waste generator has elected to test for actual concentration, the treatment fee will be based on the actual concentration whether it be higher or lower than the average concentration treatment fee. Said testing will be done at least semi-annually or as required by the WRA director.

(Section 100.82 – Ord. 22-07 – Oct. 22 Supp.)

100.83 ENFORCEMENT.

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The WRA Director, the City Building Official, or such other governmental official hereafter designated by the WRA, shall be authorized to enforce this division as hereinafter provided.

100.84 NOTICE OF VIOLATION – ADMINISTRATIVE PENALTIES – CORRECTIVE ACTION ORDER.

1. The director, or such other designated officers or officials with enforcement authority as provided in Section 100.83, are authorized to issue a notice of violation imposing an administrative penalty upon any person who fails to perform an act required by this division or who commits an act prohibited by this division.
2. The administrative penalty for such violations shall be as provided in the schedule of administrative penalties adopted by the City Council by resolution.
3. Notice of violation, with the applicable penalty for such violation noted thereon, shall be issued to and served upon the violator. Service of the notice may be by regular mail or by delivery in person.
4. Penalties assessed pursuant to notice of violation shall be paid by the violator in full as directed in the notice within thirty (30) days of its issuance.
5. The administrative penalties set out in the schedule of administrative penalties shall be charged in lieu of the fines and penalties provided for in Section 100.85, unless the violator refuses to correct the violation and pay the scheduled administrative penalty, or the WRA Director determines that immediate enforcement action by misdemeanor or municipal infraction prosecution is, in view of the particular circumstances of the case, necessary to achieve compliance with the requirements of this chapter. The WRA shall maintain a record of all violations, administrative penalties charged or other enforcement actions taken.

100.85 PENALTIES.

1. Any person who fails to perform an act required by this division or who commits an act prohibited by this division shall be guilty of a misdemeanor punishable by fine ~~or imprisonment~~ or shall be guilty of a municipal infraction punishable by a civil penalty.
2. Any person who violates a discharge prohibition set forth in Section 100.11, or discharges in excess of local limits as set forth in Section 100.12, shall be guilty of an environmental violation punishable as provided by Section 364.22 of the Iowa Code.

Commented [AS6]: Removing mentions of imprisonment re: SF374

100.86 DENIAL, SUSPENSION AND REVOCATION OF LICENSE.

1. Grounds for denial, suspension or revocation of waste haulers license. The WRA Director may deny, suspend or revoke the waste hauler license and/or grease hauler certification of any wastehauler who violates any provision of this division or any condition of its license, or who commits any of the following violations, or who does not meet the following requirements:

- A. Violation of any term, condition or requirement of this division, the license, or applicable state of Iowa or federal laws or regulations.
- B. Obtaining a license by misrepresentation.
- C. Falsification of, failure to complete or failure to fully disclose all relevant facts in a license application.
- D. Failure to pay fees, administrative penalties or fines.
- E. Failure to report a spill to the WRA.
- F. Using wash down water or otherwise diluting the permitted waste for the purpose of meeting discharge limitations or requirements.
- G. Falsification of, failure to complete or failure to fully disclose all relevant facts in any report, manifest information or record required by the license or this division.
- H. Tampering with samples or sampling equipment intended to accurately reflect the contents of each hauled waste load.
- I. Refusing to allow WRA personnel timely access to the wastehauler's facility premises, vehicles, or records.
- J. Failure to perform as required under a corrective action order or compliance schedule issued by the WRA Director.
- K. Failure to correct any violation of this division within 30 days after notice by the WRA Director.
- L. Failure to immediately correct any violation of this division if the condition constituting the violation is declared a threat to public health, safety or welfare by the WRA Director and the Director orders immediate correction.

2. Procedure for denial, suspension or revocation of wastehauler's license. The procedure for denial, suspension or revocation of a wastehauler's license shall be as follows:

- A. Any license issued to a wastehauler pursuant to this division may be denied, suspended or revoked by written order of the WRA Director specifying the grounds for such action as outlined in Subsection A of this section, which order shall not take effect until hearing thereon as hereafter provided. Upon determining that grounds exist for an order to deny, suspend or revoke a wastehauler's license, the WRA Director shall cause a

notice of hearing to be prepared, specifying the violations of Subsection A of this section which are deemed to have occurred, and the time, date and place that such hearing will be held. The notice shall be sent to the waste hauler by regular mail addressed to the waste hauler's address listed on the waste hauler's license a minimum of ten days prior to the date set for hearing, and shall be deemed delivered when placed in the mail.

B. If after such a hearing the WRA Director makes a finding based on substantial evidence that one or more violations under Subsection A of this section have occurred as alleged, the Director may deny issuance of the license, suspend the license for a fixed period, or may issue an order immediately revoking the license and ordering the waste hauler to discontinue hauling waste to the WRF or any other disposal locations approved by the Director. The determination whether to deny issuance of a license, to suspend a license, or to revoke a license, shall be in the discretion of the Director and shall be dependent upon the circumstances surrounding the violations of Subsection A of this section and the severity of those violations. If the waste hauler does not appear for the hearing, the Director shall issue the order revoking the waste hauler's license and ordering the cessation of delivery of hauled waste at the WRF or any other disposal locations approved by the Director, which order shall take effect immediately.

C. The decision and order of the WRA Director to deny issuance, to suspend or to revoke the license of a waste hauler may be appealed to the WRA appeal committee. Such appeal request shall be in writing, shall include the grounds for appeal including any factual findings which are disputed, and shall be delivered to WRA not less than 10 days after the Director's entry of the order of denial, suspension or revocation. Such appeal request shall be considered delivered when placed in the mail, return receipt requested, addressed to:

WRA Appeal Committee
Des Moines Metropolitan Wastewater
Reclamation Authority
3000 Vandalia Road
Des Moines, Iowa 50317

The chair of the appeal committee shall schedule the appeal and shall cause notice of the time, date and place of the hearing to be mailed to the appealing waste hauler. Such appeal shall be decided by majority vote of the appeal committee. If the appeal committee affirms the order of the WRA Director denying issuance, suspending or revoking the license and ordering the cessation of waste deliveries at the WRF or other approved locations, the appeal committee shall so state and order in its written decision.

D. A waste hauler whose license has been denied or revoked shall not be eligible for issuance or reinstatement of its license until 30 days after the violating conditions have been corrected to the satisfaction of the Director.

100.87 ALTERNATIVE RELIEF.

Neither the WRA nor the City or sanitary district is precluded from seeking alternative relief from the court, including an order for abatement or injunctive relief, in the event that the WRA or the City files a misdemeanor citation, notice of administrative penalty, and/or files a municipal infraction for the same violation of this division, or in the event the WRA seeks to deny, suspend or revoke the wastehauler's license.

100.88 RESERVED.

(Ch. 100 – Ord. 19-02 – Mar. 19 Supp.)

CHAPTER 101

STORM WATER DRAINAGE UTILITY

101.01 Purpose

101.02 Storm Water Drainage Utility Established

101.03 [Equivalent Residential Unit \(ERU\)](#)
[DefinedRate-Categories](#)

101.04 Rates

101.05 Use of Fund

101.06 Governing Board

101.07 Storm Water Site Plan Review
Required

[101.08 Lien for Nonpayment](#)

101.01 PURPOSE.

The purpose of this chapter is to establish a Storm Water Drainage Utility and provide a means of funding the construction, operation, and maintenance of storm water management facilities, including (but not limited to) detention and retention basins, storm water sewers, inlets, ditches and drains, and cleaning of streets. The Council finds that the construction, operation, and maintenance of the City's storm and surface water drainage system should be funded through charging users of property which may connect or discharge directly, or indirectly, into the storm and surface water drainage system or properties receiving the indirect benefit of drainage diverted into the City's system.

101.02 STORM WATER DRAINAGE UTILITY ESTABLISHED.

It is found and determined to be necessary and conducive to the protection of the public health, safety, welfare, and convenience that a storm water drainage utility is created for all

of the City of Windsor Heights, Iowa, and for the purpose authorized by Section 384.84(1) Code of Iowa; that is, to establish and collect rates for a storm water drainage system.

101.03 RATE CATEGORIES.

~~—The billing rates are divided into categories, as follows:~~

~~—1. Residential: Parcels as defined by the County Assessor data base; Use Class R and Use Class F parcels.~~

~~—2. Commercial: Non-residential~~

~~(Ord. 18-11 — Jun. 18 Supp.)~~

101.03 EQUIVALENT RESIDENTIAL UNIT (ERU), DEFINED:

“ERU” shall be used as the basis for determining stormwater management fees. Less than or equal to three thousand (3,000) square feet of impervious surface area shall be one ERU. Every additional increment of one (1) square foot to one thousand five hundred (1,500) square feet of impervious surface area shall be one half (0.5) ERU. Properties shall be charged in increments of one half ERU with a minimum charge of 1 ERU per property billed monthly. Residential and non-residential properties shall pay the same rate per ERU.

Commented [AS7]: Added per Ordinance No. 24-02. Passed 5.6.24

101.04 RATES.

~~—The billing rates for the categories as defined in Section 101.03 are as follows:~~

~~-~~

Category	Monthly Rate
Residential	\$5.50 per unit per month
Non-Residential	\$5.50 per unit per month

~~-~~

~~(Ord. 19-03 — Jul. 19 Supp.)~~

101.04 RATES.

The billing rates per ERU as defined in Section 101.03 are as follows:

Effective July 1, 2024: \$9.00 per ERU

Effective July 1, 2026: \$9.50 per ERU

Effective July 1, 2028: \$10.00 per ERU

Commented [AS8]: Added per Ordinance No. 24-02. Passed 5.6.24

Effective July 1, 2030: \$10.50 per ERU

101.05 USE OF FUND.

The money paid and collected pursuant to this chapter shall be held by the City in a special fund to be expended only for the purpose of constructing, operating, managing, repairing, and maintaining all kinds of conduits, drains, storm water detention devices, flow impediments, ponds, ditches, sloughs, filter strips, rip-raps, erosion control devices, and any other things and activities useful to the proper control management, collection, drainage, and disposition of storm water in the City.

101.06 GOVERNING BOARD.

The governing board of the Storm Water Drainage Utility is the City Council. The Storm Water Drainage Utility shall be under the direction, management, and control of the City Administrator, who functions as its director. In that capacity, the City Administrator shall supervise the day-to-day operation of the Storm Water Drainage Utility, shall enforce this chapter and the provisions of all ordinances and regulations adopted pursuant to this chapter and shall carry out the policy directives of the Council acting in its role as governing body of the Storm Water Drainage Utility.

101.07 STORM WATER SITE PLAN REVIEW REQUIRED.

A storm water site plan review shall be required for projects in order to ensure that the goals of the City's storm water program are met. Storm water site plan requirements and associated fees are adopted by resolution and available for review from the City Clerk or the City Building Inspector.

101.08. LIEN FOR NONPAYMENT

The owner of the property served and any lessee or tenant thereof shall be jointly and severally liable for stormwater fees. Stormwater fees remaining unpaid and delinquent shall constitute a lien upon the property and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

Commented [AS9]: Added per Ordinance No. 24-02. Passed 5.6.24

CHAPTER 102

ILLICIT DISCHARGE TO STORM SEWER SYSTEM

102.01 Findings

102.06 Suspension of Access to the City's

(Supp. No. 30)

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	Storm Sewer System
102.02 Illicit Discharges Prohibited	102.07 Watercourse Protection
102.03 Illicit Connections Prohibited	102.08 Enforcement
102.04 Industrial Discharges	102.09 Appeal
102.05 Illicit Discharge Detection and Reporting; Cost Recovery	

102.01 FINDINGS.

1. The U.S. EPA's National Pollutant Discharge Elimination System ("NPDES") permit program ("Program") administered by the Iowa Department of Natural Resources ("IDNR") requires that cities meeting certain demographic and environmental impact criteria obtain from the IDNR an NPDES permit for the discharge of storm water from a Municipal Separate Storm Sewer System ("MS4") ("MS4 Permit"). The City of Windsor Heights is subject to the Program and is required to obtain, and has obtained, an MS4 Permit; the City's MS4 Permit is on file at the office of the City Clerk and is available for public inspection during regular office hours.

2. As a condition of the City's MS4 Permit, the City is obliged to adopt and enforce an ILLICIT DISCHARGE TO STORM SEWER SYSTEM ordinance.

3. No State or federal funds have been made available to assist the City in administering and enforcing the Program. Accordingly, the City shall fund its operations under this chapter entirely by charges imposed on the owners of properties which are made subject to the Program by virtue of State and federal law, and/or other sources of funding established by a separate ordinance.

4. Terms used in this chapter shall have the meanings specified in the Program.

102.02 ILLICIT DISCHARGES PROHIBITED.

1. For purposes of this chapter, a "responsible party" is one or more persons that control or are in possession of or own property. Responsible parties shall be jointly and severally responsible for compliance with this chapter and jointly and severally liable for any illicit discharge from the property controlled, possessed, or owned. For purposes of this chapter, "property" includes but is not limited to real estate, fixtures, facilities, and premises of any kind located upon, under or above the real estate.

2. Nothing in this chapter shall be deemed to relieve a responsible party subject to an IDNR-issued industrial discharge permit or any other federal, State, or City permit, statute,

ordinance, or rule from any obligation imposed by such permit, statute, ordinance or rule if any such obligation is greater than any obligation imposed by this chapter.

3. Any discharge into the City's storm sewer system prohibited by the City's MS4 Permit, the terms of which are hereby incorporated by reference, shall be deemed an "illicit discharge" in violation of this chapter.

4. Sediment pollution originating from excessive erosion rates on a construction site not otherwise subject to the City's COSESCO ordinance or sediment pollution entering a municipal storm sewer that causes a water quality violation as determined by the DNR shall be deemed an illicit discharge in violation of this chapter.

102.03 ILLICIT CONNECTIONS PROHIBITED.

1. For purposes of this chapter, an "illicit connection" to the City's storm sewer system is any physical connection or other topographical or other condition, natural or artificial, which is not specifically authorized by ordinance or written rule of the City, which causes or facilitates, directly or indirectly, an illicit discharge.

2. The construction, use, maintenance or continued existence of any illicit connection shall constitute a violation of this chapter.

3. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

102.04 INDUSTRIAL DISCHARGES.

1. Any responsible party subject an industrial NPDES discharge permit issued by the IDNR shall comply with all provisions of such permit.

2. Proof of compliance with said permit may be required in a form acceptable to the enforcement officer prior to discharges to the storm sewer system authorized by said permit.

102.05 ILLICIT DISCHARGE DETECTION AND REPORTING; COST RECOVERY.

1. All detection activities permitted under this chapter shall be conducted by the City Public Works Director, City Engineer, Building Inspector, a subcontractor credentialed in a manner satisfactory to the City, or other appropriate designee, hereinbefore and after referred to as the "enforcement officer."

2. The City shall not be responsible for the direct or indirect consequences to persons or property of an illicit discharge, or circumstances which may cause an illicit discharge, undetected by the City.

3. Every responsible party has an absolute duty to monitor conditions on property owned or controlled by them, to prevent all illicit discharges, and to report to the enforcement officer illicit discharges which the responsible party knows or should have known to have occurred. Failure to comply with any provision of this chapter is a violation of this chapter.

A. Notwithstanding other requirements of law, as soon as any responsible party has information of any known or suspected illicit discharge, the responsible party shall immediately take all necessary steps to ensure the discovery, containment, and cleanup of such discharge at the responsible party's sole cost.

B. If the illicit discharge consists of hazardous materials, the responsible party shall also immediately notify emergency response agencies of the occurrence via emergency dispatch services.

C. If the illicit discharge emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

D. A report of an illicit discharge shall be made in person or by phone or facsimile or email to the enforcement officer immediately, but in any event within twenty-four (24) hours after the illicit discharge. Notifications in person or by phone shall be confirmed by written notice addressed and mailed or emailed to the enforcement officer within twenty-four (24) hours after the personal or phone notice.

4. Any person or entity shall also report to the City any illicit discharge or circumstances which such person or entity reasonably believes pose a risk of an illicit discharge.

5. Upon receiving a report pursuant to the previous subsections, or otherwise coming into possession of information indicating an actual or imminent illicit discharge, the enforcement officer shall conduct an inspection of the site as soon as reasonably possible and thereafter shall provide to the responsible party, and any third party reporter, a written report of the conditions which may cause or which have already caused an illicit discharge. The responsible party shall immediately commence corrective action or remediation and shall complete such corrective action or remediation within twenty-four (24) hours.

6. The enforcement officer shall be permitted to enter and inspect property subject to regulation under this section as often as is necessary to determine compliance with this section. If a responsible party has security measures that require identification and clearance before entry to its property or premises, the responsible party shall make the

necessary arrangements to allow access by the enforcement officer. By way of specification but not limitation:

A. A responsible party shall allow the enforcement officer ready access to all parts of the property for purposes of inspection, sampling, examination and copying of records related to a suspected, actual, or imminent illicit discharge, and for the performance of any additional duties as defined by State and federal law.

B. The enforcement officer shall have the right to set up on any property such devices as are necessary in the opinion of the enforcement officer to conduct monitoring and/or sampling related to a suspected, actual or imminent illicit discharge.

C. The enforcement officer shall have the right to require any responsible party at responsible party's sole expense to install monitoring equipment and deliver monitoring data or reports to the enforcement officer as the enforcement officer directs. The sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the responsible party at responsible party's sole expense. All devices shall be calibrated to ensure their accuracy.

D. Any temporary or permanent obstruction to safe and easy access to property to be inspected and/or sampled shall be promptly removed by the responsible party at the written or oral order of the enforcement officer and shall not be replaced. The costs of clearing such access shall be borne by the responsible party.

E. An unreasonable delay in allowing the enforcement officer access to a property is a violation of this chapter.

F. If the enforcement officer has been refused access to any part of the property from an illicit connection and/or illicit discharge to a municipal storm sewer is occurring, suspected or imminent, and is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this chapter or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the enforcement officer may seek issuance of a search warrant from any court of competent jurisdiction.

7. If it is determined that an illicit discharge is imminent or has occurred, the actual administrative costs incurred by the City in the enforcement of this chapter shall be recovered from the responsible party. The enforcement officer shall submit an invoice to the responsible party reflecting the actual costs and wages and expenses incurred by the City for the enforcement activities undertaken. Failure to pay charges invoiced under this chapter within thirty (30) days of billing shall constitute a violation of this chapter.

102.06 SUSPENSION OF ACCESS TO THE CITY'S STORM SEWER SYSTEM.

1. Emergency Suspension. The enforcement officer may, without prior notice, suspend storm sewer system access to a property when such emergency suspension is necessary to stop an ongoing or imminent illicit discharge. If the responsible party fails to immediately comply with an emergency suspension order, the enforcement officer shall take such steps as deemed necessary to prevent or minimize the illicit discharge. All costs of such action shall be recovered from the responsible party for the property identified as the source of the illicit discharge.

2. Non-Emergency Suspension. If the enforcement officer detects or is informed of circumstances which could cause an illicit discharge, but such illicit discharge is not ongoing or imminent, and if the suspension of storm sewer system access would reasonably be expected to prevent or reduce the potential illicit discharge, the enforcement officer shall notify the responsible party of the proposed suspension of storm sewer system access and the time and date of such suspension. Notice to one responsible party for the property shall be sufficient notice to all. Remediation of the circumstances shall avoid a violation of this chapter, provided that no illicit discharge occurs. In the alternative, the responsible party may request a meeting with the enforcement officer for the purpose of presenting information which the responsible party believes will show that remediation is unnecessary; and if the enforcement officer finds such information is satisfactory, the enforcement officer may rescind or modify the notice of suspension. If the enforcement officer finds such information unsatisfactory, the enforcement officer shall issue a final written order of suspension including the date and time of suspension and such order may be appealed as provided herein. Any physical action to reinstate storm sewer system access to property subject to such order prior to obtaining a court order of relief shall be deemed a violation of this chapter. An order of suspension shall not preclude charging the responsible party with a municipal infraction as provided herein or taking any other enforcement action permitted by statute or ordinance.

102.07 WATERCOURSE PROTECTION.

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property below the elevation of the 100-year flood free of trash, debris, grass clippings or other organic wastes and other obstacles that would pollute, contaminate, or significantly alter the quality of water flowing through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

102.08 ENFORCEMENT.

1. Violation of any provision of this chapter may be enforced by civil action including an action for injunctive relief. In any civil enforcement action, administrative or judicial, the City shall be entitled to recover its attorneys' fees and costs from a person who is determined by a court of competent jurisdiction to have violated this chapter.

2. Violation of any provision of this chapter may also be enforced as a municipal infraction within the meaning of Section 364.22 of the Code of Iowa, pursuant to Chapter 4 of this Code of Ordinances.

3. Enforcement pursuant to this section shall be undertaken by the enforcement officer upon the advice and consent of the City Attorney.

102.09 APPEAL.

Administrative decisions by City staff and enforcement actions of the enforcement officer may be appealed by the applicant to the City Council pursuant to the following rules:

1. The appeal must be filed in writing with the City Clerk within five (5) business days of the decision or enforcement action.

2. The written appeal shall specify in detail the action appealed from, the errors allegedly made by the enforcement officer giving rise to the appeal, a written summary of all oral and written testimony the applicant intends to introduce at the hearing, including the names and addresses of all witnesses the applicant intends to call, copies of all documents the applicant intends to introduce at the hearing, and the relief requested.

3. The enforcement officer shall specify in writing the reasons for the enforcement action, a written summary of all oral and written testimony the enforcement officer intends to introduce at the hearing, including the names and addresses of all witnesses the enforcement officer intends to call, and copies of all documents the enforcement officer intends to introduce at the hearing.

4. The City Clerk shall notify the applicant and the enforcement officer by ordinary mail, and shall give public notice, in accordance with Chapter 21 of the Code of Iowa, of the date, time, and place for the regular or special meeting of the City Council at which the hearing on the appeal shall occur. The hearing shall be scheduled for a date not less than four (4) or more than twenty (20) days after the filing of the appeal. The rules of evidence and procedure, and the standard of proof to be applied, shall be the same as provided by Chapter 17A, Code of Iowa. The applicant may be represented by counsel at the applicant's expense. The enforcement officer may be represented by the City Attorney or by an attorney designated by the City Council at City expense.

The decision of the City Council shall be rendered in writing and may be appealed to the Iowa District Court.

CHAPTER 105
SOLID WASTE CONTROL AND RECYCLING

105.01 Purpose	105.07 Treatment Pending Collection
105.02 Definitions	105.08 Waste Storage Containers
105.03 Sanitary Disposal Required	105.09 Prohibited Practices
105.04 Health and Fire Hazard	105.10 Recyclable Collection Program
105.05 Open Burning Restricted	105.11 Yard Wastes
105.06 Toxic and Hazardous Waste	

105.01 PURPOSE.

The purpose of the chapters in this Code of Ordinances pertaining to Solid Waste Control and Collection is to provide for the sanitary storage, collection, and disposal of solid waste, yard waste, and recyclables and, thereby, to protect the citizens of the City from such hazards to their health, safety, and welfare as may result from the uncontrolled disposal of solid waste.

105.02 DEFINITIONS.

For use in these chapters the following terms are defined:

1. "Agency" means the Metropolitan Waste Authority.
2. "Bags" means any untreated paper bags acceptable to the composting station used by the licensed yard waste collection hauler.
3. "Bundle" means a stack of brush and/or tree branches that are tied or bound together and do not exceed ~~forty (40) pounds~~, four (4) feet in length, and ~~twelve (12) inches~~ **eighteen (18)** inches in diameter.
4. "Collector" means any person authorized to gather solid waste from public and private places.
5. "Composting" means a controlled microbial degradation of organic waste to produce a relatively nuisance-free product of potential value as soil conditioner.
6. "Container" means a reusable receptacle constructed of plastic or metal materials.
7. "Discard" means to place, cause to be placed, throw, deposit, or drop.

Commented [AS10]: Updated to match Metro Waste definition as they manage yard waste for the City.

Commented [AS11R10]:
<https://www.mwatoday.com/waste-recycling/recycling-disposal-guide/recycling-guide-items/brush-sticks--twigs/>

(Code of Iowa, Sec. 455B.361[2])

8. "Dwelling unit" means any room or group of rooms located within a structure and forming a single habitable unit with facilities which are used, or are intended to be used, for living, sleeping, cooking and eating.

9. "Eligible residence" means a residence of not more than four dwelling units.

10. "Facility" means the facility or facilities designated by the City to which the hauler shall deliver all recyclable material collected by the hauler.

11. "Garbage" means all solid and semisolid, putrescible animal and vegetable waste resulting from the handling, preparing, cooking, storing, serving and consuming of food or of material intended for use as food, and all offal, excluding useful industrial by-products, and includes all such substances from all public and private establishments and from all residences.

(IAC, 567-100.2)

12. "Litter" means any garbage, rubbish, trash, refuse, waste materials, or debris.

(Code of Iowa, Sec. 455B.361[1])

13. "Non-recyclable material" means any material not defined as "recyclable material."

14. "Owner" means, in addition to the record titleholder, any person residing in, renting, leasing, occupying, operating or transacting business in any premises, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.

15. "Recyclable material" means material accepted by the Agency as recyclable. The Agency will provide the parameters on which material will be accepted through its recycling operations. This information will be provided to the public on a regular basis and will also be available at City Hall.

16. "Refuse" means putrescible and non-putrescible waste, including but not limited to garbage, rubbish, ashes, incinerator residues, street cleanings, market and industrial solid waste and sewage treatment waste in dry or semisolid form.

(IAC, 567-100.2)

17. "Residential waste" means any refuse generated on the premises as a result of residential activities. The term includes landscape waste grown on the premises or deposited thereon by the elements, but excludes garbage, tires, trade wastes and any locally recyclable goods or plastics.

(IAC, 567-20.2[455B])

18. "Rubbish" means non-putrescible solid waste consisting of combustible and non-combustible waste, such as ashes, paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, or litter of any kind.

(IAC, 567-100.2)

19. "Sanitary disposal" means a method of treating solid waste so that it does not produce a hazard to the public health or safety or create a nuisance.

(IAC, 567-100.2)

20. "Sanitary disposal project" means all facilities and appurtenances, including all real and personal property connected with such facilities, which are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, and/or operated by the Agency to facilitate the final disposition of solid waste. The term includes any sanitary landfill, transfer station, or resource recovery system owned or operated by the Agency.

(Code of Iowa, Sec. 455B.301)

21. "Set out" means the action event or instance comprised of the proper placement of the home storage containers of recyclable material for collection at the eligible residence.

22. "Solid waste" means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include motor vehicles, if approved by the Agency. The term excludes yard waste and may exclude other materials as defined by the Agency. Solid waste does not include any of the following:

(Code of Iowa, Sec. 455B.301)

A. Hazardous waste regulated under the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6921-6934.

B. Hazardous waste as defined in Section 455B.411 of the Code of Iowa, except to the extent that rules allowing for the disposal of specific wastes have been adopted by the State Environmental Protection Commission.

C. Source, special nuclear, or by-product material as defined in the Atomic Energy Act of 1954, as amended to January 1, 1979.

D. Petroleum contaminated soil that has been remediated to acceptable State or federal standards.

E. Steel slag which is a product resulting from the steel manufacturing process and is managed as an item of value in a controlled manner and not as a discarded material.

23. "Yard waste" means organic debris such as grass clippings, leaves, garden waste, prunings, weeds, brush, and tree branches produced as a part of yard and garden development and maintenance. Yard waste does not include tree stumps.

(Supp. No. 30)

Created: 2024-04-16 13:54:37 [EST]

24. "Landscape waste" means any vegetable or plant wastes, except garbage. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, and yard trimmings.

(Subsection 24 – Ord. 22-04 – Oct. 22 Supp.)

25. "Structure" means any building, house, shed, garage, outbuilding, storage building, carport, awning, or other such property which is constructed with any combination of walls or a roof.

(Subsection 25 – Ord. 22-04 – Oct. 22 Supp.)

105.03 SANITARY DISPOSAL REQUIRED.

It is the duty of each owner to provide for the sanitary disposal of all refuse accumulating on the owner's premises before it becomes a nuisance. Any such accumulation remaining on any premises for a period of more than fourteen (14) days shall be deemed a nuisance and the City may proceed to abate such nuisances in accordance with the provisions of Chapter 50 or by initiating proper action in district court.

(Code of Iowa, Ch. 657)

105.04 HEALTH AND FIRE HAZARD.

It is unlawful for any person to permit to accumulate on any premises, improved or vacant, or on any public place, such quantities of solid waste that constitute a health, sanitation or fire hazard.

105.05 OPEN BURNING RESTRICTED.

~~No p~~It shall be unlawful for any person to open burn or to permit open burning of any refuse, rubbish, garbage, landscape waste or other combustible material within the City of Windsor Heights except as outlined below, and only then in the presence of a competent adult and with a water supply and / or fire extinguisher in close proximity:

1. Charcoal / Gas Cooking Grills. This section shall not apply to the use of commercially manufactured cooking grills which burn commercially sold charcoal, untreated seasoned dry wood, propane, or natural gas. Charcoal burners and other open-flame cooking devices which produce ash or embers shall not be operated on combustible balconies or within 10 feet of multi-story buildings, such as apartment buildings and/or condominiums in accordance with City Code 308.1.4.

2. Outdoor Patio Heaters. This section shall not apply to the use of commercially manufactured outdoor patio heaters which use propane or similar fuels as the fuel source.

3. Commercially Manufactured Outdoor Recreational Fireplaces with A Chimney. This section shall not apply to commercially manufactured outdoor recreational fireplaces which include, as part of the original manufacturer design, a chimney through which all products of combustion must pass before entering the open air. Furthermore, any substance used as fuel in these devices shall be only such substance as is commercially sold for the purpose of combustion within such devices only untreated seasoned dry wood shall be used as fuel in such devices. No commercially manufactured outdoor recreational fireplace shall be utilized within twenty-five (25) feet of any structure, nor within ten (10) feet of any fence made of combustible materials, within the City of Windsor Heights. Any smoke or other products of combustion shall rise above the roofline of residential homes in the area where the device is being used.

4. Permanent Outdoor Fireplaces Designed and Built As Part of A Landscaping Design. This section shall not apply to permanent outdoor fireplaces designed and built as part of a landscape design provided only untreated seasoned dry wood or charcoal is used as fuel, and the individual pieces of wood or charcoal are no larger than 2-inches in diameter. Outdoor fireplaces shall be a minimum of ten (10) feet from any structure, and they must be designed and built with a chimney through which products of combustion shall pass before entering open air space. General landscape waste, refuse, and garbage shall not be burnt in any permanent outdoor fireplace within the City. Any smoke or other products of combustion must rise above the roofline of residential homes in the area where the device is being used.

5. Any open burning which is offensive or objectionable because of smoke or odor emission which does not meet the criteria in this Code related to the smoke and products of combustion rising above the roofline of residential homes in the area, or when atmospheric conditions or local circumstances making fires hazardous shall be prohibited.

6. There shall be no open burning if Polk County is under a burn ban issued by the State Fire Marshal.

(Section 105.05 – Ord. 22-05 – Oct. 22 Supp.)

105.06 TOXIC AND HAZARDOUS WASTE.

No person shall deposit in a solid waste container or otherwise offer for collection any toxic or hazardous waste. Such materials shall be transported and disposed of as prescribed by the Director of the State Department of Natural Resources. As used in this section, “toxic and hazardous waste” means waste materials, including but not limited to, poisons, pesticides, herbicides, acids, caustics, pathological waste, flammable or explosive materials and similar harmful waste which requires special handling and which must be

disposed of in such a manner as to conserve the environment and protect the public health and safety.

(IAC, 567-100.2)

(IAC, 567-102.13[2] and 400-27.14[2])

105.07 TREATMENT PENDING COLLECTION.

All solid waste consisting of waste animal and vegetable matter, which may attract flies, dogs, or rodents, shall be drained of all excess liquid, wrapped in paper or disposable containers, and placed or stored, until collection, in covered suitable containers.

105.08 WASTE STORAGE CONTAINERS.

Every person owning, managing, operating, leasing, or renting any premises, dwelling unit or any place where refuse accumulates shall utilize and at all times maintain in good order and repair portable containers for solid waste and refuse provided by the City or the City's solid waste contractor.

1. Commercial Container Specifications. Every person owning, managing, operating, leasing, or renting any commercial premises where an excessive amount of refuse accumulates and where its storage in portable containers as required above is impractical, shall maintain metal bulk storage containers approved by the City.

2. Storage of Containers. Residential solid waste containers shall be stored upon the residential premises. Commercial solid waste containers shall be stored upon private property, unless the owner has been granted written permission from the City to use public property for such purposes. The storage site shall be well drained and fully accessible to collection equipment, public health personnel, and fire inspection personnel. All owners of residential and commercial premises shall be responsible for proper storage of all garbage and yard waste to prevent materials from being blown or scattered around neighboring yards and streets.

3. Location of Containers for Collection. Containers for the storage of solid waste awaiting collection shall be placed outdoors at some easily accessible place by the owner or occupant of the premises served. Containers for solid waste placed at the curb line shall not be so placed more than twelve (12) hours in advance of the regularly scheduled collection day and shall be promptly removed from the curb line following collection. No solid waste or solid waste containers shall be deposited by any person upon any sidewalk, crosswalk, roadway, or upon any alley right-of-way so as to obstruct or block pedestrian movement or vehicular traffic.

4. Nonconforming Containers. Solid waste placed in containers which are not in compliance with the provisions of this section will not be collected.

105.09 PROHIBITED PRACTICES.

It is unlawful for any person to:

1. Unlawful Use of Containers. Deposit refuse in any solid waste containers not owned by such person without the written consent of the owner of such containers or to deposit any refuse in nonconforming containers.

2. Interfere with Collectors. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the City, or those of any other authorized waste collection service.

3. Unlawful Disposal. Dispose of solid waste at any facility or location which is not an approved sanitary disposal project.

4. Incinerators. Burn rubbish or garbage except in incinerators designed for high temperature operation, in which solid, semisolid, liquid, or gaseous combustible refuse is ignited and burned efficiently, and from which the solid residues contain little or no combustible material, as acceptable to the Environmental Protection Commission.

5. Unlawful Collection. Engage in the business of collecting, transporting, processing or disposing of solid waste or yard waste within the City without a contract therefor with the City or a valid permit therefor.

105.10 RECYCLABLE COLLECTION PROGRAM.

1. Establishment. The City has previously entered into an Agreement with the Metro Waste Authority. This Agreement authorizes and directs the Metro Waste Authority to contract on behalf of the City for the collection of recyclable materials under the Metro Waste Authority's "Curb-It" program. The costs for the purchase of recyclable bins, the costs of educational programs instructing citizens as to the program, and the costs for processing the recyclables collected will be paid for by Metro Waste Authority. The hauler designated by Metro Waste Authority as the Recyclable Collection Hauler will provide collection of recyclable materials once per week to all eligible residents, under the terms and conditions of the contract executed between Metro Waste Authority and the designated hauler.

2. Nonexclusive Agreement. Nothing in the Agreement between the Metro Waste Authority and the City and/or Metro Waste Authority and the designated hauler for recyclable material within the City shall be construed or interpreted to constitute the grant

of a franchise or exclusive right to the designated hauler to collect all recyclable material within the City.

3. Collection of Recyclable Fees. Charges for the collection of recyclable materials shall be included in each eligible residence's water bill. Such charges are set forth in Section 106.08 of this Code of Ordinances.

4. Discontinuance of Service. Any resident who fails to remit the total amount of the charges set out in the water bill, including the fees for collection of recyclable materials, shall be sent a notice on the first day following the delinquent date. Such notice shall contain a statement explaining to the customer the availability of informal consultation with designated personnel empowered to correct mistakes and billing. If payment is tendered to the City within ten (10) days of notice being sent, all services to the residence shall continue uninterrupted. In the event payment is not received, the City shall have the right to discontinue utility services to the residence.

5. Responsibility for Payment of Bill. The owner of a property receiving collection of recyclables shall be responsible for the payment of all charges for such services.

105.11 YARD WASTES.

1. Disposal of Yard Waste. The collection, storage, and disposal of yard waste shall be subject to the following:

A. Separation of Yard Waste Required. All yard waste shall be separated by the owner or occupant from all other solid waste accumulated on the premises. The owner or occupant may either compost the yard waste on the premises or contain it in bags, containers, or bundles for collection and disposal. All bags or containers must be clearly marked "Yard Waste."

B. Yard Waste Containers. Persons choosing not to manage yard waste on their own property shall place yard waste in bags, containers, or bundles for collection and disposal. Bags shall be any untreated paper bags acceptable to the composting station used by the licensed yard waste collection hauler. Tree limbs less than four (4) inches in diameter and brush shall be securely tied in bundles not larger than forty-eight (48) inches long and eighteen (18) inches in diameter when not placed in containers. The weight of any individual bag, container, or bundle shall not exceed seventy-five (75) pounds.

C. Composting. Back yard composting of yard waste is encouraged. Information about this process is available to all residents and may be obtained from the office of the City Administrator located at the City Hall. Owners and occupants are encouraged to accumulate upon property under their respective control such quantities of yard waste as can be properly composted without creating offensive odors, litter, fire, or vector problems. Such composting so carried out shall be deemed to be an acceptable, alternative disposition

of yard waste and shall satisfy any requirement to separate yard waste contained in this Code.

D. Frequency of Collection. All yard waste not composted shall be collected from residential, commercial, industrial, and institutional premises at least once per week. Yard waste shall be collected on a City-wide basis between March 1 and November 30. City residents may arrange for individual yard waste pickup with the City, or its agent, between December 1 and February 28.

E. Location of Containers. Containers for the storage of yard waste awaiting collection shall be placed at the curb by the owner or occupant of the premise served. Yard waste must be placed a minimum of three feet from other solid waste.

F. Number of Bags or Containers. The number of bags, containers, or bundles containing yard waste which persons may place out for collection shall be unlimited.

G. Time Limit. Bags, containers, or bundles of yard waste shall not be placed for collection more than forty-eight (48) hours in advance of the regularly scheduled collection day.

2. Licensing of Yard Waste Collection Hauler. No person shall collect, transport, process, or dispose of yard waste generated within the jurisdiction of the City for compensation unless such person holds a valid license issued in accordance with the provisions of this section. In addition to meeting the requirements under this chapter for solid waste collectors, each licensed collector of yard waste shall provide the City a detailed description of the manner in which the collector intends to collect and haul away yard waste. Each such licensed collector shall haul yard waste to a compost site approved pursuant to State or local law or regulation and shall keep an accurate accounting of the amount of such yard waste. Each licensed collector shall submit an annual written report to the City detailing the amount of such yard waste that has been collected and delivered for composting during each month of the reporting year. Any collector licensed under the provisions of this section shall not mix yard waste and solid waste together. The license of any hauler who delivers for disposal yard waste and solid waste mixed together shall be subject to revocation.

3. Containers and Charges. Containers and charges for yard waste collection and disposal shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such containers and corresponding charges may, from time to time, be amended by the Council by resolution. A copy of the resolution setting forth the currently effective containers and corresponding charges shall be kept on file in the office of the City Administrator, and be open to inspection during regular business hours. Residents shall purchase their own bags, which are in addition to these charges. No additional charge will be imposed upon a resident for the collection of holiday trees and wreaths.

4. Owner May Transport. Nothing in this section is intended to prevent an owner from transporting yard waste accumulating on the premises of the owner, provided such yard

waste is disposed of at composting stations approved pursuant to State or local law or regulation and in accordance with policies established by the composting station.

5. Violations. No person shall place or cause to be placed any yard waste into the solid waste collection system of the City. Any person violating any of the provisions of this chapter concerning yard waste shall be guilty of a misdemeanor.

CHAPTER 106 COLLECTION OF SOLID WASTE

106.01 Collection Service	106.06 Right of Entry
106.02 Collection Vehicles	106.07 License Required
106.03 Loading	106.08 Authorization for Charges
106.04 Frequency of Collection	106.09 Billing and Collection Procedures
106.05 Bulky Rubbish	

106.01 COLLECTION SERVICE.

The City shall provide by contract, with a licensed collector, for the collection of solid waste, ~~except bulky rubbish~~ as provided in Section 106.05, from residential premises only. The owners or operators of commercial, industrial, or institutional premises shall provide for the collection of solid waste produced upon such premises.

Commented [AS12]: Removed as MWA contract includes a provision for bulky waste and appliances

106.02 COLLECTION VEHICLES.

Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste or solid waste containing such materials shall be leak-proof, durable and of easily cleanable construction. They shall be cleaned to prevent nuisances, pollution, or insect breeding and shall be maintained in good repair.

(IAC, 567-104.9[455B])

106.03 LOADING.

Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such a manner that the contents will not fall, leak, or spill therefrom, and shall be covered to prevent blowing or loss of material. Where spillage does

occur, the material shall be picked up immediately by the collector or transporter and returned to the vehicle or container and the area properly cleaned.

106.04 FREQUENCY OF COLLECTION.

All solid waste shall be collected from residential premises at least once each week and from commercial, industrial and institutional premises as frequently as may be necessary, but not less than once each week.

106.05 BULKY RUBBISH.

Bulky rubbish which is too large or heavy to be collected in the normal manner of other solid waste may be collected by the collector upon request in accordance with procedures therefor established by ~~the Council~~ the collectors contract.

Commented [AS13]: Removal is set by MWA contract.

106.06 RIGHT OF ENTRY.

Solid waste collectors are hereby authorized to enter upon private property for the purpose of collecting solid waste therefrom as required by this chapter; however, solid waste collectors shall not enter dwelling units or other residential buildings.

~~106.07 LICENSE REQUIRED.~~

~~—No person shall collect, transport, process or dispose of any solid waste generated within the jurisdiction of the City for compensation unless such person holds a valid license issued in accordance with the provisions of this chapter.~~

~~—1. Application Contents. Application for a license under this chapter shall be addressed to the Council and filed with the Clerk and shall contain the following:~~

~~—A. Name and Address. The full name, business address, and business telephone number of the applicant.~~

~~—B. Nature of Business. A description of the nature and extent of the business of the applicant.~~

~~—C. Customers Served. A description of the types or classes of customers which the applicant proposes to serve.~~

~~—D. Waste Transported. A description of the types of solid waste which the applicant proposes to transport.~~

Commented [AS14]: Recommending removal of this section. The City contracts with MWA for collection services. It has not been practice to license any commercial junk hauler services like 1-800-JUNK. It does not appear to be a practice within the metro as well. It would also add administrative burden to staff.

—E. Equipment. A description of the vehicles and equipment which the applicant proposes to use.

—F. Disposal Project. The location of the sanitary disposal project which the applicant proposes to use.

—G. Compliance Assurance. A statement that the applicant shall faithfully observe all of the applicable provisions of this chapter.

—2. Accompanying Material. In addition to the foregoing, such application shall be accompanied by the following:

—A. Financial Statements. Financial statements for the applicant covering its last two fiscal or calendar years, which shall include balance sheets and operating statements.

—B. Rate Schedules. Copies of current rates and fees charged by applicant for transportation of solid waste.

—C. Rules and Regulations. Copies of current rules and regulations of the applicant applicable to the transportation of solid waste.

—D. Affirmation. The application shall be sworn to under oath.

—E. Insurance. Applicants shall provide proof of liability insurance in the amounts of \$250,000 per person and \$1,000,000 per occurrence for bodily injury and \$500,000 per occurrence for property damages.

—3. Action by Council. The Council shall act on all applications for licenses within 45 days following receipt of the application by the Clerk. If the Council finds that all of the prescribed conditions for the issuance of a license have been satisfied, and that no grounds for revocation exist, the Council may, by resolution, authorize the issuance of the license.

—4. License Fee. Before any solid waste collector's license is issued, the applicant shall pay to the Clerk an annual license fee. Payment of such license fee shall be by cash or by certified or cashier's check payable to the City. All license fees under this chapter shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such license fees may, from time to time, be amended by the Council by resolution. A copy of the resolution setting forth the currently effective license fees shall be kept on file in the office of the City Administrator, and be open to inspection during regular business hours.

—5. Issuance of License. When authorized by the Council, and after payment of the license fee, the Clerk shall issue the license to the applicant.

—6. Form of License. The license shall be signed by the Mayor and the Clerk and shall show the name of the licensee, the address of the licensee, the purpose of the license, the date of the issuance of the license, and the date of expiration of the license.

—7. ~~Expiration Date.~~ Each license issued under the provisions of this chapter shall expire at 11:59 p.m. on December 31 in the calendar year of issuance.

—8. ~~Rebates Prohibited.~~ No licensee shall be entitled to a rebate of any kind by reason of the surrender of a license prior to the expiration date.

—9. ~~Transfer Prohibited.~~ Each license issued hereunder shall be personal to the licensee and shall be void upon transfer or assignment to another person.

—10. ~~Grounds for Revocation.~~ The following reasons shall be grounds for the revocation of any license issued under the provisions of this chapter:

—A. ~~Fraud.~~ The licensee has made fraudulent or untrue statements in the application for a license.

—B. ~~Violations.~~ The licensee has violated any of the provisions of this chapter.

—C. ~~Improper Operation.~~ The licensee has conducted the licensee's business in such a manner as to endanger the public welfare, health, safety, order, or morals.

—11. ~~Revocation Procedure.~~ When it shall appear to the Council that grounds for the revocation of a license may exist, the following procedure shall be followed:

—A. ~~Investigation.~~ The Council shall direct the Chief of Police to make an investigation concerning the alleged grounds for revocation.

—B. ~~Report.~~ The Chief of Police shall make such investigation and report findings in writing to the Council.

—C. ~~Council Determination.~~ The Council shall make a determination as to whether probable cause for revocation exists.

—D. ~~Hearing.~~ If the Council finds that probable cause for revocation exists, it shall set a date, time, and place for a hearing on the matter and shall direct the City Attorney to prepare the complaint against the licensee. The complaint shall state the alleged grounds for the revocation and the date, time, and place for a hearing on the matter.

—E. ~~Service of Complaint.~~ The complaint shall be served upon the licensee in the manner provided for by the Iowa Rules of Civil Procedure not less than ten (10) days prior to the date set for a hearing on the matter.

—F. ~~Conduct of Hearing.~~ The Council shall conduct the hearing at which the licensee shall be present. The purpose of the hearing shall be to determine the truth of the facts alleged in the complaint. Should the licensee or an authorized representative fail to appear without good cause, the Council may proceed to a determination on the complaint.

—G. ~~Rights of Licensee.~~ The licensee shall have the right to be represented by counsel, to testify and present witnesses in the licensee's own behalf and to cross-examine adverse witnesses.

—H. Evidence. The Council shall admit only reliable and substantial evidence into the revocation proceeding and shall give all admitted evidence its natural probative value.

—I. Findings; Revocation. The Council shall make and record findings of fact and conclusions of law and shall revoke a license under this section only when, upon review of the entire record, it finds substantial evidence of a violation of this chapter.

—12. Effect of Revocation. Revocation of a license shall bar the licensee from being eligible for any license under this chapter for a period of one year from the date of revocation.

—13. 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 such owner, provided such refuse is disposed of properly in an approved sanitary disposal project.

—14. Grading or Excavation Excepted. No license is 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 spills upon any public right-of-way.

106.08 AUTHORIZATION FOR CHARGES.

1. Authority to Establish Rates. The City will fix, establish, maintain – and revise from time to time whenever necessary – such rates, fees, rentals, or other charges for the use and services of the disposal facilities operated by the ~~Agency~~ Metro Waste Authority, as more fully described in the Agreement for the Collection of Solid Waste and Yard Waste Between Metro Waste Authority and Waste Connections of Iowa, Inc dated December 29, 2021 and any subsequent MOU approved by the City Council ~~Solid Waste Disposal Service Contract~~, to always provide in each year revenues sufficient to pay the proportionate share of the City for: (i) operation and maintenance expenses for said disposal facilities; (ii) the principal of and interest on the Solid Waste Disposal Revenue Bonds; and (iii) all reserves, renewal and replacement funds and other funds provided for in the Resolution authorizing the issuance of such Solid Waste Disposal Revenue Bonds.

2. Initial Schedule of Rates. An initial schedule of such rates, fees, tolls, and other charges to be levied and collected from the residents of the City for the use and services of said disposal facilities shall be established and put into effect whenever necessary in order for the City to comply with the provisions of its Agreement for the Collection of Solid Waste and Yard Waste Between Metro Waste Authority and Waste Connections of Iowa, Inc dated December 29, 2021 and any subsequent MOU approved by the City Council ~~Solid Waste Disposal Service Contract~~; provided, however, the City may in its discretion apply such other lawfully available moneys it has on hand for such purpose. The applicable monthly rates are identified in the Fee Schedule, following table:

Authorized Contractor Charges:

Commented [AS15]: Updated to add clarity of who the Agency is

Commented [AS16]: Updating mentions on the contract to the current contract name. Also mentioning MOU as there is currently one in place.

Consolidated Flat Rate — \$ 10.57

Consolidated House-Side Service — \$ 17.16

Extra Bagged Collection Sticker — \$ 1.00

Large Item Sticker — \$ 5.00

Appliances With or Without Freon — \$ 35.00

Recycling — \$ 3.15

Storm Debris/Brush Waste Collection — \$ 0.32

Commented [AS17]: Removing fees and placing in Fee Schedule

106.09 BILLING AND COLLECTION PROCEDURES.

1. The collector contracted by the City for collection and disposal of solid waste shall be responsible for all billings and collection of fees for its services rendered for collection and disposal. Said collector shall bill City residents on a quarterly basis. The collector shall provide at least 90 days for payment of a delinquent account prior to termination of service and shall not discontinue collection service at any residential unit prior to a written notice sent to the unit. This notice shall state substantially as follows:

Dear Customer:

It has become necessary for us to discontinue your service because of nonpayment. Please contact our office immediately so we can make arrangements to reinstate your service. Thank you.

The collector shall employ reasonable procedures to collect delinquent accounts and shall not harass or exert undue pressure on residents with delinquent accounts.

2. Each delinquent account which is transmitted to the City by the licensed collector shall thereafter be processed for imposition of a lien upon the property benefited as provided by Section 384.84 of the Code of Iowa, in the amount of the delinquent account, plus a Polk County administrative fee for each lien certified as provided in Section 384.84 of the Code of Iowa, plus a City delinquency fee in the amount of \$5.00 to recoup the City's administrative processing costs and lost investment on the unpaid amount. The lien herein provided shall apply only to that property or those properties benefited for which the account is delinquent.

3. The City shall prepare an assessment schedule listing all delinquent solid waste collection accounts transmitted to the City. Such schedule shall show each delinquent account by name of the tenant and/or record title holder of the benefited property, shall identify each property for which the solid waste collection account is delinquent, and shall show the delinquent amount and delinquency fee to be assessed against each such benefited property. The assessment schedule shall be presented to the City Council and

upon Council approval thereof the City Clerk shall certify and file same with the Polk County Treasurer for filing of liens against the properties shown thereon in the amounts shown thereon; provided, however, if the record title holder of a rental property subject to billing for solid waste collection requests notice as provided in Section 384.84 of the Code of Iowa, the City Clerk shall give notice of delinquency to said record title holder not less than ten (10) days prior to certifying delinquent charges for said property to the County Treasurer.

4. Such lien shall be enforced until payment in full of the delinquent amount and delinquency fees shown on the assessment schedule is satisfied by payment of said amounts at the office of the County Treasurer.

CHAPTER 107
SOLID WASTE DISPOSAL

107.01 Definitions	107.07 Optional Methods of Providing for Payment of Contract Payment
107.02 Disposal of Solid Waste	107.08 Assessment Schedule for Contract Payment
107.03 Exceptions	107.09 Approval of Assessment Schedule
107.04 Method of Disposal of Solid Waste	107.10 Certification of Assessment Schedule
107.05 Declaration of Benefit	107.11 Proceeds of Special Assessment
107.06 Notice of Contract Payment	

107.01 DEFINITIONS.

The following words and phrases, when used in this chapter, for the purpose of this chapter, have the meaning ascribed to them in this section:

- ~~1. —1.~~ “Actual value” means actual value as that term is or may be defined by Code of Iowa Section 441.21. It refers to actual value as most recently determined according to law.
- ~~2. “Agency” means Metro Waste Authority~~
- ~~2. “Agreement” means the Amended and Substituted Intergovernmental Agreement Creating the Des Moines Metropolitan Area Solid Waste Agency dated December 18, 1969.~~
3. “Contract” means the Agreement for the Collection of Solid Waste and Yard Waste Between Metro Waste Authority and Waste Connections of Iowa, Inc dated December 29,

Commented [AS18]: Removing as we are under a singular agreement/contract with MWA that was most recently signed in 2021

~~2021 and any subsequent MOU approved by the City Council Solid Waste Disposal Service Contract between the Agency and the City dated May 1, 1972.~~

Commented [AS19]: Updating to reference the City's most recent agreement with MWA

4. "Contract payment" means the amounts paid or required to be paid from time to time by the City to the Agency pursuant to the contract.

5. "Disposal project" means a sanitary disposal project as that term is or may be defined by Code of Iowa Chapter 455B owned, operated or used by the Agency pursuant to the contract.

6. "Real estate" means real estate as that term is or may be defined by Code of Iowa, Section 4.1(13).

107.02 DISPOSAL OF SOLID WASTE.

All solid waste generated within the jurisdiction of the City shall be disposed of at the sanitary disposal project.

107.03 EXCEPTIONS.

The provisions of Section 107.02 of this chapter do not apply to: (i) the disposal of organic material which is not potentially injurious to public health or welfare and which has been gathered and suitably contained for purposes of composting or fertilizing agricultural or flora plots when permission to dispose of such material has been obtained from the owner of the plots where such material is to be deposited; or (ii) the filling or grading of property with earth, sand, mud, or other similar materials which are not potentially injurious to public health or welfare when permission for such filling or grading has been obtained from the owner of the property on which such filling or grading is done and when such filling or grading is done in accordance with the provisions of other applicable statutes and ordinances.

107.04 METHOD OF DISPOSAL OF SOLID WASTE.

The disposal project owned, operated, and used by the Agency is hereby declared to be available to persons who are owners of real estate within the corporate limits of the City as a method for the disposition of solid waste generated within the corporate limits of the City pursuant to ~~the agreement and~~ the contract in accordance with the provisions of Code of Iowa, Chapter 455B.

107.05 DECLARATION OF BENEFIT.

The benefits derived by each individual parcel of real estate subject to taxation within the corporate limits of the City from ~~the agreement and~~ the contract are hereby declared to be at least equal to the ratio which the actual value of each individual parcel of real estate subject to taxation within the corporate limits of the City bears to the aggregate actual value of all parcels of real estate subject to taxation within the corporate limits of the City.

107.06 NOTICE OF CONTRACT PAYMENT.

In the event that the budget of the Agency for any calendar or fiscal year shall provide for a contract payment from the City to the Agency pursuant to the contract during the calendar or fiscal year, the Agency shall, at least thirty (30) days prior to the date fixed by law for the final certification of the budget of the City, notify the City in writing that a contract payment shall be due from the City pursuant to the contract and the amount thereof.

107.07 OPTIONAL METHODS OF PROVIDING FOR PAYMENT OF CONTRACT PAYMENT.

Upon receipt by the City of the notice referred to in Section 107.06 hereof, the City shall determine, by resolution, whether it will: (i) pay said contract payment from funds legally available to pay the same (hereinafter "Option A"); or (ii) assess said contract payment against the real estate subject to taxation within the corporate limits of the City benefited thereby as aforesaid in the manner provided by and for special assessments as hereinafter provided (hereinafter "Option B"). In the event that the City elects Option "A," provision shall be made therefor in the budget of the City.

107.08 ASSESSMENT SCHEDULE FOR CONTRACT PAYMENT.

In the event that the City elects Option "B," the Clerk shall prepare an assessment schedule on the following basis:

1. **Assessment Rate.** The amount of the contract payment shall be divided by aggregate actual value of all parcels of real estate subject to taxation within the corporate limits of the City to determine the contract payment assessment rate (hereinafter "assessment rate").

2. **Assessment.** The assessment rate shall be multiplied by the actual value of each individual parcel of real estate subject to taxation within the corporate limits of the City to determine the contract payment assessment (hereinafter "assessment") for each such parcel. Assessments shall be expressed in dollars and cents and cents shall be carried to three digits. If the last digit of the cents of any assessment is less than five, the assessment shall be lowered to the next even cent. If the last digit of the cents of any assessment is five or more, the assessment shall be raised to the next even cent. No assessment shall be less than one cent.

3. Assessment Schedule. The assessments shall be shown on an assessment schedule which shall state a description of the parcel of real estate involved, the name and address of the owner thereof and the amount of the assessment.

4. Certification. The assessment schedule shall be certified to the Council for approval.

107.09 APPROVAL OF ASSESSMENT SCHEDULE.

Upon receipt of the assessment schedule, the Council shall approve the same by resolution.

107.10 CERTIFICATION OF ASSESSMENT SCHEDULE.

Upon approval of the assessment schedule by the Council, the Clerk shall certify the assessments to the County Treasurer for collection with, and in the same manner as, general property taxes. Said certification shall be made on or before the last date fixed by law for certification of special assessments for collection in the year in which the contract payment is due.

107.11 PROCEEDS OF SPECIAL ASSESSMENT.

The Clerk shall receive, deposit, and account for all funds received by the City from said special assessment. Said funds shall be handled as trust and agency funds and shall be expended only upon order of the Council to satisfy contract payments due from the City to the Agency pursuant to the contract. Balances, if any, remaining at the end of any calendar or fiscal year of the City shall be carried over from year to year.

CHAPTER 110 NATURAL GAS FRANCHISE

110.01 Franchise Granted	110.11 Exemption from Payment of Franchise Fee
110.02 Term of Franchise	110.12 Remittance of Franchise Fee
110.03 Representations of Company	110.13 Forfeiture of Franchise; Cure of Defaults
110.04 Location of Facilities	110.14 Reservation of Home Rule Powers
110.05 Excavations and Other Work	110.15 Maps of Distribution System
110.06 Rates	110.16 Customer Satisfaction Surveys
110.07 Annual Report	110.17 Exercise of Eminent Domain Powers
110.08 Inspection of Company Facilities	110.18 Indemnity
110.09 Compliance With City	110.19 Lease or Assignment of Franchise

Ordinances

110.10 Franchise Fee

110.01 FRANCHISE GRANTED.

There is hereby granted to MidAmerican Energy Company, an Iowa corporation, hereinafter called the "Company," and its successors and assigns, the nonexclusive right and franchise to acquire, construct, erect, maintain, and operate in the City a system for the transmission and distribution of natural gas along, under, over, and upon the streets, avenues, alleys, and public places to serve customers within and outside the City, and to furnish and sell natural gas to the City and its inhabitants. This franchise grants no rights for communications signals other than signals necessary for the operation and maintenance of the Company's natural gas system described herein. Pursuant to Section 364.2(4)(e) of the Code of Iowa, the Company is granted the right of eminent domain, the exercise of which is subject to City Council approval upon application by the Company. The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the Code of Iowa, as subsequently amended or changed.

110.02 TERM OF FRANCHISE.

This franchise shall remain in effect for a period of twenty-five (25) years after the effective date of the ordinance codified in this chapter. † 5 The City may request amendments to the franchise by providing to the Company written notice of the City's desire to amend said franchise. Such notice shall be given at least one hundred eighty (180) days prior to the expiration of the fifteenth (15 th) or twentieth (20 th) year of the agreement. If the parties are unable to agree to amend this franchise within ninety (90) days after such notice is given, the City may terminate this franchise agreement. Failure to amend or terminate the franchise at the first option does not render invalid the City's second option to amend or terminate the franchise.

Notes

- 5 † EDITOR'S NOTE: Ordinance No. 05-02, adopting a natural gas franchise for the City, was passed and adopted on February 7, 2005, and became effective on March 28, 2005.

110.03 REPRESENTATIONS OF COMPANY.

The Company agrees to provide, construct, install, and maintain its entire system pursuant to Iowa Utilities Board rules and regulations in such condition that it will furnish safe, adequate, efficient, and continuous service. The Company's system shall be of sufficient capacity to supply all reasonable demands of the City and consumers within the City and to provide a reasonable reserve for emergencies. All natural gas service shall be supplied through a meter or other means that shall accurately measure the amount of natural gas supplied to a consumer. All gas pipes, mains, conduits, and other gas facilities shall be placed and maintained so as not to interfere unnecessarily with travel on the City's streets, alleys, and public places or with the proper use of the same, including ordinary drainage, or with the construction or use of the sewers, pipes, drains, and other property of the City, or the flow of water therefrom.

110.04 LOCATION OF FACILITIES.

The Company shall not locate any new natural gas mains, pipes, or conduits within the City in the public right-of-way without the prior approval of the City; however, the City shall not unreasonably withhold approval of Company's location of Company facilities within public right-of-way. The City reserves to itself the power to impose reasonable regulations on the Company's use of streets. The City reserves the right, by resolution or otherwise, to designate the location of any new natural gas distribution facilities, which designation shall not conflict with Company's adherence to its design standards and such utility regulation as governs its construction of facilities. The City shall work with the Company to ensure, to the extent practicable, that the Company may locate its facilities in the least-cost manner consistent with its design standards and utility regulation and consistent with the City's desire to promote the public safety and welfare and protect public property. The Company shall, at its cost and expense, locate and relocate its installations in, on, over, or under any public street or alley in the City in such manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance, or repair of the street or alley or any public improvement of, in, or about any such street or alley or reasonably promoting the efficient operation of any such improvement.

110.05 EXCAVATIONS AND OTHER WORK.

In making excavations or performing other work in the City, the Company shall proceed with such work so as to cause the least possible inconvenience to the public. The Company shall properly protect, according to safety standards generally accepted at the time of placement, all excavations and obstructions by proper shoring, surface plates, barricades, warning lights, and such other or additional devices as circumstances may warrant. The Company shall provide the City with twenty-four (24) hours' notice to the City prior to

commencing work that requires the excavation of the traveled portion of the streets, avenues, or alleys. Emergency repairs are exempted from this notification requirement. The Company shall notify the City of the emergency repair following the completion of said emergency repairs. If, in the opinion of the City's Public Works Department, such excavation or obstruction is not properly and safely protected, the City's Public Works Department shall notify the Company and the Company shall immediately comply with such reasonable instructions not in conflict with accepted utility safety rules and practices. Company excavations within the public rights-of-way, public areas, and private property within the City shall be refilled within a reasonable time thereafter consistent with accepted utility safety rules and practices. Pavements, sidewalks, curbs, gutters, vegetation, or landscape opened, disturbed, or damaged by the Company shall be promptly restored and replaced with like materials by the Company at its own expense and left in a condition as good as or better than before. In the event that the Company fails to comply with this section, the City may do such work as may be needed to properly prepare such pavements, sidewalks, curbs, gutters, vegetation, or landscape, and the cost of such repairs shall be repaid to the City by the Company.

110.06 RATES.

The Company shall supply natural gas to consumers within the City at just and reasonable rates. It is recognized that under the statutes of the State of Iowa, the Iowa Utilities Board of the Iowa Department of Commerce is vested with legal authority to supervise, fix, or change rates and charges authorized to be charged by the Company to natural gas consumers. In the event rates or charges in general, or any class or type of rate or charge shall, during the term of this franchise, cease to be regulated by any State or federal agency, the City Council reserves the right to regulate such rates within the City with the costs of such regulation to be borne by the Company, as a part of the Company's cost of doing business and reflected in its rates.

110.07 ANNUAL REPORT.

Upon request by the City, the Company shall file with the City Council a true copy of the annual report of the Company pertaining to the operation or conduct of the business of the Company under this franchise. The report may be the same as the Company shall have prepared for such year in the ordinary course of business of the Company and filed with the Iowa Utilities Board. In the event the City Council is authorized by State law and undertakes to regulate rates for service within the City, the Company shall provide all information necessary to permit the City Council to set just and reasonable rates.

110.08 INSPECTION OF COMPANY FACILITIES.

The Company shall inspect its natural gas facilities used to provide natural gas service under this franchise in compliance with standards established by federal and State laws, rules, and regulations. The replacement or repair of natural gas facilities resulting from these inspections shall be completed within a reasonable period of time thereafter. Hazardous conditions shall be corrected promptly.

110.09 COMPLIANCE WITH CITY ORDINANCES.

The Company shall at all times during the term of this franchise conform with, submit to, and carry out the provisions of any and all valid ordinances in effect during the term of this franchise, to the full extent allowed by law and to the extent such provisions are not in conflict with this franchise agreement: (i) relating to any person, firm, or corporation supplying and distributing natural gas to the City or consumers within the City that are now in force or may hereafter be lawfully enacted; (ii) relating to the use of City right-of-way; or (iii) relating to the City's exercise of its police or regulatory powers.

110.10 FRANCHISE FEE.

In consideration of the right to construct and maintain such facilities and equipment along, upon, across and under the streets, highways, avenues, alleys, bridges and public places of the City, there is hereby imposed upon the Company by the City, and the Company agrees that there shall be collected from Company's retail customers, in accordance with Company tariffs on file with and approved by the Iowa Utilities Board, and remitted by the Company to the City, a franchise fee in an amount up to and including five percent (5%) of the gross receipts derived by the Company from the transmission, distribution, transportation or sale of natural gas to retail customers within the corporate limits of the City (excluding, however, the sale of natural gas to the City for its own use), commencing with gross receipts received on or after the effective date of this franchise. The specific percentage levels for the franchise fee shall be established by separate ordinance, and may be different for diverse customer classes. The obligation to pay the fee imposed by this section is modified if: (i) the City permits any other person to sell natural gas to City consumers and pay a franchise fee or its lawful equivalent at a lesser rate than provided in this section, in which case the Company shall collect from its customers and pay at the lesser rate; or (ii) if the City adds additional territory by annexation or consolidation and is unable lawfully to impose the franchise fee upon any person selling natural gas to consumers within the additional territory, in which case the franchise fee on the revenue from sales by the Company in the additional territory shall be equal to that of the lowest fee being paid by any other person selling or transmitting natural gas within the additional territory.

110.11 EXEMPTION FROM PAYMENT OF FRANCHISE FEE.

If the franchise fee or the Company's ability to collect the fee from its customers is adjudged to be unlawful, invalid, or unconstitutional by final non-appealable regulatory or judicial action, the Company shall be relieved of its obligation to collect from its customers and to remit to the City the franchise fee, the franchise fee shall be deemed to be of no further force and effect as of the date of such adjudication, and the City may request amendments to the franchise. If a refund to customers by the Company is ordered by such final non-appealable adjudication, the City agrees to repay to the Company such fees as are ordered to be refunded. If the parties are unable to agree to amend the franchise within a reasonable time after the City requests amendments thereto, the City may terminate the franchise.

110.12 REMITTANCE OF FRANCHISE FEE.

The Company shall remit the franchise fee to the City Treasurer quarterly on or before May 1, August 1, November 1, and February 1 of each year for the three-month periods ending March 31, June 30, September 30, and December 31, respectively.

110.13 FORFEITURE OF FRANCHISE; CURE OF DEFAULTS.

The violation of any material portion of this franchise by the Company or its successors or assigns, or its failure to promptly perform any of the provisions of this franchise, shall be cause for forfeiture of this franchise and the termination of all rights under this franchise. Such forfeiture shall be accomplished after written notice to the Company by the City, and a continuation of the violation, failure, or default specified in the notice, for at least sixty (60) days from the date the notice was served upon the Company. If either party determines that there is a default under this franchise, the other party shall be given a written notice describing the default, stating whether a forfeiture or termination of the franchise will be sought, and where the default is curable, providing a reasonable time to cure the default, which shall be not less than thirty (30) or more than one hundred eighty (180) days.

110.14 RESERVATION OF HOME RULE POWERS.

This chapter is intended to be and shall be construed as consistent with the reservation of local authority contained in the Twenty-Fifth Amendment to the Iowa Constitution granting home rule powers to municipalities. To such end, any limitation on the power of the City is to be strictly construed, and the City reserves to itself the right to exercise all power and authority to regulate and control its local affairs, and all ordinances and regulations of the City shall be enforceable against the Company unless, and only to the extent, they are irreconcilable with any rights granted to the Company under this chapter.

110.15 MAPS OF DISTRIBUTION SYSTEM.

Upon reasonable request, Company shall provide to the City Engineer, on a project specific basis, information indicating the horizontal location, in compliance with One-Call regulation, relative to the boundaries of the right-of-way, of all natural gas equipment which it owns or over which it has control and which is located in the project right-of-way. Project-specific mapping data shall be provided with the specificity and if reasonably possible in the format requested by the City Engineer. Mapping information provided to the City by the Company shall be for the exclusive use of the City in administering the use and occupancy of the public rights-of-way within the City and shall not be provided to or relied on by any person for any other purpose. At the request of the Company, any information requested with respect to the location or type of equipment the Company maintains or plans to install in the right-of-way that qualifies or is designated by the Company as proprietary information or as a trade-secret information under Chapter 550 of the Code of Iowa or qualifies to be kept confidential under Code of Iowa Section 22.1 et seq., shall be treated as confidential information or a trade secret and shall not be released to any party by the City.

110.16 CUSTOMER SATISFACTION SURVEYS.

At the request of the City, the Company shall provide the City with summaries of the findings of its annual and other periodic customer satisfaction surveys and research. The Company also agrees to respond promptly and fully to the City's concerns and questions about specific service quality and customer satisfaction matters as and when they are communicated to the Company.

110.17 EXERCISE OF EMINENT DOMAIN POWERS.

The Company shall have the power to condemn private property for the purpose of providing natural gas utilities to the extent necessary to serve a public use and in a reasonable relationship to an overall plan of transmitting or delivering natural gas in the public interest upon approval of the City Council. The Company must establish the necessity for each taking of private property, and when so established, the City Council may approve the condemnation of the private property by resolution. Any such exercise of the eminent domain powers shall be conducted in accordance with this Code of Ordinances.

110.18 INDEMNITY.

The Company shall indemnify and hold the City, and its officers, agents, and employees, free and harmless from any and all claims, demands, lawsuits, liability, and damages whatsoever, including all costs and expenses incident thereto, for any and all loss, damage,

injury, or death caused or occasioned, in whole or in part, by the Company's negligence in construction, reconstruction, excavation, operation or maintenance of the natural gas facilities authorized by this franchise; provided, however, that the Company shall not be obligated to defend, indemnify and save harmless the City for any costs or damages arising from the negligence of the City, its officers, employees or agents.

110.19 LEASE OR ASSIGNMENT OF FRANCHISE.

This franchise shall apply to, inure to, and bind the parties hereto and their successors.

CHAPTER 111
ELECTRIC FRANCHISE

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111.01 FRANCHISE GRANTED.

There is hereby granted to MidAmerican Energy Company, an Iowa corporation, hereinafter called the "Company," and its successors and assigns, the nonexclusive right and franchise to acquire, construct, erect, maintain, and operate in the City a system for the transmission and distribution of electric energy along, under, over, and upon the streets, avenues, alleys, and public places to serve customers within and outside the City, and to furnish and sell electric energy to the City and its inhabitants. This franchise grants no rights for communications signals other than signals necessary for the operation and maintenance of the Company's electric system described herein. Pursuant to Section

364.2(4)(e) of the Code of Iowa, the Company is granted the right of eminent domain, the exercise of which is subject to City Council approval upon application by the Company. The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the Code of Iowa, as subsequently amended or changed.

111.02 TERM OF FRANCHISE.

This franchise shall remain in effect for a period of twenty-five (25) years from the effective date of the ordinance codified in this chapter. † 6 The City may request amendments to the franchise by providing to the Company written notice of the City's desire to amend said franchise. Such notice shall be given at least one hundred eighty (180) days prior to the expiration of the fifteenth (15 th) or twentieth (20 th) year of the agreement. If the parties are unable to agree to amend this franchise within ninety (90) days after such notice is given, the City may terminate this franchise agreement. Failure to amend or terminate the franchise at the first option does not render invalid the City's second option to amend or terminate the franchise.

Notes

- 6 † EDITOR'S NOTE: Ordinance No. 05-01, adopting an electric franchise for the City, was passed and adopted on February 22, 2005, and became effective on March 28, 2005.

111.03 REPRESENTATIONS OF COMPANY.

The Company agrees to provide, construct, install, and maintain its entire system pursuant to Iowa Utilities Board rules and regulations in such condition that it will furnish safe, adequate, efficient, and continuous service. The Company's system shall be of sufficient capacity to supply all reasonable demands of the City and consumers within the City and to provide a reasonable reserve for emergencies. All electric energy service shall be supplied through a meter or other means that shall accurately measure the amount of electric energy supplied to a consumer. All poles, wires, conduits, and appliances shall be placed and maintained so as not to interfere unnecessarily with travel on the City's streets, alleys, and public places or with the proper use of the same, including ordinary drainage, or with the construction or use of the sewers, pipes, drains, and other property of the City, or the flow of water therefrom.

111.04 LOCATION OF FACILITIES.

The Company shall not locate any new electrical distribution or service line, including poles or other facilities, within the City in the public right-of-way without the prior approval of the City; however, the City shall not unreasonably withhold approval of Company's location of Company facilities within public right-of-way. The City reserves to itself the power to impose reasonable regulations on the Company's use of streets. The City reserves the right, by resolution or otherwise, to designate the location of any new electric distribution or service line, including poles and other facilities, which designation shall not conflict with Company's adherence to its design standards and such utility regulation as governs its construction of facilities. The City shall work with the Company to ensure, to the extent practicable, that the Company may locate its facilities in the least-cost manner consistent with its design standards and utility regulation and consistent with the City's desire to promote the public safety and welfare and protect public property. The Company shall, at its cost and expense, locate and relocate its installations in, on, over, or under any public street or alley in the City in such manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance, or repair of the street or alley or any public improvement of, in, or about any such street or alley or reasonably promoting the efficient operation of any such improvement.

111.05 EXCAVATIONS AND OTHER WORK.

In making excavations or performing other work in the City, the Company shall proceed with such work so as to cause the least possible inconvenience to the public. The Company shall properly protect, according to safety standards generally accepted at the time of placement, all excavations and obstructions by proper shoring, surface plates, barricades, warning lights, and such other or additional devices as circumstances may warrant. The Company shall provide the City with twenty-four (24) hours' notice to the City prior to commencing work that requires the excavation of the traveled portion of the streets, avenues, or alleys. Emergency repairs are exempted from this notification requirement. The Company shall notify the City of the emergency repair following the completion of said emergency repairs. If, in the opinion of the City's Public Works Department, such excavation or obstruction is not properly and safely protected, the City's Public Works Department shall notify the Company and the Company shall immediately comply with such reasonable instructions not in conflict with accepted utility safety rules and practices. Company excavations within the public rights-of-way, public areas, and private property within the City shall be refilled within a reasonable time thereafter consistent with accepted utility safety rules and practices. Pavements, sidewalks, curbs, gutters, vegetation, or landscape opened, disturbed, or damaged by the Company shall be promptly restored and replaced with like materials by the Company at its own expense and left in a condition as good as or better than before. In the event that the Company fails to comply with this section, the City may do such work as may be needed to properly prepare such pavements, sidewalks, curbs, gutters, vegetation, or landscape, and the cost of such repairs shall be repaid to the City by the Company. The Company is authorized and empowered to prune or remove, at Company expense, any tree extending into any street, alley, or public grounds in

order to maintain electric reliability and safety, to restore utility service, and to prevent limbs, branches, or trunks from interfering with the wires and facilities of the Company. The pruning and removal of trees, as well as all other vegetation management activities undertaken by the Company, shall be in compliance with standards established in Chapter 151 of this Code of Ordinances, the Company's Electric Facility Inspection and Vegetation Management Plan on file with the Iowa Utilities Board, and the rules and regulations of the Iowa Utilities Board or its successor.

111.06 RATES.

The Company shall supply electric energy to consumers within the City at just and reasonable rates. It is recognized that under the statutes of the State of Iowa, the Iowa Utilities Board of the Iowa Department of Commerce is vested with legal authority to supervise, fix or change rates and charges authorized to be charged by the Company to electric energy consumers. In the event rates or charges in general, or any class or type of rate or charge shall, during the term of this franchise, cease to be regulated by any State or federal agency, the City Council reserves the right to regulate such rates within the City with the costs of such regulation to be borne by the Company, as a part of the Company's cost of doing business and reflected in its rates.

111.07 ANNUAL REPORT.

Upon request by the City, the Company shall file with the City Council a true copy of the annual report of the Company pertaining to the operation or conduct of the business of the Company under this franchise. The report may be the same as the Company shall have prepared for such year in the ordinary course of business of the Company and filed with the Iowa Utilities Board. In the event the City Council is authorized by State law and undertakes to regulate rates for service within the City, the Company shall provide all information necessary to permit the City Council to set just and reasonable rates.

111.08 INSPECTION OF COMPANY FACILITIES.

The Company shall inspect its electric lines and other facilities used to provide electric service under this franchise in compliance with standards established by the Company's Electric Facility Inspection and Vegetation Management Plan on file with the Iowa Utilities Board and the rules and regulations of the Iowa Utilities Board or its successor. The replacement or repair of electric facilities resulting from these inspections shall be completed within a reasonable period of time thereafter. Hazardous conditions shall be corrected promptly.

111.09 COMPLIANCE WITH CITY ORDINANCES.

The Company shall at all times during the term of this franchise conform with, submit to, and carry out the provisions of any and all valid ordinances in effect during the term of this franchise, to the full extent allowed by law and to the extent such provisions are not in conflict with this franchise agreement: (i) relating to any person, firm or corporation supplying and distributing electric energy to the City or consumers within the City that are now in force or may hereafter be lawfully enacted; (ii) relating to the use of City right-of-way; or (iii) relating to the City's exercise of its police or regulatory powers.

111.10 FRANCHISE FEE.

In consideration of the right to construct and maintain such facilities and equipment along, upon, across and under the streets, highways, avenues, alleys, bridges, and public places of the City, there is hereby imposed upon the Company by the City, and the Company agrees that there shall be collected from Company's retail customers, in accordance with Company tariffs on file with and approved by the Iowa Utilities Board, and remitted by the Company to the City, a franchise fee in an amount up to and including five percent (5%) of the gross receipts derived by the Company from the transmission, distribution or sale of electric energy to retail customers within the corporate limits of the City (excluding, however, the sale of electric energy to the City for its own use), commencing with gross receipts received on or after the effective date of this franchise. The specific percentage levels for the franchise fee shall be established by separate ordinance, and may be different for diverse customer classes. The obligation to pay the fee imposed by this section is modified if: (i) the City permits any other person to sell electrical energy to City consumers and pay a franchise fee or its lawful equivalent at a lesser rate than provided in this section, in which case the Company shall collect from its customers and pay at the lesser rate; or (ii) the City adds additional territory by annexation or consolidation and is unable lawfully to impose the franchise fee upon any person selling electrical energy to consumers within the additional territory, in which case the franchise fee on the revenue from sales by the Company in the additional territory shall be equal to that of the lowest fee being paid by any other person selling or transmitting electrical energy within the additional territory.

111.11 EXEMPTION FROM PAYMENT OF FRANCHISE FEE.

If the franchise fee or the Company's ability to collect the fee from its customers is adjudged to be unlawful, invalid, or unconstitutional by final non-appealable regulatory or judicial action, the Company shall be relieved of its obligation to collect from its customers and to remit to the City the franchise fee, the franchise fee shall be deemed to be of no further force and effect as of the date of such adjudication, and the City may request amendments to the franchise. If a refund to customers by the Company is ordered by such final non-appealable adjudication, the City agrees to repay to the Company such fees as are

ordered to be refunded. If the parties are unable to agree to amend the franchise within a reasonable time after the City requests amendments thereto, the City may terminate the franchise.

111.12 REMITTANCE OF FRANCHISE FEE.

The Company shall remit the franchise fee to the City Treasurer quarterly on or before May 1, August 1, November 1, and February 1 of each year for the three-month periods ending March 31, June 30, September 30, and December 31, respectively.

111.13 FORFEITURE OF FRANCHISE; CURE OF DEFAULTS.

The violation of any material portion of this franchise by the Company or its successors or assigns, or its failure to promptly perform any of the provisions of this franchise, shall be cause for forfeiture of this franchise and the termination of all rights under this franchise. Such forfeiture shall be accomplished after written notice to the Company by the City, and a continuation of the violation, failure, or default specified in the notice, for at least sixty (60) days from the date the notice was served upon the Company. If either party determines that there is a default under this franchise, the other party shall be given a written notice describing the default, stating whether a forfeiture or termination of the franchise will be sought, and where the default is curable, providing a reasonable time to cure the default, which shall be not less than thirty (30) or more than one hundred eighty (180) days.

111.14 RESERVATION OF HOME RULE POWERS.

This chapter is intended to be and shall be construed as consistent with the reservation of local authority contained in the Twenty-Fifth Amendment to the Iowa Constitution granting home rule powers to municipalities. To such end, any limitation on the power of the City is to be strictly construed, and the City reserves to itself the right to exercise all power and authority to regulate and control its local affairs, and all ordinances and regulations of the City shall be enforceable against the Company unless, and only to the extent, they are irreconcilable with any rights granted to the Company under this chapter.

111.15 MAPS OF DISTRIBUTION SYSTEM.

Upon reasonable request, Company shall provide to the City Engineer, on a project specific basis, information indicating the horizontal location, in compliance with One-Call regulation, relative to the boundaries of the right-of-way, of all equipment which it owns or over which it has control and which is located in the project right-of-way. Project-specific mapping data shall be provided with the specificity and if reasonably possible in the format

requested by the City Engineer. Mapping information provided to the City by the Company shall be for the exclusive use of the City in administering the use and occupancy of the public rights of way within the City and shall not be provided to or relied on by any person for any other purpose. At the request of the Company, any information requested with respect to the location or type of equipment the Company maintains or plans to install in the right-of-way that qualifies or is designated by the Company as proprietary information or as a trade-secret information under Chapter 550 of the Code of Iowa or qualifies to be kept confidential under Code of Iowa Section 22.1 et seq., shall be treated as confidential information or a trade secret and shall not be released to any party by the City.

111.16 CUSTOMER SATISFACTION SURVEYS.

At the request of the City, the Company shall provide the City with summaries of the findings of its annual and other periodic customer satisfaction surveys and research. The Company also agrees to respond promptly and fully to the City's concerns and questions about specific service quality and customer satisfaction matters as and when they are communicated to the Company.

111.17 EXERCISE OF EMINENT DOMAIN POWERS.

The Company shall have the power to condemn private property for the purpose of providing electric utilities to the extent necessary to serve a public use and in a reasonable relationship to an overall plan of transmitting electricity in the public interest upon approval of the City Council. The Company must establish the necessity for each taking of private property, and when so established, the City Council may approve the condemnation of the private property by resolution. Any such exercise of the eminent domain powers shall be conducted in accordance with this Code of Ordinances.

111.18 INDEMNITY.

The Company shall indemnify and hold the City and its officers, agents, and employees free and harmless from any and all claims, demands, lawsuits, liability, and damages whatsoever, including all costs and expenses incident thereto, for any and all loss, damage, injury, or death caused or occasioned, in whole or in part, by the Company's negligence in construction, reconstruction, excavation, operation, or maintenance of the electric facilities authorized by this franchise; provided, however, the Company shall not be obligated to defend, indemnify, and save harmless the City for any costs or damages arising from the negligence of the City, its officers, employees, or agents.

111.19 LEASE OR ASSIGNMENT OF FRANCHISE.

This franchise shall apply to, inure to, and bind the parties hereto and their successors.

CHAPTER 112
FRANCHISE FEES

112.01 Electric Franchise Fee 112.03 Gas Sold by Third-Party Suppliers
112.02 Gas Franchise Fee 112.04 Exemptions

112.01 ELECTRIC FRANCHISE FEE.

Commencing with electric bills rendered by MidAmerican Energy Company (the “Company”) to utility customers within the corporate limits of the City on or after May 1, 2005, and for so long as the franchise granted by Ordinance No. 05-01 is in effect, there is hereby imposed on the Company, and it shall be the Company’s obligation to collect from its customers and remit to the City, a franchise fee in an amount equal to a percentage of the gross receipts, minus uncollectible amounts, derived by the Company from the transmission, distribution, and sale of electric energy to retail customers within the corporate limits of the City at the following percentage levels:

1. Residential Customers – five percent (5%)
2. Commercial Customers – three percent (3%)
3. Public Authority Customers (other than the City and public schools) – three percent (3%)

112.02 GAS FRANCHISE FEE.

Commencing with natural gas bills rendered by the Company to its customers within the corporate limits of the City on or after May 1, 2005, and for so long as the franchise granted by Ordinance No. 05-02 is in effect, there is hereby imposed on the Company, and it shall be the Company’s obligation to collect from its customers and remit to the City, a franchise fee in an amount equal to a percentage of the gross receipts, minus uncollectible amounts, derived by the Company from the transmission, distribution, transportation and sale of natural gas to retail customers within the corporate limits of the City at the following percentage levels:

1. Residential Customers – five percent (5%)
2. Commercial Customers – three percent (3%)

3. Public Authority Customers (other than the City and public schools) – three percent (3%)

112.03 GAS SOLD BY THIRD-PARTY SUPPLIERS.

With respect to the distribution or transportation by the Company of natural gas sold to the customer by a third-party supplier of the commodity, the percentage of gross receipts shall be applied to the customer's full cost of gas delivered within the City, including all costs of acquisition, ownership, and transportation whereof, wherever incurred. In determining the amount of the fee, the Company may presume that the customer's commodity cost of gas is the same as if the gas were sold by the Company, unless a different cost is provided.

112.04 EXEMPTIONS.

Gross receipts derived from the transmission, distribution, transportation, and sale of natural gas and the transmission, distribution, and sale of electric energy to public schools and to the City for its own use are exempt from the franchise fee, and the franchise fee shall not be assessed to such customers.

CHAPTER 113 CABLE TELEVISION REGULATIONS

113.01 Compliance with Applicable Laws	113.18 Color Cablecasting
113.02 Installation and Maintenance of Property	113.19 Program Alteration
113.03 Interference	113.20 Subscriber Rates and Charges
113.04 Installation of Cables	113.21 Service Rules and Regulations
113.05 City Use of Existing Poles	113.22 Service Agreements
113.06 Prior Approval of Underground Installations	113.23 Office of Cable Operator
113.07 Restoration of Ground Surface	113.24 Procedure to Handle Complaints and Grievances
113.08 Alteration of Grade	113.25 Injury to Property of the Cable Operator
113.09 Temporary Removal of Cables	113.26 Intercepting Signals of the Cable Operator
113.10 Tree Trimming	113.27 Filing of Reports
113.11 Service Requirements	113.28 Filing of Audit
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113.13 Channel Capacity and Performance	113.30 Filing of Communications with Regulatory Agencies
113.14 Subscriber Terminals in City Buildings and Schools	113.31 Access
113.15 Use of Education and Local Government Access Channels	113.32 Discrimination Prohibited
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113.17 Telecast of Educational Activities	113.34 Franchise Fee

113.01 COMPLIANCE WITH APPLICABLE LAWS.

The cable operator shall comply with all governmental laws, ordinances, rules, or regulations as may now or hereafter be applicable to the construction, operation, maintenance, repair, replacement, renewal, reconstruction, and removal of a cable television system, the sale and supply of audio and video communications services, the use of public property and private property, and the engagement in such further activities as may now or hereafter be consistent with generally accepted principles applicable to the operation of a cable television system.

113.02 INSTALLATION AND MAINTENANCE OF PROPERTY.

The property of the cable operator shall be constructed, operated, maintained, repaired, replaced, renewed, reconstructed, and removed in accordance with generally accepted engineering principles so as not to endanger or interfere with the lives of persons or to interfere with improvements which the City may deem proper to make or to unnecessarily hinder or obstruct pedestrian or vehicular traffic or use of public property or private property.

113.03 INTERFERENCE.

The cable operator's cable television system shall be so designed, engineered, and maintained so as not to interfere with the radio and television reception of persons who are not subscribers of the cable operator.

113.04 INSTALLATION OF CABLES.

The cable operator shall have the right, privilege, and authority to lease, rent, or in any other manner obtain the use of wooden poles with overhead lines, conduits, trenches, ducts, lines, cable, and other equipment and facilities from any and all holders of public licenses and franchises within the City, and to use such poles, conduits, trenches, ducts, lines, and cable in the course of its business. The cable operator shall install its cable on existing poles owned by other holders of public licenses and franchises with the City whenever possible for the installation of its cable. When installation of cable on poles is insufficient, or when the holder of another public license or franchise has installed underground cable, then in that event, the cable used by the cable operator shall be installed underground.

113.05 CITY USE OF EXISTING POLES.

The City shall and does hereby retain the right to utilize the existing poles for future City use, and to require the removal of the cable by the cable operator where existing poles are not sufficient to adequately handle the proposed City use and the cable operator's cable.

113.06 PRIOR APPROVAL OF UNDERGROUND INSTALLATIONS.

The cable operator shall submit detailed drawings of all proposed underground cable installations to the City for approval prior to commencement of construction and shall not deviate therefrom without approval of the City.

113.07 RESTORATION OF GROUND SURFACE.

In case of any disturbance of pavement, sidewalk, driveway, or other surfacing, the cable operator shall, at its own cost and expense and in a manner approved by the City, replace and restore all paving, sidewalk, driveway, or surface of any street or alley disturbed in as good a condition as before said work was commenced.

113.08 ALTERATION OF GRADE.

In the event that the City shall elect to alter or change the grade of any street, alley, or public way, the cable operator, upon reasonable notice by the City, shall remove, relay, and relocate its poles, wires, cables, underground conduits, manholes, and other fixtures at its own expense.

113.09 TEMPORARY REMOVAL OF CABLES.

The cable operator shall, on the request of any person holding a building permit issued by the City, temporarily raise or lower its cables to permit the moving of buildings. The expense of such temporary removal, raising, or lowering of cables shall be paid by the person requesting the same and the cable operator shall have the authority to require such payment in advance. The cable operator shall be given not less than five (5) days' advance notice to arrange for such temporary cable changes.

113.10 TREE TRIMMING.

The cable operator shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks, and public places of the City so as to prevent the branches of such trees from coming in contact with the cable of the cable operator. All trimming shall be done under the supervision and direction of the City and at the expense of the cable operator.

113.11 SERVICE REQUIREMENTS.

The cable operator shall furnish reasonable, adequate, and efficient cable television service to subscriber terminals. The foregoing requirement may be temporarily suspended due to circumstances beyond the reasonable control of the cable operator.

113.12 PERFORMANCE STANDARDS.

The cable operator shall produce a picture in black and white or in color that is undistorted, free from ghost images, and accompanied by proper sound on typical standard television sets in good repair. The cable operator shall also transmit signals of adequate strength to produce good pictures with good sound at all subscriber terminals throughout the City without causing cross modulation in the cables or interfering with other electrical or electronic systems.

113.13 CHANNEL CAPACITY AND PERFORMANCE.

The cable television system of the cable operator shall conform to the channel capacity and performance requirements contained in the then current regulations of the FCC.

113.14 SUBSCRIBER TERMINALS IN CITY BUILDINGS AND SCHOOLS.

The cable operator shall, at its sole cost, install and maintain subscriber terminals in such buildings owned or used by the City, and in such buildings owned or used by recognized

educational authorities within the City, both public and private, as may be designated by the governing body having jurisdiction thereof. Such subscriber terminals shall be placed in such location or locations within such buildings as may be designated by the governing body having jurisdiction thereof.

113.15 USE OF EDUCATION AND LOCAL GOVERNMENT ACCESS CHANNELS.

The cable operator shall, at its sole cost, make available to the City, or its assigns, at least one channel to be used by the City, or its assigns, for any purpose. The cable operator shall, at its sole cost, make available to recognized educational authorities within the City, both public and private, at least one channel to be used by them for any purpose. The cable operator shall, at its sole cost, make available to the City and recognized educational authorities within the City, both public and private, at reasonable times and on reasonable notice, the use of its studio, other production facilities, and related equipment for origination cablecasting. In addition thereto, the cable operator shall provide, at its sole cost, such technical assistance as may be reasonably necessary to produce such origination cablecasting.

113.16 EMERGENCY WARNING SYSTEM.

The cable operator shall equip its cable television system with an emergency warning override so that emergency information can be given simultaneously on all channels of the system. During an emergency, the cable operator shall allow the City the complete use of the system.

113.17 TELECAST OF EDUCATIONAL ACTIVITIES.

The cable operator shall not cablecast, tape, reproduce, or otherwise convey to its subscribers the activities of any recognized educational authority, public or private, without the written consent of the governing body of such authority.

113.18 COLOR CABLECASTING.

The cable television system of the cable operator shall be capable of color cablecasting. Any signal received by the cable operator in color shall be cablecast in color.

113.19 PROGRAM ALTERATION.

Any signal received by the cable operator from a television broadcast station shall be cablecast by the cable operator in its entirety, as received, without alteration.

113.20 SUBSCRIBER RATES AND CHARGES.

All rates for service shall be reasonable, compensatory, and nondiscriminatory.

113.21 SERVICE RULES AND REGULATIONS.

The cable operator shall have the right to prescribe reasonable service rules and regulations and operating rules for the conduct of its business. The cable operator shall file such rules and regulations, and all amendments thereto, with the City.

113.22 SERVICE AGREEMENTS.

The cable operator shall have the right to prescribe a reasonable form of service agreement for use between the cable operator and its subscribers. The cable operator shall submit its proposed form of service agreement, and all proposed amendments thereto, to the City for approval.

113.23 OFFICE OF CABLE OPERATOR.

The cable operator shall maintain an office within Polk County, Iowa, for the purpose of receiving, investigating, and responding to complaints and grievances with respect to the quality of the service rendered by the cable operator, equipment malfunctions, and other similar matters pertaining to the cable television system of the cable operator.

113.24 PROCEDURE TO HANDLE COMPLAINTS AND GRIEVANCES.

The procedure to handle complaints and grievances with respect to the quality of the services rendered by the cable operator, equipment malfunctions and other similar matters pertaining to the cable television system of the cable operator shall be as follows:

1. Filing of Complaint. Within thirty (30) days after the occurrence of the facts and circumstances giving rise to a complaint or grievance, and not thereafter, the complainant shall state the complaint or grievance to the cable operator in writing. In the event that a complaint or grievance is received by the City, the City shall forward such complaint or grievance to the cable operator in writing.

2. Response by Cable Operator. Within five (5) days after the receipt of a complaint or grievance by the cable operator, the cable operator shall state to the complainant its intentions with respect to the complaint or grievance in writing.

3. Arbitration. In the event that the complaint or grievance is not resolved to the satisfaction of the complainant within fifteen (15) days after the receipt thereof by the cable operator, the complaint or grievance shall be settled by arbitration. Such arbitration shall be before three disinterested arbitrators, one named by the complainant, one named by the cable operator, and one named by the two thus chosen. The decision of the arbitrators shall be conclusive and shall be enforced in accordance with the laws of the State of Iowa.

On or before the tenth day of each calendar month, the cable operator shall file a report in writing with the City stating the date and substance of each complaint or grievance received by it during the preceding calendar month, the date and nature of the action taken by the cable operator with respect thereto, and, if still pending, the status thereof.

113.25 INJURY TO PROPERTY OF THE CABLE OPERATOR.

No person shall wrongfully or unlawfully injure the property of the cable operator.

113.26 INTERCEPTING SIGNALS OF THE CABLE OPERATOR.

No person shall wrongfully or unlawfully intercept the signals of the cable operator.

113.27 FILING OF REPORTS.

On or before April 1 of each year, the cable operator shall file with the City copies of FCC Form 325 and FCC Form 326 for the preceding calendar year.

113.28 FILING OF AUDIT.

On or before April 1 of each year, the cable operator shall file with the City an audit of its operations within the City during the preceding calendar year.

113.29 FILING OF MAPS AND PLATS.

On or before April 1 of each year, the cable operator shall file with the City maps and plats showing the location and nature of all property of the cable operator within the City as of the end of the preceding calendar year.

113.30 FILING OF COMMUNICATIONS WITH REGULATORY AGENCIES.

The cable operator shall file with the City copies of all petitions, applications, and communications submitted by the cable operator to any regulatory agency having jurisdiction over the cable operator.

113.31 ACCESS.

The cable operator shall and does hereby grant to the City the right to enter upon the property of the cable operator, upon reasonable notice, at any and all reasonable times to inspect the same for purposes pertaining to the rights of the City.

113.32 DISCRIMINATION PROHIBITED.

The cable operator shall not grant any undue preference or advantage to any person or subject any person to prejudice or disadvantage with respect to rates, charges, services, service facilities, rules, regulations, or in any other respect.

113.33 OTHER BUSINESS ACTIVITIES PROHIBITED.

The cable operator shall not engage in the business of selling, leasing, renting, or servicing television or radio receivers, or their parts and accessories, and the cable operator shall not require or attempt to direct its subscribers to deal with any particular person or firm with respect to said activities.

113.34 FRANCHISE FEE.

On or before April 1 of each year the cable operator shall pay to the City, at the office of the City, in lawful money of the United States, a franchise fee based upon a percentage of the gross subscriber receipts received by the cable operator from the operation of its cable television system within the City during the preceding calendar year. Such fee shall be based on such percentage of said gross receipts as may be approved by the FCC, but in no event shall the same be less than five percent of said gross receipts. Any franchise fee not paid when due shall bear interest at the rate of nine percent per annum from the date due. The franchise fee shall not be considered to be in the nature of a tax.

CHAPTER 120

LIQUOR LICENSES AND WINE AND BEER PERMITS

120.01 License or Permit Required	120.04 Action by Council
120.02 General Prohibition	120.05 Prohibited Sales and Acts
120.03 Investigation	120.06 Amusement Devices

120.01 LICENSE OR PERMIT REQUIRED.

No person shall manufacture for sale, import, sell, or offer or keep for sale, alcoholic liquor, wine, or beer without first securing a liquor control license, wine permit, or beer permit in accordance with the provisions of Chapter 123 of the Code of Iowa.

(Code of Iowa, Sec. 123.22, 123.122 & 123.171)

120.02 GENERAL PROHIBITION.

It is unlawful to manufacture for sale, sell, offer or keep for sale, possess or transport alcoholic liquor, wine or beer except upon the terms, conditions, limitations, and restrictions enumerated in Chapter 123 of the Code of Iowa, and a license or permit may be suspended or revoked or a civil penalty may be imposed for a violation thereof.

(Code of Iowa, Sec. 123.2, 123.39 & 123.50)

120.03 INVESTIGATION.

Upon receipt of an application for a liquor license, wine or beer permit, the Clerk may forward it to the Chief of Police, who shall then conduct an investigation and submit a written report as to the truth of the facts averred in the application. The Fire Chief may also inspect the premises to determine if they conform to the requirements of the City. The Council shall not approve an application for a license or permit for any premises which does not conform to the applicable law and ordinances, resolutions and regulations of the City.

(Code of Iowa, Sec. 123.30)

120.04 ACTION BY COUNCIL.

The Council shall either approve or disapprove the issuance of the liquor control license or retail wine or beer permit and shall endorse its approval or disapproval on the application, and thereafter the application, necessary fee and bond, if required, shall be

forwarded to the Alcoholic Beverages Division of the State Department of Commerce for such further action as is provided by law.

(Code of Iowa, Sec. 123.32[2])

120.05 PROHIBITED SALES AND ACTS.

A person or club holding a liquor license or retail wine or beer permit and the person's or club's agents or employees shall not do any of the following:

1. Sell, dispense, or give to any intoxicated person, or one simulating intoxication, any alcoholic liquor, wine, or beer.

(Code of Iowa, Sec. 123.49[1])

2. Sell or dispense any alcoholic beverage, wine, or beer on the premises covered by the license or permit, or permit its consumption thereon between the hours of 2:00 a.m. and 6:00 a.m. on a weekday, and between the hours of 2:00 a.m. on Sunday and 6:00 a.m. on the following Monday; however, a holder of a license or permit granted the privilege of selling alcoholic liquor, beer, or wine on Sunday may sell or dispense alcoholic liquor, beer, or wine between the hours of 8:00 a.m. on Sunday and 2:00 a.m. of the following Monday, and further provided that a holder of any class of liquor control license or the holder of a class "B" beer permit may sell or dispense alcoholic liquor, wine, or beer for consumption on the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on Monday when that Monday is New Year's Day and beer for consumption off the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on the following Monday when that Sunday is the day before New Year's Day.

(Code of Iowa, Sec. 123.49[2b and 2k] & 123.150)

3. Sell alcoholic beverages, wine, or beer to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, to sales by a hotel or motel to bona fide registered guests or to retail sales by the managing entity of a convention center, civic center, or events center.

(Code of Iowa, Sec. 123.49[2c])

4. Employ a person under eighteen (18) years of age in the sale or serving of alcoholic liquor, wine, or beer for consumption on the premises where sold.

(Code of Iowa, Sec. 123.49[2f])

5. In the case of a retail beer or wine permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to beer, wine, or any other beverage in or about the permittee's place of business.

(Code of Iowa, Sec. 123.49[2i])

6. Knowingly permit any gambling, except in accordance with Iowa law, or knowingly permit any solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license or permit.

(Code of Iowa, Sec. 123.49[2a])

7. Knowingly permit or engage in any criminal activity on the premises covered by the license or permit.

(Code of Iowa, Sec. 123.49[2j])

8. Keep on premises covered by a liquor control license any alcoholic liquor in any container except the original package purchased from the Alcoholic Beverages Division of the State Department of Commerce and except mixed drinks or cocktails mixed on the premises for immediate consumption. However, mixed drinks or cocktails that are mixed on the premises and are not for immediate consumption may be consumed on the licensed premises, subject to rules adopted by the Alcoholic Beverages Division.

(Code of Iowa, Sec. 123.49[2d])

9. Reuse for packaging alcoholic liquor or wine any container or receptacle used originally for packaging alcoholic liquor or wine; or adulterate, by the addition of any substance, the contents or remaining contents of an original package of an alcoholic liquor or wine; or knowingly possess any original package which has been reused or adulterated.

(Code of Iowa, Sec. 123.49[2e])

10. Allow any person other than the licensee, permittee, or employees of the licensee or permittee to use or keep on the licensed premises any alcoholic liquor in any bottle or other container which is designed for the transporting of such beverages, except as allowed by State law.

(Code of Iowa, Sec. 123.49[2g])

11. Sell, give, possess, or otherwise supply a machine which is used to vaporize an alcoholic beverage for the purpose of being consumed in a vaporized form.

(Code of Iowa, Sec. 123.49[21])

12. Sell, offer to sell, dispense, or serve for on-premises consumption an unlimited number of servings of alcoholic liquor, wine, or beer for a fixed price. Nothing in this subsection 12 shall be construed to prohibit a holder of an onpremises liquor control license or wine or beer permit, or its employees or agents, from:

A. Including drinks containing an alcoholic beverage or beer as part of a hotel or motel package which includes overnight accommodations; or

B. Providing a fixed price for an unlimited number or indefinite quantity of drinks containing an alcoholic beverage or beer for a private event. A private event is defined as

an event restricted to a particular group or persons, provided that the licensee or permittee shall provide means or method by which to identify persons participating in the private event, such as the use of a separate room or an identification tag or badge; or

C. As otherwise permitted for a special event by the City Council (provided, however, that no license or permit holder shall be allowed to hold such a special event under this paragraph C more than twice per calendar year).

120.06 AMUSEMENT DEVICES.

The following provisions pertain to electronic or mechanical amusement devices, which are allowed only in premises with a liquor control license or beer permit as specifically authorized in Section 99B.10 of the Code of Iowa.

(Code of Iowa, Sec. 99B.10C)

1. As used in this section an “electronic or mechanical amusement device” means a device that awards a prize redeemable for merchandise on the premises where the device is located and which is required to be registered with the Iowa Department of Inspection and Appeals.

2. It is unlawful for any person under the age of twenty-one (21) to participate in the operation of an electrical or mechanical amusement device.

3. It is unlawful for any person owning or leasing an electrical or mechanical amusement device, or an employee of a person owning or leasing an electrical or mechanical amusement device, to knowingly allow a person under the age of 21 to participate in the operation of an electrical or mechanical amusement device.

4. It is unlawful for any person to knowingly participate in the operation of an electrical or mechanical amusement device with a person under the age of 21.

CHAPTER 121

CIGARETTE AND TOBACCO PERMITS

121.01 Definitions

121.02 Permit Required

121.03 Application

121.04 Fees

121.05 Issuance and Expiration

121.06 Refunds

121.07 Persons Under Legal Age

121.08 Self-Service Sales Prohibited

121.09 Permit Revocation

121.01 DEFINITIONS.

For use in this chapter the following terms are defined:

(Code of Iowa, Sec. 453A.1)

1. "Alternative nicotine product" means a product, not consisting of or containing tobacco, that provides for the ingestion into the body of nicotine, whether by chewing, absorbing, dissolving, inhaling, snorting, or sniffing, or by any other means. "Alternative nicotine product" does not include cigarettes, tobacco products, or vapor products, or a product that is regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.
2. "Cigarette" means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, this definition is not to be construed to include cigars.
3. "Place of business" means any place where cigarettes or tobacco products are sold, stored or kept for the purpose of sale or consumption by a retailer.
4. "Retailer" means every person who sells, distributes or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, alternative nicotine products, or vapor products, irrespective of the quantity or amount or the number of sales, or who engages in the business of selling tobacco, tobacco products, alternative nicotine products, or vapor products to ultimate consumers.
5. "Self-service display" means any manner of product display, placement, or storage from which a person purchasing the product may take possession of the product, prior to purchase, without assistance from the retailer or employee of the retailer, in removing the product from a restricted access location.
6. "Tobacco products" means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking, but does not mean cigarettes.
7. "Vapor product" means any noncombustible product, which may or may not contain nicotine, that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from a solution or other substance. "Vapor product" includes an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device,

and any cartridge or other container of a solution or other substance, which may or may not contain nicotine, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. "Vapor product" does not include a product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.

121.02 PERMIT REQUIRED.

1. Retail Cigarette Permits. It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes, alternative nicotine products, or vapor products at retail and no retailer shall distribute, sell, or solicit the sale of any cigarettes, alternative nicotine products, or vapor products within the City without a valid permit for each place of business. The permit shall, at all times, be publicly displayed at the place of business so as to be easily seen by the public and the persons authorized to inspect the place of business.

(Code of Iowa, Sec. 453A.13)

2. Retail Tobacco Permits. It is unlawful for any person to engage in the business of a retailer of tobacco, tobacco products, alternative nicotine products, or vapor products at any place of business without first having received a permit as a retailer for each place of business owned or operated by the retailer.

(Code of Iowa, Sec. 453A.47A)

A retailer who holds a retail cigarette permit is not required to also obtain a retail tobacco permit. However, if a retailer only holds a retail cigarette permit and that permit is suspended, revoked, or expired, the retailer shall not sell any tobacco, tobacco products, alternative nicotine products, or vapor products, during such time.

121.03 APPLICATION.

A completed application on forms furnished by the State Department of Revenue or on forms made available or approved by the Department and accompanied by the required fee shall be filed with the Clerk. Renewal applications shall be filed at least five (5) days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant.

(Code of Iowa, Sec. 453A.13 & 453A.47A)

121.04 FEES.

The fee for a retail cigarette or tobacco permit shall be as follows:

(Code of Iowa, Sec. 453A.13 & 453A.47A)

FOR PERMITS GRANTED DURING:	FEE:
July, August or September	\$ 75.00
October, November or December	\$ 56.25
January, February or March	\$ 37.50
April, May or June	\$ 18.75

121.05 ISSUANCE AND EXPIRATION.

Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable. All permits expire on June 30 of each year. The Clerk shall submit a duplicate of any application for a permit, and any permit issued, to the Alcoholic Beverages Division of the Department of Commerce within thirty (30) days of issuance.

121.06 REFUNDS.

A retailer may surrender an unrevoked permit and receive a refund from the City, except during April, May, or June, in accordance with the schedule of refunds as provided in Section 453A.13 or 453A.47A of the Code of Iowa.

(Code of Iowa, 453A.13 & 453A.47A)

121.07 PERSONS UNDER LEGAL AGE.

No person shall sell, give, or otherwise supply any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes to any person under twenty-one (21) years of age. The provision of this section includes prohibiting a minor from purchasing tobacco, tobacco products, alternative nicotine products, vapor products, and cigarettes from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of three hundred dollars (\$300.00). Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of fourteen (14) days.

2. For a second violation within a period of two years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) or the retailer's permit shall be suspended for a period of thirty (30) days. The retailer may select its preference in the penalty to be applied under this subsection.

3. For a third violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 30 days.

4. For a fourth violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of sixty (60) days.

5. For a fifth violation within a period of four years, the retailer's permit shall be revoked.

The Clerk shall give ten (10) days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

(Code of Iowa, Sec. 453A.2, 453A.22 and 453A.36[6])

(Section 121.07 - Ord. 20-01 - Mar. 20 Supp.)

121.08 SELF-SERVICE SALES PROHIBITED.

Except for the sale of cigarettes through a cigarette vending machine as provided in Section 453A.36[6] of the Code of Iowa, a retailer shall not sell or offer for sale tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes through the use of a self-service display.

(Code of Iowa, Sec. 453A.36A)

121.09 PERMIT REVOCATION.

Following a written notice and an opportunity for a hearing, as provided by the Code of Iowa, the Council may also revoke a permit issued pursuant to this chapter for a violation of Division I of Chapter 453A of the Code of Iowa or any rule adopted thereunder. If a permit is revoked, a new permit shall not be issued to the permit holder for any place of business, or to any other person for the place of business at which the violation occurred, until one year has expired from the date of revocation, unless good cause to the contrary is shown to the Council. The Clerk shall report the revocation or suspension of a retail permit

to the Alcoholic Beverages Division of the Department of Commerce within thirty (30) days of the revocation or suspension.

(Code of Iowa, Sec. 453A.22)

CHAPTER 122
PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

122.01 Definitions	122.10 Revocation of Permit
122.02 Permit Required	122.11 Notice
122.03 Application for Permit	122.12 Hearing
122.04 Permit Fees	122.13 Record and Determination
122.05 Bonds Required	122.14 Appeal
122.06 Permit Issued	122.15 Effect of Revocation
122.07 Display of Permit	122.16 Rebates
122.08 Permit Not Transferable	122.17 Permit Exemptions
122.09 Time Restriction	122.18 Prohibited Acts

122.01 DEFINITIONS.

For use in this chapter the following terms are defined:

1. "Peddler" means any person carrying goods or merchandise or offering services who sells or offers for sale for immediate delivery such goods, merchandise, or services from house to house or upon the public street or right-of-way.
2. "Solicitor" means any person who solicits or attempts to solicit from house to house or upon the public street or right-of-way any contribution or donation or any order for goods, services, subscriptions, or merchandise to be delivered at a future date.
3. "Panhandler" means any solicitation made in person requesting an immediate donation of money or other thing of value. Purchase of an item for an amount far exceeding its value, under circumstances where a reasonable person would understand that the purchase is in substance a donation, is a donation for the purpose of this section. Panhandling does not include passively standing or sitting, without addressing any solicitation to any specific person.

(Subsection 3 – Ord. 23-01 – Oct. 23 Supp.)

4. "Transient merchant" means any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases, or occupies any building or structure whatsoever, or who operates out of a vehicle which is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader, or auctioneer does not exempt any person from being considered a transient merchant.

122.02 PERMIT REQUIRED.

Any person engaging in peddling, soliciting, or panhandling or in the business of a transient merchant in the City without first obtaining a permit as herein provided is in violation of this chapter.

122.03 APPLICATION FOR PERMIT.

An application in writing shall be filed with the Chief of Police for a permit under this chapter. The applicant shall provide the following information. :

1. Applicant's name;
2. Permanent and local address and contact information;
3. Business address, if any;
4. Physical description and a government-issued photo I.D.;
5. Applicant's employer, if any, and the employer's address;
6. The nature of the applicant's business;
7. The last three places of such business;
8. The length of time sought to be covered by the permit;
9. Whether applicant has been listed on any sex offender registry within the last five (5) years; and
10. Whether applicant has had a peddler, solicitor, panhandling, or transient merchant permit suspended, revoked, or denied by this or any other city in the last five (5) years and the reasons therefor.

11. License Plate Number(s) of applicants

12. Current headshot of applicant. Photos may be posted to the City's website and social media to allow for resident identification.

~~An application fee in an amount fixed by resolution of the Council shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein. There is no application fee for permits in conjunction with City sponsored events or activities.~~

(Ord. 16-04 – Aug. 16 Supp.)

Commented [AS20]: Removing as following section covers Permit Fees

122.04 PERMIT FEES.

Permit fees in amounts ~~fixed by resolution of the Council~~ set in the Fee Schedule shall be paid to the Chief of Police or his/her designee prior to the issuance of any permit. There is no permit fee in conjunction with City sponsored events or activities.

(Ord. 16-04 – Aug. 16 Supp.)

Commented [AS21]: Moving all fees to the Fee Schedule

122.05 BONDS REQUIRED.

1. Before a permit under this chapter is issued to a transient merchant, an applicant shall provide to the Chief of Police evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the Code of Iowa.

2. At the time of filing of the application and as a part thereof, any applicant without a place of residence or place of business in the State of Iowa shall file with the Chief of Police a bond, with sureties to be approved by the Chief of Police, in a penal sum of ~~\$15,000.00~~ running to the City, for the use and benefit of any purchaser of any merchandise from such transient merchant who might have a cause of action of any nature arising from or out of such sale against the applicant or applicant's employer. The bond is to be further conditioned for the payment of any fines that may be assessed by any court against the applicant for a violation of this chapter, and further conditioned for the payment and satisfaction of any and all causes of action against the applicant commenced within one year from the date of sale of any merchandise. The aggregate liability of the surety for all fines and causes of action shall not exceed the principal sum of the bond.

122.06 PERMIT ISSUED.

The Chief of Police, upon review of the permit application with the police department and any other appropriate department or agency, shall determine whether a permit will be issued to the applicant. A waiting period of not less than three (3) business days from the date of the application shall be in effect to provide sufficient time for the fact-gathering process to be completed in a reasonable period. In making his/her decision, the following factors shall be considered:

1. The information in the application is found to be correct.

(Supp. No. 30)

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2. All information required has been provided and the application is complete.
 3. The required bond is paid.
 4. Prior peddler, solicitor, panhandler, or transient merchant permits issued to applicant and whether any such permits were suspended or revoked.

If the determination is made that the application satisfies the above factors and the applicant is not a risk to public safety, a permit shall be issued upon payment of the bond and any other fees set forth in the schedule of fees adopted by the City Council by resolution. A denial of a permit may be appealed in the same manner and under the same procedures stated at Section 122.14 of this chapter.

122.07 DISPLAY OF PERMIT.

Each peddler, solicitor, and panhandler shall keep such permit in possession at all times while doing business in the City and shall, upon the request of prospective customers, exhibit the permit as evidence of compliance with all requirements of this chapter. Each transient merchant shall display publicly such merchant's permit in the merchant's place of business.

122.08 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.

122.09 TIME RESTRICTION.

All peddler, solicitor, and panhandler permits shall provide that said permits are in force and effect ~~only between the hours of 9:00 a.m. and 9:00 p.m. Monday through Saturday~~ from 9:00 am to 9:00 pm and Sunday from 12:00 pm to 7:00 pm.

122.10 REVOCATION OF PERMIT.

After notice and hearing, the Chief of Police may revoke any permit issued under this chapter for the following reasons:

1. Fraudulent Statements. The permit holder has made fraudulent statements in the application for the permit or in the conduct of the business.
2. Violation of Law. The permit holder has violated this chapter or has otherwise conducted the business in an unlawful manner.

3. Endangered Public Welfare, Health, or Safety. The permit holder has conducted the business in such manner as to endanger the public welfare, safety, order, or morals.

122.11 NOTICE.

The permit holder shall be served with written notice containing particulars of any complaint against the permit holder, the ordinance provisions or State statutes allegedly violated, and the date, time, and place for hearing on the matter.

122.12 HEARING.

The Chief of Police, with assistance of the City Attorney, shall conduct a hearing at which the permit holder shall be present to determine the truth of the acts alleged in the complaint and notice. Should the permit holder, or authorized representative, fail to appear without good cause, the Chief of Police may use the failure to appear as evidence in support of revocation of the permit.

122.13 RECORD AND DETERMINATION.

The Chief of Police, with advice of the City Attorney, shall make and record findings of fact and conclusions of law, and shall revoke a permit when the record establishes evidence of a violation of this chapter and/or State law.

122.14 APPEAL.

If the Chief of Police revokes or refuses to issue a permit, there shall be a record setting forth the reasons for said decision. The permit holder or applicant shall have a right to a hearing before the Council at one of the next two regular meetings. The Council may reverse, modify, or affirm the decision of the Chief of Police, or his/her designee, by a majority vote of the Council members present.

122.15 EFFECT OF REVOCATION.

Revocation of any permit shall bar the permit holder from being eligible for any permit under this chapter for a period of at least one year from the date of the revocation.

122.16 REBATES.

No permit holder shall be entitled to a rebate of part of the fee paid if the permit is revoked or surrendered before it expires.

122.17 PERMIT EXEMPTIONS.

The following are excluded from the application of this chapter.

1. Newspapers. Persons delivering, collecting for, or selling subscriptions to newspapers.
2. Club Members. Members of local civic and service clubs, Boy Scout, Girl Scout, 4-H Clubs, Future Farmers of America, and similar organizations.
3. Local Residents and Farmers. Local residents and farmers who offer for sale their own products.
4. Students. Students representing area schools or school districts conducting projects sponsored by organizations recognized by the school.
5. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.
6. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.
7. Charitable and Nonprofit Organizations. Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504 of the Code of Iowa. All such organizations seeking to act as a peddler, solicitor, panhandler, and/or transient merchant are required to submit in writing to the Chief of Police the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees or wages are to be charged by the solicitor and the amount thereof. If it is found that the organization is a bona fide charity or nonprofit organization, such charity or organization shall be issued, free of charge, a permit. In the event the permit is denied, the authorized representatives of such charity or organization may appeal the decision to the Council, as provided in Section 122.14 of this chapter.
8. City Employees acting in an extension of their job duties and with the written authorization of their employer. Permits are required for each type of permit use, however individual City employees are not required to complete individual permits.
9. Temporary Food and Beverage Facilities. Persons who have a valid temporary food and beverage facility permit as defined by City ordinance.
10. Community Event Center Lessee. Persons who possess or are authorized merchants of the Community Event Center lessee while on the physical property or immediately adjacent to the Community Event Center.

11. Religious Organizations

12. Political Organizations

(Subsections 9-10 – Ord. 18-01 – Apr. 18 Supp.)

Commented [AS22]: Added per Council direction on July 7, 2025 meeting.

122.18PROHIBITED ACTS.

It is unlawful for any person, with or without a permit under this chapter, to conduct peddling, solicitation, panhandling or transient merchant business:

1. With any person situated in a motor vehicle upon any public street, alley, driveway access or public way.
2. Upon any part of the public right-of-way and/or along a parade route on the day of any permitted parade.
3. By blocking the path of the person solicited along a street.
4. By doing business or attempting to do business upon any property on which has a posted notice prohibiting peddling, solicitation or panhandling.
5. By using profane or abusive language, either during the solicitation or following a refusal.
6. By panhandling in a group of three or more persons.
7. While under the influence of alcohol or any illegal narcotic or controlled substance.
8. By any statement, gesture or other communication, which a reasonable person in the situation of the person solicited, would perceive to be a threat, harassment, intimidation or coercion.

CHAPTER 123 HOUSE MOVERS

123.01 House Mover Defined	123.07 Permit Issued
123.02 Permit Required	123.08 Public Safety
123.03 Application	123.09 Time Limit
123.04 Bond Required	123.10 Removal by City
123.05 Insurance Required	123.11 Protect Pavement
123.06 Permit Fee	123.12 Overhead Wires

123.01 HOUSE MOVER DEFINED.

A “house mover” means any person who undertakes to move a building or similar structure upon, over or across public streets or property when the building or structure is of such size that it requires the use of skids, jacks, dollies, or any other specialized moving equipment.

123.02 PERMIT REQUIRED.

It is unlawful for any person to engage in the activity of house mover as herein defined without a valid permit from the City for each house, building or similar structure to be moved.

123.03 APPLICATION

An application for a house mover’s permit shall be made in writing to the Clerk. The application shall include:

1. Name and Address. The applicant’s full name and address and if a corporation the names and addresses of its principal officers.
2. Building Location. An accurate description of the present location and future site of the building or similar structure to be moved.
3. Routing Plan. A routing plan approved by the Chief of Police, Public Works Director, and public utility officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety.

123.04 BOND REQUIRED.

The applicant shall post with the Clerk a penal bond in the minimum sum of five thousand dollars (\$5,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee’s payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of moving the building or structure.

123.05 INSURANCE REQUIRED.

Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:

1. Bodily Injury – \$250,000 per person; \$1,000,000 per accident.
2. Property Damage – \$~~300~~50,000 per accident.

Commented [AS23]: Updated to match Clive.
Option B is to match West DSM at 500k.
Recommend to match Clive.

123.06 PERMIT FEE.

A permit fee in an amount ~~fixed by resolution of the Council shall be payable at the time of filing the application with the Clerk set in the Fee Schedule.~~ A separate permit shall be required for each house, building or similar structure to be moved.

123.07 PERMIT ISSUED.

Upon approval of the application, filing of bond and insurance certificate, and payment of the required fee, the Clerk shall issue a permit.

123.08 PUBLIC SAFETY.

At all times when a building or similar structure is in motion upon any street, alley, sidewalk or public property, the permittee shall maintain flag persons at the closest intersections or other possible channels of traffic to the sides, behind and ahead of the building or structure. At all times when the building or structure is at rest upon any street, alley, sidewalk or public property the permittee shall maintain adequate warning signs or lights at the intersections or channels of traffic to the sides, behind and ahead of the building or structure.

123.09 TIME LIMIT.

No house mover shall permit or allow a building or similar structure to remain upon any street or other public way for a period of more than twelve (12) hours without having first secured the written approval of the City.

123.10 REMOVAL BY CITY.

In the event any building or similar structure is found to be in violation of Section 123.09 the City is authorized to remove such building or structure and assess the costs thereof against the permit holder and the surety on the permit holder's bond.

123.11 PROTECT PAVEMENT.

It is unlawful to move any house or building of any kind over any pavement, unless the wheels or rollers upon which the house or building is moved are at least one inch in width for each 1,000 pounds of weight of such building. If there is any question as to the weight of a house or building, the estimate of the City Engineer or Mayor as to such weight shall be final.

123.12 OVERHEAD WIRES.

The holder of any permit to move a building shall see that all telephone, cable television and electric wires and poles are removed when necessary and replaced in good order, and shall be liable for the costs of the same.

CHAPTER 124 PAWNBROKERS

124.01 Definitions	124.11 Prohibited Acts
124.02 Location of Pawnbroker Businesses	124.12 Articles of Clothing
124.03 Compliance with Chapter Provisions	124.13 Searching for Stolen Property
124.04 License Fees	124.14 Examination of Premises by Officers
124.05 License	124.15 Hours of Operation
124.06 Expiration Date of License	124.16 Disposing of Stolen Goods or Goods for Which There Is an Adverse Claim
124.07 Separate License for Each Place of Business	124.17 Grounds for Revocation of License
124.08 Nonpayment of License Fee Misdemeanor	124.18 Revocation Procedure
124.09 Records	124.19 Effect of Revocation
124.10 Daily Reports to Chief of Police	124.20 Summary Suspension

124.01 DEFINITIONS.

Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms, for the purpose of this chapter, have the meanings given in this section:

1. "Negative police report" means a report or review compiled by the Chief of Police, which discloses a criminal record of a felony or any conviction under this chapter two or more times in a calendar year or a conviction under Chapter 714 of the Code of Iowa.
2. "Pawnbroker" means every person who makes loans or advancements upon pawn, pledge, or deposit of personal property or who receives actual possession of personal property as security for loans, with or without a mortgage or bill of sale therein, or who, by advertisement, sign, or otherwise, holds himself or herself out as a pawnbroker.
3. "Positive police report" means a report or review compiled by the Chief of Police, which does not disclose a criminal record of a felony or any conviction under this chapter two or more times in a calendar year or a conviction under Chapter 714 of the Code of Iowa.

124.02 LOCATION OF PAWNBROKER BUSINESSES.

1. Locations. No person, whether as principal or agent, clerk or employee, either for such person or any other person, or as an officer of any corporation, or otherwise, shall place, maintain, own, or operate any pawn shop businesses in the following locations.

A. In any residential area in the City, including upon any sidewalk abutting upon such residential area;

B. Within 1,000 feet of any residentially zoned or used property or any property designated on the City's Comprehensive Plan as residentially oriented.

C. Within 1,000 feet of any parcel of real property upon which is located any of the following facilities:

(1) An elementary school, junior high school, or senior high school:

(2) A church which conducts religious programs;

(3) Park or recreational facilities operated and approved by the City, County, the Polk County Conservation Board, the State of Iowa, or a not-for-profit institution;

(4) Federal, State, County, City, or special district governmental offices;

(5) Supermarket or convenience market primarily engaged in the sale of food;

(6) Restaurant, fast-food, or food establishment catering to family trade.

D. Within 1,000 feet of any other pawn shop or delayed deposit service business, as defined in Section 124.01 and 167.06(4).

2. Measurement of Distance. The distance between any two pawn shops and/or delayed deposit services businesses shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of each business. The distance between any pawn shop and delayed services businesses and any religious institution, school or public park, government office, supermarket, restaurant, or any property designated for residential use or used for residential purposes shall be measured in a straight line without regard to intervening structures, from the closest property line of the pawn shop or delayed deposit service business to the closest property line of the religious institution, school, public park, government office, supermarket, restaurant, or the property designated for residential use or used for residential purposes.

3. Restrictions. Visibility into the store shall be maintained by utilizing clear, transparent glass on all windows and doors and by keeping all windows free of obstructions for at least three (3) feet into the store. Products may be displayed for sale in the window provided that the display, including signage, does not occupy more than 30 percent of the window area. Interior and exterior bars, grills, mesh, or similar obstructions, whether permanently or temporarily affixed, shall not cover any exterior door or window.

124.03 COMPLIANCE WITH CHAPTER PROVISIONS.

1. No person shall engage in or carry on the business of pawnbroker in the City without first paying the fee and procuring the license provided for in this chapter, nor shall any person carry on such business in any manner contrary to the provisions of this chapter.

2. Every clerk, servant, agent, or employee of any pawnbroker must be at least 18 years old and shall be subject to and bound by all provisions of this chapter and liable for the same penalties and to the same extent as such person's employer or principal for any violation thereof.

124.04 LICENSE FEES.

Any person desiring a pawnbroker license under this chapter shall make a written, signed application to the Clerk on forms provided by the Clerk. All annual fees for licenses under this chapter shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such license fees may, from time to time, be amended by the Council by resolution. A copy of the resolution setting forth the currently effective license fees shall be kept on file in the office of the City Administrator, and be open to inspection during regular business hours.

124.05 LICENSE.

1. Criteria Considered. Upon receipt of a pawnbroker license application, the Clerk shall forward a copy of the application to the Chief of Police, who shall review the application. The applicant shall furnish such evidence as may reasonably be required in support of the statements set forth in the application. The Chief of Police shall report to the Clerk within thirty (30) days of receipt of the application considering (but not limited to) the following criteria:

A. The Chief of Police shall determine whether the applicant or any of the applicant's agents or employees who will be charged with receiving or distributing property have been convicted of a felony. However, if the conviction of a felony occurred more than five years before the application for a pawnbroker license, and if such person's rights of citizenship have been restored by the Governor, such conviction shall not be a bar to obtaining a pawnbroker license.

B. The Chief of Police shall determine whether the applicant has truthfully reported all relevant facts within the pawnbroker application.

C. The Chief of Police shall determine if the applicant has such financial standing and good reputation to indicate that he or she will comply with all the laws of the State and City.

2. Issuance.

A. Upon receipt of a positive police report and the appropriate fees, the Clerk shall approve the application if the applicant has fully complied with all of the requirements of this chapter, and the Clerk shall thereupon issue a pawnbroker license to the applicant and forward a copy of such to the Chief of Police. The license shall state the name and place of residence of the person licensed, the business to be transacted and the place where it is to be carried on, and the date of issuance and expiration of the license.

B. In the event that the Clerk determines that any applicant for a new license or any person seeking a renewal license has not fully complied with all of the requirements of this chapter, or that the Chief of Police returns a negative report, or that the applicant has falsified his or her application, then the Clerk shall, after consultation with the City Attorney, advise the City Council of the basis for questioning the applicant's qualifications, and the procedures for notice and hearing.

124.06 EXPIRATION DATE OF LICENSE.

All pawnbrokers' licenses shall expire one year after the date of issue.

124.07 SEPARATE LICENSE FOR EACH PLACE OF BUSINESS.

Any person conducting several or separate places of business shall pay the license fee and procure a license for each place of business. The license shall be sufficient for all clerks, agents, servants, or employees engaged or employed at the place named in the license.

124.08 NONPAYMENT OF LICENSE FEE MISDEMEANOR.

When any person shall engage in business as a pawnbroker without paying the fee provided therefor and imposed in this chapter, such person shall be guilty of a misdemeanor. Each day said violation continues shall be considered a separate offense.

124.09 RECORDS.

1. Every pawnbroker shall keep a book in which he or she shall accurately and legibly enter, in ink, in the English language, at the time of purchasing or receiving any personal property:

A. The name of the person from whom the property is purchased or received, the person's place of residence, the person's date of birth, a photo identification of the person, the person's driver's license number, the state of issue of the driver's license, and the expiration date of the driver's license;

B. A particular, detailed, and accurate description of each article, including any serial number;

C. The estimated value of each article;

D. The amount paid, advanced, or loaned for the article;

E. The date and hour of transaction;

F. The date and hour when the article is to be redeemed or bought back;

G. Any mortgage or bill of sale taken, or receipt or pawn ticket given;

H. When, and by whom, an article was brought back or redeemed;

I. When, to whom, and how an article was disposed of, if not redeemed.

2. The license and the book shall, at all times, be open to examination or inspection by any police officer.

3. When the pawn log sheets are complete, or upon demand from the Chief of Police, the licensee shall surrender the original sheets to the Chief of Police, who shall provide a copy of the sheets to the licensee; the originals shall remain the property of the City. The licensee shall also maintain a record of the name and residential address of any person redeeming an article of property, the date of such transaction and a description of the article

redeemed. In the event property is disposed of other than by redemption, the licensee shall record a description of the property, how disposed, and the name and address to whom the article was transferred. Such redemption and purchase records shall be maintained by the licensee for one year from the date of transaction and shall be at all times open to examination and recordation by the Chief of Police.

4. Every pawnbroker shall require each person from whom any property is purchased or received to print and sign his or her name on any inventory sheet provided by the Chief of Police. The inventory sheet shall be the property of the City.

5. Any person is guilty of a misdemeanor who:

A. Fails to keep or maintain such records as required by this chapter;

B. Fails to make the required entries in such records;

C. Intentionally or knowingly makes any false or unintelligible entry, or any entry which he or she has reason to believe is untrue, or deletes any entry;

D. Fails to make the inquiries necessary to enable the person to make such entries or any of them;

E. Fails to produce the license, book, or log sheets when requested by a police officer;

F. Destroys, alters, or negligently permits such book, records, or log sheets to be destroyed, damaged, altered, rendered unintelligible, or lost;

G. Fails to require any person to show physical proof of that person's identification.

124.10 DAILY REPORTS TO CHIEF OF POLICE.

Every pawnbroker who purchases or receives from a person any article of jewelry or precious stones; any sheet copper or brass; copper or brass wire; lead (sheet or pipe); zinc (sheet or pipe); Citizens Band radio, car radio, stereo, or electronic accessory; nickel or nickel-plated articles; silver or silver-plated articles; car or railroad brasses; any guns, pistols, or rifles; any motorcycle, bicycle, automobile, or automobile tire, part, or accessory thereto; shall within 24 hours after purchasing or receiving such articles report the same in writing to the Chief of Police, stating fully and correctly:

1. The name, driver's license number and state of issuance, and residence of the person from whom the article was purchased or received;

2. A full and accurate description of each article, including any serial numbers;

3. The value or amount paid for each article.

124.11 PROHIBITED ACTS.

No licensee or any agent or employee purchasing or receiving any article or property shall:

1. Receive any property without first viewing a form of identification containing a photograph of the person identified.
2. Melt, alter, destroy, dismantle, redeem, remove from the licensed premises, or otherwise dispose of such article, without making the report required in Section 124.10, or within 15 days after the receipt and report of any property is made, except upon written permission from the Chief of Police. Every bicycle, motorcycle, or automobile purchased or received shall be kept intact for a period of 15 days. All articles must remain within the City at the place of business during the 15-day period provided for herein.
3. Purchase or receive any property from any person under the age of eighteen without his or her parent or guardian being present at the time of the transaction and without receiving their written consent, a copy of which must be submitted along with the records required by Section 124.09 of this chapter.
4. Purchase or receive any property or surrender any property from 6:00 p.m. to 8:00 a.m. Monday through Saturday, and 6:00 p.m. Saturday through 8:00 a.m. Monday.
5. Conceal, secrete, or destroy for the purpose of concealing, any article purchased or received for the purpose of preventing identification.
6. Deface, alter, or remove any serial number or identifying marks from an article in his or her possession.
7. Take possession of defaced or altered property as described in subsection 6 above.
8. Sell, dispose of, change in its form, alter, or mutilate in any way any article of jewelry within the time fixed for sale or redemption.
9. Purchase or receive any personal property from any intoxicated person or person who appears to be under the influence of any drug.
10. Sell or otherwise dispose of any article during the time any person has the right to buy back or redeem the article.

124.12 ARTICLES OF CLOTHING.

All articles of clothing taken in pawn or purchased outright shall be held in the same condition in which they were received for fifteen (15) days following and during this period shall not be cleaned, repaired, dyed, or altered in any manner.

124.13 SEARCHING FOR STOLEN PROPERTY.

Whenever any police officer has reason to believe that any pawnbroker has in his or her possession or on his or her premises any stolen property, the officer shall have the right and duty to enter and search the premises of such person for the purpose of discovering stolen property.

124.14 EXAMINATION OF PREMISES BY OFFICERS.

No pawnbroker or any other person shall refuse, resist, or attempt to prevent any police officer, with or without warrant, from examining the premises occupied by the pawnbroker for the purpose of discovering stolen property.

124.15 HOURS OF OPERATION.

No pawnbroker or any person shall conduct business on Sunday or at any hour other than between 6:00 a.m. and 6:00 p.m.

124.16 DISPOSING OF STOLEN GOODS OR GOODS FOR WHICH THERE IS AN ADVERSE CLAIM.

No pawnbroker shall sell, or permit to be redeemed, or otherwise dispose of any article which he or she has reason to believe has been stolen, or which is adversely claimed by any person, or which he or she has been notified not to sell, release, or otherwise dispose of by any police officer without first obtaining written permission to do so from the Chief of Police.

124.17 GROUNDS FOR REVOCATION OF LICENSE.

The following reasons shall be grounds for the revocation of any license issued under the provisions of this chapter:

1. Fraud. The licensee has made fraudulent or untrue statements in the application for a license.
2. Violation. The licensee has violated any of the provisions of this chapter.
3. Operation. The licensee has conducted the business in such a manner as to endanger the public welfare, health, safety, order, or morals.

124.18 REVOCATION PROCEDURE.

When it appears to the Clerk or the Council that grounds for the revocation of a license may exist, the following procedure shall be followed:

1. Investigation. The Council or the Clerk shall direct the Chief of Police to make an investigation concerning the alleged grounds for revocation.
2. Report to Council. The Chief of Police shall make such investigation and report the findings in writing to the Council.
3. Determination. The Council shall make a determination as to whether probable cause for revocation exists.
4. Hearing. If the Council finds that probable cause for revocation exists, it shall set a date, time, and place for a hearing on the matter and shall direct the City Attorney to prepare the complaint against the licensee. The complaint shall state the alleged grounds for the revocation and the date, time, and place for a hearing on the matter.
5. Service of Complaint. The complaint shall be served upon the licensee by certified mail, return receipt requested, not less than ten (10) days prior to the date set for a hearing on the matter.
6. Conduct of Hearing. The Council shall conduct the hearing at which the licensee shall be present. The purpose of the hearing shall be to determine the truth of the facts alleged in the complaint. Should the licensee or the licensee's authorized representative fail to appear without good cause, the Council may proceed to a determination on the complaint.
7. Rights of Licensee. The licensee shall have the right to be represented by counsel, to testify and present witnesses in his or her own behalf and to cross-examine adverse witnesses.
8. Evidence. The Council shall admit only reliable and substantial evidence into the revocation proceeding and shall give all admitted evidence its natural probative value.
9. Findings. The Council shall make and record findings of fact and conclusions of law and shall revoke a license under this section only when, upon review of the entire record, it finds substantial evidence of a violation of this chapter.

124.19 EFFECT OF REVOCATION.

Revocation of a license shall bar the licensee from being eligible for any license under this chapter for a period of three (3) years from the date of revocation.

124.20 SUMMARY SUSPENSION.

The Chief of Police may summarily suspend any license issued under this chapter if, after investigation, the Chief of Police finds reasonable grounds to believe that the licensee's establishment poses an immediate hazard to the health or safety of the community. Such suspension shall be effective upon the service of a written notice of suspension upon the licensee. Such service may be accomplished by personal service or by certified mail, return receipt requested. The Chief of Police shall forthwith report such suspension to the Council and the Council shall forthwith commence revocation proceedings in accordance with the provisions of Section 124.18 of this chapter. Such suspension shall remain effective until the completion of said revocation proceedings.

CHAPTER 125
ADULT ENTERTAINMENT FACILITIES

125.01 Purpose	125.04 Adult Magazines and Publications to be Covered
125.02 Definitions	125.05 Enforcement
125.03 Location of Adult Bookstores, Movie Theaters, Nightclubs, Motels, Adult Businesses	125.06 Permitted Areas

125.01 PURPOSE.

It is recognized that adult entertainment facilities have certain objectionable side effects which render these adult facilities incompatible with residential and family-oriented uses, when the adult facilities are located directly adjacent to such uses. This chapter seeks to ensure that residential or family-oriented uses and adult entertainment facilities will be located in separate and compatible locations. It is a subject of legitimate concern for the City to use its zoning power to preserve the quality of life, preserve the City's neighborhoods, and to meet effectively the increasing encroachments of urbanization upon the quality of life within the City.

125.02 DEFINITIONS.

As used in this chapter, the following terms have the following meanings:

1. "Adult entertainment facilities" include but are not limited to the following:

A. "Adult bookstore" means an establishment having as the primary portion of its stock in trade, books, magazines, and other periodicals which are substantially devoted to the depiction of specified sexual activities and specified anatomical areas.

B. "Adult movie theater" means any theater, arcade, or similar establishment where an enclosed building or open-air facility is used for presenting material in the form of motion picture film, video tape, or other similar means which is substantially devoted to the depiction of specified sexual activities and specified anatomical areas for observation by persons therein.

C. "Adult nightclub" means any club, cabaret, nightclub, bar, restaurant, or similar establishment where an enclosed building or open-air facility is used for live performance which is characterized by the exposure of specified sexual activities and specified anatomical areas for observation by persons therein.

D. "Adult motel" means a motel or similar establishment offering public accommodations for any form of consideration which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

E. "Adult business" means any business or establishment where a specified sexual activity or a specified anatomical area is displayed.

2. "Specified anatomical areas" means:

A. Less than completely and opaquely covered:

(1) Human genitals;

(2) Human buttocks;

(3) Human female breast below a point immediately above the top of the areola; and

B. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

3. "Specified sexual activities" means:

A. Human genitals in a state of sexual stimulation or arousal;

B. Acts of human masturbation, sexual intercourse, or sodomy;

C. Fondling or other touching of human genitals, pubic region, buttock, or female breast; and

D. Minors engaged in a prohibited sexual act or simulation of a prohibited sexual act.

125.03 LOCATION OF ADULT BOOKSTORES, MOVIE THEATERS, NIGHTCLUBS, MOTELS, ADULT BUSINESSES.

1. Locations. No person, whether as principal or agent, clerk or employee, either for such person or any other person, or as an officer of any corporation, or otherwise, shall place, maintain, own, or operate any adult bookstore, adult movie theater, adult nightclub, adult motel, or adult business in the following locations.

A. In any residential area in the City, including upon any sidewalk abutting upon such residential area;

B. Within 2,000 feet of any residentially zoned or used property, or any property designated on the City's Comprehensive Plan as residentially oriented.

C. Within 2,000 feet of any parcel of real property upon which is located any of the following facilities:

(1) An elementary school, junior high school, or senior high school;

(2) A church which conducts religious programs;

(3) Park or recreational facilities operated and approved by the City, County, the Polk County Conservation Board, the State of Iowa, or a not-for-profit institution;

(4) Federal, State, County, City, or special district governmental offices;

(5) Supermarket or convenience market primarily engaged in the sale of food;

(6) Restaurant, fast-food, or food establishment catering to family trade.

D. Within 2,000 feet of any other adult entertainment facility, as defined in Section 125.02.

2. Measurement of Distance. The distance between any two adult entertainment facilities shall be measured in a straight line, without regard to intervening structures from the closest exterior structural wall of each business. The distance between any adult entertainment facilities and any religious institution, school or public park, government office, supermarket, restaurant or any property designated for residential use or used for residential purposes shall be measured in a straight line without regard to intervening structures, from the closest property line of the adult entertainment facilities to the closest property line of the religious institution, school, public park, government office, supermarket, restaurant, or the property designated for residential use or used for residential purposes.

3. Viewing Area.

A. It is unlawful to maintain, operate or manage or permit to be maintained, operated or managed any adult theater or arcade in which the viewing areas are not visible from a continuous main aisle or are obscured by a curtain, door, wall, or other enclosure. For purposes of this section, "viewing area" means the area where a patron or customer would ordinarily be positioned while watching the performance, picture, show, or film.

B. It is unlawful for more than one person at a time to occupy any individually partitioned viewing area or booth.

C. It is unlawful to create, maintain, or permit to be maintained any holes or other openings between any two booths or individual viewing areas for the purpose of providing viewing or physical access between the booth or individual viewing area.

D. The opening to the viewing area shall be from the main aisle.

125.04 ADULT MAGAZINES AND PUBLICATIONS TO BE COVERED.

The display of adult magazines and publications in a public place, other than a public place from which minors are excluded, is prohibited unless a device commonly known as a blinder rack is placed in front of such material, so that the lower two-thirds of the material is not exposed to view. As used herein, "public place" includes grocery stores, convenience stores, drug stores, supermarkets, and other retail establishments unless minors are excluded therefrom by law.

125.05 ENFORCEMENT.

In case any building, structure, or sign is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building structure, sign, or land is used in violation of this chapter, the City Attorney, in addition to other remedies, shall institute any proper action or proceedings in the name of the City to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of the building, structure or land, or to prevent any illegal act, conduct business or use in or about the premises.

125.06 PERMITTED AREAS.

The areas in the City in which adult entertainment facilities are permitted are defined in Section 125.03.

CHAPTER 126 PUBLIC DANCE HALLS

126.01 Definitions

126.02 License Required

126.03 Application for License

126.04 Material to Accompany Application

126.05 Application for License; Building Requirements

126.11 Display of License

126.12 Expiration Date of License

126.13 Rebates Prohibited

126.14 Transfer Prohibited

126.15 Rules and Regulations

Commented [AS24]: Repealing as it is an outdated ordinance. No other cities in the metro have one. West Des Moines repealed their ordinance in 2005.

126.06 Inspection Fee
126.07 Investigation
126.08 License; Action by Clerk
126.09 License Fee
126.10 Form of License

126.16 Hours of Operation
126.17 Grounds for Revocation
126.18 Revocation Procedure
126.19 Effect of Revocation
126.20 Summary Suspension

126.01 DEFINITIONS.

—The following words and phrases, for the purposes of this chapter, have the meanings respectively ascribed to them in this section:

- 1. “Application” means a formal written request for the issuance of a license, supported by a verified statement of facts.
- 2. “Good moral character” means a person who meets all of the following requirements:
- A. Such person shall have such financial standing and be of such good reputation as will satisfy the Clerk that such person will comply with the provisions of this chapter and all other laws and ordinances applicable to such person’s operations.
- B. Such person shall not possess a federal gambling stamp.
- C. Such person shall not have been convicted of a felony or an indictable misdemeanor. However, such conviction shall not prevent the issuance of a license if: (i) the conviction occurred more than five years prior to the date of application for a license; (ii) the rights of citizenship have been restored to such person; and (iii) the Clerk determines that such person is of good moral character notwithstanding such conviction.

If such person is a corporation, firm, co-partnership, or association, the foregoing requirements shall apply to each of the officers, directors, partners, and general managers thereof and to any person who owns or controls ten percent or more of the ownership or profits thereof.

- 3. “License” means a license by the Clerk authorizing the holding of the license to operate a public dance hall.
- 4. “Licensee” means the person to whom a license has been issued in accordance with the provisions of this chapter.

—5. “Open to the public” means a place in or at which a public dance is conducted for, engaged in, or performed by the general public and to which the general public is admitted or in attendance. The term “open to the public” does not include the following:

—A. A place that the general public is not free to enter and to which admission is restricted by reason of and to members of a club, fraternal organization, or religious or educational group;

—B. A place where dancing is conducted for the primary purpose of instruction, where no one is permitted to dance except regularly enrolled students and employed instructors and where no beer is sold or available on or about the premises where the dancing is conducted.

—6. “Premises,” when applied to locations where public dancing is authorized by license, means all rooms or enclosures encompassed by such license.

—7. “Public dance hall” means a place which is open to the public in or at which public dancing is conducted for, engaged in, or performed by the general public and to which the general public is admitted or in attendance. The term “public dance hall” may include the following:

—A. A place whose operator holds a license issued in accordance with the provisions of Code of Iowa Chapter 137F.

—B. A place whose operator holds a license or permit issued in accordance with Chapter 120 of this Code and the provisions of Code of Iowa Chapter 123.

126.02 LICENSE REQUIRED.

—No person shall either operate a public dance hall or permit or allow a public dance to be conducted within the City unless such person holds a valid license issued in accordance with the provisions of this chapter.

126.03 APPLICATION FOR LICENSE.

—An application for a license shall be filed with the Clerk and shall contain the following:

—1. Name of Applicant. The full name of the applicant, other names by which the applicant has been known, and the name of applicant’s spouse, if any.

—2. Residence of Applicant. A list of the residences at which the applicant has resided in the five (5) years immediately preceding the date of the application and the length of time at each such residence.

—3. Citizenship. A statement that the applicant is a citizen of the State of Iowa.

—4. Birth/Naturalization Date. The place and date of birth of the applicant and, if the applicant is a naturalized citizen, the time and place of such naturalization.

—5. Location. The location of the place or building where the applicant intends to operate.

—6. Building Owner. The name of the owner of the place or building where the applicant intends to operate and, if the applicant is not the owner thereof, a statement that the applicant is the actual lessee thereof.

—7. Code Compliance. A statement that the place or building where the applicant intends to operate conforms with all of the requirements of the Code of Iowa and of this Code of Ordinances applicable thereto and that the same is a safe and proper place or building.

—8. Seating Available. A statement that the place or building where the applicant intends to operate is and will continue to be equipped with sufficient tables and seats to accommodate 25 persons at one time.

If the applicant is a corporation, firm, co-partnership, or association, the requirements of subsections 1 through 4, inclusive, shall apply to each of the officers, directors, partners, and general managers thereof and to any person who owns or controls ten percent or more of the ownership or profits thereof. If the applicant is a corporation, the application shall contain a statement showing that the applicant is incorporated under the laws of the State of Iowa and is in good standing as of the date of the application.

126.04 MATERIAL TO ACCOMPANY APPLICATION.

—In addition to the foregoing, each application shall be accompanied by the following:

—1. Plot Diagram. A diagram of the lot on which the place or building where the applicant intends to operate is located which shall show: (i) the dimensions of the lot; (ii) the location and identification of adjacent streets; (iii) the location of adjacent sidewalks; (iv) the location of access driveways; (v) front yard, side yard, and rear yard dimensions as computed in accordance with the provisions of the Zoning Ordinance; (vi) the location of any off-street parking facilities available to the applicant; and (vii) the location and dimensions of all buildings and accessory structures located on the lot.

—2. Interior Diagram. A diagram of the interior of the place or building where the applicant intends to operate which shall show: (i) the location and dimensions of all rooms and enclosures in which the applicant intends to conduct public dances; (ii) the location and dimensions of any restroom, kitchen, storage area, or other room or enclosure owned or leased by the applicant which will be used in conjunction with the premises for which the license is sought; and (iii) the location of all exits available for use by the general public.

—3. When Required. The foregoing requirements shall apply to all applications for new licenses and to all applications for renewal of licenses whenever any changes have been

made in the place or building for which the renewal is sought which would require the issuance of a building permit under the provisions of the Building Code.

126.05 APPLICATION FOR LICENSE; BUILDING REQUIREMENTS.

—At the time an application for a license is filed, the place or building where the applicant intends to operate shall meet the following requirements:

- 1. Safety. The same shall conform to all of the requirements of the Code of Iowa and ordinances of the City applicable thereto and the same shall be a safe and proper place or building.
- 2. Church or School. If the place or building where the applicant intends to operate fronts on the same street as a church or school, said place or building shall be at least 300 feet from said church or school. If the place or building where the applicant intends to operate fronts on a different street than a church or school, said place or building shall be at least 150 feet from said church or school. In determining the distances set forth herein, measurements shall be taken on a direct line from the nearest part of the place or building where the applicant intends to operate to the nearest part of the church or school.
- 3. Seating. The same shall be equipped with sufficient tables and seats to accommodate 25 persons at one time.
- 4. Booths. All booths therein shall be entirely open at one side in a manner which will afford a full view of the interior thereof, and the occupants therein, from any place in the room in which they are located. No booth structure shall exceed 40 inches in height.
- 5. Lighting. All premises on which beer is sold at retail or served shall be lighted so that all objects therein are plainly visible at all times. Minimum compliance with this section shall be an illumination of two foot-candles as measured by a foot-candle meter at a plane of 30 inches above the floor line.

126.06 INSPECTION FEE.

—Any person applying for a license shall pay to the Clerk, at the time the application is filed, an inspection fee. Such inspection fee shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such inspection fee may, from time to time, be amended by the Council by resolution. A copy of the resolution setting forth the currently effective inspection fee shall be kept on file in the office of the City Administrator, and be open to inspection during regular business hours. Payment of such inspection fee shall be by cash or by certified or cashier's check payable to the City. In the event that a license is granted to the applicant, such inspection fee shall be credited to the license fee. In the event that a license is not granted to the applicant, such inspection fee shall not be refunded, but

the same shall be credited to the General Fund of the City to defray the cost of the inspections required hereunder.

126.07 INVESTIGATION.

—Before any application for a license is approved by the Clerk, the Clerk shall cause a thorough investigation to be made of the applicant, the statements made in the application and the place or building where the applicant intends to operate. Such investigation shall include, but not be limited to, the following:

- 1. Chief of Police. A written report by the Chief of Police to the Clerk as to the background and reputation of the applicant, the truth of the statements made in the application, and the effect which the granting of a license would have on the welfare and morals of the City as a whole.
- 2. Fire Chief. A written report by the Fire Chief to the Clerk as to the results of an inspection of the place or building where the applicant intends to operate for compliance with the Fire Prevention Code.
- 3. Building Official. A written report by the Building Official to the Clerk as to the results of an inspection of the place or building where the applicant intends to operate for compliance with the provisions of the Building Code, Zoning Ordinance, and this chapter.
- 4. Plumbing Inspector. A written report by the Plumbing Inspector to the Clerk as to the results of an inspection of the place or building where the applicant intends to operate for compliance with the provisions of the Plumbing Code.
- 5. Electrical Inspector. A written report by the Electrical Inspector to the Clerk as to the results of an inspection of the place or building where the applicant intends to operate for compliance with the provisions of the Electrical Code.
- 6. Referred to Clerk. Such reports shall be furnished to the Clerk within fifteen (15) days following the filing of the application. The Clerk may order such further or supplemental reports, as the Clerk deems necessary.

126.08 LICENSE; ACTION BY CLERK.

—The Clerk shall act on all applications for licenses within 45 days following receipt of the application. If the Clerk finds that all of the prescribed conditions for the issuance of a license have been satisfied and that no grounds for revocation exist, the Clerk shall authorize the issuance of the license.

126.09 LICENSE FEE.

~~—Before any license is issued, the applicant shall pay to the Clerk a license fee, subject, however, to credit for the inspection fee herein before provided. Payment of such license fee shall be by cash or by certified cashier's check payable to the City. All license fees under this chapter shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such license fee may, from time to time, be amended by the Council by resolution. A copy of the resolution setting forth the currently effective license fee shall be kept on file in the office of the City Administrator, and be open to inspection during regular business hours.~~

~~126.10 FORM OF LICENSE.~~

~~—The license shall be signed by the Mayor and the Clerk and shall show the name of the licensee, the address of the licensed premises, the purpose of the license, the date of issuance of the license, and the date of expiration of the license.~~

~~126.11 DISPLAY OF LICENSE.~~

~~—Every licensee shall display the license in a conspicuous place on the licensed premises.~~

~~126.12 EXPIRATION DATE OF LICENSE.~~

~~—Each license issued under the provisions of this chapter shall expire at 11:59 p.m. on December 31 in the calendar year of issuance.~~

~~126.13 REBATES PROHIBITED.~~

~~—No licensee shall be entitled to a rebate of any kind by reason of the surrender of a license prior to the expiration date.~~

~~126.14 TRANSFER PROHIBITED.~~

~~—Each license issued hereunder shall be personal to the licensee, shall be restricted to the licensed premises and shall be void upon transfer or assignment to another person or transfer to other premises.~~

~~126.15 RULES AND REGULATIONS.~~

~~—Every licensee shall observe the following rules and regulations:~~

~~—1. Intoxicated Persons. No intoxicated person or person simulating intoxication shall enter or remain on the licensed premises.~~

~~—2. Profanity. No person shall use profane, obscene, or threatening language on the licensed premises.~~

~~—3. Lewd and Lascivious Acts. No person shall commit any lewd or lascivious acts on the licensed premises.~~

~~—4. Indecent Dances. No person shall engage in any indecent exposure on the licensed premises.~~

~~—5. Fighting and Quarreling. No person shall engage in any fighting or quarreling on the licensed premises.~~

~~—6. Enforcement. It shall be the duty of the licensee to inform all persons present at a public dance of the foregoing regulations and to cause the same to be enforced.~~

~~126.16 HOURS OF OPERATION.~~

~~—No person shall permit any public dancing between the hours of 2:00 a.m. and 6:00 a.m.~~

~~126.17 GROUNDS FOR REVOCATION.~~

~~—The following reasons shall be grounds for the revocation of any license issued under the provisions of this chapter:~~

~~—1. Fraud. The licensee has made fraudulent or untrue statements in the application for a license.~~

~~—2. Violation. The licensee has violated any of the provisions of this chapter.~~

~~—3. Operation. The licensee has conducted the business in such a manner as to endanger the public welfare, health, safety, order, or morals.~~

~~126.18 REVOCATION PROCEDURE.~~

~~—When it appears to the Clerk or the Council that grounds for the revocation of a license may exist, the following procedure shall be followed:~~

~~—1. Investigation. The Council or the Clerk shall direct the Chief of Police to make an investigation concerning the alleged grounds for revocation.~~

~~—2. Report to Council. The Chief of Police shall make such investigation and report the findings in writing to the Council.~~

—3.—Determination. The Council shall make a determination as to whether probable cause for revocation exists.

—4.—Hearing. If the Council finds that probable cause for revocation exists, it shall set a date, time, and place for a hearing on the matter and shall direct the City Attorney to prepare the complaint against the licensee. The complaint shall state the alleged grounds for the revocation and the date, time and place for a hearing on the matter.

—5.—Service of Complaint. The complaint shall be served upon the licensee by certified mail, return receipt requested, not less than ten (10) days prior to the date set for a hearing on the matter.

—6.—Conduct of Hearing. The Council shall conduct the hearing at which the licensee shall be present. The purpose of the hearing shall be to determine the truth of the facts alleged in the complaint. Should the licensee or the licensee's authorized representative fail to appear without good cause, the Council may proceed to a determination on the complaint.

—7.—Rights of Licensee. The licensee shall have the right to be represented by counsel, to testify and present witnesses in his or her own behalf, and to cross-examine adverse witnesses.

—8.—Evidence. The Council shall admit only reliable and substantial evidence into the revocation proceeding and shall give all admitted evidence its natural probative value.

—9.—Findings. The Council shall make and record findings of fact and conclusions of law and shall revoke a license under this section only when, upon review of the entire record, it finds substantial evidence of a violation of this chapter.

126.19 EFFECT OF REVOCATION.

—Revocation of a license shall bar the licensee from being eligible for any license under this chapter for a period of three years from the date of revocation.

126.20 SUMMARY SUSPENSION.

—The Chief of Police may summarily suspend any license issued under this chapter if, after investigation, the Chief finds reasonable grounds to believe that the continuation of public dancing at the licensee's establishment would pose an immediate hazard to the health or safety of the community. Such suspension shall be effective upon the service of a written notice of suspension upon the licensee. Such service may be accomplished by personal service or by certified mail, return receipt requested. The Chief of Police shall forthwith report such suspension to the Council and the Council shall forthwith commence revocation proceedings in accordance with the provisions of Section 126.18 of this chapter. Such suspension shall remain effective until the completion of said revocation proceedings.

CHAPTER 135
EXCAVATIONS OF PUBLIC PROPERTY

135.01 Definitions	135.07 Emergencies
135.02 Reservations	135.08 Work By Others
135.03 Permits, Fee, Inspection and Requirements	135.09 Utility Business Contractors
135.04 Utility Map, Plan and Specification	135.10 Powers of the City
135.05 Conditions, Construction and Repair	135.11 Violations
135.06 Restoration	135.12 Liability, Indemnification and Insurance

135.01 DEFINITIONS.

For use in this chapter the following terms are defined:

1. "Applicant" means any person making written application to the Clerk for an excavation permit under this chapter.
2. "City" means the City of Windsor Heights, Iowa, and where appropriate, shall include its officers, employees and agents.
3. "Excavation work" means the excavation and other work permitted under an excavation permit and required to be performed under this chapter.
4. "Permittee" means any person who has been granted and has in full force and effect an excavation permit issued under this chapter.
5. "Public Improvements" means any improvements on public property, including, but not limited to, paving, sidewalks, grass, vegetation, trees, street lights, traffic signals, water mains, sewers, electric transmission lines and equipment related thereto.
6. "Public Property" means City owned property or City controlled easements.
7. "Public Rights-of-Way" means the area on, below or above a public roadway, highway, street, bridge, cart-way, bicycle lane or public sidewalk in which the local government has an interest, including other dedicated rights-of-way for travel purposes and public easements. A public right-of-way does not include the airwaves above a public right-of-way with regard to cellular or other non-wire telecommunications or broadcasts service.

8. "Street" means any street, highway, sidewalk, alley, avenue or other public right-of-way or public grounds in the City.

9. "Licensee" means a company providing utility services by wire, or through conduit, pipe or similar structure, device or apparatus, and all equipment owned, operated, leased or subleased in connection with the operation of the utility business, and shall include, but is not limited to, poles, wires, pipes, cables, underground conduits, ducts, manholes, vaults, fiber optic cables and other structures or appurtenances.

135.02 RESERVATIONS.

A licensee or permittee shall construct, maintain, inspect, protect, repair, replace, retain a system in, under, upon, along and across the public rights-of-way or public property, subject to the federal, state and city regulatory powers, and subject to the conditions hereinafter set forth.

135.03 PERMITS, FEE, INSPECTIONS AND REQUIREMENTS.

1. No person shall make any excavation or fill any excavation in any city street, avenue, alley, sidewalk, public right-of-way and other similar property dedicated to public use without first obtaining a permit from the City. The application for a permit shall be in writing and completed by the applicant or their agent. A permit shall not be required for a single commercial or residential service connection within a public right-of-way for a franchise licensee. However, a permit shall be required if such connection requires a street cut, curb or sidewalk. A permit shall not be required for a single pole or single transformer change out, or a single street light change out.

2. After the City reviews, approves and issues a permit, the permittee shall provide the City with forty-eight (48) hour's notice, excluding Saturdays, Sundays and legal holidays, prior to the actual commencement of the work; shall not unnecessarily obstruct the use of streets, avenues, alleys or public places; shall not endanger the safety of workers or passerby; shall prevent traffic backup during construction; and shall comply with all provisions, requirements and regulations in performing such work. An applicant's installation shall not interfere with the reasonable and proper use, construction, reconstruction and maintenance of any public improvements or any existing or future public utility system component, or other structure upon or under public property.

3. The licensee or applicant shall submit its permit application and, maps, plans and/or specifications for a proposed utility plan, and other notices as may be appropriate, to the following city office for the initial permit review, permit findings (approval, denial, resubmission), fee assessment and other activities as may be appropriate:

~~Director of Public Service~~Director of Public Works

City of Windsor Heights
6800 School Street
Windsor Heights, IA 50324
Phone: (515) 279-3662

4. The licensee or applicant shall pay the City the following rates:

A. A per permit fee, as set by resolution as approved by the City Council, for the review of the applications and proposed plans and specifications, is due at the time the permit application is submitted. Franchise licensees will only be required to pay if a hard surface is being cut such as a curb, street or sidewalk.

B. An hourly rate for any inspection services will be required in connection with the applicants work, including, but not limited to, the personnel cost of an inspector's salary and benefits, vehicle and mileage, administrative overhead, with payment due within 30 days of the City's submittal of an invoice to the applicant.

5. The applicants permit will show the exact location of the work including street or house number and the direction and length the trench will run.

6. If the applicant plans to do extensive digging, a blanket permit may be issued, however, the party performing the work must notify all other utilities concerned as to the location and time that work will take place so that the others may locate their property.

7. The applicant shall post with the City a surety bond in the amount of ten thousand dollars (\$10,000.00) or one and a half times the estimated cost of the excavation and restoration, whichever is greater, issued by a surety company authorized to issue such bonds in the State before excavating or opening any public street, sidewalk, ditch, alley or public right-of-way. The bond shall guarantee the permittee's payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of administration of this section. In lieu of a surety bond, a cash deposit of \$10,000.00, or one and a half times the estimated cost of the excavation and restoration, whichever is greater, may be deposited with the City. Duration of the bond or cash deposit shall be for a period of one (1) year commencing with the completion of the excavation and restoration. Upon approved completions of the excavation the cash deposit may be substituted for a one-year maintenance bond and upon satisfactory completion of a one (1) year period, the City shall release any and all bonds and deposit requirements.

8. The applicant shall file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:

A. Bodily Injury - \$1,000,000.00 per person; \$1,000,000.00 per accident.

B. Property Damage - \$2,000,000.00 per accident.

9. All work shall be subject to inspection by the City. Backfill of openings shall not be deemed completed, and no resurfacing of any improved street or alley surface shall begin, until such backfill is inspected and approved by the City. The permit holder/property owner shall provide the City with notice at least twenty-four (24) hours prior to the time when inspection of backfill is desired.

10. Should any excavation in any street or alley be discontinued or left open and unfinished for a period of twenty-four (24) hours or in the event the work is improperly done, the City has the right to finish or correct the excavation work, keep an account of the expense thereof, and charge such expenses to the permit holder/property owner. Thereafter, after completion of the work and the invoicing of the costs thereof, the City shall issue no further or new permits to the permit holder/property owner until it receives full payment for all outstanding amounts owed.

11. All work by permittee shall be performed in accordance with the current standard specifications adopted by the City at the time. Any damaged curb, gutter, sidewalk or grass covered area shall be restored to the same or better condition prior to damage.

12. All costs and expenses incident to the excavation shall be borne by the permit holder and/or property owner. The permittee and owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such excavation. The applicant will fill up and place in good and safe condition all excavations and openings made in the street, and will replace and restore the pavement over any opening they may make to the same or better condition than it was prior to excavation to the satisfaction of the ~~Director of Public Service~~**Director of Public Works** for a period of one (1) year.

13. The applicant will pay all fines or forfeitures imposed upon them for any violation of any rule, regulation or ordinance governing street openings or drain laying adopted by the Council and will repair any damage done to existing improvements during progress of the excavation in accordance with the ordinances, rules and regulations of the City. Such bond shall also guarantee that, if the City shall elect to make the street repair, the applicant opening the street will pay all costs of making such repair and of maintaining the same for one (1) year, recovery on such bond for any accident, injury, violation of law, ordinance, rule or regulation shall not exhaust the bond but it shall cover any and all accidents, injuries or violation of law during the period of excavation for which it is given.

14. Faulty work or materials shall be immediately replaced by the permittee upon notice by the City. Failure to correct deficiencies in a timely manner shall result in a minimum one (1) year revocation of the right to obtain a street opening permit. The ~~Director of Public Service~~**Director of Public Works** shall repair the deficiencies and bill the permittee for all labor, materials and equipment used plus administration costs.

15. The permittee who does such restoration shall be responsible therefor for one (1) year from the date of the completion of the work and shall file a written guarantee from a banking institution or surety bond to that effect with the City.

16. If the Council shall find that any such work has become defective within one (1) year of the date of completion of the said project, it shall give written notice thereof to the applicant or to their surety stating the defect, the work to be done, the cost thereof and the period of time deemed by the Council to be reasonably necessary to complete said work. After receipt of such notice, the applicant or the surety must, within the time specified, repair the defect or indemnify the City for the cost of doing the work as set forth in the notice.

17. All excavation and restoration shall be completed in a prompt manner as determined by the ~~Director of Public Service~~Director of Public Workss.

135.04 UTILITY MAP, PLAN AND SPECIFICATION.

1. Before commencing any extension or expansion of its Utility system, or any major repair work, or the installation of any new system in the City's public rights-of-way or public property, the applicant shall file with the City a written statement verifying the public rights-of-way or public property under which or upon which it proposes to extend, expand, install or repair its system. The City shall require that the statement be accompanied by a map, plan or specifications showing the proposed location of the system components with reference to streets and alleys, the size and dimensions of all public utilities, and the distance beneath the surface of the ground.

2. All existing public utilities must be shown on the map, plan or specifications. If the proposed locations of any facilities shall interfere with the reasonable and proper use, construction, reconstruction and maintenance of any public improvements or any existing or future public utility system component, or other structure upon or under public property, the City shall within a reasonable time after the filing of such plan, map or specifications, note the changes necessary, eliminate all interference with a public improvement or existing City owned public utility system facility and refer the same back to the utility business for amendment.

3. Maps, plans or specifications, when properly changed and corrected, shall be filed with the City and, after the approval of the same by the City, a permit shall be issued authorizing utility business to proceed in accordance with the approved maps, plans or specifications.

4. No such excavation, construction or erection shall be commenced before the issuance of the permit herein provided for, unless it is an emergency as described in section 135.07, and all work shall be in accordance with the approved maps, plans or specifications, or work being performed by a licensed franchise not requiring a permit.

135.05 CONDITIONS, CONSTRUCTION AND REPAIR.

1. No openings in the streets, alleys, sidewalks or public ways shall be permitted between November 15th and April 15th except where it is determined by the Director of Public Services or their designee to be an emergency excavation.

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2. In the process of location, construction, reconstruction, replacement or repair of any system component, the excavation or obstruction made or placed in public property at any time or for any purpose by the utility business or permittee shall, protect the public and to assure the safe and efficient movement of traffic, be properly barricaded to comply, at a minimum, with requirements set forth in the Uniform Manual for Traffic Control. Sufficient warning lights shall be kept on from sunrise to sunset. No open flame warning devices shall be used. Except by special permission for the ~~Director of Public Service~~ **Director of Public Works**, no trench shall be excavated more than two hundred fifty (250) feet in advance of pipe or conduit laying nor left unfilled more than five hundred (500) feet from where pipe or conduit has been laid. All pavement removed or damaged shall be properly and speedily replaced in accordance with the City's specifications, which may be obtained at the Public Works Department.

3. Upon request, a licensee agrees to assist in locating underground facilities which are part of its system prior to excavation. As a condition of this chapter, a licensee shall enroll as a member of the "Iowa One-Call System" and shall respond to all requests and notifications placed to the toll free "One-Call" number.

4. All necessary precautions shall be taken to guard the public effectively from accidents or damage to persons or property through the period of work. Each permittee making such openings shall be held liable for all damages, including costs incurred by the City in defending any action brought against it for damages, as well as cost of any appeal, that may result from the neglect by such person or their employees of any necessary precaution against injury or damage to persons, vehicles or property of any kind.

5. Unless otherwise approved, a minimum of one (1) lane of traffic in each direction shall be provided. Every effort shall be made on the part of the permittee to provide reasonable access to all properties adjacent to their project. In the event traffic is limited to less than one (1) lane in each direction, a flagman or temporary traffic control signal shall be provided so as to safely cycle traffic in each direction past the work area and the City must be notified regarding the dates/times applicable.

6. Removal of existing pavement shall be to neat, straight lines. The permittee shall make a final saw cut in the existing pavement after backfilling. Excavations shall be kept to the minimum possible and acceptable for the convenience and safe performance of the permittee's work and in accordance with all applicable codes and regulations.

7. If the pavement is damaged during excavation beyond the original saw cut lines, it shall be saw cut again along neat, straight lines. The finished saw cut shall leave a regular rectangular section for pavement replacement. Should the street opening occur within adjacent or close to an existing patch or require more than one (1) opening within a short distance, the permittee shall identify and locate the existing patches or additional openings

on the permit application form. The ~~Director of Public Service~~Director of Public Works or their designee shall, on the basis of an on-site inspection, approximate the boundaries of the pavement replacement area.

8. Pavement replacement areas with the long dimension in the direction of travel shall have the long dimension parallel with the curb line or the direction of travel. Pavement replacement areas in concrete pavements shall be parallel with or at right angles to the direction of travel.

9. The ~~Director of Public Service~~Director of Public Works or their designee may order the permittee to remove and replace up to one (1) full lane width of pavement along the patched or excavated area. Special care shall be taken with concrete pavement to produce a vertical face on the existing concrete at the point of the saw cut to insure a full depth of concrete at the joint.

10. All excavated material shall be piled in a manner such that pedestrian and motor traffic is not unnecessarily disrupted. Gutters shall be kept clear or other satisfactory provisions made for street drainage, and natural watercourses shall not be obstructed. As little as possible of the trench must be dug until the slant of junction-piece of the sewer, water, gas main, electric cables, telephone lines or fuel line is found. Where the confines of the area being excavated are too narrow to permit the piling of excavated material beside the trench, the City shall have the authority to require the permittee to haul the excavated material to a storage site and then re-haul it to the trench site at the time of backfilling.

11. All conduits, sewers, pipes, wires or other means of transmission of utility services within the City, if to be placed underground, shall, in addition to all of the requirements of this Section, be dug at least thirty (30) inches below the normal ground level whenever said utility service will cross under a highway, City street, sidewalk, alley or other public right-of-way within the City of Windsor Heights.

12. Excavated material to be used for backfilling of the trench must be so handled and placed as to be of as little inconvenience as practical to public travel and adjoining tenants.

13. All backfill material shall be free from cinders, hot mix fragments, ashes, refuse, vegetable or organic matter, boulders, rocks or stones greater than eight (8) inches in their greatest dimension, frozen lumps or other material which in, in the opinion of the ~~Director of Public Service~~Director of Public Works or their designee, is unsuitable. All non-compactable material will be placed, upon excavation, in an area where removal from site will be made readily possible.

14. In refilling the excavation, if there is not sufficient material excavated suitable for refilling, the deficiency shall be made up with material, approved prior to use by the ~~Director of Public Service~~Director of Public Works or their designee, hauled in, or refilled by the City.

15. Wherever an excavation crosses an existing utility, pipe or other structure, backfill shall be carefully compacted in stages from the bottom of the excavation. Any sanitary

sewer, storm sewer, water, telephone, natural gas or other service shall not be interrupted by the permittee. It shall be the permittee's responsibility to have the various utilities locate and mark their facilities prior to excavation.

16. Mechanical compaction or puddling shall be used on all materials used for trench backfill. Each layer (12-inch maximum) shall be uniformly compacted. Compaction or consolidation by flooding shall not be permitted. Earth must be puddled or laid in layers not more than twelve (12) inches in depth and each layer rammed and tamped to prevent settling. The Public Works Department will test the fill to meet the City's specifications. Contractors will be instructed by the City's inspector, if they meet the specifications, to proceed to fill the opening.

17. All excavations shall be subject to testing by the City. Backfilled material not achieving the above compaction requirements shall be removed and re-compacted by the permittee. The cost of any retesting shall be paid by the permittee.

18. When the sides of the trench will not stand perpendicular, sheathing and braces shall be used to prevent caving. No timber, bracing, lagging, sheathing or other lumber shall be left in any trench. At no time shall any street pavements, be permitted to overhang the excavation. When caving occurs, all the street support thus disturbed must be restored to the same or better condition prior as though it was an excavation or a trench.

19. Concrete pavement shall be placed to the full depth of the existing pavement or seven (7) inches, whichever is greater. Concrete used shall not contain calcium chloride. The surface shall be given a light broom finish. The edges shall be tooled to prevent spalling at the saw cut edge. The surface shall be evenly and completely sealed with a white pigmented curing compound. The surface shall be protected from traffic for a minimum of three (3) days. Tie bars shall be installed as directed by the ~~Director of Public Service~~Director of Public Works or their designee.

20. All permanent restoration of street, curb and gutter shall be of the same type and thickness as the curb and gutter which abuts. The grade of the restored curb and gutter shall conform with the grade of the existing adjacent curb and gutter.

21. All permanent restoration of driveways and sidewalks shall conform to the manner of construction as originally placed and to the lines and grades as given by the City Engineer. No patching of concrete driveway areas will be allowed between joints or dummy joints.

135.06 RESTORATION.

1. As a condition of the permit, the permittee shall at its own expense, repair or cause repair to any private property, public utility system component, public improvement, vegetation, public rights-of-way or public property damaged by such location,

construction, reconstruction, replacement or repair work, to the same or better condition than it was prior to the excavation.

2. The permittee shall restore with sod (unless seed is approved by the City) all such property to its previous condition at its expense. If multiple utilities are involved in the restoration, the City Engineer or ~~Director of Public Service~~Director of Public Works shall assess the restoration cost equally or proportionately to the parties involved.

3. If the permittee fails to repair or arrange with the City for the proper repair of any public property after excavations or damage to the surface has been made, and after 30 days' notice in writing to do so given to its designated representative, then the City may make such repairs at the expense of the permittee. The City shall keep an account of all such expenses and invoice the permittee for the same. Thereafter, after completion of the work and the invoicing of the costs thereof, the City shall issue no further or new permits to the permit holder/property owner until it receives full payment for all outstanding amounts owed.

135.07 EMERGENCIES.

1. In the event of any emergency, the permittee shall remove or relocate its installations within forty-eight (48) hours of notification from the City.

2. In emergencies which require immediate excavation to remedy dangerous conditions for the protection of property, life, health or safety, a licensee may proceed with the work without first applying for or obtaining the permit, provided, however, that the utility business shall apply for and obtain the permit within forty-eight (48) hours after commencing such emergency work.

135.08 WORK BY OTHERS.

1. The City reserves the right to lay, and permit to be laid, wires, pipes, cables, conduits, ducts, manholes and other appurtenances, and to do, or permit to be done, any underground and overhead installation or improvement that may be deemed necessary or proper by the City in, across, along, over or under any public property occupied by utility business, and to change any curb or sidewalk or the grade of any street.

2. In permitting others to do such work, the City shall not be liable to utility business for any damages arising out of the performance of such work by other parties, except those arising out of or resulting from negligence of the City.

3. Nothing in this chapter shall be construed as to relieve any other person or corporation from liability for damage to utility business' facilities.

135.09 UTILITY BUSINESS CONTRACTORS.

The requirements of this chapter shall apply to all persons, firms or corporations performing work for a utility business under a contract, subcontract or other type of work order.

135.10 POWERS OF THE CITY.

Nothing in this chapter shall be construed to abridge the right or power of the City to make further regulations relative to the use of the streets, alley and public grounds by anyone using the same for the erection and maintenance of utility systems.

135.11 VIOLATIONS.

1. Upon evidence being received or observed by the City that a violation or breach of this chapter or codes lawfully regulating utility business in the operation of its facilities, or in the use of public property therefore, is occurring, or has occurred, the City shall cause an investigation to be made.

2. If the City finds that a violation exists or has occurred, the City may take appropriate steps to secure compliance with the terms of this chapter.

3. The City shall notify the utility business or permittee of the violation and the utility business or permittee shall cure such violation within 30 days after receipt of such notice.

4. If a permittee fails to cure a violation within the time allowed, the City shall have the right to:

- A. Revoke the permit;
- B. Seek specific performance;
- C. Seek damages for such default; and/or
- D. Any combination of division (4)(A) and (4)(C) above.

135.12 LIABILITY, INDEMNIFICATION AND INSURANCE.

The permittee covenants to indemnify, defend and save the City and its officers, agents and employees, harmless from any and all damages arising directly from the exercise of the rights granted herein, except those arising out of or resulting from negligence of the City. The permittee agrees to require contractors and subcontractors engaged in work for the permittee with the public rights-of-way or on public property to maintain in effect during

the term of work liability insurance in comprehensive form and in the amounts to be set by the City.

(Ch. 135 – Ord. 15-05 – Oct. 15 Supp.)

CHAPTER 136
SIDEWALK REGULATIONS

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~~136.01 PURPOSE.~~

~~—The purpose of this ordinance is to promote the health, safety and general welfare of the City of Windsor Heights, and to ensure compliance with the following goals in accordance with the City of Windsor Heights Complete Street Policy passed on July 6, 2015:~~

~~—1. Promoting the safety of pedestrian access, movement, and protection for the physically able, physically challenged, children or seniors (or variously-abled) within the community;~~

—2. Ensuring that the ADA guidelines are met for all sidewalk or pathway installations, existing and proposed;

—3. Promoting attractive and well-constructed sidewalks or pathways that correspond to the character, aesthetic qualities, natural, environmental, and historical features of developing or existing neighborhoods;

—4. Connecting to existing and projected sidewalks or pathways whenever the opportunity arises to insure an interconnected pedestrian system;

—5. Ensuring that all development actively implements the building of sidewalks or pathways for new construction, reconstruction, or rehabilitation.

136.02 DEFINITIONS.

—For use in this chapter the following terms are defined:

—1. “Pedestrian Friendly” or “walkability” means the presence of facilities and design features that make an environment safe and attractive to pedestrians. These include: walkable distances between uses, (i.e. under ¼ mile); sidewalks, paths and walkways; continuous visual interest (i.e. uninterrupted line of buildings, attractive barrier in front of parking lots, murals on blank walls, infill development, pocket parks, etc.); consumer uses (i.e. restaurants, shops, cinemas, housing); trees for shade; awnings for shelter; buildings and landscaping elements sited to avoid wind tunnel effect, and to provide sheltered areas; visual texture in the streetscape (i.e. interesting storefronts, public art, plantings, pavement patterns, etc.); people presence (i.e. sidewalk cafes, street vendors, late business hours, residents using front porches and yards); good maintenance and inclusion of site amenities; buffers between cars and pedestrians (i.e. planted medians, on-street parking, grade separation); paths connecting adjacent uses; crosswalks and ramps; traffic calming devices; traffic lights.

—2. “Crosswalk” means any portion of a roadway at an intersection or elsewhere that is distinctly indicated for pedestrian crossing. If there is no marking, a sidewalk crossing is implied at each leg of every intersection by the extension of the lateral lines of the sidewalk on each side, or where the sidewalk would be if there is none.

—3. “Broom finish” means a sidewalk finish that is made by sweeping the sidewalk when it is hardening.

—4. “Wood float finish” means a sidewalk finish that is made by smoothing the surface of the sidewalk with a wooden trowel.

—5. “Defective sidewalk” means any public sidewalk exhibiting one or more of the following characteristics (Appendix “B”):

—A. Sidewalk faulted at joint or crack with 1 inch or more deflection;

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- B. Sidewalk raised more than 2 inches in 8 feet from normal profile line of sidewalk;
 - C. Sidewalk sunken more than 2 inches in 8 feet from normal profile line of sidewalk;
 - D. Sidewalk cracked into 3 or more pieces per panel, or any single crack with ½ inch or greater openings;
 - E. Sidewalk cracked and/or spalled (small crater line holes deeper than 3/8 inch with part of sidewalk missing, forming holes deeper than 3/8 inch;
 - F. Sidewalk cross slope is incorrect, greater than 1 inch in 1 foot; and,
 - G. Sidewalk is missing panels.
- 6. “Established grade” means that grade established by the City for the particular area in which a sidewalk is to be constructed.
- 7. “One-course construction” means that the full thickness of the concrete is placed at one time, using the same mixture throughout.
- 8. “Owner” means the person owning the fee title to property abutting any sidewalk and includes any contract purchaser for purposes of notification required herein. For all other purposes, “owner” includes the lessee, if any
- 9. “Portland cement” means any type of cement except bituminous cement.
- 10. “Sidewalk” means all permanent public walks in business, residential or suburban areas. Sidewalks should be a minimum of 4 feet (5 feet recommended) in residential areas and a minimum of 8 feet in commercial areas.
- 11. “Sidewalk improvements” means the construction, reconstruction, repair, replacement, or removal, of a public sidewalk and/or the excavating, filling or depositing of material in the public right-of-way in connection therewith.
- 12. “Shared use path” means a paved pathway, typically from eight (8) to twelve (12) feet in width, physically separated from motorized vehicular traffic within the roadway right-of-way or within an easement adjacent to the roadway right of way. Primarily used by pedestrians and bicyclists, shared use paths are also used by joggers, skaters, wheelchair users (both nonmotorized and motorized). A shared use path's primary purpose is to provide pedestrians with connections to trails, other neighborhoods, shopping centers, businesses and other venues of interest. In addition, the shared use path may be used for recreational purposes.
- 13. “Bicycle/recreational trail” means a PCC, blacktop or gravel bicycle/recreational route developed primarily for outdoor recreational purposes. Trails are largely designed for pedestrians and other users to “experience” the outdoors and may be used by a variety of users, but they are not primarily designed for transportation purposes. Bicycle trails

within the city of Windsor Heights should be constructed at a minimum of ten (10) feet in width with a preferred width of twelve (12) feet whenever possible.

—14. “Trailhead” means an outdoor system developed to serve as an access point to a bicycle/recreational trail which generally includes an area to park vehicles and typically is a beginning or ending point of a bicycle/recreational trail. The junction of two or more trails, where no other access point is provided to the trails, is not a trailhead.

—15. “Mature tree” means any tree with a diameter at breast height of 10 inches or greater.

136.03 REMOVAL OF SNOW, ICE, AND ACCUMULATIONS.

—The abutting property owner shall remove snow, ice, and accumulations promptly from sidewalks. If a property owner does not remove snow, ice, or accumulations within 48 hours following the conclusion of the weather event, the Public Works Director will provide a 24-hour notice in the door. Following the 24-hour notice the Public Works Director may have the natural accumulations of snow or ice removed and shall give the Council an itemized and verified statement of the costs and a legal description of the property. The costs shall be assessed against the property as taxes. The abutting property owner may be liable for damages caused by failure to remove snow, ice, and accumulations promptly from the sidewalk. Under extreme weather conditions, the Public Works Director may provide additional time for abutting property owners to remove snow, ice, and accumulations from the sidewalk.

{Code of Iowa, Sec. 364.12[2b & e]}

136.04 PROPERTY OWNER’S RESPONSIBILITY FOR MAINTENANCE.

—The abutting property owner shall repair, replace, or reconstruct, or cause to be repaired, replaced, or reconstructed, all broken or defective sidewalks and maintain in a safe and hazard-free condition any sidewalk outside the lot and property lines and inside the curb lines or, in the absence of a curb, any sidewalk between the property line and that portion of the public street used or improved for vehicular purposes (Appendix “C”); provided, however, that this section shall not be construed to require a property owner to take any action with respect to a public side walk or shared use path when said action is made necessary by the excavation or other activity of the city or a public utility. The abutting property owner may be liable for damages caused by failure to maintain the sidewalk.

—The abutting property owner will not be responsible for the cost of installing ADA ramps. In situations where ADA ramps are required the portion of the cost associated with the ramp is the economic responsibility of the City.

136.05 ANNUAL INSPECTION ZONES.

—The City will be responsible for inspecting the public sidewalks on a five (5) year cycle within the city. These inspections shall be made to determine if any of the public sidewalks within a particular zone of the city are defective as defined. The City will be divided into five zones as designated in (Appendix “A”). When a sidewalk defect is found to exist outside of the annual inspection zone, the City will initiate appropriate action as directed by this policy to have the sidewalk reconstructed. The annual inspections will occur on the following timeline:

- 1. August—designated zone sidewalk inspections completed
- 2. August 31— Notifications mailed to property owners
- 3. October—April—property owner requests bids for repairs and selects contractor
- 4. May 1—seventy-five day initiated from May 1.
- 5. July 15—deadline for property owners to complete sidewalk repair.
- 6. July—October—three months for city to coordinate and schedule uncompleted repairs (Code of Iowa, Sec. 364.12[2c])

136.06 CITY SHALL ORDER REPAIRS.

—If the abutting property owner does not maintain sidewalks as required, the Public Works Director shall serve notice on such owner, by certified mail, requiring the owner to repair, replace or reconstruct sidewalks within seventy-five (75) days from the date the notice is mailed. If, upon expiration of the 75 days as provided in said notice, the required work has not been done or is not in the process of completion, the Public Works Director Shall require the work to be done and assess the costs against the abutting property for collection in the same manner as a property tax. No such assessment shall be made for the repair, reconstruction or replacement of a public sidewalk unless the city has served upon the person shown by the records of the Polk County recorder to be the owner of the abutting property, by certified mail, a notice requiring said person to repair, reconstruct or replace the public sidewalk within seventy five (75) days from the date said notice is mailed. All sidewalk improvements shall be performed under the supervision and inspection of the Public Works Director.

—If work has not commenced following the 75 day notice, the sidewalk will be placed on a list for repair and the City’s contractor notified to proceed with the repairs. Upon completion of the repair the property owner will be sent by regular mail an invoice of the actual cost of the repair with no administration fee. The property owner will have 30 days to pay the invoice. If the invoice is not paid within 30 days, the amount will be certified to the County Auditor to be added to the owner’s property taxes.

—Any unpaid costs for said repairs over \$500 will be assessed and collected in the same manner as property taxes. There shall be returned to the City Council an itemized assessment schedule, verifying expenditures used in doing such work, and the legal description of the lots, or tract of ground abutting the sidewalk on which such work has been performed. Assessments may be spread over a ten-year period at an interest rate of 2% over current bank rates. Any costs less than \$500 will be assessed in one installment. There will also be a \$50 administrative fee if costs are assessed against the property.

—The Public Works Director does not have the authority to assess property owners in cases where there is not an existing sidewalk. New sidewalk installation is the sole discretion of the Council. No openings in the streets, alleys, sidewalks or public ways shall be permitted between November 15th and April 15th except where it is determined by the Director of Public Service Director of Public Works or their designee to be an emergency excavation.

{Code of Iowa, Sec. 364.12[2d & e]}

136.07 NOTICE OF INABILITY TO REPAIR OR BARRICADE.

—It is 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.

136.08 ECONOMIC HARDSHIP PROCESS.

—To be eligible for an economic hardship waiver, the applicant must have a recorded legal or equitable title to the parcel and have an adjusted annual income that is at or below 80 percent of the median income guidelines for the Des Moines Metropolitan Statistical Area as established by the U.S. Department of Housing and Urban Development Block Grant (CDBG) programs (called median income guidelines) for the year in which the resolution of necessity for construction, reconstruction, or repair of the public improvement is approved by the city council. Any residential property owner seeking to qualify for economic hardship of sidewalk repair must meet the defined criteria as illustrated in (Appendix “E”).

136.09 SIDEWALK CONSTRUCTION ORDERED.

—Based on Iowa Law, the Council may order the construction of permanent sidewalks upon any street or court in the City and may specially assess the cost of such improvement to abutting property owners in accordance with the provisions of Chapter 384 of the Code of Iowa. The abutting property owner will not be responsible for the cost of installing ADA ramps. In situations where ADA ramps are required the portion of the cost associated with the ramp is the economic responsibility of the City.

(Code of Iowa, Sec. 384.38)

136.10 STANDARD SIDEWALK SPECIFICATIONS.

—The City Engineer shall prepare complete plans and specifications for the construction, reconstruction, and repair of sidewalks and driveway crossings in sidewalks, which, upon approval of the Council, shall be kept on file in the office of the Clerk. The specifications shall include descriptions and location of barricades and warning lights. 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 of and subject to inspection by the Public Works Director, and in accordance with the plans and specifications adopted in accordance with this chapter (Appendix “D”).

136.11 PERMITS FOR CONSTRUCTION OR REPAIR.

—No person shall make any sidewalk improvements unless such person shall obtain a permit from the Public Works Director. The permit shall state that the person will comply with the ordinances of the City and with the specification for sidewalks adopted by the City. The permit also shall state that the work will be done under the direction and approval of the Public Works Director. All such permits shall be issued upon payment of sidewalk construction or repair fee. A copy of such permit shall be filed and preserved in the office of the Public Works Director. 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 Engineer. All permits for sidewalk improvements not ordered by resolution of the City Council shall be issued in compliance with this chapter. The Public Works Director 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. The person who makes a sidewalk construction or repair permit application shall pay a permit fee to the Clerk to cover the cost of issuing the permit and supervising, regulating, and inspecting the work. All permit fees under this chapter shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such permit fees may, from time to time, be amended by the Council by resolution. A copy of the resolution setting forth the currently effective permit fees shall be kept on file in the office of the City Administrator, and be open to inspection during regular business hours.

136.12 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 Public Works Director 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 days from receipt of the permit. If the owner fails to comply with this notice, the Public Works Director shall have the work completed and the costs assessed to the property owner.

136.13 INSPECTION AND APPROVAL.

—Upon final completion, the Public Works Director shall inspect the work. The Public Works Director 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 Public Works Director shall indicate this on both copies of the permit.

136.14 BARRICADES AND WARNING LIGHTS.

—Whenever any material of any kind is deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it shall be the duty of all persons having an interest therein, either as the contractor or the owner, agent, or lessee of the property in front of or along which such material may be deposited, or such dangerous condition exists, to put in conspicuous places at each end of such sidewalk and at each end of any pile of material deposited in the street, a sufficient number of approved warning lights or flares, and to keep them lighted during the entire night and to erect sufficient barricades both at night and in the daytime to secure the same. The party or parties using the street for any of the purposes specified in this chapter shall be liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this chapter or of any failure to comply with provisions hereof.

136.15 INTERFERENCE WITH SIDEWALK IMPROVEMENTS.

—No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while in the process of being improved or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar or deface any sidewalk at any time or destroy, mar, remove or deface any notice provided by this chapter.

136.16 DETERMINING LOCATION OF NEW SIDEWALKS.

—The decision as to where to place new sidewalks, including the side of the street and placement in relation to the curb, should be made at the recommendation of the city engineer and should be based on a number of factors including environmental constraints and costs considerations. The design of sidewalks, necessary retaining walls, and materials will be subject to discussion at a public meeting prior to council providing final approval.

When constructing new sidewalks every effort should be made to limit the number of mature trees removed during the construction process. If a property owner wishes to save a mature tree that otherwise would need to be removed to allow for the sidewalk, that property owner may choose to have the tree saved by providing an easement for the sidewalk to go around the tree. This easement would be provided at no cost to the city. The city is not responsible for replacing or compensating property owners for any landscaping located within the public right-of-way that is removed to allow for the installation of sidewalks.

136.17 ENCROACHING STEPS.

—It is unlawful for a person to erect or maintain any stairs or steps to any building upon any part of any sidewalk without permission by resolution of the Council.

136.18 OPENINGS AND ENCLOSURES. It is unlawful for a person to:

- 1. Stairs and Railings. Construct or build a stairway or passageway to any cellar or basement by occupying any part of the sidewalk, or to enclose any portion of a sidewalk with a railing without permission by resolution of the Council.
- 2. Openings. Keep open any cellar door, grating, or cover to any vault on any sidewalk except while in actual use with adequate guards to protect the public.
- 3. Protect Openings. Neglect to properly protect or barricade all openings on or within six (6) feet of any sidewalk.

136.19 FIRES OR FUEL ON SIDEWALKS.

—It is unlawful for a person to make a fire of any kind on any sidewalk or to place or allow any fuel to remain upon any sidewalk.

136.20 DEFACING.

—It is unlawful for a person to scatter or place any paste, paint, or writing on any sidewalk.
(Code of Iowa, Sec. 716.1)

136.21 DEBRIS ON SIDEWALKS.

—It is unlawful for a person to throw or deposit on any sidewalk any glass, nails, glass bottle, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any substance likely to injure any person, animal, or vehicle.

{Code of Iowa, Sec. 364.12[2]}

136.22 VEGETATION OVERGROWTH ON SIDEWALK.

—It is the responsibility of the abutting property owner to make sure that there is no vegetative overgrowth encroaching on the sidewalk. This includes grass encroaching onto the sidewalk thereby reducing the walkway width as well as keeping bushes and shrubs trimmed so that no part of the plant is encroaching on the sidewalk space. Tree branches should be a minimum of eight (8) feet above the level of the sidewalk.

136.23 MERCHANDISE DISPLAY.

—It is unlawful for a person to place upon or above any sidewalk, any goods or merchandise for sale or for display in such a manner as to interfere with the free and uninterrupted passage of pedestrians on the sidewalk; in no case shall more than three (3) feet of the sidewalk next to the building be occupied for such purposes.

136.24 SALES STANDS.

—It is unlawful for a person to erect or keep any vending machine or stand for the sale of fruit, vegetables or other substances or commodities on any sidewalk without first obtaining a written permit from the Council.

{Ch. 136 – Ord. 16-07 – Oct. 16 Supp.}

136.01 PURPOSE

The purpose of this ordinance is to promote the health, safety and general welfare of the City of Windsor Heights, and to ensure compliance with the following goals in accordance with the City of Windsor Heights Complete Street Policy passed on July 6, 2015:

1. Promoting the safety of pedestrian access, movement, and protection for the physically able, physically challenged, children or seniors (or variously-abled) within the community;

Commented [AS26]: Amended per Ordinance 24-03. Passed 5.20.24

2. Ensuring that the ADA guidelines are met for all sidewalk or pathway installations, existing and proposed;

3. Promoting attractive and well-constructed sidewalks or pathways that correspond to the character, aesthetic qualities, natural, environmental, and historical features of developing or existing neighborhoods;

4. Connecting to existing and projected sidewalks or pathways whenever the opportunity arises to insure an interconnected pedestrian system;

5. Ensuring that all development actively implements the building of sidewalks or pathways for new construction, reconstruction, or rehabilitation.

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

1. "Pedestrian Friendly" or "walkability" means the presence of facilities and design features that make an environment safe and attractive to pedestrians. These include: walkable distances between uses, (i.e. under ¼ mile); sidewalks, paths and walkways; continuous visual interest (i.e. uninterrupted line of buildings, attractive barrier in front of parking lots, murals on blank walls, infill development, pocket parks, etc.); consumer uses (i.e. restaurants, shops, cinemas, housing); trees for shade; awnings for shelter; buildings and landscaping elements sited to avoid wind tunnel effect, and to provide sheltered areas; visual texture in the streetscape (i.e. interesting storefronts, public art, plantings, pavement patterns, etc.); people presence (i.e. sidewalk cafes, street vendors, late business hours, residents using front porches and yards); good maintenance and inclusion of site amenities; buffers between cars and pedestrians (i.e. planted medians, on- street parking, grade separation); paths connecting adjacent uses; crosswalks and ramps; traffic calming devices; traffic lights.
2. "Crosswalk" means any portion of a roadway at an intersection or elsewhere that is distinctly indicated for pedestrian crossing. If there is no marking, a sidewalk crossing is implied at each leg of every intersection by the extension of the lateral lines of the sidewalk on each side, or where the sidewalk would be if there is none.
3. "Broom finish" means a sidewalk finish that is made by sweeping the sidewalk when it is hardening.
4. "Defective sidewalk" means any public sidewalk exhibiting one or more of the following characteristics:
 - a. Sidewalk faulted at joint or crack with 1 inch or more deflection or gap;
 - b. Sidewalk raised more than 2 inches in 8 feet from normal profile line of sidewalk;
 - c. Sidewalk sunken more than 2 inches in 8 feet from normal profile line of sidewalk;
 - d. Sidewalk cracked into 3 or more pieces per panel, or any single crack with ½ inch or greater openings;
 - e. Sidewalk cross slope is incorrect, greater than .5 inch in 1 foot; within the margin of

-
- error and,
- f. Sidewalk cracked and/or spalled (small crater line holes deeper than 3/8 inch with part of sidewalk missing, forming holes deeper than 3/8 inch;
 - g. Sidewalk missing panels.

5. "Established grade" means that grade established by the City in applicable permits for the particular area in which a sidewalk is to be constructed.

6. Owner" means the person owning the fee title to property abutting any sidewalk and includes any contract purchaser for purposes of notification required herein. For all other purposes, "owner" includes the lessee, if any.

7. "Portland cement" means any type of cement except bituminous cement.

~~8.~~ "Sidewalk" means all permanent public walks in business, residential or suburban areas. Sidewalks should be a minimum of 4 feet (5 feet recommended) in residential areas.

~~9.~~ "Sidewalk improvements" means the construction, reconstruction, repair, replacement, or removal, of a public sidewalk and/or the excavating, filling or depositing of material in the public right-of-way in connection therewith.

~~10.~~ "Shared use path" means a paved pathway, typically from eight (8) to twelve (12) feet in width, physically separated from motorized vehicular traffic within the roadway right-of-way or within an easement adjacent to the roadway right of way. Primarily used by pedestrians and bicyclists, shared use paths are also used by joggers, skaters, wheelchair users (both nonmotorized and motorized). A shared use path's primary purpose is to provide pedestrians with connections to trails, other neighborhoods, shopping centers, businesses and other venues of interest. In addition, the shared use path may be used for recreational purposes.

~~11.~~ "Bicycle/recreational trail" means a PCC (Portland Cement Concrete), blacktop or gravel bicycle/recreational route developed primarily for outdoor recreational purposes. Trails are largely designed for pedestrians and other users to "experience" the outdoors and may be used by a variety of users, but they are not primarily designed for transportation purposes. Bicycle trails within the city of Windsor Heights should be constructed at a minimum of ten (10) feet in width with a preferred width of twelve (12) feet whenever possible.

12. "Mature tree" means any tree with a diameter at breast height of 10 inches or greater.

136.03 REMOVAL OF SNOW, ICE, AND ACCUMULATIONS. The abutting property owner shall remove snow, ice, and accumulations promptly from sidewalks. If a property

owner does not remove snow, ice, or accumulations within 48-hours following the conclusion of the weather event, the Public Works Director or their designee will provide a 24-hour notice in the door. Following the 24-hour notice the Public Works Director may have the natural accumulations of snow or ice removed-and shall give the Council an itemized and verified statement of the costs and a legal description of the property. The costs shall be assessed against the property as taxes. The abutting property owner may be liable for damages caused by failure to remove snow, ice, and accumulations promptly from the sidewalk. Under extreme weather conditions, the Public Works Director may provide additional time for abutting property owners to removes snow, ice, and accumulations from the sidewalk.

(Code of Iowa, Sec. 364.12[2b & e])

136.04 PROPERTY OWNER'S RESPONSIBILITY FOR MAINTENANCE. The abutting property owner shall repair, replace, or reconstruct, or cause to be repaired, replaced, or reconstructed, all broken or defective sidewalks and maintain in a safe and hazard-free condition any sidewalk outside the lot and property lines and inside the curb lines or, in the absence of a curb, any sidewalk between the property line and that portion of the public street used or improved for vehicular purposes; provided, however, that this section shall not be construed to require a property owner to take any action with respect to a public side walk or shared use path when said action is made necessary by the excavation or other activity of the city or a public utility.

136.05 CITY'S ECONOMIC RESPONSIBILITY In situations where ADA ramps are required at intersections, the portion of the cost associated with the ramp is the economic responsibility of the City.

If a property owner replaces a sidewalk panel deemed defective by the Public Works Director due in part to a tree in the Right Of Way, the City of Windsor Heights shall reimburse the property owner a predetermined per panel dollar amount reflecting approximately 50% of a panel replacement cost.

136.06 SIDEWALK INSPECTION. The City will be responsible for inspecting the public sidewalks on a Five (5) year cycle within the city. These inspections shall be made to determine if any of the public sidewalks within a particular zone of the city are defective as defined. The City will be divided into five zones by the Public Works Director. When a sidewalk defect is found to exist outside of the annual inspection zone, the City will initiate appropriate action as directed by this policy to have the sidewalk reconstructed.

The annual inspections will occur on the following general timeline:

- a) February-- designated zone sidewalk inspections completed.

b) March- Notifications of defective sidewalk mailed to property owners and initiation of 75 day timeframe to complete repairs.

c) July – deadline for property owners to complete sidewalk repair. Thereafter, the City shall coordinate and schedule uncompleted repairs and assess the property owner the cost of the repair in the manner outlined in Section 136.07

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

If, through complaint and voluntary inspection or otherwise, it comes to the attention of a city inspector that an owner of property abutting a *sidewalk* is not complying with the maintenance requirements imposed above, then the city Public Works Director or their designee may cause to be served upon the property owner, by certified mail at the property owner's last known address as shown by the records of the county auditor, notice of the *sidewalk* defect and of the requirement to cure said defect and/or reconstruct the defective *sidewalk* or a portion thereof within 75 days from the date of said notice.

136.07 CITY SHALL ORDER REPAIRS. If the abutting property owner does not maintain sidewalks as required, the Public Works Director or their designee shall serve notice on such owner, by certified mail, requiring the owner to repair, replace or reconstruct sidewalks within seventy-five (75) days from the date the notice is mailed. If, upon expiration of the 75 days as provided in said notice, the required work has not been done or is not in the process of completion, the Public Works Director shall require the work to be done and assess the costs against the abutting property for collection in the same manner as a property tax. No such assessment shall be made for the repair, reconstruction or replacement of a public sidewalk unless the city has served upon the person shown by the records of the Polk County recorder to be the owner of the abutting property, by certified mail, a notice requiring said person to repair, reconstruct or replace the public sidewalk within seventy five (75) days from the date said notice is mailed. All sidewalk improvements shall be performed under the supervision and inspection of a designated city employee.

If work has not commenced following the 75 day notice, the sidewalk will be placed on a list for repair and the City's contractor notified to proceed with the repairs. Upon completion of the repair the property owner will be sent by regular mail an invoice of the actual cost of the repair with no administration fee. The property owner will have 30 days to pay the invoice. If the invoice is not paid within 30 days, the amount will be certified to the County Auditor to be added to the owner's property taxes.

Any unpaid costs for said repairs over \$500 will be assessed and collected in the same manner as property taxes. There shall be returned to the City Council an itemized assessment schedule, verifying expenditures used in doing such work, and the legal description of the lots, or tract of ground abutting the sidewalk on which such work has been performed. Assessments may be spread over a ten-year period at an interest rate of

2% over current bank rates. Any costs less than \$500 will be assessed in one installment. There will also be a \$100 administrative fee if costs are assessed against the property.

The Public Works Director does not have the authority to assess property owners in cases where there is not an existing sidewalk. New sidewalk installation is the sole discretion of the Council.

(Code of Iowa, Sec. 364.12[2d & e])

136.08 NOTICE OF INABILITY TO REPAIR OR BARRICADE. It is 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.

136.09 SIDEWALK GRANT PROGRAM. The City Council may annually fund a sidewalk repair grant program to financially assist residents with the repair of their sidewalk. The grant program may also provide financial assistance to residents whose sidewalk has become out of compliance due to a tree planted on City property in compliance with Code Section 151.13. Information on the Sidewalk Grant Program, if available, shall be provided to any resident with sidewalk deemed defective through regular mail and the City's website.

136.10 SIDEWALK CONSTRUCTION ORDERED. Based on Iowa Law, the Council may order the construction of permanent sidewalks upon any street or court in the City and may specially assess the cost of such improvement to abutting property owners in accordance with the provisions of Chapter 384 of the Code of Iowa.

(Code of Iowa, Sec. 384.38)

136.110 STANDARD SIDEWALK SPECIFICATIONS. The City Engineer shall prepare complete plans and specifications for the construction, reconstruction, and repair of sidewalks and driveway crossings in sidewalks, which, upon approval of the Council, shall be kept on file in the office of the Clerk. The specifications shall include descriptions and location of barricades and warning lights. 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 of and subject to inspection by the Public Works Director, and in accordance with the plans and specifications adopted in accordance with this chapter.

136.12 PERMITS FOR CONSTRUCTION OR REPAIR. No person shall make any sidewalk improvements unless such person shall obtain a permit from the City. The permit shall state that the person will comply with the ordinances of the City and with the specification for sidewalks adopted by the City. The permit also shall state that the

work will be done under the direction and approval of the Public Works Director or their designee. All such permits shall be issued upon payment of sidewalk construction or repair fee. A copy of such permit shall be filed and preserved at City Hall. All permits for sidewalk improvements not ordered by resolution of the City Council shall be issued in compliance with this chapter. The Public Works Director 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. The person who makes a sidewalk construction or repair permit application shall pay a permit fee to the Clerk to cover the cost of issuing the permit and supervising, regulating, and inspecting the work. All permit fees under this chapter shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such permit fees may, from time to time, be amended by the Council by resolution. A copy of the resolution setting forth the currently effective permit fees shall be kept on file in the office of the City Administrator, and be open to inspection during regular business hours.

136.13 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 Public Works Director shall serve notice to obtain a permit upon the property owner and upon the contractor doing the work. 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 days from receipt of the permit. If the owner fails to comply with this notice, the Public Works Director shall have the work completed and the costs assessed to the property owner.

136.14 INSPECTION AND APPROVAL. Upon final completion, the Public Works Director or their designee shall inspect the work. The Public Works Director or their designee 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 Public Works Director shall indicate this on both copies of the permit.

136.15 BARRICADES AND WARNING LIGHTS. Whenever any material of any kind is deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it shall be the duty of all persons having an interest therein, either as the contractor or the owner, agent, or lessee of the property in front of or along which such material may be deposited, or such dangerous condition exists, to put in conspicuous places at each end of such sidewalk and at each end of any pile of material deposited in the street, a sufficient number of approved warning lights or flares, and to keep them lighted during the entire night and to erect sufficient barricades both at night and in the daytime to secure the

same. The party or parties using the street for any of the purposes specified in this chapter shall be liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this chapter or of any failure to comply with provisions hereof.

136.16 INTERFERENCE WITH SIDEWALK IMPROVEMENTS. No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while in the process of being improved or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar or deface any sidewalk at any time or destroy, mar, remove or deface any notice provided by this chapter.

136.17 DETERMINING LOCATION OF NEW SIDEWALKS. The decision as to where to place new sidewalks, including the side of the street and placement in relation to the curb, should be made at the recommendation of the city engineer and should be based on a number of factors including environmental constraints and costs considerations. The design of sidewalks, necessary retaining walls, and materials will be subject to discussion at a public meeting prior to council providing final approval.

When constructing new sidewalks every effort should be made to limit the number of mature trees removed during the construction process. If a property owner wishes to save a mature tree that otherwise would need to be removed to allow for the sidewalk, that property owner may choose to have the tree saved by providing an easement for the sidewalk to go around the tree. This easement would be provided at no cost to the city. The city is not responsible for replacing or compensating property owners for any landscaping located within the public right-of-way that is removed to allow for the installation of sidewalks.

136.18 ENCROACHING STEPS. It is unlawful for a person to erect or maintain any stairs or steps to any building upon any part of any sidewalk without permission by resolution of the Council.

136.19 OPENINGS AND ENCLOSURES. It is unlawful for a person to:

1. Stairs and Railings. Construct or build a stairway or passageway to any cellar or basement by occupying any part of the sidewalk, or to enclose any portion of a sidewalk with a railing without permission by resolution of the Council.
2. Openings. Keep open any cellar door, grating, or cover to any vault on any sidewalk except while in actual use with adequate guards to protect the public.
3. Protect Openings. Neglect to properly protect or barricade all openings on or within six (6) feet of any sidewalk.

136.20 FIRES OR FUEL ON SIDEWALKS. It is unlawful for a person to make a fire of any kind on any sidewalk or to place or allow any fuel to remain upon any sidewalk.

136.214 DEFACING. It is unlawful for a person to scatter or place any paste, paint, or writing on any sidewalk.

(Code of Iowa, Sec. 716.1)

136.22 DEBRIS ON SIDEWALKS. It is unlawful for a person to throw or deposit on any sidewalk any glass, nails, glass bottle, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any substance likely to injure any person, animal, or vehicle.

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

136.23 VEGETATION OVERGROWTH ON SIDEWALK. It is the responsibility of the abutting property owner to make sure that there is no vegetative overgrowth encroaching on the sidewalk. This includes grass encroaching onto the sidewalk thereby reducing the walkway width as well as keeping bushes and shrubs trimmed so that no part of the plant is encroaching on the sidewalk space. Tree branches should be a minimum of eight (8) feet above the level of the sidewalk.

136.24 MERCHANDISE DISPLAY. It is unlawful for a person to place upon or above any sidewalk, any goods or merchandise for sale or for display in such a manner as to interfere with the free and uninterrupted passage of pedestrians on the sidewalk; in no case shall more than three (3) feet of the sidewalk next to the building be occupied for such purposes.

136.25 SALES STANDS. It is unlawful for a person to erect or keep any vending machine or stand for the sale of fruit, vegetables or other substances or commodities on any sidewalk without first obtaining a written permit from the Council.

CHAPTER 137 VACATION AND DISPOSAL OF STREETS

137.01 Power to Vacate	137.04 Findings Required
137.02 Planning and Zoning Commission	137.05 Disposal of Vacated Streets or Alleys
137.03 Notice of Vacation Hearing	137.06 Disposal by Gift Limited

137.01 POWER TO VACATE.

When, in the judgment of the Council, it would be in the best interest of the City to vacate a street, alley, portion thereof, or any public grounds, the Council may do so by ordinance in accordance with the provisions of this chapter.

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

137.02 PLANNING AND ZONING COMMISSION.

Any proposal to vacate a street, alley, portion thereof, or any public grounds shall be referred by the Council to the Planning and Zoning Commission for its study and recommendation prior to further consideration by the Council. The Commission shall submit a written report including recommendations to the Council within thirty (30) days after the date the proposed vacation is referred to the Commission.

(Code of Iowa, Sec. 392.1)

137.03 NOTICE OF VACATION HEARING.

The Council shall cause to be published a notice of public hearing of the time at which the proposal to vacate shall be considered.

137.04 FINDINGS REQUIRED.

No street, alley, portion thereof, or any public grounds shall be vacated unless the Council finds that:

1. Public Use. The street, alley, portion thereof, or any public ground proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.
2. Abutting Property. The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

137.05 DISPOSAL OF VACATED STREETS OR ALLEYS.

When in the judgment of the Council it would be in the best interest of the City to dispose of a vacated street or alley, portion thereof or public ground, the Council may do so in accordance with the provisions of Section 364.7, Code of Iowa.

(Code of Iowa, Sec. 364.7)

137.06 DISPOSAL BY GIFT LIMITED.

The City may not dispose of real property by gift except to a governmental body for a public purpose or to a fair.

(Code of Iowa, Sec. 174.15[2] & 364.7[3])

EDITOR'S NOTE

The following ordinances, not codified herein and specifically saved from repeal, have been adopted vacating certain streets, alleys and/or public grounds and remain in full force and effect.

ORDINANCE NO.

ADOPTED

ORDINANCE NO.

ADOPTED

EDITOR'S NOTE

The following ordinances, not codified herein and specifically saved from repeal, have been adopted vacating certain streets, alleys and/or public grounds and remain in full force and effect.

ORDINANCE NO.

ADOPTED

ORDINANCE NO.

ADOPTED

66-7

October 21, 1966

67-4

June 26, 1967

71-2

(Supp. No. 30)

Created: 2024-04-16 13:54:37 [EST]

June 21, 1971

71-3

June 21, 1971

71-4

June 21, 1971

71-5

June 21, 1971

71-6

June 21, 1971

71-7

June 21, 1971

80-2

May 19, 1980

97-1

March 3, 1997

97-6

April 21, 1997

CHAPTER 138 STREET AND SIDEWALK GRADES

138.01 Established Grades 138.02 Record Maintained

138.01 ESTABLISHED GRADES.

The grades of all streets, alleys and sidewalks, which have been heretofore established by ordinance are hereby confirmed, ratified, and established as official grades.

138.02 RECORD MAINTAINED.

The Clerk shall maintain a record of all established grades and furnish information concerning such grades upon request.

EDITOR'S NOTE

The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing street and/or sidewalk grades and remain in full force and effect.

ORDINANCE NO.

ADOPTED

ORDINANCE NO.

ADOPTED

EDITOR'S NOTE

The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing street and/or sidewalk grades and remain in full force and effect.

ORDINANCE NO.

ADOPTED

ORDINANCE NO.

ADOPTED

20B

May 25, 1956

20

May 19, 1958

20C

September 22, 1958

20D

April 6, 1959

20E

9-2159

87-15

October 5, 1987

CHAPTER 139
NAMING OF STREETS

139.01 Naming New Streets 139.04 Official Street Name Map
139.02 Changing Name of Street 139.05 Revision of Street Name Map
139.03 Recording Street Names

139.01 NAMING NEW STREETS.

New streets shall be assigned names in accordance with the following:

1. Extension of Existing Street. Streets added to the City that are natural extensions of existing streets shall be assigned the name of the existing street.
2. Resolution. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by resolution.
3. Planning and Zoning Commission. Proposed street names shall be referred to the Planning and Zoning Commission for review and recommendation.

139.02 CHANGING NAME OF STREET.

The Council may, by resolution, change the name of a street.

139.03 RECORDING STREET NAMES.

Following official action naming or changing the name of a street, the Clerk shall file a copy thereof with the County Recorder, County Auditor and County Assessor.

(Code of Iowa, Sec. 354.26)

139.04 OFFICIAL STREET NAME MAP.

Streets within the City are named as shown on the Official Street Name Map which is hereby adopted by reference and declared to be a part of this chapter. The Official Street Name Map shall be identified by the signature of the Mayor, and bearing the seal of the City under the following words: "This is to certify that this is the Official Street Name Map referred to in Section 139.04 of the Code of Ordinances of Windsor Heights, Iowa."

139.05 REVISION OF STREET NAME MAP.

If in accordance with the provisions of this chapter, changes are made in street names, such changes shall be entered on the Official Street Name Map promptly after the change has been approved by the Council with an entry on the Official Street Name Map as follows: "On (date), by official action of the City Council, the following changes were made in the Official Street Name Map: (brief description)," which entry shall be signed by the Mayor and attested by the Clerk.

CHAPTER 140 DRIVEWAY REGULATIONS

140.01 Definitions	140.06 Grade Variances
140.02 Permit	140.07 Failure to Obtain Permit; Remedies
140.03 Permit Fee	140.08 Inspection and Approval
140.04 Standard Driveway Specifications	140.09 Repairing Defective Driveways
140.05 Driveway Requirements	

140.01 DEFINITIONS.

As used in this chapter, the following terms have these meanings:

1. "~~Driveway~~Drive Approach" means that part of any approach for motor vehicles to private property that provides access to a public street, highway, or alley within the right of way.
2. "Owner" means the person owning the fee title or the contract purchaser.
3. "Portland cement" means any type of cement except bituminous cement.

140.02 PERMIT.

Before any person shall construct, repair, reconstruct, or replace a ~~drive approach~~~~driveway~~, said person shall obtain a written permit from the City Administrator. A written application for the permit shall be filed with the City Administrator. The application shall include the street address or legal description of the property, the name of the owner, the name and address of the person performing the work, and the proposed plan of construction or repair. The plan of construction or repair must include the depth, width, and type of surface used. The City Administrator shall issue the permit if the proposed plan meets all the requirements of this chapter, including any specifications contained herein, if the fee is paid, and if the construction or repair as planned will not create any substantial hazard in the use of the street for public travel or drainage. A permit shall expire six (6) months after the date of issuance, if not constructed at that time.

140.03 PERMIT FEE.

The applicant for a ~~drive approach~~~~driveway~~ construction or repair permit shall pay a permit fee to the Clerk to cover the cost of issuing the permit and supervising, regulating, and inspecting the work. All permit fees under this chapter shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such permit fees may, from time to time, be amended by the Council by resolution. A copy of the resolution setting forth the currently effective permit fees shall be kept on file in the office of the City Administrator and shall be open to inspection during regular business hours.

140.04 STANDARD ~~DRIVE APPROACH~~~~DRIVEWAY~~ SPECIFICATIONS.

The Public Works Director shall prepare complete plans and specifications for the construction, reconstruction, and repair of ~~drive approach~~~~driveways~~, which, upon approval of the Council, shall be kept on file in the office of the City Administrator. The specifications shall include descriptions in the use and placement of barricades and warning lights. All ~~drive approach~~~~driveway~~ repairs or construction on public property, whether performed by the owner of the abutting property or by the City, shall be performed under the supervision of and subject to inspection by the Public Works Director. All such work must be performed in accordance with the plans and specifications adopted by the City.

140.05 ~~DRIVEWAY~~~~DRIVE APPROACH~~ REQUIREMENTS.

All ~~drive approach~~~~driveways~~ constructed at any place where no sidewalk exists shall conform to the appropriate standards or specifications adopted by the Public Works Director and approved by resolution of the City Council. All ~~drive approaches~~~~driveways~~ shall be constructed of Portland cement from the street to the property line. All ~~drive approaches~~~~driveways~~ shall be constructed of Portland cement or asphalt at any location beyond the property line. All ~~drive approaches~~~~driveways~~ shall be constructed so that the

normal flow of drainage in the adjoining street will not be diverted or obstructed. In the event any person is unable to construct a ~~drive approach~~driveway to grade, the owner must sign a waiver agreeing to indemnify the City from all liability arising from the maintenance and construction of the drive approach driveway.

140.06 GRADE VARIANCES.

In any case where it appears that a steeper drive approach driveway grade than that specified in this section is necessary or desirable because of existing terrain conditions, a drive approach driveway may be constructed (in any place where no sidewalk exists) at such steeper grade. It shall be a condition to the granting of any permit to construct a drive approach driveway at a grade other than that specified that all rights acquired by virtue of such permit shall be subject to the right of the City to construct sidewalks at the established grade. In any place where sidewalks have, prior to July 28, 1958, been constructed at a different grade than that specified in this section, drive approaches driveways may conform to the grade of the existing sidewalks. Nothing herein shall permit the construction of any driveway so as to divert or obstruct the normal flow of drainage in the adjoining street.

140.07 FAILURE TO OBTAIN PERMIT; REMEDIES.

Whenever any drive approach driveway construction or repair is made that does not conform to the provisions of this chapter and with the specifications, or when any drive approach driveway construction, or repair is made without a permit, the City Administrator shall serve notice to the property owner and the contractor doing the work that a permit must be obtained. If the drive approach driveway is in the course of construction or repair, 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 drive approach driveway work has been completed, the owner shall obtain a permit immediately and perform any needed corrections within five (5) days after receipt of the permit. If the owner fails to comply with this notice, the City Administrator shall have the work completed by an outside contractor and assess the costs to the property owner as provided in Section 140.09 of this chapter.

140.08 INSPECTION AND APPROVAL.

Upon final completion, the Public Works Director shall inspect the work. The Public Works Director may order corrections in the work if it does not meet specifications.

140.09 REPAIRING DEFECTIVE ~~DRIVEWAYS~~ DRIVE APPROACHES.

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 drive approaches driveways in the City right-of-way abutting said property owner's property. 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 Public Works Director shall proceed to repair, replace, or reconstruct the drive approach driveway. Upon completion of work, the Public Works Director shall submit to the Council an itemized and verified statement of expenditures for material, labor, and the legal description of the property abutting the drive approach driveway on which work has been performed. These costs shall be assessed to the property as taxes.

CHAPTER 141 FIBER OPTIC CABLE LICENSE

141.01 Definitions	141.08 Powers of City
141.02 Basic Grant	141.09 Plans and Coordination
141.03 Construction and Repair of Network	141.10 Removal of Licensee Facilities
141.04 Excavations	141.11 Liability and Indemnification
141.05 Work by Others; Alteration to Conform with Public Improvements	141.12 Notices to Licensee
141.06 Licensee Contractors	141.13 Assignment
141.07 Conditions of Public Property Occupancy	

141.01 DEFINITIONS.

The following words and phrases, when used in this chapter, have the meanings ascribed to them in this section:

1. "Public improvements" means any improvements on public property, including (but not limited to) paving, sidewalks, grass, vegetation, trees; street lights, traffic signals, water mains, sewers, electric transmission lines, and equipment related thereto.
2. "Public property" means City-owned or controlled public rights-of-way, easements, bridges, squares, and commons.
3. "Licensee" means the applicant named in the application for fiber optic cable license and includes all equipment owned, operated, leased, or subleased in connection with the

operation of the network, and includes (but is not limited to) poles, wires, pipes, cables, underground conduits, ducts, manholes, vaults, fiber optic cables, and other structures or appurtenances.

141.02 BASIC GRANT.

Upon approval of an application hereunder by the City, and for a period of two years unless otherwise terminated, subject to the terms and conditions of this chapter, the licensee is hereby granted a license to construct, maintain, inspect, protect, repair, replace, retain a communications system in, under, upon, along and across the public property shown and identified in the plans and specifications submitted to the City with the licensee's application, subject to the regulatory powers of the City and subject to the conditions hereinafter set forth, as may be amended from time to time by the City Council in its sole and absolute discretion. The licensee will be required to pay a license application submittal and annual license fee. Fees shall be established by the City Council by resolution, which is on file with the City Clerk.

141.03 CONSTRUCTION AND REPAIR OF NETWORK.

In the process of location, construction, reconstruction, replacement, or repair of any system component, the excavation or obstruction made or placed in public property at any time or for any purpose by the licensee shall protect the public and, to assure the safe and efficient movement of traffic, be properly barricaded to comply, at a minimum, with requirements set forth in the Manual on Uniform Traffic Control Devices. All pavement taken up or damaged shall be properly and speedily replaced in accordance with the City's regulations. As a condition to use of public property, the licensee shall at its own expense, repair any private property, public utility system component, public improvement, or public property damaged by such location, construction, reconstruction, replacement, or repair work in a manner reasonably acceptable to City. If the licensee fails to repair or arrange with the City for the proper repair of any public property after excavations have been made, and after ten days' notice in writing to do so is given to its designated representative, then the City may make such repairs at the expense of the licensee.

141.04 EXCAVATIONS.

The licensee is authorized to make excavations in City streets, avenues, alleys, and public places for purposes of routine repair, replacement, and maintenance of poles, wire, or other system components associated with the licensee. In making such excavations, the licensee shall obtain a permit pursuant to City ordinances and regulations, shall not unnecessarily obstruct the use of streets, avenues, alleys, or public places, shall provide the Public Works Director with 24 hours' notice prior to the actual commencement of the work, and shall

comply with all provisions, requirements, and regulations in performing such work. In emergencies that require immediate excavation, the licensee may proceed with the work without first applying for or obtaining the permit; provided, however, the licensee shall apply for and obtain the permit as soon as possible after commencing such emergency work. If the licensee fails to comply with the provisions of this section, the City may repair or restore the public property to a condition at least as good as the condition of the property prior to the disturbance by the licensee. The licensee shall pay the costs of such repair or restoration. The licensee shall pay to the City its costs and charges for such work within 30 days after receipt of the City's billing.

141.05 WORK BY OTHERS; ALTERATION TO CONFORM WITH PUBLIC IMPROVEMENTS.

The City reserves the right to lay—and permit to be laid—wires, pipes, cables, conduits, ducts, manholes and other appurtenances, and to do—or permit to be done—any underground and overhead installation or improvement that may be deemed necessary or proper by the City in, across, along, over, or under any public property occupied by the licensee and to change any curb or sidewalk or the grade of any street. In permitting others to do such work the City shall not be liable to the licensee for any damages arising out of the performance of such work by other parties. Nothing in this chapter shall be construed as to relieve any other person or corporation from liability for damage to the licensee's facilities.

141.06 LICENSEE CONTRACTORS.

The requirements of the licensee shall apply to all persons, firms, or corporations performing work for the licensee under a contract, subcontract, or other type of work order.

141.07 CONDITIONS OF PUBLIC PROPERTY OCCUPANCY.

The fiber optic cable systems and other components of the facilities erected by the licensee within the City shall conform to established grades of streets, alleys, and sidewalks, and be so located as to cause minimum interference with other public utilities located in or upon public property, and to cause minimum interference with the rights or reasonable convenience of property owners who adjoin public property. The licensee shall conduct its work hereunder in such manner as to cause as little interference as possible with pedestrian and vehicular traffic, and shall abide by scheduling directions, if any, given by the Public Works Director. Prior to undertaking any work in the area licensed hereunder, in addition to consulting records maintained by the City, if any, the licensee shall be responsible for locating any and all existing facilities located at or near the site that may, in any way, be impacted by the licensee's work hereunder. The licensee shall

indemnify and hold harmless the City for any and all damages in any way related to activities undertaken by the licensee hereunder, regardless of any alleged negligence by the City. The licensee shall, upon 60 days' notice and at its sole cost and expense, remove, locate, and relocate its facilities in, on, over or under public property in such manner as the City may at any time require for the purpose of facilitating the construction, reconstruction, maintenance, repair or change in grade of any public improvement on, in, or about any such public property, for the purpose of promoting the efficient operation of any such improvement, or for the purposes of facilitating the vacation and/or redevelopment of public right-of-way by the City, as it deems appropriate in its sole discretion. In the event the licensee fails to act as directed hereunder within the time prescribed in the notice, the license issued to licensee shall be deemed terminated immediately, without further action of the City. The City may proceed as it so desires, including (but not limited to) removing, destroying, or burying the facilities, as the City deems appropriate. The licensee releases, indemnifies, and holds the City harmless for any and all actions undertaken by the City hereunder. The licensee shall not place its facilities in the public property where the same will interfere with the normal use or maintenance of any public improvement, including (but not limited to) streets, alleys, sidewalks, traffic control devices, sanitary sewers, storm sewers, storm drains, or water mains, or electrical transmission lines, or any public utility facility. Upon request, the licensee agrees to assist in locating underground facilities which are part of its system. Such assistance will be provided in a timely manner, but not more than 48 hours after the time of request. As a condition of the agreement, the licensee shall enroll as a member of the One-Call System and shall respond to all requests and notifications placed to the toll free One-Call number. Installation, repair, or replacement work completed by the licensee on any facilities requiring excavation of public property or public right-of-way shall require restoration and replacement of surface vegetation with sod in conformance with City ordinances and in accordance with standard local practices for placing sod.

141.08 POWERS OF CITY.

Nothing in this chapter shall be construed to abridge the right or power of the City to make further regulations relative to the use of the streets, alleys, and public grounds by anyone using the same for the erection and maintenance of utility systems.

141.09 PLANS AND COORDINATION.

The licensee shall keep complete and accurate maps and records on the locations and operations of its facilities in connection with license and provide a full, completed construction copy to the City.

141.10 REMOVAL OF LICENSEE FACILITIES.

The license granted pursuant to this chapter shall expire upon the conclusion of the term specified in this chapter, unless previously terminated. At least seven days prior to the expiration or termination of the license granted hereunder, the licensee shall be responsible for removing its facilities and equipment from public property and restoration of public property affected as part of the removal in the manner set forth in this chapter, at its sole cost and expense. In the event licensee fails to remove its facilities and equipment prior to the expiration or termination date of the license, any facilities or equipment shall be deemed abandoned. Any facilities, equipment, or other property remaining anywhere on public property after the expiration or termination of the license may be destroyed, removed, or otherwise disposed of by the City in any manner whatsoever and the licensee shall hold harmless the City from any and all liability in any way occasioned by the actions of the City hereunder.

141.11 LIABILITY AND INDEMNIFICATION.

The licensee covenants to indemnify, defend, and save the City and its officers, agents, and employees harmless from any and all damages arising directly from the exercise of the rights granted herein, including (but not limited to) attorney's fees. The licensee agrees to require contractors and subcontractors engaged in work for the licensee within the public rights-of-way or on public property to maintain in effect during the term of work liability insurance in comprehensive form and in the amounts to be set by the City. Licensee agrees to accept the risk of having its communications systems and equipment upon the public right-of-way, including the possible risk of damage or injury to its system or equipment, and agrees to release and discharge the City of any liability for damage or injury to the licensee's equipment. In no event shall the City be liable for any consequential damages arising out of any damage or injury to the licensee's equipment placed in the right-of-way.

141.12 NOTICES TO LICENSEE.

Licensee shall be responsible for keeping the City apprised of the address to which notices should be sent throughout effective term of the license. Notices sent by the City pursuant to this chapter shall be sent to the address of licensee identified on the application, or any address identified in writing addressed to the City Clerk's Office by the licensee thereafter. Notice shall be deemed given by the City by mailing notice to the address provided by licensee hereunder by ordinary mail.

141.13 ASSIGNMENT.

Neither party shall assign or otherwise transfer the agreement or any of its rights and interest to any firm, corporation, or individual, without the prior written consent of the other party, except either party shall have the right to assign, convey, or otherwise transfer

its rights, title, interest, and obligations under the agreement, in whole or in part, to any entity controlled by, controlling or under common control with a party thereto, or any entity into which a party may be merged or consolidated or which purchases all or substantially all of the assets of such party.

CHAPTER 142
PARKLETS

142.01 Intent and Purpose	142.08 Dates and Hours Of Operation
142.02 Permit Required	142.09 Taxes, Assessments; Operating Costs and Utility Charges
142.03 Definitions	142.10 Indemnity and Insurance Requirements
142.04 Permit Requirements and Associated Fees	142.11 Denial; Revocation or Suspension of Permit
142.05 Permit Application and Site Plan Approval	142.12 Appeals
142.06 Construction of Parklet Improvements	142.13 City-Owned Parklets
142.07 Parklet Operation and Conditions	

142.01 INTENT AND PURPOSE.

The establishment of a program for the siting, installation, construction, operation, use, maintenance and repair of parklets is designed and intended to facilitate the conversion of inactive and often underutilized on-street parking spaces into publicly-accessible open space available for the general public to enjoy within a system of conditions. Parklets are located within a public right-of-way, and may include tables, seating, umbrellas, landscaping, food and beverage service and sun shade, all of which are intended to enhance the quality of the pedestrian experience. The program for parklets is designed to provide a path for merchants to take individual action in the development and beautification of the city's public realm and are further intended as an aesthetic enhancement to the streetscape, providing an economical solution to the need for increased public open space and encouraging of walking by providing amenities like seating, planting, bike parking, and art. Parklets may also be used as an extension of services for restaurants to offer seasonal outdoor patio services for patrons.

142.02 PERMIT REQUIRED.

Operating a parklet within the public rights-of-way of the city without a permit and a parklet revocable license executed by the permittee and city, and paying the appropriate fees, costs and charges relating thereto in accordance with the provisions of this chapter is prohibited. A parklet, permitted and operated in accordance with this chapter shall not be considered an obstruction of a public right-of-way.

142.03 DEFINITIONS.

As used herein, unless otherwise defined or required by the context, the following words and phrases shall have the meanings indicated:

1. "Applicant" means a person or entity that has applied for approval of a parklet site plan. The applicant shall include, jointly and severally, both (i) the owner or operator of the qualifying business and (ii) the fee simple owner of the real property upon which the qualifying business is situated. After approval of the permit for the parklet and the parklet site plan by the City and execution of a parklet revocable license authorizing the design, construction, installation, use, maintenance and removal of the parklet, the applicant shall be known as the "permittee".

2. "Leasing Applicant" means any person or entity that has applied to lease a City-owned parklet as set forth in Windsor Heights Code Section 142.13. The applicant shall include, jointly and severally, both (i) the owner or operator of the qualifying business and (ii) the fee simple owner of the real property upon which the qualifying business is situated. After approval of the parklet lease by the City and execution of a Parklet Use Agreement, the applicant shall be known as the "lessee".

3. "Lessee" means, jointly and severally, (i) the owner or operator of the qualifying business, and (ii) the fee simple owner of the real property upon which the qualifying business is situated, whom the City has approved to lease a City-owned parklet and have executed a Parklet Use Agreement.

4. "Parklet" means the platform installed by a permittee over parking spaces adjacent to a sidewalk area upon which tables, chairs, umbrellas, landscaping, benches and other accessory components may be placed to create an enhanced pedestrian experience for the general public and patrons of the permittee's adjacent business, providing an area within which the pedestrian experience along the public right-of-way may be amplified and enhanced by offering an area with which one might sit, rest, recreate or indulge in open air dining and beverage experience. The term parklet, when permitted, also includes the ongoing obligation of maintenance, repair, operation and removal of the parklet improvements in accordance with the terms and conditions of this chapter. Parklets and the parklet revocable license must be undertaken at the sole cost and expense of the permittee. The parklet shall be located no farther than one hundred fifty (150) feet from any portion of the qualifying business.

5. "Parklet improvements" means the improvements identified on the approved parklet site plan, which such improvements may, but shall not necessarily include parklet platform, tables, chairs, umbrellas, and other accessory equipment to the project, railings, seating, landscape or streetscape elements, soft-hit poles, wheel stops, etc.

6. "Parklet license area" means the area described in the approved parklet site plan, such license area being within a public right-of-way, including the air space with which the parklet improvements identified in the parklet revocable license shall be constructed, and within which the parklet will be operated and maintained for the purpose of accommodating the general public and the patrons of permittee's adjacent business.

7. "Parklet revocable license" means the instrument that the permittee and City must execute after approval of the parklet location and parklet site plan. The parklet revocable license shall outline the terms and conditions required for the implementation of the construction, installation, use, operation, maintenance and removal of the parklet after approval by the department.

8. "Parklet site plan or site plan" means the site plan prepared by the applicant and approved by the City and incorporated into the parklet revocable license that authorizes the design, construction, installation, operation and maintenance of the parklet. Approval of the site plan does not relieve permittee of proceeding with all other governmental approvals otherwise applicable to the construction, installation, use, operation and maintenance of the parklet, including building permits under the City's Building Code and engineering permits under the City's regulations. A copy of the approved parklet site plan shall be attached to the parklet revocable license authorizing the parklet and shall be filed with the City.

9. "Permittee" means, jointly and severally, (i) the owner or operator of the qualifying business, and (ii) the fee simple owner of the real property upon which the qualifying business is situated, whom have been approved for a parklet permit and parklet site plan, and have received a parklet revocable license authorizing the design, construction, installation, use, maintenance and removal of a parklet.

10. "Qualifying business" means the business located no farther than one hundred fifty (150) feet from the parklet where the owner or operator of the qualifying business is one of the two applicants for the permit to construct, install, operate, use, maintain, repair and remove the parklet.

142.04 PERMIT REQUIREMENTS AND ASSOCIATED FEES.

The following are permit requirements and associated fees needed to obtain a parklet permit:

1. A permit for a parklet shall be issued only to the permittee who shall include, jointly and severally, (i) operator of the qualifying business and (ii) the fee simple owner of the real property upon which the qualifying business is located.

2. The application fee and annual permit fee for establishing, operating and maintaining a parklet shall be determined by the City Council and set forth in a resolution.

142.05 PERMIT APPLICATION AND SITE PLAN APPROVAL.

The following are permit requirements and associated fees needed to obtain a parklet permit:

1. The application for a permit to construct, operate, use, maintain and repair a parklet shall be submitted to the City's planning and zoning department on a form provided by the department. The application shall include, but not be limited to the following information:

A. Name, postal address, e-mail address and phone number(s) of the applicant;

B. The application shall be executed by (i) the owner or operator of the qualifying business and (ii) the fee simple owner of the real property upon which the qualifying business is situated;

C. A copy of the valid certificate of occupancy for the qualifying business;

D. A copy of the current liability insurance for the applicant and fee simple owner of property underlying the qualifying business;

E. A drawing (minimum scale of one (1) inch equals twenty (20) feet) showing the layout and dimensions of the proposed parklet license area and parklet and adjacent property, including the structures and improvements to be located on the parklet, proposed location, size and number of tables, seating, umbrellas, location of entries, location of trees, parking meters, parking spaces utilized, vehicular travel lanes, bus shelters, sidewalk benches, trash receptacles, landscaping, utility boxes, pole, guidelines and other sidewalk obstruction either existing or proposed within seventy-five (75) feet of the license area for the parklet;

F. Photographs, drawings or manufacturer's brochures fully describing the appearance of all proposed tables, chairs, umbrellas or other objects relating to the parklet improvements;

G. A plan for the maintenance and cleaning of the parklet license area; the tables and chairs located within the parklet area; any trash or food on or about the tables and chairs or sidewalk adjacent to the parklet improvements; and the disposal of any trash or debris generated from the operation and use of the parklet by the general public and patrons of the permittee;

H. Any permits or approvals required from any other governmental agency necessary to operate the parklet;

I. Applications shall be accompanied by a non-refundable application fee which shall be credited to the first year permit fee, should the application be approved.

J. Eligible locations for parklets shall be limited to the following unless otherwise approved by the City's Planning and Zoning Department:

(1) Parklets shall be sited along the curb line on streets where on-street parking spaces exist. The parklet can be considered on any location where there are, or would be, space(s) for on-street parallel, angled, or perpendicular parking, including spaces with metered or unmetered parking;

(2) Parklets are generally permitted on streets with a running slope (grade) of five (5) percent or less.

(3) Parklets shall be located on streets with traffic speeds of 25 mph or less;

(4) Parklets shall not block access to public utilities, hydrants, sidewalks, alleys or driveways.

2. The planning and zoning department shall review the materials in subparagraph (1) above and grant approval, approval with conditions or denial of the application for a parklet. Approval of the parklet site plan under this section shall not relieve the permittee of the obligation of securing all required governmental permits necessary for construction of the parklet improvements, to the extent required, which such permits may include, but are not necessarily limited to a building permit and engineering permits under the City's regulation. A copy of the approved parklet site plan shall be placed and remain on file with the City.

3. At all times the permit for the approved parklet, parklet site plan and parklet revocable license shall be subordinate and inferior to the City's superior interest in maintaining the public right-of-way underlying the parklet. In the event that any conflicts should ever arise between the City's superior interest as aforesaid and the operation, use, maintenance and repair of the parklet, then, in that event, the rights of the City's use and obligation of maintaining the public right-of-way for its superior intended purpose shall prevail over that of the permittee and the permittee shall not be entitled to any compensation for interference with the operation and use of the parklet. The permitted shall gain no property right or contract right to the continued operation and use of the parklet.

4. In the event the permittee desires to make modifications to the parklet site plan or parklet improvements after initial approval is granted under subsection (2) above, such proposed modifications shall be submitted to the planning and zoning department for review and approval following the processes set forth above. Approval of such modification shall be granted, granted with conditions or denied by the department.

142.06 CONSTRUCTION OF PARKLET IMPROVEMENTS.

1. The parklet license area shall be used as the site for the construction, maintenance and repair of the parklet improvements and the use and operation of the parklet and shall be used for no other purpose whatsoever, unless otherwise approved by the City. The permittee shall construct the parklet in accordance with the following terms and conditions:

A. The permittee shall prepare construction plans and specifications based on the parklet site plan approved by the planning and zoning department in accordance with the provisions set forth in section 142.05 above. The construction plans and specifications shall be in accordance with the City's engineering standards and shall be submitted to the planning and zoning department for approval prior to submission of same to the appropriate government officials for issuance of applicable permits in accordance with applicable governmental regulations, including, but not limited to the Iowa Building Code, applicable unified land development regulations, applicable City Codes, and city engineering regulations.

B. After approval by the planning and zoning department, the construction plans and specifications shall be submitted by the permittee to the appropriate governmental officials for review and issuance of all applicable building and engineering permits in accordance with the laws, regulations and rules of all governmental entities with jurisdiction over the construction of the project improvements. A copy of the approved plans and specifications shall be placed and remain on file with the City.

C. The permittee shall be responsible for all costs and fees associated with the planning, permitting and construction of the project. The permittee agrees that the location and finish grades of the improvements shown on the parklet site plan will be indicated on the site and approved by the planning and zoning department prior to commencement of construction.

D. Parklet construction and installation must be overseen by an insured, certified contractor.

E. The permittee is obligated to replace any and all landscaping and public improvements that are damaged as a result of the construction and installation of the parklet improvements utilizing the same quality of materials and workmanship as approved by the City.

142.07 PARKLET OPERATION AND CONDITIONS.

1. Depending on the nature of the permit requested and authorized, The parklet may be operated for the purpose of accommodating the public in general without charge or the

patrons of the permittee, and may include providing open air dining and beverage service opportunities, provided, however, that nothing herein shall be construed as prohibiting the permittee from charging for the sale or service of food or beverage within the parklet license area for sales from the qualifying business.

2. Permittee shall preserve and protect all existing trees and plantings in the public right-of-way within the immediate vicinity of the parklet. Permittee shall be required to replace or mitigate entirely at permittee's expense, any damage to the public right-of-way or private property as a result of the parklet construction, installation, placement, operation, maintenance or removal.

3. General landscape maintenance attendant to the parklet should be performed on a regular basis at the permittee's sole cost and expense.

4. Awnings, umbrellas and other decorative material accessory to the parklet shall be fire retardant, pressure treated or manufactured of fire resistive material. Patio heaters or heat lamps shall be allowed on the parklet if pre-approved by the City's Fire Chief, or their designee.

5. Tables, chairs, umbrellas and any objects accessory to the parklet shall be maintained in a clean and attractive appearance, shall be in good state of repair at all times and shall be maintained in accordance with the approved maintenance plan and shall keep the landscaping and plants in a good, healthy and vibrant condition.

6. The parklet shall be maintained in a neat and orderly appearance at all times and the area shall be cleared of all debris on a periodic basis during the day, and again at the close of each business day in compliance with the approved maintenance plan.

7. No tables or chairs will be permitted within ten (10) feet of a pedestrian crosswalk. There must be a distance separation of no less than 2 feet separating the structure of the parklet and the adjacent travel lane.

8. The City may require the permittee to provide additional services beneath the parklet platform, including but not limited to pest abatement service and clearing of catch basin grates to allow proper storm drainage.

9. No portion of any object placed within the parklet boundary shall extend into an adjacent pedestrian sidewalk.

10. If the parklet includes planters, the planters must be placed within the parklet boundaries but must be secured to ensure that they do not move onto the adjacent unlevel sidewalk. No planters with wheels are to be permitted.

11. Tables, seating, umbrellas and any other items accessory to the parklet shall be of a quality, design and lasting materials, and workmanship both to ensure the safety and convenience of the users and to be compatible with the uses in the immediate vicinity of the parklet.

12. A permittee may sell and serve alcohol beverages in a parklet only if the permittee complies with all the requirements for obtaining an alcohol beverage license, and the parklet is listed on the alcohol beverage license application as being a part of the licensed premises. In such cases, alcohol may be served at the parklet under the following conditions:

A. The permittee has a valid and appropriate retail alcohol beverage license for the principal premises.

B. The retail alcohol beverage license premises description includes the parklet in the description of the licensed premises as an extended area.

C. The retail alcohol beverage license permits the sale of the type of alcohol beverages to be served in the parklet.

D. Alcohol beverages are sold and served by the licensee or licensee's employees and sold or served only to patrons seated at tables in the parklet.

E. Alcohol beverages are served by the licensee or the licensee's employees in compliance with alcohol beverage laws, ordinances and regulations.

F. Alcohol beverages may only be served at the parklet when food service is available through the licensed establishment.

G. The permittee shall be responsible for policing the parklet area to prevent underage persons from entering or remaining in the parklet, except when underage persons are allowed to be present on the licensed premises under applicable laws.

H. The area of the restaurant from which the alcohol beverages are dispensed shall be located indoors and shall not be located in the parklet area, unless pre-approved by Police Chief, City Administration and City Council.

I. At times of closing or during times when consumption of alcohol beverages is prohibited, permittee shall remove from the parklet area all containers used for or containing alcohol beverages. No container of alcohol beverages shall be present in the parklet between 12:00 a.m. and 8:00 a.m.

13. No smoking and/or use of tobacco of any kind shall be permitted within the parklet license area. The permittee shall purchase a minimum of two (2) "No Tobacco" signs for each entrance of the parklet.

14. No advertising signs or business identification signs shall be permitted within the parklet license area.

15. No food preparation, food or beverage station, refrigeration apparatus or equipment shall be allowed on the parklet unless authorized by the planning and zoning department as part of a special event.

16. No table or chair nor any other part of the parklet may be attached, chained, or in any manner affixed to any tree or city fixture, but may be affixed to the parklet structure.

17. If found necessary for the protection of health, safety and welfare of the public, the City Administrator or their designee may require the permittee to immediately remove or relocate all parts of the tables, chairs, umbrellas and equipment within the parklet license area. If the permittee fails to remove or relocate the tables, chairs and umbrellas as requested within a reasonable time as determined by the City Administrator, given the circumstances at hand, the city may remove or relocate same in emergency situations and the cost thereof shall be borne by the permittee.

18. Reflective elements are required at the outside corners of all parklets. Soft-hit posts are a standard solution deployed at the outside edges; however, the department will consider additional safety measures including bollards, reflective elements or other solutions incorporated into the parklet design if warranted.

19. For parklets in parallel parking spaces, a three-foot wheel stop or other appropriate "stops" such as planters must be installed one (1) foot from the curb at the edge of the front and back parking spaces. When parklets are installed adjacent to parallel parking spaces, wheel stops or other appropriate "stops" such as planters should be set back four (4) feet from the parklet improvements. For angled parking spaces adjacent to driveways, appropriate locations for wheel stops will be determined by the department. Wheel stops should be made of recycled rubber. Concrete wheel stops are discouraged.

20. Traffic safety devices, including but not limited to bollards may be required depending on existing conditions and site layout to properly protect the parklet and its patrons.

21. The permittee is responsible for the costs associated with removal of the parklet platform and accessories.

22. The city and its officers and employees shall not be responsible for parklet or parklet components relocated during emergencies.

23. Amplified or non-amplified music may be permitted within the parklet area, upon recommendation of the planning and zoning department and subject to the approval of the City Administrator, or their designee, as to the hours at which the music may be played, the volume settings, placement of speakers and any other facet of the projection of the music.

24. The permittee shall, at its sole cost and expense, remove the tables, chairs and umbrellas from the parklet area at the close of permittee's qualifying business each day, provided the tables, chairs and umbrellas are set back in the parklet license area by the opening of business (no later than 11:00 a.m.) the following day, except for inclement weather.

25. Parklets shall not be permitted in front of a fire hydrant, over a manhole, public utility valve or cover. A clearance of fifteen (15) feet shall separate parklets from fire hydrants.

26. Parklets shall be required to have soft-hit posts, wheel stops and barriers on all edges of the parklet platform.

27. The parklet shall be constructed and installed to conform to all applicable federal, state or county laws or regulations.

28. There shall be a minimum of two (2) feet wide clear path between the tables and/or seating within the parklet and any abutting sidewalks for pedestrians at all times.

29. The permittee shall keep on record with the department at all times, information on a contact person to be contacting during emergencies, such information on the contact person to include (i) name, (ii) mailing, (iii) e-mail address, (iv) telephone number both at work and residential.

30. The permittee shall have the continuing obligation of compliance with the Americans with Disabilities Act, as same may be amended from time to time.

31. The permittee shall, at its sole cost and expense, construct, operate, maintain and repair the parklet and parklet improvements and perform such acts and do such things as shall be lawfully required by any public body having jurisdiction over the parklet, parklet improvements and parklet license area will be installed, constructed, operated, used, maintained and repaired in order to comply with health and sanitary requirements, fire hazard requirements, zoning requirements, building code requirements, city engineering standards, environmental requirements and other similar regulatory requirements.

142.08 DATES AND HOURS OF OPERATION.

1. Parklets shall be permitted from April 1 st through October 31 st , unless otherwise approved by the planning and zoning department. Parklets that have not been removed after October 31 st may be removed by the City at the permittee's expenses.

2. The parklet shall only be open and available for serving permittee's patrons between the hours of 8:00 a.m. and 12:00 a.m.

142.09 TAXES, ASSESSMENTS; OPERATING COSTS AND UTILITY CHARGES.

1. The permittee shall pay or cause to be paid all applicable real estate taxes, assessments and other similar payments, usual or unusual, extraordinary as well as ordinary, which shall during the term be imposed upon, become due and payable, or become a lien upon the parklet or parklet license area or any part thereof, but specifically

limited to such taxes or assessments which accrue after the effective date of the parklet revocable license. Permittee shall, upon request, exhibit a receipt for such payments to the City. Further, permittee shall pay or cause to be paid all operating expenses, such as those for light, electricity, charges for water, and all costs attributable to the maintenance and operation of all parklet improvements to be erected within the license area for the parklet or landscaping related thereto.

2. The permittee shall be responsible for securing separate meters or billing for all utilities consumed within the parklet license area. Permittee shall promptly pay when due all operating, construction, maintenance and servicing charges, expenses and costs, including telephone, gas, electricity, cable, telecommunications, water, and all other expenses incurred in the use and operation of the parklet. The accrual of utilities and operating costs under this subparagraph prior to termination of the parklet revocable license shall survive the termination of the parklet revocable license and remain the obligation of the permittee.

142.10 INDEMNITY AND INSURANCE REQUIREMENTS.

1. By execution of the parklet revocable license as a condition precedent to the installation, construction, use, operation, maintenance and repair of a parklet, the permittee shall protect, defend, indemnify and hold harmless the City, its officers, employees and agents from and against any and all lawsuits, penalties, damages, settlements, judgments, decrees, costs, charges and other expenses, including reasonable attorney's fees, or liabilities of every kind, nature or degree arising out of or in connection with the rights, responsibilities and obligations of permittee under the parklet revocable license, conditions contained therein, the location, construction, repair, maintenance, use or occupancy by permittee of the parklet license area, or the breach or default by permittee of any condition proscribed by this chapter or covenants or provisions of the parklet revocable license, except for any occurrence arising out of or resulting from the intentional torts or gross negligence of the City, its officers, agents and employees.

2. At all times while the parklet revocable license is in effect, the permittee, at its expense, shall keep or cause to be kept in effect the following:

A. Commercial general liability.

(1) Limits of liability:

Bodily injury and property damage liability:

Each occurrence-One million dollars (\$1,000,000.00)

B. Business automobile liability.

(1) Limits of liability:

Bodily injury and property damage:

One million dollars (\$1,000,000.00) combined single limit, per occurrence;

Including hired, borrowed or non-owned autos.

C. Employer's liability.

(1) Limits of liability:

One hundred thousand dollars (\$100,000.00) for bodily injury
caused by an accident, each accident;

One hundred thousand dollars (\$100,000.00) for bodily injury
caused by disease, each employee;

Five hundred thousand dollars (\$500,000.00) for bodily
injury caused by disease, policy limit.

The permittee shall deliver to the City copies of all insurance policies required hereunder and proof of full payment thereof on or before the effective date of the parklet revocable license. From time to time, the permittee shall procure and pay for renewals of insurance required herein before it expires. The permittee shall deliver to the planning and zoning department the renewal policy at least twenty (20) days before the existing policy expires.

3. If the permittee fails to obtain and maintain insurance as required herein and such failure shall continue for a period of fifteen (15) days after notice by the department, the City may, but shall not be obligated to, effect and maintain any such insurance coverage and pay premiums therefor, with the ultimate cost and expense thereof to be the responsibility of permittee.

142.11 DENIAL; REVOCATION OR SUSPENSION OF PERMIT.

1. The planning and zoning department may deny, revoke or suspend a permit for a parklet if it is found by the department that:

A. Any required business or health permit has been suspended, revoked or cancelled.

B. The permittee does not have the insurance that is correct and effective in the minimum amounts described in section 142.10.

C. Violation of any of the conditions set forth in section 142.07, Parklet Operation and Conditions, or any other provision of the Windsor Heights Code of Ordinances.

D. The permittee has failed to correct violations of this chapter or conditions of the permit within three (3) days of receipt of the planning and zoning department's notice of

same delivered in writing to the permittee by registered mail, return receipt requested to the last address provided by the permittee to the City.

2. The permit for a parklet may be suspended under the following conditions:

A. In the event that the parklet revocable license granted herein shall (a) ever conflict with a superior municipal interest of the City or public, or (b) at any time the City requires the use of the parklet license area for a superior conflicting municipal purpose or (c) determines that continuation of the parklet revocable license granted herein is no longer in the best public interest, all as determined by the City Planning and Zoning Commission after at least fifteen (15) days advance notice to permittee that the matter will be considered by the City's Planning and Zoning Commission, then, in that event, the permit and parklet revocable license granted herein for the respective parklet license area shall be terminable, in whole or in part, at the will of the Planning and Zoning Commission.

B. In the event permittee is in violation of any material term or condition of this parklet revocable license, as reasonably determined by the City Administrator, or the permit granted herein or the actions of permittee or any of its agents, servants, employees, guests or invitees or the agents, servants, employees, or any of permittee's contractors, subcontractors or independent contractors conflict with a superior municipal interest of the City or the public, then, upon advance written notice to permittee of not less than seventy-two (72) hours where permitted is given an opportunity to be heard on the matters by the City Administrator, the authority granted by the parklet revocable license or permit may be temporarily suspended by the City Administrator for a period not exceeding fourteen (14) days.

C. In the event that emergent conditions arise within the parklet license area that present an imminent threat to the health, safety or welfare of persons or property, the City Administrator may temporarily suspend this parklet revocable license, in whole or in part, for a period not to exceed fourteen (14) days. In such a circumstance, twenty-four (24) hour advanced written notice shall be provided to permittee by registered mail, return receipt requested to the last address provided by the permittee to the City. In the event the condition persists for a period of seven (7) days, then this revocable license may be temporarily suspended for a period in excess of fourteen (14) days by action of the City's Planning and Zoning Commission.

3. Upon denial or revocation, the director shall give notice of such action to the permittee in writing stating the action which has been taken and the reasons therefor.

142.12 APPEALS.

1. Appeal shall be initiated within ten (10) days of the effective date of the denial or revocation of the parklet permit by filing a written notice of appeal with the City Administrator.

2. The City Administrator shall place the appeal on the next available regularly scheduled City Planning and Zoning Commission agenda. At the hearing upon appeal, the City Planning and Zoning Commission shall hear and determine the appeal, and the decision of the City Planning and Zoning Commission shall be final and binding and effective immediately.

3. The filing of a notice of appeal by a permittee shall not stay an order by the planning and zoning director, or their designee, to remove a parklet or parts thereof. Vestiges of the parklet, such as tables, chairs, umbrellas and things of a like nature shall be removed immediately as set out in this article pending disposition of the appeal and final decision of the City Planning and Zoning Commission.

~~142.13 CITY-OWNED PARKLETS.~~

~~—In the event the City chooses to purchase parklets to be owned by the City, the City may choose to lease such parklets to eligible persons, under the following conditions:~~

~~—1. The leasing applicant shall submit an application and proposed site plan for approval in accordance with the terms set forth in Section 142.05.~~

~~—2. Upon approval of the permit and site plan by the planning and zoning department, the proposed permit shall be presented to the City Council for final approval by resolution.~~

~~—3. The application fee and scheduled rental fee for leasing a City-owned parklet shall be determined by the City Council and established by resolution.~~

~~—4. The leasing applicant shall be required to enter into a formal Parklet Use Agreement, in a form and pursuant to the terms as determined by the City Council and City's legal counsel.~~

~~—5. The planning and zoning department, with final approval of the City Council and City's legal counsel, shall have full discretion to determine the parklet rental terms, including, inter alia, length of lease term, location of parklet placement, and terms of use.~~

~~—6. The lessee must comply with all other obligations set forth in this Code Chapter, including parklet operation and conditions; dates and hours of operation; taxes, assessments, operating costs and utility charges; and indemnity and insurance requirements.~~

~~—7. The City and/or an agent thereof shall be responsible for transporting the leased parklet to the approved location and providing for installation. The City and/or its agent shall invoice the lessee for the actual costs associated with transporting and installing the parklet, and the lessee shall be obligated to reimburse the City for such costs within thirty (30) days of receipt of the invoice.~~

Commented [AS27]: Removing as the City no longer has a city owned parklet.

~~—8. The lessee shall be responsible for any damage to the parklet during the term of the lease.~~

~~—9. The planning and zoning department may deny or revoke a parklet lease if it is found that:~~

~~—A. Any required business or health permit has been suspended, revoked or cancelled.~~

~~—B. The lessee does not have the insurance that is correct and effective in the minimum amounts described in section 142.10.~~

~~—C. Violation of any of the conditions set forth in section 142.07, Parklet operation and conditions, or any other provision of the Windsor Heights Code of Ordinances.~~

~~—D. The lessee has failed to correct violations of this chapter or conditions of the lease within three (3) days of receipt of the planning and zoning department's notice of same delivered in writing to the lessee by registered mail, return receipt requested to the last address provided by the lessee to the City.~~

~~—E. In the event that the parklet lease granted herein shall (a) ever conflict with a superior municipal interest of the City or public, or (b) at any time the City requires the use of the parklet area for a superior conflicting municipal purpose or (c) determines that continuation of the parklet lease granted herein is no longer in the best public interest, all as determined by the City Council after at least fifteen (15) days advance notice to lessee that the matter will be considered by the City's Planning and Zoning Commission, then, in that event, the parklet lease granted herein shall be terminable, in whole or in part, at the will of the Planning and Zoning Commission.~~

~~—F. In the event that emergent conditions arise within the parklet area that present an imminent threat to the health, safety or welfare of persons or property.~~

~~—10. Upon denial or revocation, the planning and zoning director shall give notice of such action to the lessee in writing stating the action which has been taken and the reasons therefor. The lessee shall have appeal rights as set forth in Section 142.12.~~

~~(Ch. 142 – Ord. 16-08 – Oct. 16 Supp.)~~

CHAPTER 150

BUILDING NUMBERING

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150.01 Definitions

150.03 Building Numbering Plan

150.02 Owner Requirements

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Commented [AS28]: The building code Chapter 155 amended section 502.1 covers building numbering. Fire Marshall in agreement with removing as it is a redundant chapter.

150.01 DEFINITIONS.

- For use in this chapter, the following terms are defined:
- 1. “Owner” means the owner of the principal building.
- 2. “Principal building” means the main building on any lot or subdivision thereof.

150.02 OWNER REQUIREMENTS.

- Every owner shall comply with the following numbering requirements:
- 1. Obtain Building Number. The owner shall obtain the assigned number to the principal building from the Clerk.
(Code of Iowa, Sec. 364.12[3d])
- 2. Display Building Number. The owner shall place or cause to be installed and maintained on the principal building the assigned number in a conspicuous place to the street in figures not less than two and one-half (2½) inches in height and of a contrasting color with their background.
(Code of Iowa, Sec. 364.12[3d])
- 3. Failure to Comply. If an owner refuses to number a building as herein provided, or fails to do so for a period of thirty (30) days after being notified in writing by the City to do so, the City may proceed to place the assigned number on the principal building and assess the costs against the property for collection in the same manner as a property tax.
(Code of Iowa, Sec. 364.12[3h])

150.03 BUILDING NUMBERING PLAN.

- Building numbers shall be assigned in accordance with the building numbering plan on file in the office of the Clerk.

CHAPTER 151
TREES AND VEGETATION

151.01 Definitions	151.12 Obstruction of Enforcement
151.02 Planting Restrictions	151.13 Permit to Plant in Streets
151.03 Vision Clearance at Street Intersections	151.14 Assessment for Planting or Care of Trees
151.04 Assessment	151.15 Planting New Trees; Assessment
151.05 Unauthorized Interference with Trees	151.16 Schedule of Assessments

or Shrubs

151.06 Hitching or Anchoring Articles to Trees

151.07 Permission for Permanent Anchorage

151.08 Guying Poles to Trees in Case of Emergency

151.09 Permit to Remove Trees for Construction Purposes

151.10 Protection During Excavation or Construction

151.11 Tree Trim Specifications

151.17 Filing Assessment Schedule for Public Inspection

151.18 Objections to Assessment Schedule

151.19 Adoption of Assessment Schedule

151.20 Certifying Assessment Schedule for Collection

151.21 Dead and Diseased Trees

151.01 DEFINITIONS.

For use in this chapter, the following terms are defined:

1. "Parking" means that part of the street, avenue, or highway in the City not covered by sidewalk and lying between the lot line and the curb line or, on unpaved streets, that part of the street, avenue, or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.
2. "Superintendent" means the Public Works Director or such other person as may be designated by the Council.
3. "Tree" means any woody perennial plant having a single, elongate main stem with few or no branches on its lower part and shrubs of arborescent form but does not include any shrub that is less than fifteen (15) feet in height.

151.02 PLANTING RESTRICTIONS.

No tree shall be planted in any street or parking unless a permit is issued pursuant to Section 151.13 of this chapter.

151.03 VISION CLEARANCE AT STREET INTERSECTIONS.

- On a corner lot where setback or side yard exists, no fence, wall, shrubbery, ground, sign, billboard, marquee, or other obstruction to vision between a height of 2 feet and 10 feet

Commented [AS29]: Updated to provide clarity that will allow for more efficient inspections by code officer

above the centerline grade of intersecting streets shall be erected, placed, planted, allowed to grow, or maintained within the triangular.

The dimensions of a vision triangle shall be as follows:

1. Local streets. Twenty five feet (25') in length, as measured along the curb line from the point where the curbs of the streets intersect.
2. Collector and arterial streets. Twenty five feet (25') in length, as measured along the ROW from the point where the two streets intersect.

Public utility poles and existing trees trimmed from the ground level to a height of 10 feet shall not be considered obstructions to vision.

On a corner lot where setback or side yard exists, no fence, wall, shrubbery, ground, sign, billboard, marquee, or other obstruction to vision between a height of 2 feet and 10 feet above the centerline grade of intersecting streets shall be erected, placed, planted, allowed to grow, or maintained within the triangular yard space formed by the intersecting street lines and a line joining points on such street lines 25 feet from the point of intersection of the streets. Public utility poles and existing trees trimmed from the ground level to a height of 10 feet shall not be considered obstructions to vision.

151.04 ASSESSMENT.

If the abutting property owner fails to trim the trees as required in this chapter, the City may serve notice on such property owner requiring said property owner to do so within five (5) days. If said owner 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[2d & e])

151.05 UNAUTHORIZED INTERFERENCE WITH TREES OR SHRUBS.

No person shall remove, prune, cut, molest, break, deface, destroy, spray, repair, or do surgery work upon any tree or part thereof, or in any manner interfere with, disturb, or injure any tree, shrub, or plant, upon parking or the public property of the City. No person shall permit any chemical, either solids or fluids, to seep, drain, or be emptied on or about any tree, shrub, or plant that is now or may hereafter be growing upon any public property of the City, without first obtaining a permit from the City Administrator.

151.06 HITCHING OR ANCHORING ARTICLES TO TREES.

No person shall hitch or fasten any animal to any tree or shrub, or fasten to the same, for the purpose of anchorage, any wire, rope, chain or cable, nor shall any person nail, tie, or in any manner fasten any card, sign, poster, board, or any other article to any tree, shrub or plant that is now or may hereafter be growing upon any parking or public property of the City.

151.07 PERMISSION FOR PERMANENT ANCHORAGE.

Permission may be granted by the City Administrator for permanent anchorage to trees if good practice in line construction indicates the desirability and the elimination of stubs or poles will result by so doing.

151.08 GUYING POLES TO TREES IN CASE OF EMERGENCY.

In the event of storms or other emergencies, poles may be guyed temporarily to trees.

151.09 PERMIT TO REMOVE TREES FOR CONSTRUCTION PURPOSES.

Any person desiring to remove a live tree standing on a street or parking thereof for construction of walks, drives, buildings, or any other structures for his or her own gain or purposes shall first obtain a permit from the City Administrator. If a permit is issued, the permittee must pay the cost of removal of such trees and shrubs, or the permittee may remove the same at permittee's own expense.

151.10 PROTECTION DURING EXCAVATION OR CONSTRUCTION.

All trees, shrubs, or plants within the limits of any street, parking, or other property of the City near any excavation or construction of any building or structure shall be guarded with a good substantial frame or box not less than four feet square and six feet high. All building material or other debris shall be kept at least three feet from any tree, shrub, or plant.

151.11 TREE TRIM SPECIFICATIONS.

1. Any person trimming trees or causing trees, bushes, and other plants to be trimmed under the authority of this section or sections of this Code pertaining to utility franchises, if the entity wishing to trim is not itself the owner, shall:

A. Cause written notice to be given to the owner, occupant, or person in control of the property at least 15 days prior to any trimming; provided, however, notice shall not be required if trimming is necessary to restore electrical service or relieve a public emergency resulting from storm, accident, similar casualty, or other cause which immediately threatens electrical service or public safety. The notice shall state the nature of the trimming to be performed, the person's right to trim the tree, shrubbery, bush, or other plants, the date when such trimming must be completed if the owner desires to do the trimming, and whether an assessment or charge will be imposed by such person for trimming the tree, bush, or other plant.

B. Trim trees, bushes, and plants to the extent necessary to remove obstruction to protect lives and property.

C. Employ persons skilled in tree trimming so that the life and general aesthetic qualities of the tree are preserved.

2. The owner of any tree, shrub, or plant protruding into or overhanging a street or sidewalk shall trim the branches thereof to remove any obstruction of the view of any street lamp, street sign, traffic control device, or street intersection. A clear space of ten feet above the surface of a street or sidewalk must be maintained. All trimming shall conform to the specifications in subsection 1 of this section and to those required pursuant to the City's Traffic Code.

3. The City Administrator may order the removal of any tree, shrub, or plant or any part thereof which does not conform to the specification of subsection 2 of this section. Notice shall be given to the owner of the property as set forth in subsection 1 of this section. If the owner, occupant, or person in control fails to comply with the notice, the City Administrator shall cause the obstructing branches or foliage to be removed and shall submit the costs incident to the service of notice and removal to the City Council, which shall certify the same to the county auditor for collection with and in the same manner as general property taxes. Provided, however, in the event the City Administrator determines that a hazardous condition exists which constitutes an immediate danger to public safety because of the extensive nature or location of an obstruction caused by any tree, shrub, plant, or any part thereof, the City Administrator may cause the removal thereof forthwith without notice; and in such event, costs may be assessed in the same manner as provided above, after notice to the property owner and opportunity for hearing before the City Council is given.

4. Except as provided by subsection 3 of this section, no tree, bush, or shrub shall be removed without the written consent of the owner of the property upon which the tree, bush, or shrub is located.

5. Nothing in this section shall be construed to affect the rights of a landowner as against a neighboring landowner.

151.12 OBSTRUCTION OF ENFORCEMENT.

No person shall hinder, obstruct, or otherwise interfere with the Superintendent or his/her representatives while engaged in carrying out the provisions of this chapter.

151.13 PERMIT TO PLANT IN STREETS.

1. No person shall plant or set out any tree, shrub, or plant in or on any parking, public highway, or street or other City property without first obtaining a permit from the City Administrator, which permit shall designate where such plantings may be done.
2. The permit shall be denied if such planting is likely to create a public danger or nuisance and shall not provide the permittee with any guarantee or assurance that the tree, shrub, or plant will be protected from subsequent trimming or destruction if such is required for health, welfare, or safety of the City's residents.

151.14ASSESSMENT FOR PLANTING OR CARE OF TREES.

The cost of planting, pruning, caring for, removing, or maintaining trees and shrubs, in whole or in part, upon the parking or public streets of the City may be assessed against the lots and parcels of land in front of which such trees or shrubs are planted and maintained.

151.15PLANTING NEW TREES; ASSESSMENT.

No plantings of new trees or shrubs shall be made and assessed against the abutting property owners except by action of the City Council. Notice of a proposal to plant new trees or shrubs must be made by publication in ~~one~~ two newspapers of general circulation in the City 15 days prior to final action thereon.

151.16SCHEDULE OF ASSESSMENTS.

The cost of planting new trees and shrubs and the maintenance thereof, including removals and partial removal of trees and shrubs, shall be certified to the City Council by the Superintendent in a scheduled form setting forth the nature of the work done, the amount of the special assessment, the lots of specific portions thereof against which assessed, and the names of the owners thereof as far as practicable.

151.17 FILING ASSESSMENT SCHEDULE FOR PUBLIC INSPECTION.

A schedule of assessments for planting of new trees and shrubs and maintenance, including removals and partial removal of trees and shrubs, shall be filed with the Clerk for public inspection.

151.18 OBJECTIONS TO ASSESSMENT SCHEDULE.

Before final adoption of the schedule of assessments provided for in this chapter, the City Council shall give notice by ~~two one~~ publications in ~~each of two a~~ newspapers published in the City, stating that the schedule is on file in the office of the City Clerk and that within 20 days after the first publication all objections thereto or to the prior proceedings, on account of errors, irregularities or inequalities, must be made in writing and filed with the Clerk.

151.19 ADOPTION OF ASSESSMENT SCHEDULE.

After the expiration of the 20-day period mentioned in Section 151.18 of this chapter, the City Council shall consider objections to the schedule of assessments, make the necessary corrections, and make, approve, and adopt the special assessments as shown in the schedule.

151.20 CERTIFYING ASSESSMENT SCHEDULE FOR COLLECTION.

Upon final adoption of special assessments as shown in the schedule of assessments, the City Council shall cause the same to be certified to the County Treasurer with directions that the cost of the improvements or services as scheduled shall be assessed against the parcels of property designated therein, in the amounts set forth thereby, and that such amounts shall be collected as other special assessments.

151.21 DEAD AND DISEASED TREES.

1. Right to Enter, Test, and Inspect. The Public Works Director shall enforce the provisions of this section. To secure enforcement hereof, the Superintendent shall have the right and is hereby empowered to enter upon the property of any person within the City for the purpose of testing, inspecting, and obtaining samples of any trees, brush, wood, or debris thereon.

2. Permitting Dead or Diseased Trees or Plants to Stand.

A. No property owner shall maintain or permit to stand upon his or her property any tree, shrub, plant or part thereof which is dead, diseased, or so damaged as to be a menace to public safety.

Commented [AS30]: Updated section to be more consistent with the following sections on trees infected with dutch elm, etc. Added in a penalty section for situations that may only address one tree for a quicker/cleaner resolution.

B. When the Superintendent determines that any tree, shrub, plant or part thereof is dead, diseased, or so damaged as to be a menace to public safety, the Superintendent may ~~request the City Council to~~ direct the property owner, occupant, or person in control to remove the same within thirty (30) days, or to appear before the City Council at an appointed time not less than fourteen (14) days from the date of mailing to show cause for hearing on the matter ~~during said period~~ to show cause why the tree, shrub, plant or the appropriate part thereof should not be removed by the City with the cost of removal assessed against the property owner. ~~Such notice to show cause and notice of the proposed City Council action shall be by certified mail to the property owner of record. At that meeting the City Council may resolve and declare the same to be a public nuisance and may order its removal by the owner, occupant, or person in control within thirty (30) days from the date of service of a copy of the resolution and order on the owner, occupant, or person in control.~~

C. ~~If the owner, occupant, or person in control fails to comply with the resolution and order of the City Council to so remove previously specified public nuisance, the Superintendent shall cause that public nuisance to be removed and shall submit the costs incident to the service and removal to the City Council, which shall certify the same to the County Treasurer for collection with and in the same manner as general property taxes. If, after hearing, the City Council approves removal, the Clerk shall send a copy of the resolution by certified mail to the property owner directing such removal within 30 days or the City shall remove and assess the cost of removal against the property owner.~~

3. Removal of Trees, Shrubs, and Plants. The Superintendent may remove or cause to be removed all trees, shrubs, plants or parts thereof upon the public streets or highways or other City property within the City when removal shall be beneficial to the public peace, health, and safety, or for public improvements or if such trees, shrubs, or plants constitute a public nuisance or are dead or diseased, or detrimental to the growth of adjacent trees, plants, or shrubs growing in the public streets or other City property.

4. Removal of Trees Infected with Dutch Elm Disease, Emerald Ash Borer or Oak Wilt.

A. In accordance with Section 364.12 of the Code of Iowa, any owner, occupant, or person in control of any property shall remove from such property, at his or her own expense, any tree, brush, wood, or debris infected with Dutch elm disease, emerald ash borer or oak wilt or any dead oak or elm which retains bark, when so notified by the Superintendent. The Superintendent shall cause to be mailed to such owner, occupant, or person in control written notice that said person may appear before the City Council at an appointed time not less than fourteen (14) days from the date of mailing to show cause why the infected tree, brush, wood, or debris should not be declared a public nuisance. At that meeting the City Council may resolve and declare the same to be a public nuisance and may order its removal by the owner, occupant, or person in control within thirty (30) days from the date of service of a copy of the resolution and order on the owner, occupant, or person in control; provided however, upon timely receipt of a request in writing from the

property owner showing inability to perform, hardship, or other good cause, the City Administrator may grant an extension of time to a maximum of an additional thirty (30) days for said removal by the owner, occupant or other person. No extension of time exceeding sixty (60) days may be granted without prior approval by the City Council.

B. If the owner, occupant, or person in control fails to comply with the resolution and order of the City Council to so remove previously specified public nuisance, the Superintendent shall cause that public nuisance to be removed and shall submit the costs incident to the service and removal to the City Council, which shall certify the same to the County Treasurer for collection with and in the same manner as general property taxes.

5. Diseased Tree and Hazardous Inspection Fees.

A. Fees for the City inspection of a tree or trees shall be paid to the City ~~Treasurer~~ Finance Director in an amount set by the Annual Fee Schedule approved resolution of the ~~by~~ City Council, provided fees for inspections not requested by the owner or the owner's representative shall be assessed only against those trees showing evidence of disease or hazardous conditions which requires removal of the tree or part of the tree.

B. For the purpose of this section, "private property" is defined as property not owned by the City.

151.22 VIOLATIONS

Violation of any section of this chapter shall be deemed a nuisance or a municipal infraction and may be enforced in accordance with Chapter 50 and Chapter 4 of this Code of Ordinances.

CHAPTER 152
TEMPORARY STRUCTURES

152.01 Definition	152.05 Permit Fees
152.02 Compliance with Chapter Provisions	152.06 Compliance with Codes
152.03 Permit Required	152.07 Removal
152.04 Permit Application	

152.01 DEFINITION.

“Temporary structure” means any shed, structure, building, trailer, tent or enclosure of any kind used for storage, commercial or business or residential purposes which any person or business intends to place on the same lot with or on any lot immediately adjacent to, any permanent structure used for business or commercial or residential purposes. This term includes “temporary portable storage container,” which is defined as a large container designed and rented or leased for the temporary storage of commercial, industrial, or residential household goods and that does not contain a foundation or wheels for movement. All other words or phrases shall have the same meaning assigned to them in Chapter 166 of this Code of Ordinances.

152.02 COMPLIANCE WITH CHAPTER PROVISIONS.

No temporary structure or accessory structure shall be erected, constructed, or placed except as hereinafter provided.

152.03 PERMIT REQUIRED.

No temporary structure or accessory structure shall be erected, constructed, or placed upon any commercial or business or residential property without first obtaining a permit from the Clerk. All permits are subject to approval by the Zoning Administrator. Further, the Zoning Administrator may impose certain reasonable requirements as may be required to keep the temporary structure from becoming unsightly to the surrounding properties.

152.04 PERMIT APPLICATION.

Prior to seeking approval, an applicant shall file a permit application with the Clerk stating:

1. The name and address of the person or business seeking the permit;
2. A particular description of where the proposed temporary structure or accessory structure will be erected, constructed or placed;
3. The need for such structure;
4. The period of time the proposed structure will be present on the property; and
5. A particular description, including the dimensions, of the temporary structure or accessory structure to be erected, constructed, or placed upon the property.

152.05 PERMIT FEES.

Upon approval by the Clerk and payment of a permit fee, the Clerk shall issue a permit to the applicant. The permit for a business or commercial class permit shall be for a period of thirty (30) days and shall authorize the erection, construction, or placement of a temporary structure on the property described in the application. The fee shall be in the amount as established from time to time by resolution of the Council. Residential class permit fee is waived for the first 180 days with the start of a new building, plumbing, mechanical, or electrical permit. After 180 days, fees imposed shall be in the amount as established from time to time by resolution of the Council.

152.06 COMPLIANCE WITH CODES.

Any such temporary structure erected, constructed, or placed upon property shall comply with all applicable provisions of this Code of Ordinances, including the fire, electrical, and building codes. Containers must be placed on a hard-surfaced area and shall be located on the owner's lot, and no part of any container shall be located on any public property or in the right-of-way.

152.07 REMOVAL.

All such temporary structure or accessory use or structure shall be removed from the property at the expiration of the time period defined in the permit.

CHAPTER 153
TEMPORARY SIGNS

[Refer to Chapter 175](#)

153.01 Definition	153.05 Maximum Duration of Permit
153.02 Compliance with Chapter Provisions	153.06 Permit Issuance
153.03 Permit Required	153.07 Renewal
153.04 Permit Application	

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~~153.01 DEFINITION.~~

~~“Temporary sign” means any banner, pennant, valance, or advertising display constructed by cloth, canvas, light fabric, cardboard, wallboard, plastic, or other material, with or without frames, intended to be displayed for a short period of time advertising any sale, grand opening, or product. This term also includes any portable sign or portable sign display and any sign or sign display on a truck or motor vehicle that has not moved upon a~~

Commented [AS31]: Amended per Ordinance 24-08. Passed October 25 20241

street in the City within the preceding twelve (12) hours. This term does not include signs advertising real property for sale or rent.

153.02 COMPLIANCE WITH CHAPTER PROVISIONS.

~~—No temporary sign shall be erected, placed, or displayed upon the exterior of any commercial or business property except as hereinafter provided.~~

153.03 PERMIT REQUIRED.

~~—No temporary sign shall be erected, placed, or displayed without first obtaining a permit from the Clerk.~~

153.04 PERMIT APPLICATION.

~~—An applicant shall file a permit application with the Clerk stating:~~

- ~~—1. The name and address of the person or business seeking the permit;~~
- ~~—2. A description of the proposed temporary sign, including the location where the temporary sign will be placed and the manner of its placement; and~~
- ~~—3. The period of time such temporary sign will be displayed.~~

153.05 MAXIMUM DURATION OF PERMIT.

~~—A permit issued under the provisions of this chapter shall be issued for a period of thirty (30) days.~~

153.06 PERMIT ISSUANCE.

~~—Upon approval by the Clerk and payment of a permit fee, the Clerk shall issue a permit to the applicant. The permit shall be for a definite period of time and shall authorize the erection, placement, or display of a temporary sign. All permit fees under this chapter shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such permit fee may, from time to time, be amended by the Council by resolution. A copy of the resolution setting forth the currently effective permit fee shall be kept on file in the office of the City Administrator, and be open to inspection during regular business hours.~~

153.07 RENEWAL.

—Once approved, a permit for the erection, construction, or placement of a temporary sign may be renewed for an additional period of thirty (30) days. Only two such renewals are authorized. All renewal fees under this chapter shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such renewal fee may, from time to time, be amended by the Council by resolution. A copy of the resolution setting forth the current renewal fee shall be kept on file in the office of the City Administrator, and be open to inspection during regular business hours.

CHAPTER 155
BUILDING CODES

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155.01 Adoption of Building Codes	155.05 Fences
155.02 Administrative Provisions	155.06 Conversion to Horizontal Property Regime
155.03 Amendments, Modifications, Additions and Deletions	155.07 Installment Sale Transactions
155.04 Permit Fees	

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155.01 ADOPTION OF BUILDING CODES.

—Pursuant to published notice as required by law, the International Building Code, 2012 Edition (hereinafter known as the IBC), and the International Residential Building Code, 2012 Edition (hereinafter known as the IRC), published by the International Code Council, Inc., are adopted in full except for such portions as may be hereinafter deleted, modified, or amended, and the same are, by this reference, incorporated herein as fully and completely as if set forth in full herein. A copy of the IBC as adopted, a copy of the IRC as adopted, and a copy of this chapter are on file in the office of the Code Official.

155.02 ADMINISTRATIVE PROVISIONS.

—Administration of this chapter shall be as provided in this section and in the following sections of the several codes named, which are hereby adopted by reference, to provide procedures for local enforcement of the codes, constituting the Windsor Heights, Iowa, Building Codes. The Building Official is responsible for the enforcement of the Building, Plumbing, Mechanical, Fire, Housing, and Dangerous Building Codes, and such other

ordinances as shall be assigned to such official, and the Building Official shall perform such other duties as may be required by the City Administrator. The Building Official shall be accountable for the issuance of all applicable permits under this chapter and shall have the power to render interpretations of this code and to adopt and enforce rules and regulations supplemental to this code, subject to approval of the Council, as he or she may deem necessary in order to clarify the application of the provisions of this code. Such rules, regulations, and interpretations shall be in conformity with the intent and purpose of this code.

155.03 AMENDMENTS, MODIFICATIONS, ADDITIONS AND DELETIONS.

—The IBC and the IRC are amended as hereinafter set out. In the event requirements of this code conflict with applicable State and federal requirements, the more stringent shall apply.

—1. The following are deleted from the IRC and are of no force or effect in this chapter:

501.3 Fire protection of floors

Part VIII – Electrical

—2. Subsection 101.1 of the IBC and R101.1 of the IRC are hereby deleted and there is enacted in lieu thereof the following subsections:

101.1 Title. These regulations shall be known as the Windsor Heights Building Code, hereinafter known as “this code.”

R101.1 Title. These provisions shall be known as the Windsor Heights Residential Code for One- and Two-Family Dwellings, and shall be cited as such and will be referred to herein as “this code.”

—3. Subsection 101.4.6, Energy, of the IBC is hereby amended by deleting said subsection and inserting in lieu thereof the following subsection, and Subsection R101.3.1, Intent, of the IRC is hereby established by adding the following subsection:

101.4.6 Energy and R101.3.1 Intent. The provisions of the International Energy Code as currently adopted and amended by the Iowa State Building Code Bureau shall apply to all matters governing the design and construction of buildings for energy efficiency. Administration shall be as prescribed in this code and these regulations shall be known as the Windsor Heights Energy Code. Construction or work for which a permit is required shall be subject to inspections and the Building Official may make or cause to be made the requested inspections. The Building Official is authorized to accept reports of approved inspection agencies, provided such agencies satisfy the requirements as to qualifications and reliability. Any portion that does not comply shall be corrected and such portion shall not be covered or concealed until authorized by the Building Official.

—4. Subsection 103.1, Creation of Enforcement Agency, of the IBC and R103.1, Creation of Enforcement Agency, of the IRC are hereby amended by adding the following paragraph:

The term Building Official is intended also to mean the Building and Zoning Administrator, who shall be designated by the Planning and Building Director and shall hereinafter be referred to as Code Official and his or her representatives or designees, who are herewith delegated the same powers, authorities, duties and responsibilities as designated for the Code Official. The Code Official, when so appointed, shall be responsible for the enforcement of the Building Code, the Mechanical Code, the Housing Code, the Plumbing Code, the Gas Code, the Energy Code, the Electrical Code, the Zoning Code and the Fire Prevention Code of the City. The Code Official shall have authority to file a complaint in any court of competent jurisdiction charging a person with the violation of this title. The Code Official shall have whatever additional duties the Director of Planning and Building may prescribe.

—5. Subsection 104.11, Alternate Materials, Methods and Equipment, of the IBC is hereby amended by adding the following subsection and exception:

104.11.3 Iowa State Plumbing Code. The Iowa State Plumbing Code, consisting of the Uniform Plumbing Code, as prepared and edited by the International Association of Plumbing and Mechanical Officials, as amended and currently adopted by the State of Iowa Department of Public Health, is hereby approved as an alternate equivalent method for complete plumbing and fuel gas systems.

Administration Exception 1. Administrative regulations shall be as prescribed in the International Plumbing Code, 2012 Edition, and International Fuel Gas Code, 2012 Edition, as adopted and amended.

—6. Subsections 105.1, Required, of the IBC and R105.1, Required, of the IRC are hereby amended by adding the following to said subsections:

105.1 and R105.1 Platting required. A building permit shall not be issued unless the land upon which the proposed work is to be done is platted pursuant to the provisions of the subdivision regulations. A building permit shall not be issued permitting the construction of any building or other structure on any lot designated on any plat as an outlot, without such lot being replatted in accordance with the provisions of the subdivision regulations. Such platting may be waived by the City Council if that body determines that no portion of the land is needed for public purposes or if that portion needed for public purposes, as determined by the Council, is dedicated to the City; provided further, such platting may be waived by the Zoning Administrator if the requested building permit is for one of the following purposes:

- 1. Any accessory structure or addition for a one- or two-family residence;
- 2. The removal, repair, or alteration of a structure on unplatted premises, provided that there is no change in the use classifications of such structure;

—3. The term “alteration” shall be deemed to mean any change or modification of a structure that does not serve to increase the size of the original structure by more than ten percent.

—7. Subsections 105.2, Work Exempt from Permit, of the IBC and R105.2, Work Exempt from Permit, of the IRC are hereby amended by adding a sentence to said subsections as follows:

Exemption from permit requirements of this chapter shall not preclude requirements for permitting of plumbing, electrical, and mechanical installations and systems or compliance with Windsor Heights Code of Ordinances.

—8. Subsections 105.5, Expiration, of the IBC and R105.5, Expiration, of the IRC are hereby amended by deleting said subsections and inserting in lieu thereof the following:

—105.5 and R105.5 12-month expiration. Every permit issued under the provisions of this Code shall expire twelve (12) months from the date of issue, unless the application is accompanied by a construction schedule of specific longer duration, in which instance the permit may be issued for the term of the construction schedule, with approval of the Code Official. If the work has not been completed by the expiration date of the permit, the permit shall automatically cancel and no further work shall be done until the permit shall have been renewed by the owner or his or her agent and by payment of the renewal fee as established by Resolution of the City Council, and provided no changes have been made in plans or location. Upon approval, permits may be extended for no more than two periods not exceeding 180 days each. A building permit shall automatically cancel if for any reason work is not commenced within 120 days of the date issuing the building permit or if work is substantially stopped for a period of 120 days, prior to said cancellation, unless a written extension is granted by the Building Inspector upon good cause shown by the applicant for such extension.

—9. Subsections 105.6.1, Revocation of Permit, of the IBC and R105.6.1, Revocation of Permit, of the IRC, are hereby established by adding the following subsections:

—105.6.1 and R105.6.1 Revocation of permit. It is the responsibility of the permit holder to schedule the required inspections and obtain final approval. Failure to schedule the required inspections and receive approval of work authorized by the permit before covering said work or at completion shall result in revocation of the permit and void any associated approvals granted by the City. This failure shall also equate to working without a permit in violation of City ordinance and no future permits shall be issued to any person or company who has outstanding violations of this code or any other laws or ordinances of the City. Failure to contact the City for any inspection or follow-up prior to expiration of a permit shall be deemed a violation of this code section. Failure to contact the City for any inspection or follow-up prior to expiration of a temporary certificate of occupancy shall also be deemed a violation of this code section. Allowing occupancy of a structure, for which a person or company holds a building permit, prior to or without a valid certificate of occupancy (temporary or final) shall be deemed a violation of this code section and no

future permits shall be issued to any person or company who has outstanding violations of this code or any other laws or ordinances of the City.

—10. Subsections 109.2.1, Plan Review Fees, of the IBC, and R108.2.1, Plan Review Fees, of the IRC are hereby established by adding the following subsections:

109.2.1 and R108.2.1 Plan review fees. Fees for all plan reviews shall be as set forth and established by resolution of the City Council. All plan review fees shall be automatically adjusted on January 1 of each year based on the Consumer Price Index (CPI) for the previous year. All such fees shall be paid in accordance with the terms and requirements of such resolution or as the same may be amended by the City Council from time to time.

—11. Subsections 109.4, Work Commencing before Permit Issuance, of the IBC and R108.6, Work Commencing before Permit Issuance, of the IRC are hereby established by adding the following sentence after said subsections:

109.4 and R108.6 Work commencing before permit issuance. If any construction requiring a permit by provision of the Building Code or City Code is undertaken without first obtaining a building permit, the permit fee shall be double the amount it would have been if granted prior to the commencement of construction. Further, if any additional professional services (for example engineering or architectural services) are required by the City in the review of the building permit request, those fees will be passed through and paid by the applicant.

—12. Subsection R110.1, Use and Occupancy, of the IRC is hereby amended by deleting exception #2 – Accessory buildings or structures.

—13. Subsections 112.4, Service Utilities, of the IBC, and R111.4, Service Utilities, of the IRC are hereby established by adding the following subsections:

112.4 and R111.4 Underground utility installation. All electrical service lines not exceeding 480 volts and all telephone and cablevision service lines, as well as other utility lines serving any new building or structure, including signs and billboards, requiring permanent electrical service shall be placed underground unless a waiver from such is approved by the City Engineer. The provisions of this section shall not apply to existing buildings or additions to such buildings. Nothing in this section shall be deemed to apply to temporary service when defined as such by the utility company.

—14. Section 202, Definitions, of the IBC and Section R202 Definitions, of the IRC are hereby amended by deleting the definitions of accessory structure, swimming pool, and townhouse and inserting in lieu thereof the following:

SWIMMING POOL. Any structure intended for swimming, recreational bathing, or wading and which is capable of containing water over 24 inches deep. This includes in-ground, above-ground and on-ground pools; hot tubs; and spas and fixed in-place wading pools, but excludes manmade lakes or ponds created through the collection of storm water or drainage runoff.

~~ACCESSORY STRUCTURE. Accessory structures shall be defined as and shall conform to applicable zoning requirements and shall include but not be limited to structures and equipment with a fixed location on the ground, including wind energy systems, generators, and equipment shelters.~~

~~TOWNHOUSE. A single family dwelling unit constructed in groups of three or more attached units in which each unit extends from foundation to roof. Townhouse groups of more than twelve units shall have a yard or public way on at least two sides.~~

~~—15. Table R301.2(1), Climatic and Geographic Design Criteria, of the IRC is hereby amended by modifying said table, as follows:~~

~~Table R301.2(1), Climatic and Geographic Design Criteria~~

~~-~~

Ground Snow Load	
Wind Design	
Seismic Design Category	
Subject to Damage From	
Winter	
Flood Hazards NFIP Adoption	
Air Freezing Index	
Mean Annual Temp.	
1. Speed MPH	
Topographic Effects	
Weathering	
Frost Line Depth	
Termite	
Design Temp.	
Ice Barrier Required	
30 PSF	
90	
No	

A

Severe

42"

No

-5°F

Yes

5/16/83

1833

48.6°

-

~~—16. Subsection R302.1, Exterior Walls, of the IRC is hereby amended by deleting all exceptions and inserting in lieu thereof the following exception:~~

~~R302.1 Exterior Walls.~~

~~Exception 1. Accessory structures less than 10 feet from a dwelling and/or less than 3 feet from a property line shall be provided with 5/8-inch 'X' fire code sheetrock or equivalent throughout the interior, including the walls and ceiling. Any accessory structure openings in walls parallel to and less than 10 feet from the dwelling unit walls shall be fire-rated in accordance with this code.~~

~~—17. Table R302.1, Exterior Walls, of the IRC is hereby amended as follows:~~

~~Table R302.1(1), Exterior Walls~~

~~Exterior Wall Element~~

~~Minimum Fire-Resistance Rating~~

~~Minimum Fire Separation Distance~~

~~Exterior Wall Element~~

~~Minimum Fire-Resistance Rating~~

~~Minimum Fire Separation Distance~~

~~Walls~~

~~(Fire-resistance-rated)~~

~~1 hour with exposure from both sides per ASTM E 119 or UL 263~~

~~<—3 feet~~

~~(Not fire-resistance rated)~~

~~0 hours~~

~~=—3 feet~~

~~Projections~~

~~(Fire-resistance rated)~~

~~1 hour on the underside~~

~~—2 feet~~

~~(Not fire-resistance rated)~~

~~0 hours~~

~~=—2 feet~~

~~Openings~~

~~Not allowed~~

~~N/A~~

~~<—3 feet~~

~~25% Maximum Wall Area~~

~~0 hours~~

~~—3 feet~~

~~Unlimited~~

~~0 hours~~

~~—5 feet~~

~~Penetrations~~

~~All~~

~~Comply with Section R302.4~~

~~<—3 feet~~

~~None required~~

~~—3 feet~~

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—18. Subsection R302.2, Townhouses, of the IRC is hereby amended by deleting said subsection and inserting in lieu thereof the following (exception and subsequent subsections remain unchanged):

R302.2 Townhouses. Each sprinklered townhouse shall be considered a separate building and shall be separated by fire-resistance-rated wall assemblies meeting the requirements of Section R302.1 for exterior walls. All townhouse groups of more than 12 attached units in which each unit does not have a yard or public way on at least two sides shall be sprinklered.

—19. Subsection R302.2, Townhouses, of the IRC is hereby amended by adding the following paragraph and exception:

Each non-sprinklered townhouse shall be considered a separate building and shall be separated by fire-resistance-rated wall assemblies meeting the requirements of Section R302.1 for exterior walls. All townhouse groups of more than 12 attached units in which each unit does not have a yard or public way on at least two sides shall be sprinklered.

Exception: A common 2-hour fire-resistance-rated wall assembly tested in accordance with ASTM E 119 or UL 263 is permitted for townhouses if such walls do not contain plumbing or mechanical equipment, ducts or vents in the cavity of the common wall. The wall shall be rated for fire exposure from both sides and shall extend to and be tight against exterior walls and the underside of the roof sheathing. Electrical installations shall be installed in accordance with the State Electrical Code. Penetrations of electrical outlet boxes shall be in accordance with Section R302.4.

—20. Subsection R302.3, Two-Family Dwellings, of the IRC is hereby amended by deleting said subsection and inserting in lieu thereof the following and deleting Exception 2:

R302.3 Two-family dwellings. For purposes of fire-resistive separation, two-family dwelling units shall be considered as townhouses and shall be constructed in accordance with R302.2.

Exception 2 deleted.

—21. Subsection R302.6, Dwelling/Garage Fire Separation, of the IRC is hereby amended by deleting said subsection and inserting in lieu thereof the following subsection:

R302.6 Dwelling/garage fire separation. The garage shall be separated throughout as required by Table R302.6. Openings in garage walls shall comply with section R302.5.

—22. Table R302.6, Dwelling/Garage Separation, of the IRC, is hereby amended by modifying said table as follows:

Table R302.6, Dwelling/garage separation

-	
Separation	Material
From the residence and attics — common wall with garage	5/8" "X" fire code sheetrock or equivalent applied to the garage side
From all habitable rooms above the garage	5/8" "X" fire code sheetrock or equivalent—throughout garage
Structures supporting floor/ceiling assemblies used for separation required by this section	5/8" "X" fire code sheetrock or equivalent—throughout garage
Garages located less than 10 feet from a dwelling unit(s) on the same lot	5/8" "X" fire code sheetrock or equivalent—throughout garage
-	

—23. Subsection R303.3, Bathrooms, of the IRC, is hereby amended by deleting said subsection and inserting in lieu thereof the following subsection and also by adding the following exception:

R303.3 Bathrooms. Bathrooms shall be provided with a mechanical ventilation system. The minimum ventilation rates shall be 50 cfm for intermittent ventilation or 20 cfm for continuous ventilation. Ventilation air from the space shall be exhausted directly to the outside.

Exception: Toilet rooms containing only a water closet and/or lavatory may be provided with a recirculating fan.

—24. Subsection 406.3.4, Separation, of the IBC is hereby amended by deleting subsection 1 and inserting in lieu thereof the following:

—1. The private garage shall be separated from the dwelling unit and its attic area by means of minimum 5/8-inch type "X" fire code gypsum board or equivalent applied to the garage side. Where the separation is a floor-ceiling assembly, the structure supporting the separation shall also be protected by not less than 5/8-inch type "X" fire code gypsum board or equivalent throughout. Garages beneath habitable rooms shall be separated by not less than 5/8-inch type "X" fire code gypsum board or equivalent throughout. Door openings between a private garage and the dwelling unit shall be equipped with either solid wood doors or solid or honeycomb core steel doors not less than 1 3/8-inch thick, or doors in compliance with 716.5.3. Openings from a private garage directly into a room used for sleeping purposes shall not be permitted. Doors shall be self-closing and self-latching.

—25. Subsection R310.1, Emergency Escape And Rescue Required, of the IRC, is hereby amended by deleting the first paragraph of said section and inserting in lieu thereof the following:

Basements, habitable attics and every sleeping room shall have at least one openable emergency escape and rescue window or exterior door opening for emergency escape and

rescue. Where basements contain one or more sleeping rooms, emergency egress and rescue openings shall be required in each sleeping room, but shall not be required in adjoining areas of the basement. Where a window is provided as a means of escape and rescue opening from a basement, it shall have a sill height of not more than 44 inches above the floor or landing. Where a landing is provided, the landing shall be not less than 36 inches wide, not less than 18 inches out from the exterior wall, and not more than 24 inches in height. The landing shall be permanently affixed to the floor below and the wall under the openable area of the window it serves. Where a door opening having a threshold below the adjacent ground elevation serves as an emergency escape and rescue opening and is provided with a bulkhead enclosure, the bulkhead enclosure shall comply with Section 310.3. Escape and rescue window openings with a finished sill height below the adjacent ground elevation shall be provided with a window well in accordance with Section R310.2.

—26.— Subsections 1029.4, Operational Constraints, of the IBC and R310.1.4, Operational Constraints, of the IRC are hereby amended by adding a new sentence and exception following these subsections:

The net clear opening dimensions required by this section shall be obtained by the normal operation of the emergency escape and rescue opening from the inside and shall not require the removal of a sash or other component of the emergency escape and rescue opening.

Exception: Existing required emergency escape openings shall be maintained in accordance with the Windsor Heights Property Maintenance Code and may be replaced with the same size and type of window.

—27.— Subsection R310.5, Emergency Escape Windows under Decks and Porches, of the IRC is hereby amended by adding a new sentence following this section:

Cantilever areas of all construction elements shall be regulated in accordance with this section.

—28.— Subsection R311.7.5.1, Riser Height, of the IRC is hereby amended by adding the following exceptions:

Exception 2: The maximum riser height shall be $7\frac{3}{4}$ inches. The riser height shall be measured vertically between leading edges of the adjacent treads. The greatest riser height within any flight of stairs shall not exceed the smallest by more than $\frac{3}{8}$ inch, except at the top or bottom riser of any interior stair where this dimension may deviate by a maximum of 1 inch. In no case shall the risers exceed the maximum height of $7\frac{3}{4}$ inches.

Exception 3: The opening between adjacent treads is not limited on exterior stairs serving individual dwelling units.

—29.— Subsection R311.7.8.2, Continuity, of the IRC is hereby amended by adding the following exception:

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Exception 3: Handrails within a dwelling unit or serving an individual dwelling unit shall be permitted to be interrupted at one location in a straight stair when the rail terminates into a wall or ledge and is offset and immediately continues.

—30. Subsection R313.1, Townhouse Automatic Fire Sprinkler System, of the IRC is hereby amended by deleting said subsection and inserting the following in lieu thereof (exception remains unchanged):

R313.1 Townhouse automatic fire sprinkler systems. An automatic residential fire sprinkler system shall be installed in townhouses containing more than twelve (12) dwelling units.

—31. Subsection R313.2, One- and Two-Family Automatic Fire Sprinkler Systems, of the IRC is hereby amended by adding the following exception:

Exception 2: Dwelling units in which the gross square footage of the dwelling spaces, including all floor levels whether finished or unfinished and all basement areas whether finished or unfinished (exclusive of attached garage area), does not exceed 8,000 square feet.

—32. Subsection R403.1.4.1, Frost Protection, of the IRC is hereby amended by deleting all existing exceptions and inserting in lieu thereof the following:

Exception 1: Detached garages of light frame wood construction of 1,010 square feet or less in size and detached garages of 400 square feet or less in size of other than light frame wood construction and more than 10 feet from a dwelling or attached garage may be provided with a floating slab which shall include a thickened slab edge of a minimum 8 inches thick and tapered or squared from a width of 6 inches to 12 inches and have floors of Portland cement concrete not less than 4 inches thick. Garages areas shall have all sod and/or debris removed prior to installation of said floor.

—33. Subsection R404.1, Concrete and Masonry Foundation Walls, of the IRC is hereby amended by adding the following paragraph:

R404.1 Concrete and masonry foundation walls lateral support. Prior to backfill and prior to a poured-in-place floor slab to provide bottom lateral support, the following may be provided: (1) a full depth (minimum 1½") nominal 2" x 4" keyway may be formed into the footings to secure the bottom of the foundation wall; or (2) 36" long vertical #4 rebar may be embedded a minimum of 6" into the footings, not to exceed 7' on center spacing.

—34. Subsections 1807.1.5.1, Foundation Walls For Conventional Light Frame Wood Construction, of the IBC and R404.1.2.2.3, Foundation Walls For Conventional Light Frame Wood Construction, of the IRC are hereby established by adding the following subsections and table:

As an alternate to the requirements of respective codes the following Table, Foundation Walls for Conventional Light Frame Construction may be used:

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Foundation Walls for Conventional Light Frame Construction

Height of Foundation Wall (Net measured from top of basement slab to top of foundation wall)*

Thickness of Foundation Walls

Reinforcement Type and Placement within Foundation Wall**

Reinforcement Type and Placement within Foundation Wall**

(Maximum 12' span between corners and supporting cross walls.)

Type of Mortar

Unit

Height of Foundation Wall (Net measured from top of basement slab to top of foundation wall)*

Thickness of Foundation Walls

Reinforcement Type and Placement within Foundation Wall**

Reinforcement Type and Placement within Foundation Wall**

(Maximum 12' span between corners and supporting cross walls.)

Type of Mortar

Unit

Gross

Net

Concrete

Masonry

Concrete

Masonry

Masonry

8'

7'8"

7½"

8"

$\frac{1}{2}$ " horizontal bars, placement in the middle, and near the top & bottom — $\frac{1}{2}$ " bars @ 6' max. vertically

0.075 square inch bar 8' o.c. vertically in fully grouted cells.
If block is 12" nominal thickness, may be unreinforced

Type M or S. Grout and mortar shall meet provisions of Chapter 21 IBC

9'

8' 8"

8"

See Chapter 18 IBC

$\frac{1}{2}$ " bars 2' o.c. horizontally and 20" vertically o.c.

($\frac{5}{8}$ " bars 2' o.c. horizontally and 30" vertically o.c.)

See Chapter 18 IBC

Same as above

10'

9' 8"

8"

See Chapter 18 IBC

See Chapter 18 IBC

Same as above

*Concrete floor slab to be nominal 4". If such floor slab is not provided prior to backfill, provide:

(1) 36" vertical #4 rebar embedded in the footing @ maximum 7' o.c. spacing; and/or (2) full depth nominal 2" depth x 4" width keyway in footing.

** All reinforcement bars shall meet ASTM A6175 grade 40 minimum and be deformed. Placement of bars shall be in center of wall and meet the provisions of 18, 19, and 21 of the International Building Code.

NOTE: Cast in place concrete shall have a compressive strength of 3,000 lbs @ 28 days. Footings shall contain continuous reinforcement of 2 $\frac{1}{2}$ " diameter rebar throughout. Placement of reinforcement and concrete shall meet the requirements of Chapter 19 of the International Building Code.

NOTE: Material used for backfilling shall be carefully placed granular soil of average or high permeability and shall be drained with an approved drainage system as prescribed in Section 1805.4 of the International Building Code. Where soils containing a high percentage of clay, fine silt or similar materials of low permeability or expansive soils are encountered or where backfill materials are not drained or an unusually high surcharge is to be placed adjacent to the wall, a specially designed wall shall be required.

Note: Foundation plate or sill anchorage may be installed in accordance with the respective codes as applicable.

—35. Section R405, Foundation Drainage, of the IRC is hereby amended by adding a new subsection as follows:

R405.3 Sump pumps. Footing drains and drainage systems shall be discharged to a sump pump plumbed to a discharge system separated from the sanitary sewer and in accordance with the standard specifications adopted by the City Council. Exceptions may be granted by the Code Official in accordance with said engineering standards.

—36. Subsection R506.2.4, Reinforcement Support, of the IRC is hereby amended by addition of the following exception:

Exception 1: Non-structural slabs:

—37. Subsection 907.2.11, Single and Multiple Station Smoke Alarms, of the IBC is hereby amended by deleting said subsection and inserting in lieu thereof the following:

907.2.11 Single and multiple station smoke alarms. Listed single and multiple station smoke alarms complying with UL 217 shall be installed in accordance with provisions of this code and the household fire warning equipment provision of NFPA 72. Smoke alarms shall be addressable with sounder bases and tied into the building fire alarm system as a supervisory signal only. Mini horns are not required if notification from a building fire alarm system is through the smoke alarms with sounder bases.

—38. Subsection M1403.2, Foundations and Supports, of the IRC is hereby amended by deleting said section and inserting in lieu thereof the following:

M1403.2 Foundation and supports. Foundations and supports for outdoor mechanical systems shall be raised at least 1½ inches above the finished grade and shall also conform to the manufacturer's installation instructions.

—39. Subsection P2603.5, Freezing, of the IRC is hereby amended by deleting the last sentence of said subsection and inserting in lieu thereof the following:

Exterior water supply system piping shall be installed not less than sixty (60) inches below grade.

~~—40. Subsection P2603.5.1, Sewer Depth, of the IRC is hereby amended by deleting said subsection and inserting in lieu thereof the following:~~

~~P2603.5.1 Sewer depth. Building sewers shall be a minimum of forty-eight (48) inches below grade.~~

~~—41. Subsection 1007.2, Continuity and Components, of the IBC is hereby amended by adding the following #11 to said subsection:~~

~~—11. Components of exterior walking surfaces shall be hard surfaced.~~

~~—42. Section 1008, Doors, Gates and Turnstiles, of the IBC is hereby amended by adding the following subsection:~~

~~1008.1.6.1 Frost protection. Exterior landings at doors shall be provided with frost protection.~~

~~—43. Subsection 1012.4, Continuity, of the IBC is hereby amended by adding the following exception:~~

~~Exception 5: Handrails within a dwelling unit or serving an individual dwelling unit of Groups R-2 and R-3 shall be permitted to be interrupted at one location in a straight stair when the rail terminates into a wall or ledge and is offset and immediately continues.~~

~~—44. Subsection 1027.5, Access to a Public Way, of the IBC is hereby amended by adding the following subsection:~~

~~1027.5.1 Access to a public way. Components of exterior walking surfaces shall be hard surfaced.~~

~~—45. Subsection 1029.3, Maximum Height From Floor, of the IBC is hereby amended by adding the following exception:~~

~~Exception 1: Within individual units of Group R-2 and R-3 occupancies where a window is provided as a means of escape and rescue opening from a basement it shall have a sill height of not more than 44 inches above the floor or landing. Where a landing is provided, the landing shall be not less than 36 inches wide, not less than 18 inches out from the exterior wall, and not more than 24 inches in height. The landing shall be permanently affixed to the floor below and the wall under the openable area of the window it serves.~~

~~—46. Subsection 1029.5, Window Wells, of the IBC is hereby amended by adding the following subsection:~~

~~1029.5.3 Window well drainage. All window wells shall be provided with approved drainage.~~

~~—47. Chapter 13, Energy Efficiency, of the IBC and Chapter 11 [RE], Energy Efficiency, of the IRC are hereby amended by deleting said chapters and inserting in lieu thereof the following:~~

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Chapter 13 Energy Efficiency and Chapter 11 Energy Efficiency.

The provisions of the International Energy Code as currently adopted and amended by the Iowa State Building Code Bureau shall apply to all matters governing the design and construction of buildings for energy efficiency. Administration shall be as prescribed in this code and these regulations shall be known as the Windsor Heights Energy Code.

~~—48. Table 1405.2, Minimum Thickness of Weather Coverings, of the IBC is hereby amended by adding the following footnote:~~

~~Footnote f: Vinyl siding shall be provided with a weather-resistant sheathing paper.~~

~~—49. Subsection 1405.14, Vinyl Siding, of the IBC is hereby amended by adding a new subsection as follows:~~

~~1405.14.2 Water-resistive barrier required. An approved water-resistive barrier shall be provided under all vinyl siding.~~

~~—50. Subsection 1608.2, Ground Snow Loads, of the IBC is hereby amended by deleting said section and inserting in lieu thereof the following:~~

~~1608.2 Ground snow load. The ground snow load to be used in determining the design snow load for roofs is hereby established at 30 pounds per square foot. Subsequent increases or decreases shall be allowed as otherwise provided in the Building Code, except that the minimum allowable flat roof snow load may be reduced to not less than 80 percent of the ground snow load.~~

~~—51. Section 1612, Flood Loads, of the IBC is hereby amended by deleting said section and inserting in lieu thereof the following section:~~

~~1612.1 General floodplain construction standards. The following standards are established for construction occurring within the 100-year flood elevation:~~

~~1612.1.1 All structures. All structures shall:~~

~~1. Be adequately anchored to prevent flotation, collapse or lateral movement of the structure;~~

~~1.1 Be constructed with materials and utility equipment resistant to flood damage; and~~

~~1.2 Be constructed by methods and practices that minimize flood damage.~~

~~1612.1.2 Residential buildings. All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one foot above the 100-year flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than one foot above the 100-year flood level and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers) may be allowed, subject to favorable consideration by the Code Official 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.

612.1.3 Nonresidential buildings. All new or substantially improved nonresidential buildings shall have the first floor (including basement) elevated a minimum of one foot above the 100-year flood level or, together with attendant utility and sanitary systems, be flood proofed to such a level. When flood proofing is utilized, a professional engineer registered in the State of Iowa shall certify that the flood proofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 100-year flood; that the structure, below the 100-year flood level, is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to mean sea level) to which any structures are flood proofed shall be maintained by the Code Official.

612.1.4 Anchoring of mobile homes. Mobile homes shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements are that:

1. Over-the-top ties be provided at each of the four corners of the mobile home with two additional ties per side at intermediate locations for mobile homes 50 feet or more in length or one such tie for mobile homes less than 50 feet in length.

1.1 Frame ties shall be provided at each corner of the home with five additional ties per side at intermediate points for mobile homes 50 feet in length.

1.2 All components of the anchoring system be capable of carrying a force of 4,800 pounds.

1.3 Any additions to the mobile home shall be similarly anchored.

612.1.5 Placement of mobile homes. Mobile homes shall be placed on lots or pads elevated by means of compacted fill so that the lowest floor of the mobile home will be a minimum of one foot above the 100-year flood level. In addition, the tie-down specification of Subsection 612.1.4 must be met, and adequate surface drainage and access for a hauler must be provided.

612.1.6 New or expanded mobile homes. New mobile homes, expansions to existing mobile homes, and mobile home lots where the repair, reconstruction, or improvement of the streets, utilities, and pads equals or exceeds 50 percent before the repair, reconstruction, or improvement has commenced shall provide:

1. Lots or pads that have been elevated by means of compacted fill so that the lowest floor of mobile homes will be a minimum of one foot above the 100-year flood level.

1.1 Ground anchors for mobile homes.

612.1.7 Storage of flammable materials and equipment. Storage of equipment and materials that are flammable, explosive, or injurious to human, animal, or plant life is

prohibited unless elevated a minimum of one foot above the 100-year flood level. Other material and equipment must either be similarly elevated or: (i) not subject to major flood damage and anchored to prevent movement due to floodwaters; or (ii) readily removable from the area within the time available after flood warning.

1612.2 Special floodway standards. The following standards are established for construction occurring within a designated floodway: Structures, buildings, and sanitary and utility systems, if permitted, shall meet the applicable general floodplain standards and shall be constructed or aligned to present the minimum possible resistance to flood flows. Buildings, if permitted, shall have a low flood damage potential and shall not be for human habitation.

—52.— Subsection 1809.5, Frost Protection, of the IBC is hereby amended by adding the following exception 4:

Exception 4. Detached garages, accessory to Group R-2 and R-3 occupancies, 1,010 square feet or less in size of light frame wood construction and detached garages of 400 square feet or less in size of other than light frame wood construction and more than 10 feet from a dwelling or attached garage may be provided with a floating slab, which shall include a thickened slab edge of a minimum 8 inches thick and tapered or squared from a width of 6 inches to 12 inches and have floors of Portland cement concrete not less than 4 inches thick. Garage areas shall have all sod and/or debris removed prior to installation of said floor.

—53.— Appendix G, Swimming Pools, Spas and Hot Tubs, of the IRC is hereby adopted by reference and shall be in full force and effect in this chapter.

—54.— Subsections 3109.2, Definition, of the IBC and AG102, Definitions, of the IRC are hereby amended by deleting said definition and inserting in lieu thereof the following:

SWIMMING POOL. Any structure intended for swimming, recreational bathing or wading that is capable of containing water over 24 inches deep. This includes in-ground, above-ground, and on-ground pools; hot tubs; spas and fixed-in-place wading pools; but excludes manmade lakes or ponds created through the collection of storm water or drainage runoff.

—55.— Section 3401.3, Compliance, of the IBC is hereby amended by deleting said section and inserting in lieu thereof the following:

3401.3 Compliance. Alterations, repairs, additions and changes of occupancy to existing structures shall comply with the provisions for alterations, repairs, additions, and changes of occupancy in the Windsor Heights Fire Code, Windsor Heights Plumbing Code, Windsor Heights Fuel Gas Code, Windsor Heights Property Maintenance and Housing Code, Windsor Heights Mechanical Code, Windsor Heights Electrical Code, Windsor Heights Energy Code, Windsor Heights Residential Code and the Windsor Heights Zoning Code. The provisions of this code shall not be deemed to nullify or lessen any provisions of local, State or federal law.

155.04PERMIT FEES.

—The various permit fees under the Building, Mechanical, and Plumbing Codes shall be as set forth and established by resolution of the Council. All permit fees for the above disciplines shall be adjusted on January 1 of each year based on the Consumer Price Index (CPI) for the previous year.

155.05(Repealed by Ord. 15-06 — Nov. 15 Supp.)

155.06CONVERSION TO HORIZONTAL PROPERTY REGIME.

—1. It is the intent of the City Council to provide for the health, welfare, and safety of citizens and the orderly development of the City by establishing standards for property which is to be subjected to residential horizontal property regimes (condominiums). It is the Council's intent to assure that all property to be used for residential purposes must at the time a horizontal property regime is established meet currently adopted Building Code standards. It is the intent of the City Council in regard to the conversion of apartments to horizontal property regimes (condominiums) that such change in form of ownership should not result in the residents of such units living in buildings which do not meet current health, welfare, and safety standards and this section is in part enacted to assure residents that standards herein provided will be maintained. This section is to be liberally construed to meet the purposes and intent of the City Council as herein stated.

—2. Any person or other entity seeking to establish a horizontal property regime (condominiums) for residential purposes, including a person or other entity seeking to convert an existing structure to condominiums by establishing a horizontal property regime pursuant to Section 499B of the Code of Iowa shall establish and document compliance with all Building Code requirements of the City applicable upon the date the City receives the declaration of the horizontal property regime. Such compliance shall include documentation of the following:

—A. All materials, manner, and means of construction in the building proposed meet currently adopted Building Codes for new residential construction, including current fire, building, plumbing, electrical, and mechanical codes.

—B. All plumbing in the building meets current standards for water conservation including low flow toilets and similar devices.

—C. The building(s) have fire sprinklers, required separation (1 or 2 hour wall separation) and all other life safety systems required for new construction.

—D. The building(s) meet all State and federal requirements for handicapped accessibility which would be required of new construction.

—E. The building(s) meet all State energy efficiency standards that are required for new construction.

—3. Any person or other entity seeking to convert an existing structure to condominiums by establishing a horizontal property regime pursuant to Section 499B of the Code of Iowa shall comply with all current provisions for on-site parking and storm water detention and retention that apply to new construction.

—4. Any person or other entity seeking to convert an existing structure to condominiums by establishing a horizontal property regime pursuant to Section 499B of the Code of Iowa shall comply with all requirements of the Des Moines Water Works concerning condominiums and each unit should have a separate water meter.

—5. Any person or other entity seeking to convert an existing structure to condominiums by establishing a horizontal property regime pursuant to Section 499B.3 of the Code of Iowa shall, at least 30 days before filing any declaration, file with the City Clerk, the Public Works Director, and the City Inspector a written analysis by a licensed professional engineer or other appropriate licensed professional, based upon personal inspection of the building sought to be converted. The written analysis shall certify that the building meets all current City building codes that would apply to new construction. The certification will separately itemize and describe in a manner sufficient to show the factual basis of any certification that the fire, energy, life safety, structural, plumbing, electrical, and mechanical systems meet current standards. The certification shall further certify compliance with current on-site parking and storm water detention and retention requirements and separately certify the building meets current standards for materials and that acceptable means and methods of construction were used that meet current standards for new construction. Appropriate City staff will review the certification and report to the City Building Official whether said certification is sufficient to meet the requirements of this section.

—6. Any person or other entity seeking to convert an existing structure to condominiums shall comply with all requirements of Windsor Heights Zoning Code prior to conversion in the same manner as an applicant for new construction, including (but not limited to) filing a site plan for review, which shall show compliance with all setback, parking, signage, open space and all other requirements which would apply to new construction.

—7. No conversion of property to horizontal property regime under Section 499B.3 of the Code of Iowa shall be completed nor shall a declaration be filed until there has been full compliance with this section. Upon showing of full compliance with this section, the City Building Official shall by written notice so inform the County Recorder of the County in which any property subject to this section is located and state in said written notice that the property meets the requirements of Section 499B.20 of the Code of Iowa

~~—8. If any section, provision, sentence, clause, phrase or part of this section shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the section as a whole or any provision, section, subsection, sentence, clause, phrase, or part hereof not adjudged invalid or unconstitutional.~~

155.07 INSTALLMENT SALE TRANSACTIONS.

~~—1. Definitions. For the purpose of this section, the following definitions shall apply:~~

~~—A. “Contract” means a real estate installment purchase agreement for the intended transfer of residential real estate between a buyer and seller. A real estate installment purchase agreement is one which is payable in more than four (4) installments, not including the down payment, in which the contract buyer takes possession of the property immediately but does not receive the deed and title until all installment payments have been made. This does not apply to contracts for commercial property or vacant lots.~~

~~—B. “Contract buyer” means the person or entity purchasing or acquiring the real property.~~

~~—C. “Contract seller” means the person or entity offering or transferring the real property for sale, or anyone acting on behalf of the contract seller.~~

~~—D. “Director” means the building enforcement director of the City or his/her designee.~~

~~—E. “Inspection” means a physical examination of the real estate, which shall include (but not be limited to) a review of the structural components, exterior, roofing, plumbing, heating, cooling, electrical, insulation and ventilation, interior, fireplace, and solid fuel burning appliances of the real estate.~~

~~—F. “Inspection report” means a report in a form approved by the City and prepared by an inspector to describe an inspection.~~

~~—G. “Inspector” means the individual who performs the examination of the real estate.~~

~~—H. “Person” means an individual, a corporation, a limited liability company, a government or governmental subdivision or agency, a business trust, an estate, a trust, a partnership or an association, or any other legal entity.~~

~~—I. “Transfer” means the conveyance by sale, exchange, contract or by any other method by which real property is purchased. For the purpose of this section, transfer does not mean the conveyance of real estate interests as detailed under Chapter 558A of the Code of Iowa.~~

~~—2. Inspector Certification and Disqualification.~~

~~—A. All inspectors who perform the inspections of real estate pursuant to a contract shall be members in good standing of an eligible professional association for home inspectors. An eligible professional association must have the following attributes:~~

- ~~—(1) Not-for-profit status;~~
- ~~—(2) Standards for Practice for its members;~~
- ~~—(3) Code of Ethics for its members;~~
- ~~—(4) Requires examinations for membership; and~~
- ~~—(5) Requires annual continuing education.~~

~~—No inspector shall be employed by an entity that is owned by a contract seller or an affiliate. The term affiliate means a parent, brother, or sister entity (meaning its parent entity has an ownership interest in each entity or shares a common manager), or a subsidiary entity or any other entity in which the contract seller, its parent, brother, sister, or subsidiary entity owns five percent (5%) or more of such entity.~~

~~—B. Members of professional associations who are otherwise eligible to perform inspections shall obtain prior approval from the City to perform said inspections. The City shall have the discretion to approve or deny any inspector and shall maintain a current list of all inspectors who are eligible to perform inspections under this section.~~

~~—C. The City shall have sole discretion to grant, suspend, or revoke an inspector's certification based upon any of the following:~~

- ~~—(1) Malfeasance;~~
- ~~—(2) Neglect of duty;~~
- ~~—(3) Incapacity;~~
- ~~—(4) Disqualification, suspension, or debarment from any activity related to the construction or real estate industry by an agency of any government;~~
- ~~—(5) Offering or giving gifts or gratuities to employees of the City in violation of State law; and/or~~
- ~~—(6) Failure to comply with any other requirements of this section.~~

~~—D. If the Director determines that cause exists to disqualify an inspector from performing inspections for any of the reasons set forth above, the Director shall notify said inspector. The notice shall set forth the reason(s) for disqualification and shall be sent to the inspector by certified mail.~~

~~—E. Upon written request of the inspector filed within ten (10) days of the mailing of the above-referenced notice, the Director shall schedule a hearing at which the inspector may present evidence why he or she should not be disqualified. The Director's recommendation~~

shall be issued within thirty (30) days of the conclusion of the hearing and shall be mailed to the inspector via certified mail. The Director's recommendation shall be forwarded to the City Council.

—3. Procedures and Fees.

—A. A person seeking to transfer real property by contract, or a broker, salesperson, or agent acting on behalf of such person, shall obtain or update an inspection of the subject real estate not more than sixty (60) days prior to the execution of the contract.

—B. The inspector shall prepare an inspection report of the physical examination of the real estate. The inspection report shall also include written certification that the Inspector is a member of good standing in an eligible professional association, as detailed above.

—C. The inspection report shall be delivered to the contract buyer and the City at least fourteen (14) days prior to the execution of the contract. The inspection report may be delivered to the contract buyer via personal delivery and/or certified or registered mail. Proof of delivery of the inspection report along with a filing fee of \$75.00 shall be filed with the City at least fourteen (14) days prior to the execution of the contract. Subsequent inspection reports and updates for the same property involving the same contract buyer may be filed by the same contract seller without requiring an additional filing fee.

—D. Within seven (7) days following execution of the contract, the contract seller shall file with the City copies of all instruments transferring the real estate.

—E. The City shall have the right to annually—or on an “as needed basis”—inspect any property for which an inspection is allowed under this section. All persons with ownership or management interests in the property shall allow inspection upon reasonable notice provided by the City.

—F. Any person who fails to perform an act required by this section or who commits an act prohibited by this section shall be guilty of a municipal infraction.

—4. Ordinance not Limiting. The responsibilities imposed under this section shall not limit or abridge any duty, requirement, obligation, or liability for disclosure created by another provision of law, or under contract between parties.

—5. Alternate Procedures. In the alternative to proceeding with the provisions in (1) through (4) above, contract sellers may elect to be bound by and comply with the City's Property Maintenance and Rental Housing Code, as outlined in Chapter 156 of this Code of Ordinances. If a contract seller elects to proceed under the governance of Chapter 156, said person must promptly notify the City and comply with all rental housing provisions prior to executing a contract.

CHAPTER 155

Commented [AS32]: Recommendation of Fire Marshall and Safe Building. This consolidates various building and MEP codes into a single chapter. This eliminates Chapters 158, 159, and 162. This provides a more streamlined code that is more efficient for staff and non-staff to review.

BUILDING CODES

<u>155.01 Title</u>	<u>155.06 Plumbing Code</u>
<u>155.02 Adoption of Building Codes</u>	<u>155.07 Electrical Code</u>
<u>155.03 Building Code</u>	<u>155.08 Energy Conservation Code</u>
<u>155.04 Residential Code</u>	<u>155.09 Existing Building Code</u>
<u>155.05 Mechanical Code</u>	<u>155.10 Swimming Pool and Spa Code</u>

155.01 TITLE. This chapter shall be known as the Building Codes of the City of Windsor Heights, Iowa, may be cited as such, and will be referred to herein as the "Windsor Heights Building Code(s)."

155.02 ADOPTION OF BUILDING CODES. The following codes are hereby adopted as, and constitute, the Building Codes of the City of Windsor Heights, Iowa, to regulate the erection, construction, enlargement, alteration, repair, moving, removal, conversion, demolition, occupancy, equipment, use, height, area, and maintenance of buildings or structures in the City.

155.03 BUILDING CODE. The provisions of the International Building Code, 2021 edition, as published by the International Code Council and with the addition of Appendix C, are hereby adopted, subject to the following additions, modifications, insertions, and deletions:

1. Section 101.1 Title. Delete existing text and insert: "These regulations shall be known as the Windsor Heights Building Code, hereinafter referred to as "this code"."

2. Section 101.4.1 Gas. Delete "International" and insert in lieu thereof "Windsor Heights" and add at the end of the section: "All references in this code to the International Fuel Gas Code shall be interpreted to refer to the Windsor Heights Fuel Gas Code."

3. Section 101.4.2 Mechanical. Delete "International" and insert in lieu thereof "Windsor Heights" and add at the end of the section: "All references in this code to the International Mechanical Code shall be interpreted to refer to the Windsor Heights Mechanical Gas Code."

4. Section 101.4.3 Plumbing. Delete "International Plumbing Code" and insert in lieu thereof "Windsor Heights Plumbing Code" and add at the end of the section: "All references in this code to the International Plumbing Code shall be interpreted to refer to the Windsor Heights Plumbing Code."

5. Section 101.4.4 Property maintenance. Delete "International" and insert in lieu thereof "Windsor Heights" and add at the end of the section: "All references in this code to the International Property Maintenance Code shall be interpreted to refer to the Windsor Heights Property Maintenance Code."

6. Section 101.4.5 Fire prevention. Delete "International" and insert in lieu thereof "Windsor Heights" and add at the end of the section: "All references in this code to the International Fire Code shall be interpreted to refer to the Windsor Heights Fire Code."

7. Section 101.4.6 Energy. Delete "International" and insert in lieu thereof "Windsor Heights" and add at the end of the section: "All references in this code to the International Energy Conservation Code shall be interpreted to refer to the Windsor Heights Energy Conservation Code."

8. Section 101.4.7 Existing buildings. Delete "International" and insert in lieu thereof "Windsor Heights" and add at the end of the section: "All references in this code to the International

Existing Building Code shall be interpreted to refer to the Windsor Heights Existing Building Code.”

9. Section 101.4 Referenced Codes. Add Subsection 101.4.8: “**101.4.8 Electrical.** The provisions of the Windsor Heights Electrical Code shall apply to the installation, alteration, repair, and replacement of electrical systems, including equipment, appliances, fixtures, fittings, and appurtenances. All references in this code to NFPA 70 shall be interpreted to refer to the Windsor Heights Electrical Code.”

10. Section 103.1 Creation of enforcement agency. Insert “Department of Building Safety”.

11. Section 104.11 Alternative materials, design and methods of construction and equipment. Add Subsection 104.11.3: “**104.11.3 Manufactured home installation.** The Iowa Administrative Code 661, Chapter 16, Div. VI, Part 2, Manufactured Home Construction, is hereby adopted for installation of mobile (manufactured) homes.”

12. Section 105.2 Work exempt from permit. Building Item #1. Delete “120” and insert in lieu thereof “200”.

13. Section 105.2 Work exempt from permit. Building Item #2. Delete existing text.

14. Section 105.2 Work exempt from permit. Building Item #6. Delete existing text and insert: “Sidewalks and driveways located entirely on private property, and not more than 30 inches above adjacent grade, and not over any basement or story below, and not part of an accessible route.”

15. Section 107.1 General. Delete “in two or more sets, or in a digital format where allowed by the building official.”.

16. Section 107.3.1 Approval of construction documents. Delete this section.

17. Section 502.1 Address identification. Delete existing text and insert: “New and existing buildings shall have approved address numbers, building numbers, or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall be black or white and shall contrast with their background. Where required by the Fire Code Official, address numbers shall be provided in greater dimension or additional approved locations to facilitate emergency response. Address numbers shall be Arabic numbers or alphabetical letters. Numbers and letters shall be a minimum height and a minimum stroke width as dictated by Table 502.1. Where access is by means of a private road and the building cannot be viewed from the public way, a monument, pole, or other sign or means shall be used to identify the structure. Address numbers shall be maintained.”

18. Section 502.1 Address identification. Add Table 502.1:

Table 502.1
Minimum Height and Stroke Width^{a,b}

Distance from centerline of public way (ft)	Minimum height (in)	Minimum stroke width (in)
Less than 100	4	1/2
100 to less than 200	6	3/4
200 to less than 300	8	1
For each additional 100	Increase 2”	Increase 1/2”

a. Exterior suite identification, minimum height shall be 4” and minimum stroke width shall be 1/2”.

b. Interior suite identification, minimum height shall be 2” and minimum stroke width shall be 1/4”.

19. Section 508.5.7 Fire protection. Add “**Exception:** Live/work units constructed in accordance with the International Residential Code.”

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20. Section 902.1 Pump and riser room size. Add Subsections 902.1.5 and 902.1.5.1: **“902.1.5 Fire sprinkler riser room.** A fire sprinkler riser room shall be separated from the electrical room. The riser room shall have no electrical panels, devices or apparatus inside the room other than the outlets or support equipment (lighting) air compressor and heater required for the use by the fire sprinkler system and/or the fire alarm panel. Access to the fire sprinkler riser room shall not be accessed from the electrical room, but the electrical room may be accessed from the fire sprinkler riser room. **902.1.5.1 Fire sprinkler riser signage.** Signage as determined by the Fire Code Official shall be placed on the main sprinkler riser denoting a shunt trip has been installed.”

21. Section 903.2 Where required. Delete existing text, including all subsections and exceptions and insert: “Approved automatic sprinkler systems in new buildings and structures shall be provided in the locations described in the Windsor Heights Fire Code.”

22. Section 903.3.1 Standards. Add Subsection 903.3.1.4: **“903.3.1.4 Fire sprinklers for canopies.** A canopy covering a door that is required to be marked as an exit shall be required to have fire sprinklers installed outside that door if the canopy extends more than four feet out from the door and is 12 feet or less in height from the ground regardless if the canopy is combustible or noncombustible. All canopies, regardless of height or construction type, that have vehicle access under them with door openings shall be required to have fire sprinklers installed under the entire canopy. **Exception.** If a building is not required by Code to have a fire sprinkler system, section 903.3.1.4 does not apply.”

23. Section 903.3.7 Fire department connections. Add Subsection 903.3.7.1: **“903.3.7.1 Fire department connection identification.** A minimum of 110 candela weather proof strobe light suitable for cold weather use with a minimum of 75 candela at minus 30° shall be tied into the building fire alarm system and mounted directly above the Fire Department connection between seven feet and ten feet in height from the ground, or as approved by the Code Official, shall operate on a waterflow alarm.”

24. Section 903.4.2 Alarms. Delete existing text and insert: “An approved audible and visual device, located on the exterior of the building in an approved location, shall be connected to each automatic sprinkler system. Such sprinkler waterflow alarm devices shall be activated by water flow equivalent to the flow of a single sprinkler of the smallest orifice size installed in the system. Where a fire alarm system is installed, actuation of the automatic sprinkler system shall actuate the building fire alarm system.”

25. Section 905.3 Required installations. Add Subsection 905.3.9: **“905.3.9 Additional standpipe systems.** Additional standpipe systems may be added to new buildings or structures as deemed necessary by the Fire Code Official.”

26. Section 906.3.1 Class A fire hazards. Add Subsection 906.3.1.1: **“906.3.1.1 Minimum sizes.** Portable fire extinguishers for fire protection in low and moderate hazard occupancies shall be 5-pound ABC in buildings that are covered throughout with a fire sprinkler system. If there is no fire sprinkler system in low or moderate hazard occupancy, a 10-pound ABC fire extinguisher shall be installed. Spacing is based on a 75-foot travel distance to the fire extinguisher. Portable fire extinguishers for fire protection in high hazard occupancies shall be 10-pound ABC in buildings that are covered throughout with a fire sprinkler system. If there is no fire sprinkler system in a high hazard occupancy, a 20-pound ABC fire extinguisher shall be installed. Spacing is based on a 50-foot travel distance to the fire extinguisher.

27. Section 906.3.2 Class B fire hazards. Add Subsection 906.3.2.1: **“906.3.2.1 Minium sizes.** Portable fire extinguishers for fire protection in low hazard occupancies shall be 5-pound ABC in

buildings that are covered throughout with a fire sprinkler system. If there is no fire sprinkler system in a low hazard occupancy, a 10-pound ABC fire extinguisher shall be installed. Spacing is based on a 50-foot travel distance to the fire extinguisher. Portable fire extinguishers for fire protection in moderate hazard occupancies shall be 10-pound ABC in buildings that are covered throughout with a fire sprinkler system. If there is no fire sprinkler system in a moderate hazard occupancy, a 20-pound ABC fire extinguisher shall be installed. Spacing is based on a 50-foot travel distance to the fire extinguisher. Portable fire extinguishers for fire protection in high hazard occupancies shall be 20-pound ABC in buildings that are covered throughout with a fire sprinkler system. If there is no fire sprinkler system in a high hazard occupancy, a 20-pound ABC fire extinguisher shall be installed. Spacing is based on a 50-foot travel distance to the fire extinguisher with a fire sprinkler system, 30-foot travel distance with no fire sprinkler system. Other hazardous occupancies will refer to NFPA 10.

28. Section 907.1. General. Add Subsection 907.1.4: “**907.1.4 Fire alarm control panels (FACP).** Each building shall have no more than one fire alarm control panel. Installation of the fire alarm control panel shall not exceed six feet in height, measured from the floor to the top of the control panel. **Exceptions:** 1. Panel height may be altered by the Fire Code Official. 2. Suppression system releasing panels are not required to meet the limitation on the number of panels.”

29. Section 907.2 Where required—new buildings and structures. Delete existing text, including all subsections and exceptions, and insert: “Approved fire alarm systems in new buildings and structures shall be provided in the locations described in the Windsor Heights Fire Code.”

30. Section 907.6.4 Zones. Add Subsection 907.6.4.3: “**907.6.4.2 Zone and address location labeling.** Fire alarm panels shall have all zones and address points plainly and permanently labeled as to their location on the outside of the panel or on an easily readable map of the building if no display screen is present.”

31. Section 907.6.6 Monitoring. Delete existing text, including Exceptions, and insert: “When required by this chapter, or the Code Official, an approved UL listed remote station in accordance with NFPA 72 shall monitor fire alarm systems to provide for the immediate and automatic notification of the Fire Department. **Exception:** Supervisory service is not required in one- and two-family dwellings.”

32. Section 910.1 General. Add Exception: “**Exception:** The Code Official may require smoke removal equipment be installed if it is deemed necessary by the Code Official for the protection of life and property.”

33. Section 912.2 Location. Add Subsection 912.2.2: “**912.2.2 Fire department connection height.** The Fire Department connection shall be located not less than 18 inches from the bottom of the cap(s) and not more than three feet from the top of the cap(s) above the level of the adjacent grade or access level. The Code Official for just cause may grant deviation to this height.”

34. Section 912.4 Access. Delete existing text and insert: “Immediate access to Fire Department connect shall be maintained at all times and without obstruction by fences, bushes, trees, walls or any other objects for a minimum of a five-foot clear space on each side of the connection to include in front of and above the connection.”

35. Section 1009.2 Continuity and components. Add Item Number 11: “11. Concrete, asphalt, or other approved hard-surface exterior walking surfaces.”

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36. **Section 1010.1.6 Landings at doors.** Add Subsection 1010.1.6.1: “**1010.1.6.1 Landing frost protection.** Exterior landings required by Section 1010.1.5 to be at the same elevation on each side of the door shall be provided with frost protection.”

37. **Section 1013.1 Where required.** Add at the end of the section: “Additional exit signs may be required at the discretion of the Fire Code Official to clarify an exit or exit access.”

38. **Section 1028.5 Access to a public way.** Add at the end of the section: “Components of exterior walking surfaces shall be hard-surfaced.”

39. **Section 1030.4 Window wells.** Add Subsection 1030.4.3: “**1030.4.3 Window well drainage.** All window wells shall be provided with approved drainage.”

40. **Section 1301.1.1 Criteria.** Delete “International” and insert in lieu thereof “Windsor Heights”.

41. **Section 1102.1 Design.** Delete existing text and insert: “Buildings and facilities shall be designed and constructed to be accessible in accordance with this Code and ICC A117.1-2009. All references to accessibility shall refer to the ICC A117.1-2009 standard.”

42. **Section 1110.15 Controls, operating mechanisms and hardware.** Delete Exception #3 and insert Exceptions #3-#12: “3. Electrical and communication receptacle outlets servicing dedicated use. 4. Where two or more receptacle outlets are provided in a kitchen above a length of countertop that is uninterrupted by a sink or appliance, one receptacle outlet shall not be required to comply with this section. 5. In a kitchen, where a clear floor space for a parallel approach cannot be located at a countertop in a corner between appliances, receptacles over the countertop shall not be required to comply with this section provided the countertop area does not exceed nine square feet. 6. Floor electrical receptacles. 7. HVAC diffusers. 8. Controls mounted on ceiling fans. 9. Where redundant controls other than light switches are provided for single element, one control in each space shall not be required to comply with this section. 10. Reset buttons and shut-offs serving appliances, piping, and plumbing fixtures. 11. Electrical panelboards shall not be required to comply with Section 309.4 of ICC A117.1. 12. Emergency aid devices, such as Fire Department hose connections, valve controls, gauges, police call boxes, and annunciator panels shall not be required to comply with this section provided that they are used only for emergencies by emergency personnel acting in their official capacity.”

43. **Section 1612.3 Establishment of flood hazard areas.** Insert: “City of Windsor Heights, Iowa” and “as adopted in City of Windsor Heights Code of Ordinances Chapter 185”.

44. **Section 1807.1.5 Concrete and masonry foundation walls.** Add Exception #2 and Table 1807.1.5: “2. Concrete and masonry foundation walls supporting buildings of conventional light-frame wood construction shall be permitted to be designed in accordance with Table 1807.1.5.

Table 1807.1.5
Prescriptive Foundation Walls Supporting Light-Frame Construction^{a,b,c}

<u>Height of foundation wall^d</u>		<u>Thickness of foundation wall</u>		<u>Reinforcement size and placement in concrete wall</u>		<u>Reinforcement size and placement in masonry wall^{i,k}</u>
<u>Gross</u>	<u>Net^e</u>	<u>Concrete^f</u>	<u>Masonry^g</u>	<u>Horizontal</u>	<u>Vertical</u>	
≤8'	≤7'-8"	7.5"	8"	No. 4 bar within 12" of the top and bottom of the wall and at mid-height	No. 4 bar at 72" o.c. maximum	0.075 square inch bar at 96" o.c. vertically in cells fully grouted with Type M or S grout
>8'	>7'-8"	8"	Refer to	No. 4 bar at 24"	No. 4 bar at	Refer to 1807.1.6

			<u>R404.1.2</u>	<u>o.c. maximum^h</u>	<u>20" o.c. maximumⁱ</u>	
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- a. Concrete floor slab to be nominal 4" thick. If such floor slab is not provided prior to backfill, one 36" vertical No. 4 bar shall be embedded in the footing at maximum 84" o.c. spacing or a full depth nominal 2" depth x 4" width keyway shall be installed in the footing.
- b. All reinforcement bars shall meet ASTM A6175 grade 40 minimum and be deformed. Placement of bars shall be 3" from the inside face of the wall and meet the provisions of chapters 18, 19, and 21 of the International Building Code.
- c. Material used as backfill shall be carefully placed granular soil of average or high permeability and shall be drained with an approved drainage system as prescribed in Section 1805.4 of the International Building Code. Where soils containing a high percentage of clay, fine silt, or similar materials of low permeability or expansive soils are encountered or where backfill materials are not drained or an unusually high surcharge is to be placed adjacent to the wall, a specially designed wall shall be required.
- d. Maximum foundation wall height is 10' gross and 9'-8" net.
- e. Net foundation wall height measured from top of basement slab to top of foundation wall
- f. The thickness of concrete foundation walls supporting 3 floors shall be increased 2".
- g. The thickness of masonry foundation walls supporting 3 floors shall be increased 4"
- h. No. 5 bar at 24" o.c. maximum is an approved alternative.
- i. No. 5 bar at 30" o.c. maximum is an approved alternative.
- j. Mortar for masonry walls shall be Type M or S and masonry shall be laid in running bond.
- k. If masonry block is 12" nominal thickness, wall may be unreinforced."

45. Section 1809.5 Frost protection, Exception 2. Delete "600" and insert in lieu thereof "1,000".

46. Section 1809.7 Prescriptive footings for light-frame construction. Delete existing Table 1809.7 and all footnotes and insert:

"Table 1809.7

Prescriptive Footings Supporting Walls of Light-Frame Construction^{a,b,c,d,e,f}

<u>Number of floors supported by the footing^g</u>	<u>Thickness of foundation walls (inches), concrete</u>	<u>Thickness of foundation walls (inches), concrete block</u>	<u>Width of footing (inches)</u>	<u>Thickness of footing (inches)</u>
<u>1</u>	<u>8</u>	<u>8</u>	<u>16</u>	<u>8</u>
<u>2</u>	<u>8</u>	<u>8</u>	<u>16</u>	<u>8</u>
<u>3</u>	<u>10</u>	<u>12</u>	<u>18</u>	<u>12</u>

- a. Depth of perimeter footings shall be at least 42" below final grade
- b. The ground under the floor shall be permitted to be excavated to the elevation of the bottom of the footing.
- c. Interior stud-bearing walls shall be permitted to be supported by isolated footings. The footing width and length shall be twice the width shown in this table, and footings shall be spaced not more than 6 feet on center.
- d. Spread footings shall have a minimum of 2- #4 continuous horizontal reinforcement bars.
- e. Foundation walls shall have a minimum of #4 reinforcement bars 18" on center in each direction.
- f. Trench footings are allowed as a continuous 8 inch trench for single-story wood frame structures with spans not exceeding 16 feet. The trench must be at least 42 inches below finished grade and have at least two #4 horizontal reinforcement bars. Bars must tie into abutting adjacent structure.
- g. Footings shall be permitted to support a roof in addition to the stipulated number of floors. Footings supporting a roof only shall be as required for supporting one floor."

47. Section 2902.6 Small Occupancies. Add at the end of the section: "Water dispensers in accessible locations and within accessible reach ranges may be substituted for the required drinking fountain in business occupancies determined to require only one drinking fountain by occupant load."

48. Section 3109.1 General. Delete "International" and insert in lieu thereof "Windsor Heights".

155.04 RESIDENTIAL CODE. The provisions of the International Residential Code for One-and Two--Family Dwellings, 2021 edition, as published by the International Code Council, except for Part VII--

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Plumbing, and Part VIII—Electrical; and with the addition of Appendices AH, AJ, and AM are hereby adopted by reference, subject to the following additions, modifications, insertions, and deletions:

1. Section R101.1 Title. Delete existing text and insert: “These regulations shall be known as the Windsor Heights Residential Code, hereinafter referred to as “this code”.”

2. Section R101.2 Scope. Delete existing text and insert: “The provisions of this code shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal and demolition of the following:

1. Detached one- and two-family dwellings and townhouses not more than three stories above grade plane in height with a separate means of egress and their accessory structures not more than three stories above grade plane in height.
2. Live/work units located in one- and two-family dwellings and townhouses that comply with the requirements of Section 508.5 of the Windsor Heights Building Code.
3. Owner-occupied lodging houses with five or fewer guestrooms.
4. A care facility with five or fewer persons receiving custodial care within one- and two-family dwellings and townhouses.
5. A care facility with five or fewer persons receiving medical care within one- and two-family dwellings and townhouses.
6. A care facility for five or fewer persons receiving care that are within one- and two-family dwellings and townhouses.”

3. Section 104.11 Alternative materials, design and methods of construction and equipment. Add Subsection 104.11.2: “**104.11.2 Manufactured home installation.** The Iowa Administrative Code 661, Chapter 16, Div. VI, Part 2, Manufactured Home Construction, is hereby adopted for installation of mobile (manufactured) homes.”

4. Section R105.2 Work exempt from permit. Building Item #2. Delete existing text.

5. Section R105.2 Work exempt from permit. Building Item #5. Delete existing text and insert: “Sidewalks and driveways located entirely on private property.

6. Section R106.1 Submittal documents. Delete “in two or more sets, or in a digital format where allowed by the building official.”.

7. Section R106.3.1 Approval of construction documents. Delete this section.

8. Table R301.2(1) Climatic and Geographic Design Criteria. Amend Table 301.2(1) to include the following values:

Ground Snow Load:	25 PSF
Wind Speed (mph):	115
Topographic effects:	NO
Special wind region:	NO
Wind-borne debris zone:	NO
Seismic Design Category:	A
Weathering:	Severe
Frost line depth:	42”
Termite:	Moderate to Heavy
Ice Barrier Underlayment Required:	YES
Flood Hazards:	As adopted in City of Windsor Heights Code of Ordinances Chapter 185
Air Freezing Index:	1800

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Mean Annual Temp:	48.6°F
Elevation:	876 ft
Altitude correction factor:	0.98
Coincident wet bulb:	74°F
Indoor winter design dry-bulb temp:	70°F
Outdoor winter design dry-bulb temp:	-4°F
Heating temperature difference:	74°F
Latitude:	41°N
Daily range:	M
Indoor summer design relative humidity:	50%
Indoor summer design dry-bulb temp:	75°F
Outdoor summer design dry-bulb temp:	90°F
Cooling temperature difference:	15°F

9. Section R303.3 Bathrooms. Delete existing text and insert: Bathrooms shall be provided with a mechanical ventilation system. The minimum ventilation rates shall be 50 CFM for intermittent ventilation or 20 CFM for continuous ventilation. Ventilation air from the space shall be exhausted directly to the outside of the dwelling.

10. Section R311.3.2 Floor elevations at other exterior doors, Exception. Delete “two” and insert in lieu thereof “three”.

11. Section R313.1 Townhouse automatic fire sprinkler systems. Add Exception #2: “2. Townhouse structures that contain eight or fewer dwelling units and in which the gross finished and unfinished floor area on all levels, including basements and exclusive of attached garages, is less than 18,000 square feet.”

12. Section R313.2 One- and two-family dwellings automatic fire systems. Add Exception #2: “2. Dwellings that do not exceed 8,000 square feet or more of enclosed floor space on all levels, including basements and exclusive of attached garages.”

13. Section R327.1 General. Delete “International” and insert in lieu thereof “Windsor Heights”.

14. Section R403.1.1 Minimum size. Add Subsection R403.1.1.1 and Table R403.1.1.1: “**R403.1.1.1 Conventional light-frame wood construction.** Footings supporting concrete foundations and buildings of conventional light-frame wood construction shall be permitted to be designed in accordance with Table R403.1.1.1.

Table R403.1.1.1

Prescriptive Footings Supporting Walls of Light-Frame Construction^{a,b,c,d,e,f}

Number of floors supported by the footing^g	Width of footing (inches)	Thickness of footing (inches)
<u>1</u>	<u>16</u>	<u>8</u>
<u>2</u>	<u>16</u>	<u>8</u>
<u>3</u>	<u>18</u>	<u>12</u>

- Minimum 2,000 psf soil bearing pressure. Soil bearing pressures less than 2,000 psf shall use Tables R403.1(1) through R403.1(3) and Figure R403.1(1) or R403.1.3, as applicable.
- Depth of perimeter footings shall be at least 42” below final grade.
- The ground under the floor shall be permitted to be excavated to the elevation of the bottom of the footing.
- Interior stud-bearing walls shall be permitted to be supported by isolated footings. The footing width and length shall be twice the width shown in this table, and footings shall be spaced not more than 6 feet on center.
- Spread footings shall have a minimum of 2- #4 continuous horizontal reinforcement bars.
- Trench footings are allowed as a continuous 8 inch trench for single-story wood frame structures with spans not exceeding 16 feet. The trench must be at least 42 inches below finished grade and have at least two #4 horizontal

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- reinforcement bars. Bars must tie into abutting adjacent structure.
- g. Footings shall be permitted to support a roof in addition to the stipulated number of floors. Footings supporting a roof only shall be as required for supporting one floor.”

15. Section R403.1.4.1 Frost protection, Exception #1. Delete “600” and insert in lieu thereof “1,000”.

16. Section R404.1.3.2 Reinforcement for foundation walls. Add Subsection R404.1.3.2.3 and Table R404.1.3.2.3: **“R404.1.3.2.3 Foundation walls for conventional light-frame wood construction.** Concrete and masonry foundation walls supporting buildings of conventional light-frame wood construction shall be permitted to be designed in accordance with Table R404.1.3.2.3.

Table R403.1.1.1
Prescriptive Foundation Walls Supporting Light-Frame Construction^{a,b,c}

Height of foundation wall^d		Thickness of foundation wall		Reinforcement size and placement in concrete wall		Reinforcement size and placement in masonry wall^{j,k}
Gross	Net^e	Concrete^f	Masonry^g	Horizontal	Vertical	
<u><8'</u>	<u><7'-8"</u>	<u>7.5"</u>	<u>8"</u>	<u>No. 4 bar within 12" of the top and bottom of the wall and at mid-height</u>	<u>No. 4 bar at 72" o.c. maximum</u>	<u>0.075 square inch bar at 96" o.c. vertically in cells fully grouted with Type M or S grout</u>
<u>>8'</u>	<u>>7'-8"</u>	<u>8"</u>	<u>Refer to R404.1.2</u>	<u>No. 4 bar at 24" o.c. maximum^h</u>	<u>No. 4 bar at 20" o.c. maximumⁱ</u>	<u>Refer to R404.1.2</u>

- l. Concrete floor slab to be nominal 4" thick. If such floor slab is not provided prior to backfill, one 36" vertical No. 4 bar shall be embedded in the footing at maximum 84" o.c. spacing or a full depth nominal 2" depth x 4" width keyway shall be installed in the footing.
- m. All reinforcement bars shall meet ASTM A6175 grade 40 minimum and be deformed. Placement of bars shall be 3" from the inside face of the wall and meet the provisions of chapters 18, 19, and 21 of the International Building Code.
- n. Material used as backfill shall be carefully placed granular soil of average or high permeability and shall be drained with an approved drainage system as prescribed in Section 1805.4 of the International Building Code. Where soils containing a high percentage of clay, fine silt, or similar materials of low permeability or expansive soils are encountered or where backfill materials are not drained or an unusually high surcharge is to be placed adjacent to the wall, a specially designed wall shall be required.
- o. Maximum foundation wall height is 10' gross and 9'-8" net.
- p. Net foundation wall height measured from top of basement slab to top of foundation wall
- q. The thickness of concrete foundation walls supporting 3 floors shall be increased 2".
- r. The thickness of masonry foundation walls supporting 3 floors shall be increased 4"
- s. No. 5 bar at 24" o.c. maximum is an approved alternative.
- t. No. 5 bar at 30" o.c. maximum is an approved alternative.
- u. Mortar for masonry walls shall be Type M or S and masonry shall be laid in running bond.
- v. If masonry block is 12" nominal thickness, wall may be unreinforced.”

17. Chapter 11 Energy Efficiency. Delete all sections except N1101.1.

18. Section N1101.1 Scope. Add Subsection N1101.1.1: **“N1101.1.1 Criteria.** Buildings regulated by this code shall be designed and constructed in accordance with the Windsor Heights Energy Conservation Code.”

155.05 MECHANICAL CODE. The provisions of the State of Iowa Administrative Rule 481—Chapter 426 with the addition of Chapter 1, except Sections 101 and 102, of the International Mechanical Code, 2024 edition, published by the International Code Council, are hereby adopted by reference, subject to the following additions, modifications, insertions, and deletions, and shall be known as the Windsor Heights

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Mechanical Code. References to section numbers will be to sections in the International Mechanical Code as adopted and amended by the State of Iowa.

1. **Section 101.1 Title.** Delete existing text and insert: “These regulations shall be known as the Windsor Heights Mechanical Code, hereinafter referred to as “this code”.”
2. **Section 103.1 Creation of agency.** Insert “Department of Building Safety”.
3. **Section 105.4.1 Approved construction documents.** Delete this section.
4. **Section 106.2 Retention of construction documents.** Delete the final sentence of this section.
5. **Section 114.4 Violation penalties.** Delete existing text and insert: “Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, installs, alters, or repairs work in violation of the approved construction documents or directive of the Building Official, or of a permit issued under the provisions of this code, shall be subject to penalties as prescribed by law.”

155.07 PLUMBING CODE. The provisions of the State of Iowa Administrative Rule 481—Chapter 425 with the addition of Chapter 1, except Sections 101 and 102, of the Uniform Plumbing Code, 2024 edition, as published by the International Association of Plumbing and Mechanical Officials, are hereby adopted by reference, subject to the following additions, modifications, insertions, and deletions, and shall be known as the Windsor Heights Plumbing Code. References to code sections will be to sections of the Uniform Plumbing Code as adopted and amended by the State of Iowa.

1. **Section 104.4.1 Approved Plans or Construction Documents.** Delete this section.
2. **Section 104.4.6 Retention of Plans.** Delete the final sentence of this section.
3. **Section 104.5 Fees.** Delete “and as set forth in the fee schedule, Table 104.5.”.
4. **Section 104.5.3 Fee Refunds.** Delete existing text and insert: “The Authority Having Jurisdiction is authorized to establish a refund policy.”
5. **Section 105.2.6 Reinspections.** Delete “To obtain reinspection, the applicant shall file an application therefore in writing upon a form furnished for that purpose and pay the reinspection fee in accordance with Table 104.5.”.

155.08 ELECTRICAL CODE. The provisions of the State of Iowa Administrative Rule 661—Chapter 550 are hereby adopted by reference, subject to the following additions, modifications, insertions, and deletions, and shall be known as the Windsor Heights Electrical Code:

1. **Reserved.**

155.09 ENERGY CONSERVATION CODE. The provisions of the International Energy Conservation Code as currently adopted and amended by the Iowa State Building Code Bureau shall apply to all matters governing the design and construction of buildings for energy efficiency. Administration shall be as prescribed in the Windsor Heights Building Code and these regulations shall be known as the Windsor Heights Energy Conservation Code. Construction or work for which a permit is required shall be subject to 3rd party inspections. The Building Official is authorized to accept reports of approved inspection agencies, provided such agencies satisfy the requirements as to qualifications and reliability. Any portion that does not comply shall be corrected and such portion shall not be covered or concealed until authorized by the Building Official.

155.10 EXISTING BUILDING CODE. The provisions of the International Existing Building Code,

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2021 Edition, as published by the International Code Council, are hereby adopted, subject to the following additions, modifications, insertions, and deletions:

1. **Section 101.1 Title.** Delete existing text and insert: "These regulations shall be known as the Windsor Heights Existing Building Code."

2. **Section 106.1 General.** Delete "in two or more sets, or in a digital format where allowed by the code official."

3. **Section 106.3.1 Approval of construction documents.** Delete this section.

4. **Section 114.4 Failure to comply.** Delete existing text and insert: "Any person who shall continue any work regulated by this code after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law."

5. **Section 302 General Provisions.** Add Subsection 302.6: "**302.6 Fire protection.** Existing buildings containing R-2 occupancies shall be made to comply with the Local Fire Code section 903.2.8 within two (2) years of any of the following situations:

1. Fire damage to three or more dwelling units, not including smoke or water damage or other damage from fire-fighting operations.
2. Issuance of a building permit for a Level III alteration as identified in Chapter 6 of the International Existing Building Code."

155.11 SWIMMING POOL AND SPA CODE. The provisions of the International Swimming Pool and Spa Code, 2021 Edition, as published by the International Code Council, are hereby adopted, subject to the following additions, modifications, insertions, and deletions:

1. **Section 101.1 Title.** Delete existing text and insert: "These regulations shall be known as the Windsor Heights Swimming Pool and Spa Code, hereinafter known as "this code".

2. **Section 105.4.1 Approved construction documents.** Delete this section.

3. **Section 106.1 Construction documents.** Delete "in two or more sets".

4. **Section 106.2 Retention of construction documents.** Delete the final sentence of this section.

5. **Section 113.4 Violation penalties.** Delete existing text and insert: "Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter or repair a pool or spa in violation of the approved construction documents or directive of the code official, or of a permit issued under the provisions of this code, shall be subject to penalties as prescribed by law."

6. **Section 114.4 Failure to comply.** Delete the final sentence of this section and insert in lieu thereof: "Any person who shall continue any work regulated by this code after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law."

7. **Section 202 Pool.** Delete existing text and insert: "Any structure intended for swimming or recreational bathing that contains water more than 24 inches deep. This includes in-ground, above-ground, and on-ground swimming pools, hot tubs, and spas."

CHAPTER 156**PROPERTY MAINTENANCE AND
RENTAL HOUSING CODE****156.01 Short Title****156.04 Amendments, Modifications, Additions,
and Deletions****156.02 Adoption of Property
Maintenance Code****156.03 Conflicts****156.01 SHORT TITLE.**

This chapter shall be known as the Windsor Heights Property Maintenance and Rental Housing Code, and may be cited as such, and may be referred to herein as this chapter.

156.02 ADOPTION OF PROPERTY MAINTENANCE CODE.

The International Property Maintenance Code, 2012 Edition, published by the International Code Council, Inc., is adopted in full except for such portions as may be hereinafter deleted, modified, or amended. A copy of the International Property Maintenance Code, 2012 Edition, as adopted and a copy of this chapter are on file in the office of the Code Official.

156.03 CONFLICTS.

In the event requirements of this code conflict with applicable State and federal requirements, the more stringent shall apply.

156.04 AMENDMENTS, MODIFICATIONS, ADDITIONS, AND DELETIONS.

The International Property Maintenance Code, 2012 Edition (hereinafter known as the IPMC), is amended as follows:

1. Deletion. The following section is deleted from the IPMC and is of no force or effect in this chapter:

111 – Means of Appeal

Commented [AS33]: Awaiting feedback from Safe Building to update Chapter to 2021 Edition of Property Maintenance Code. An updated chapter will be provided to Council prior to submitting to Simmering Cory.

Commented [AS34R33]: ADD ONCE RECEIVED FROM SAFE BUILDING: Every building shall be maintained to be free from excessively peeling paint or other conditions suggestive of deterioration or inadequate maintenance. Exterior surfaces shall not have any holes or broken glass; loose, cracked, or damaged shingles or siding; or other defects in the exterior finish which admit rain, cold air, dampness, rodents, insects, or vermin. Basements, cellars, and crawl spaces shall be free of standing water and hazards. All wood, including floorboards, subfloors, joists, bridging, roof rafters and sheathing, and all other wood in any interior or exterior floor, wall, roof, or other part of the structure, shall be maintained to be free of cracks affecting structural integrity, termite damage, infestation, or rot. Any and all damaged or deteriorating materials shall be replaced. If infestation exists in any basement, cellar, or crawl space, such infestation shall be remedied in accordance with industry standards.

2. Subsection 101.1, Title, of the IPMC is hereby deleted and there is enacted in lieu thereof the following subsection:

101.1 Title. These regulations shall be known as the Property Maintenance and Housing Code of the City of Windsor Heights, hereinafter known as “this code.”

3. Subsection 102.3, Application of Other Codes, of the IPMC is hereby amended by deleting said subsection and inserting in lieu thereof the following:

102.3 Application of other codes. Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions, as applicable, of the Windsor Heights Building Code, Windsor Heights Residential Code, Windsor Heights Mechanical Code, Windsor Heights Fuel Gas Code, Windsor Heights Plumbing Code, Windsor Heights Fire Code, and the Windsor Heights Zoning Code.

4. Subsection 102.11, Rental Housing Code, is hereby established by adding the following provisions:

102.11 Rental Housing Code. In addition to provisions of the Property Maintenance Code of the City of Windsor Heights, this subsection shall be hereafter known as the City Rental Housing Code and may be cited as such and will be referred to as such in this subsection.

102.11.1 Adoption of Housing Code. In accordance with the requirements of Section 364.17 of the Code of Iowa, the City hereby adopts the Uniform Housing Code, 1997 Edition, published by the International Conference of Building Officials and the Recommended Minimum Housing Standards, 1986 Edition, as published by the American Public Health Association. In instances where there is conflict between the Uniform Housing Code, 1997 Edition, and the Recommended Minimum Housing Standards, 1986 Edition, as adopted herein, the most restrictive provision will apply.

102.11.2 Scope. The provisions of this subsection shall be deemed to apply to all dwellings or portions thereof used or designed or intended to be used for human habitation. All occupancies in existing buildings may be continued as provided in previously adopted Building Code(s) except such structures as are 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 of the requirements of this code applicable to dwellings. However, this subsection does not apply to single-family dwellings occupied by the owner, as defined in Section 167.04 of this Code of Ordinances, unless the owner is operating a rooming house.

102.11.23 Rent Abatement. The City may order rent abated when the building official or its designee determines the owner has, after issuance of a notice of violation of this Chapter: (1) failed to provide an essential service (water, sewer, electricity, heat); (2) failed to remedy a condition that poses a substantial risk to the safety of the tenant; or (3) rented a dwelling unit without a rental certificate. Rent abatement means no rent shall be

Commented [AS35]: Adding from Ordinance No 24-01. Passed 4.11.24

recoverable by the owner or lessee of the dwelling from the tenant. Rent shall be abated until the condition for which rent abatement was ordered has been remedied. The building official or its designee shall provide a copy of the rent abatement order to the owner at the address on the rental certificate and to the tenant by U.S. mail and by posting the order on the entrance door to the dwelling unit. Notice of termination of the rent abatement order will be given in the same manner.

102.11.3 Purpose. The purpose of this code is to ensure that rental housing facilities and conditions are of sufficient quality to protect and promote the health, safety, and welfare of those persons utilizing such housing and also the general public.

102.11.4 Definitions. For use in this subsection the following items are defined:

RENTAL APARTMENT HOUSE OR BUILDING. Any building or portion thereof which is designed, rented, leased, or hired out to be occupied, or which is occupied as the home or residence of two or more families living independently of each other and doing their own cooking in the said building, and includes flats and apartments.

RENTAL DWELLING. Any house, building, or portion thereof which is occupied in whole or part as a home or residence of one or more tenants, on a rental basis, or when, in return for housing, a tenant agrees to occupy and maintain the premises and pay utilities. No part of a building hereafter constructed or altered into a dwelling as described may be occupied in whole or in part for human habitation until the issuance of a rental certificate by the City that such part of the dwelling conforms to code requirements. A dwelling unit that is being rented for a period of 90 days or less in a single calendar year or a portion of such dwelling unit shall be exempt from this chapter. For rent-to-own/owner-carry/contract sales, see Windsor Heights City Code 155.07.

RENTAL DWELLING UNIT. One or more habitable rooms in a dwelling, apartment house, rooming house, lodging house, or building which are occupied or which are intended or designed to be occupied by one family with facilities for living, sleeping, cooking, and eating.

RENTAL CERTIFICATE. A certificate issued within fourteen (14) days after successful completion of a rental inspection. Such a certificate shall thereafter be known as a rental certificate.

TENANT. (i) a person occupying a dwelling unit who pays (or has payments made on his or her behalf) a stated payment at fixed intervals for the use of the dwelling unit; or (ii) a person occupying a dwelling unit owned by another individual, who, in return for housing, agrees to occupy and maintain the premises and pay utilities.

ROOMING HOUSE. A building offered or occupied for lodging, with or without meals, and not occupied as a one- or two-family dwelling.

102.11.5 Housing inspector. The City Council may designate, by resolution, representatives or designees as housing inspectors, or the City Council may, by resolution, approve certain qualified firms or persons who by training or experience are familiar with

the provisions of this code to perform inspections of rental apartment houses, buildings, or dwelling units in the City, to ensure their compliance with this code. The inspectors appointed under the provisions of this subsection shall be charged with the responsibility of performing inspections of rental dwelling units in the City only, but shall not be charged with the duty of enforcing the provisions of this code. The City Administrator shall identify the appropriate person responsible for the enforcement of this code and such person may also make any inspections required under the provisions of this subsection.

102.11.6 Regular inspections and rental certificate duration.

1. The City will contact the property owner to notify them of the necessary steps to renew their rental certificate. If, after reasonable attempts have been made and the property owner is not reachable or fails to respond to notices or other attempts to contact him or her, the City will contact the tenant to outline the steps necessary for rental certificate renewal. Should it become necessary to contact a tenant to facilitate renewal required under this section, the City shall be entitled to collect additional fees from the property owner to compensate the City for the additional cost associated with this alternative inspection method.
2. Upon the first inspection of a rental property, if no violations are documented by the building inspector a valid rental certificate shall be issued for a twenty-four-month period. If on the first inspection, violation(s) are documented, the building inspector shall have the discretion to limit the rental license duration to twelve months. The duration of a limited rental certificate shall be dependent on the number of violations, property history and/or landlord history.

~~—102.11.6 Regular inspections. Regular inspections of one- and two-family rental dwelling units shall be required every 18 months. Regular inspections of multi-family rental dwelling units shall be required every 12 months. The City will contact the property owner to notify them of the necessary steps to renew their rental certificate. If, after reasonable attempts have been made and the property owner is not reachable or fails to respond to notices or other attempts to contact him or her, the City will contact the tenant to outline the steps necessary for rental certificate renewal. Should it become necessary to contact a tenant to facilitate renewal required under this section, the City shall be entitled to collect additional fees from the property owner to compensate the City for the additional cost associated with this alternative inspection method.~~

102.11.8 Applications for rental certificate. Every person who offers for rent a rental apartment house or building, rental dwelling or rental dwelling unit in the City shall submit to the City, on forms provided, an application requesting a rental certificate. Such application shall be accompanied by an application fee in the amount established in the current City of Windsor Heights fee schedule. Upon receipt of such application, the City shall facilitate an inspection of the premises and, if the same complies with the provisions

Commented [AS36]: Amended per Ordinance 24-06. Passed 9.16.24

of this chapter, issue a rental certificate. If the premises fail to comply, the inspector shall notify the applicant in writing, stating the reasons for such noncompliance.

102.11.8.1 Assessment of costs.

1. The City may charge the owner of real property a late payment fee of \$25.00 and may add interest up to 1.5 percent per month if costs imposed under this section are not paid within 30 days of the date due.
2. The City shall send a notice of the late payment costs to such owner by first class mail to the owner's personal or business mailing address. The late payment fee and interest shall not accrue if such owner files an appeal with the City.
3. Any owner objecting to the collection of costs by assessment may file a written request for a hearing before the City Administrator. The appeal shall be filed within ten days from the date of the notice of late payment. An untimely appeal shall not be accepted unless, in the discretion of the City Administrator, good cause is shown for the untimely filing.
4. The City Administrator shall notify the appellant of the date, time, and location of the hearing.
5. Any unpaid costs and interest shall constitute a lien on the real property and may be collected in the same manner as a property tax. Before a lien is filed, the City shall send a notice of intent to file a lien to the owner of the real property by first class mail to such owner's personal or business mailing address. Prior to filing a property lien, the City may use other means to recover payment, including (but not limited to) the use of professional collection services and the income offset program through the State of Iowa.

102.11.9 Additional inspections. In addition to the inspections required under Subsection 102.11.8, inspectors are also empowered to make similar inspections of all rental dwelling units as frequently as may be necessary and may make inspection at any reasonable time on a written complaint submitted by the owner, tenant, or other person concerned.

102.11.10 Inspection fees for additional inspections.

1. When an inspection is made at the request of the owner, the owner will be responsible for associated inspection fees in accordance with the City of Windsor Heights fee schedule. If an inspection is made at the written request of a tenant and the dwelling unit is found to be in noncompliance due to an omission of the owner, such owner shall be responsible for associated inspection fees. No inspection shall be conducted at the request of a tenant unless the tenant has first submitted the complaint in writing to the landlord no less than seven (7) days before making such complaint to the City. If, after a written complaint by the tenant, the dwelling is found to comply or if such noncompliance is due to conduct on the part of the tenant, the tenant shall be liable for the cost of such inspection. If such costs are not paid by the tenant within thirty (30) days after the date of billing, the City may initiate an action at law or in equity to recover the same in which event the tenant shall be liable for reasonable attorney fees. No fee shall be charged to the owner for

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(Supp. No. 30)

inspections where the dwelling is found in compliance or noncompliance is due to conduct on the part of the tenant.

2. In the event an inspection is initiated by the City or at the written request of a person other than the owner or tenant, and if the dwelling unit is found to be in noncompliance, the owner shall be liable for associated inspection fees. No inspection shall be conducted at the request of a person other than the owner or tenant unless that person has first submitted the complaint in writing to the landlord no less than seven (7) days before making such complaint to the City. In the event that, on the date of the inspection, the dwelling unit complies with the provisions of the housing code, no fee shall be charged. In the event that, on the date of inspection, a dwelling unit fails to comply with the provisions of the housing code, which necessitates additional inspections, the owner shall be liable for the costs associated with re-inspection.

3. All fees required under this code shall be paid prior to the issuance or renewal of the rental certificate.

102.11.11 Entrance and survey of buildings. Any such person authorized and acting on behalf of the City for the purposes of inspections may, without fee except as provided in Section 102.11.8, enter, examine, make necessary records, and survey all properties defined under this section within the City. If entry into the interior portion of a property defined in this section is required, seventy-two (72) hours' notice shall be given by the inspector to the owner and tenant. The owner, owner's agent or representative, and the lessee and occupant of every property, and every person having the care and management of the same shall, at all reasonable times when required by such officers or persons, give them free access to such property and premises. The owner and said owner's agents and employees shall have right of access to such properties at reasonable times for the purpose of bringing about compliance with the provisions of this code or any order issued hereunder.

102.11.12 Rental certificates.

1. Rental Certificate Required. All owners of properties defined in this section shall register such property with the City. No person shall rent, lease, operate, or otherwise allow the occupancy of any property defined in this section unless such person holds a valid rental certificate as is required by this code.

2. Issuance; Duration; Validation. If a property defined in this section fails to comply under Section 102.11.8, and if the property and premises are found later to comply with the requirements of this code upon re-inspection, the City shall issue a temporary rental certificate. This rental certificate shall be valid for a period of thirty (30) days from the date of inspection. Upon payment of the appropriate fees, the City shall validate it.

3. Display. Rental certificates shall be displayed by the owner for the tenant to examine before the property may be rented, leased, or otherwise occupied.

4. Transfer. Rental certificates shall not be transferable to succeeding owners. Rental certificates shall automatically terminate and become null and void, without further action of the City, upon transfer of property ownership or upon execution of an agreement to purchase property on contract.

5. Termination. Rental certificates shall automatically terminate and become null and void upon issuance of a nuisance abatement by the City that is related, in any way, to the property to which the rental certificate applies.

102.11.13 Notice on sale of property defined in this section. Every person holding a rental certificate under this code shall give notice, in writing, to the City within ninety-six (96) hours after having sold, transferred, conveyed, or otherwise disposed of the ownership, interest in or control of any property defined in this section. This notice shall include the name and address of the person succeeding to the ownership or control thereof.

102.11.14 Name and address of agent filed. Every owner, agent, or lessee of a property defined in this section shall file with the City a notice containing the name and address of an agent of such property for the purpose of receiving service of all notices required by this code.

102.11.15 Emergency orders. Whenever the City finds that an emergency exists which threatens immediately the public health, safety or welfare, the City may issue an order reciting the existence of such an emergency and requiring that such action be taken which the City deems necessary to meet the emergency. Notwithstanding the other provisions of this code, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately.

102.11.16 Designation of unfit dwelling and procedures of condemnation. No person shall let to another for occupancy any property defined in this section for the purpose of living, inhabiting, sleeping, cooking, and eating therein which does not comply with the following requirements. Any such property which is found to have any of the following defects shall be condemned as unfit for human habitation and shall be so designated and placarded by the City.

1. One which is so damaged, decayed, dilapidated, unsanitary, unsafe, or vermin infested that it creates a serious hazard to the health, safety or welfare of the occupants or the public.

2. One which lacks illumination, ventilation, or sanitation facilities adequate to protect the health, safety, or welfare of the occupants or of the public.

3. One which, because of its general condition or location is unsanitary or otherwise dangerous to the health, safety, or welfare of the occupants or of the public.

102.11.17 Vacated immediately. Any property defined in this section or any portion thereof condemned as unfit for human habitation and so designated and placarded by the

City shall be vacated immediately as ordered by the City. The City Administrator shall be notified of such action prior to placarding the property.

102.11.18 Elimination of defects. No property defined in this section or a portion thereof which has been condemned and placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from, and such placard is removed by the City. The City shall remove such placard whenever the defect or defects upon which the condemnation and placarding were based have been eliminated.

102.11.19 Defaced or removed placard. No person shall deface or remove the placard from any property which has been condemned as unfit for human habitation and placarded as such, except as provided in this code.

102.11.20 Authority to execute. In case any notice or order issued by the City is not complied with, the City may apply to the district court for an order authorizing the City to execute and carry out the provisions of the notice or order to correct any violation specified in the notice or order to abate any nuisance in or about the property.

102.11.21 Action to enjoin. In case any property defined in this section is constructed, altered, converted, or maintained in violation of any provisions of this code, or of any order or notice of the City, or in case a nuisance exists in any such property or upon the lot on which it is situated, the City may cause the institution of any appropriate action or proceeding to prevent such unlawful construction, alteration, conversion, or maintenance, to restrain, correct, or abate such violation, or nuisance, or to prevent the occupation of the property, or to prevent any illegal act, conduct business in or about such property or lot.

102.11.22 Injunction. In any such action or proceeding, the City may, by a statement duly verified setting forth the facts, apply to the district court for an order granting the relief for which the action or proceeding is brought, or for an order enjoining any persons from doing or permitting to be done any work in or upon such property, or from occupying or using the same for any purpose until the entry of final judgment or order.

102.11.24 Notice of actions. In any action brought by the City in relation to a property defined in this section or injunction, vacation of the premises, or abatement of nuisance or to establish a lien thereon, or to recover a civil penalty, service of notice shall be in the manner provided by law for the service of an original notice.

102.11.26 City liability. The City nor any person authorized and acting on behalf of the City shall be liable for damages to a person or property as a result of any act or failure to act in the enforcement of this code. This code shall not be construed to relieve from, or lessen, the responsibility of any person owning, operating, or controlling any equipment or structure regulated herein for damages to a person or property caused by its defects, nor shall the City or any person authorized and acting on behalf of the City be held as assuming any such liability by reason of the inspections authorized by this code or any approvals issued under this code.

102.11.27 Civil liability. The owner of any property defined in this section, or upon the same lot, in violation of this code or where a nuisance, as defined in this Code of Ordinances, exists, who has been guilty of such violation or of creating or knowingly permitting the existence of such violation, or any occupant who violates or assists in violating any provisions of this code, shall also jointly and severally for each such violation and each such nuisance be subject to a civil penalty, in a civil action brought in the name of the City. Such person or persons, and also the premises, shall be liable in such case for all costs, expenses, and disbursements paid or incurred by the City, including attorneys' fees, paid or incurred by the City, by any of the officers, agents, or employees thereof, in the removal of any such nuisance or violation.

102.11.29 Additional liability. Any person who, having been served with a notice or order to remove any such nuisance or violation, fails to proceed in good faith to comply with the notice or order within five (5) days after such service or who continues to violate any provisions or requirements of this Code of Ordinances, shall also be subject to a civil penalty. For the recovery of such penalties, costs, expenses, or disbursements, an action may be brought in a court of competent civil jurisdiction.

102.11.30 Rental Housing Code Appeals.

102.11.30.1 Reconsideration. Any person aggrieved by a notice or order of the City in connection with any alleged violation of this Rental Housing Code, of any applicable rule or regulation issued pursuant thereto, or by any order requiring repair or demolition, may apply to the City Administrator for an administrative conference for reconsideration of such notice or order if such application is made within fourteen (14) days after the date the notice or order was served. If the City Administrator holds an administrative conference for reconsideration of the notice or order, the City shall prepare a written summary of the conference including a written statement of the decision reached. Such summary and statement shall become part of the public record.

102.11.30.2 Appeal. Any person aggrieved by a decision of the City issued under Subsection 102.11.30.1 of this subsection may apply to the City Council for a reconsideration of such decision provided such application is made within twenty-one (21) days after the date the decision was served.

102.11.30.3 Hearing; Decision. Upon receipt of an appeal, the City Administrator shall cause the issue to be brought to the City Council for a hearing at the immediately following regularly scheduled City Council meeting, and shall advise the applicant in writing of such time and place at least seven (7) days prior to the date of the hearing. At the hearing, the applicant shall be given an opportunity to be heard and to show cause why such decision of the City should be modified, extended, withdrawn, or a variance granted. The City Council, may sustain, modify, or withdraw the decision of the City. In granting an extension or variance of any decision, the City Council shall observe the following conditions, in Subsections 102.11.30.4 and 102.11.30.5:

102.11.30.4 Extension granted. The City Council may grant an extension of time for the compliance with any order, notice, or decision, for not more than six (6) months, subject to appropriate conditions and provided that the City Council makes specific findings of fact based on evidence relating to the following:

1. There are practical difficulties or unnecessary hardships in carrying out the strict letter of any notice, order, or decision; and
2. Such an extension is in harmony with the general purpose and intent of this chapter in securing the public health, safety, and general welfare.

102.11.30.5 Variance. The City Council may grant a variance in a specific case and from a specific provision of this Rental Housing Code subject to appropriate conditions and provided the City Council makes specific findings of fact based on evidence related to the following:

1. The property in question cannot yield a reasonable return or be used for a conforming purpose if used only for a purpose allowed in that zone or as allowed by the Rental Housing Code; and
2. The plight of the property owner is due to unique circumstances of the specific property owner and not to the general conditions of other properties in the City; and
3. The use to be authorized by the variance will not alter the essential character of the locality or the general purposes underlying the Rental Housing Code in securing the public health, safety, and general welfare; and
4. The hardship must be substantial, serious, real, and of compelling force, as distinguished from reasons of convenience, profit or caprice; and
5. The application of a particular Rental Housing Code provision to a particular property greatly decreases or practically destroys its value for any permitted use, or where such application bears so little relationship to the purposes of health, safety, and welfare of the public that, as to the property in question, the provision is in effect confiscatory, arbitrary, or capricious, or constitutes an unnecessary, unwarranted, or unjust invasion of, or interference with, a fundamental right or property; and
6. The unnecessary hardship of practical difficulties along with their arbitrary effect cannot be remedied by the grant of an extension.

Such grant of variance shall not go into effect until twenty-one (21) days after the date the variance is granted.

(Ch. 156 - Ord. 21-02 - Feb. 21 Supp.)

CHAPTER 157 STANDARD CONSTRUCTION SPECIFICATIONS

157.01 Purpose	157.03 Amendments
157.02 Adoption of Specifications	157.04 Violation

157.01 PURPOSE.

In order to ensure the consistent high quality of materials and workmanship in all public construction projects, the City deems it in the public interest to establish and publish Standard Construction Specifications which shall apply to and govern the construction of all public improvements in public rights-of-way within the City.

157.02 ADOPTION OF SPECIFICATIONS.

The City adopts, by reference, the following minimum standards for public improvements constructed within the City's jurisdictional area: The Iowa Statewide Urban Design and Specifications – current edition – (SUDAS) manuals shall be the adopted City Standard for Public Improvements. SUDAS shall be the minimum standards; due to unusual or extenuating circumstances, the City may require that projects conform to additional standards or to greater than minimum standards. A copy of the specifications shall remain on file at the office of the Clerk and shall be available for inspection and copying. All contractors and suppliers shall be charged with knowledge of its contents.

157.03 AMENDMENTS.

The City may, from time to time, make additions or changes to the specifications in the form of amendments adopted by resolution. Following adoption by resolution, the amendments shall be placed in the publication on file with the City Clerk and shall have the full force and effect of law as of the date the amendments are filed.

157.04 VIOLATION.

Any person violating any provisions of the Standard Construction Specifications shall be guilty of a simple misdemeanor.

CHAPTER 158
MECHANICAL CODE

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Commented [AS37]: Consolidated into proposed Chapter 155

158.01 Short Title

158.04 Amendments, Modifications, Additions and Deletions

158.02 Adoption of Mechanical Code

158.03 Conflicts

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158.01 SHORT TITLE.

—This chapter shall be known as the Windsor Heights Mechanical Code, and may be cited as such, and may be referred to herein as this chapter.

158.02 ADOPTION OF MECHANICAL CODE.

—The International Mechanical Code, 2012 Edition, published by the International Code Council, Inc., is adopted in full except for such portions as may be hereinafter deleted, modified, or amended. A copy of the International Mechanical Code, 2012 Edition, as adopted and a copy of this chapter are on file in the office of the Code Official.

158.03 CONFLICTS.

—In the event requirements of this code conflict with applicable State and federal requirements, the more stringent shall apply.

158.04 AMENDMENTS, MODIFICATIONS, ADDITIONS AND DELETIONS.

—The International Mechanical Code, 2012 Edition (hereinafter known as the IMC), is amended as follows:

—1. Deletions. The following are deleted from the IMC and are of no force or effect in this chapter:

106.4.4 Extensions

109 Means of Appeal

—2. Subsection 101.1, Title, of the IMC is hereby deleted and there is enacted in lieu thereof the following subsection:

101.1 Title. These regulations shall be known as the Windsor Heights Mechanical Code, hereinafter known as this code.

—3. Subsections 103.1, General, of the IMC is hereby amended by adding the following paragraph to said subsection:

The term Code Official is intended also to mean the Building and Zoning Administrator and his or her representatives or designees, who are herewith delegated the same powers, authorities, duties, and responsibilities as designated for the Code Official.

—4. Subsection 106.1.1 Permit Acquisition, of the IMC is hereby established by adding the following:

106.1.1 Permit acquisition.

1. Permits are not transferable. Mechanical work performed under the provisions of this chapter must be done by a contractor meeting the licensing provisions as set forth by the State of Iowa Plumbing and Mechanical Systems Board in accordance with Chapter 105 of the Code of Iowa. A responsible person or mechanical professional licensed by the State of Iowa Plumbing and Mechanical Systems Board as a “Master” may sign and obtain a permit for the contractor for which said person is employed only when said responsible person or Master has provided proof of employment or written confirmation by said licensed contractor. Any permit required by the provisions of this code may be revoked by the Code Official upon the violation of any provision of this code.

—2. A State of Iowa licensed mechanical contractor shall be allowed only to secure permits for himself or herself, or for a single firm or corporation. When a State of Iowa licensed mechanical contractor has secured such a permit, only the employees of such contractor, when meeting the provisions of Chapter 105 of the Code of Iowa, shall perform the work for which the permit was obtained.

—3. For purposes of this subsection, an “employee” is one employed by the contractor, firm, or corporation for a wage or salary. A contractor may be required by the Code Official to show positive evidence as to the employee status of workers on the job. Such evidence shall be in the form of payroll and time records, canceled checks, or other such documents.

—4. The contractor may also be required to show the agreement or contract pertaining to the work being questioned as evidence that said contractor is, in fact, the actual contractor for such work. Failure or refusal by the contractor to make available such employee or contractual records within 24 hours from demand therefor shall be grounds for immediate revocation of any permit for the work in question.

—5. Subsection 106.2, Permits Not Required, of the IMC is hereby amended by adding the following #9 to said subsection:

—9. Replacement or relocation of existing house ventilation fans, bathroom exhaust, dryer vents, window air conditioners, and extension of existing supply and return ductwork.

~~—6. Subsection 106.4.3, Expiration, of the IMC is hereby amended by deleting said subsection and inserting in lieu thereof the following:~~

~~106.4.3 12-month expiration. Every permit issued under the provisions of this code shall expire twelve (12) months from the date of issue, unless the application is accompanied by a construction schedule of specific longer duration, in which instance the permit may be issued for the term of the construction schedule, with approval of the Code Official. If the work has not been completed by the expiration date of the permit, no further work shall be done until the permit shall have been renewed by the owner or owner's agent and by payment of the renewal fee as established by resolution of the City Council, and provided no changes have been made in plans or location. Upon approval, permits may be extended for no more than two periods not exceeding 180 days each.~~

~~—7. Subsection 106.5.2, Fee Schedule, of the IMC is hereby amended by deleting said subsection and inserting in lieu thereof the following:~~

~~106.5.2 Fee schedule. Permits shall not be issued until the fees, as set forth and established by resolution of the City Council, have been paid to the City of Windsor Heights. An amended permit or a supplemental permit for additional construction shall not be issued until the permit fees for the additional work have been paid.~~

~~—8. Subsection 106.5.3, Fee Refunds, of the IMC is hereby amended by deleting said subsection and inserting in lieu thereof the following:~~

~~106.5.3 Fee refunds. The Code Official is authorized to establish a refund policy.~~

~~—9. Subsection 108.4, Violation Penalties, of the IMC is hereby amended by deleting said subsection and inserting in lieu thereof the following:~~

~~108.4 Violation penalties. Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, installs, alters, or repairs mechanical work in violation of the approved construction documents or directive of the Code Official, or of a permit issued under the provisions of this code, shall be subject to penalties as prescribed by law.~~

~~—10. Subsection 108.5, Stop Work Orders, of the IMC is hereby amended by deleting the last sentence of said subsection and inserting in lieu thereof the following:~~

~~Any person who shall continue any work on the system after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law.~~

~~—11. Subsection 1107.2, Refrigerant Piping, of the IMC is hereby amended by deleting the last sentence thereof.~~

CHAPTER 159
PLUMBING CODE

Commented [AS38]: Consolidated into proposed Chapter 155

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159.01 Short Title

159.04 Amendments, Modifications, Additions and Deletions

159.02 Adoption of Plumbing Code

159.03 Conflicts

-

159.01 SHORT TITLE.

—This chapter shall be known as the Windsor Heights Plumbing Code, and may be cited as such, and may be referred to herein as this chapter.

159.02 ADOPTION OF PLUMBING CODE.

—The International Plumbing Code 2012 Edition; published by the International Code Council, Inc., is adopted in full except for such portions as may be hereinafter deleted, modified or amended. A copy of the International Plumbing Code 2012 Edition, as adopted, and a copy of this chapter are on file in the office of the Code Official.

159.03 CONFLICTS.

—In the event requirements of this code conflict with applicable State and federal requirements, the more stringent shall apply.

159.04 AMENDMENTS, MODIFICATIONS, ADDITIONS AND DELETIONS.

—The International Plumbing Code, 2012 Edition (hereinafter known as the IPC), is amended as follows:

—1. Deletions. The following are deleted from the IPC and are of no force or effect in this chapter:

106.5.4 Extensions

109 Means of Appeal

—2. Subsection 101.1, Title, of the IPC is hereby deleted and there is enacted in lieu thereof the following subsection:

101.1 Title. These regulations shall be known as the Plumbing Code of the City of Windsor Heights, hereinafter known as “this code.”

—3. Subsection 103.1, General, of the IPC is hereby amended by adding the following paragraph to said subsection:

The term Code Official is intended also to mean the Building and Zoning Administrator and his or her representatives or designees, who are herewith delegated the same powers, authorities, duties, and responsibilities as designated for the Code Official.

—4. Subsection 105.2, Alternate Materials, Methods and Equipment, of the IPC is hereby amended by adding the following subsection 105.2.1 and exception:

105.2.1 Uniform Plumbing Code. The Uniform Plumbing Code, as prepared and edited by the International Association of Plumbing and Mechanical Officials, as currently adopted and amended by the Plumbing and Mechanical Systems Board, Iowa Department of Public Health, is hereby approved as an alternate equivalent method for complete plumbing systems.

Administration Exception 1: Administrative regulations shall be as prescribed in the International Plumbing Code, 2012 Edition, as amended in this section.

—5. Subsection 106.1.1, Permit Acquisition, of the IPC is hereby established by adding the following:

—106.1.1. Permit acquisition.

1. Permits are not transferable. Plumbing work performed under the provisions of this chapter must be done by a contractor meeting the licensing provisions as set forth by the State of Iowa Plumbing and Mechanical Systems Board in accordance with Chapter 105 of the Code of Iowa. A plumber licensed by the State of Iowa Plumbing and Mechanical Systems Board as a “Master” may sign and obtain a permit for the contractor for which said person is employed only when said Master has provided proof of employment by said licensed contractor. Any permit required by the provisions of this code may be revoked by the Code Official upon the violation of any provision of this code.

—2. A State of Iowa licensed plumbing contractor shall be allowed only to secure permits for himself or herself, or for a single firm or corporation. When a State of Iowa licensed plumbing contractor has secured such a permit, only the employees of such contractor, when meeting the provisions of Chapter 105 of the Code of Iowa, shall perform the work for which the permit was obtained.

—3. For purposes of this subsection, an “employee” shall be one employed by the contractor, firm, or corporation for a wage or salary. A contractor may be required by the Code Official to show positive evidence as to the employee status of workers on the job. Such evidence shall be in the form of payroll and time records, canceled checks, or other such documents.

—4. The contractor may also be required to show the agreement or contract pertaining to the work being questioned as evidence that said contractor is, in fact, the actual contractor for such work. Failure or refusal by the contractor to make available such employee or contractual records within 24 hours from demand therefor shall be grounds for immediate revocation of any permit for the work in question.

—5. Homeowners (owner/occupants) qualifying for the homestead tax exemption may acquire permits for their principal residence (not an apartment) and appurtenant accessory structures for plumbing work, not to include connection within the public right-of-way to the public main of sewer, water and storm lines, after having passed the Windsor Heights Plumbing Homeowner's exam.

—6. Subsection 106.5.3, Expiration, of the IPC is hereby amended by deleting said subsection and inserting in lieu thereof the following:

106.5.3 12-month expiration. Every permit issued under the provisions of this code shall expire twelve (12) months from the date of issue, unless the application is accompanied by a construction schedule of specific longer duration, in which instance the permit may be issued for the term of the construction schedule, with approval of the Code Official. If the work has not been completed by the expiration date of the permit, no further work shall be done until the permit shall have been renewed by the owner or his or her agent and by payment of the renewal fee as established by resolution of the City Council, and provided no changes have been made in plans or location. Upon approval, permits may be extended for no more than two periods not exceeding 180 days each.

—7. Section 106.5.6, Retention of Construction Documents, of the IPC is hereby amended by deleting said subsection and inserting in lieu thereof the following:

106.5.6 Retention of construction documents. One set of construction documents shall be retained by the Code Official until final approval of the work covered therein.

—8. Subsection 106.6.2, Fee Schedule, of the IPC is hereby amended by deleting said subsection and inserting in lieu thereof the following:

106.6.2 Fee schedule. Permits shall not be issued until the fees, as set forth and established by resolution of the City Council, have been paid to the City of Windsor Heights. An amended permit or a supplemental permit for additional construction shall not be issued until the permit fees for the additional work have been paid.

—9. Subsection 106.6.3, Fee Refunds, of the IPC is hereby amended by deleting said subsection and inserting in lieu thereof the following:

106.6.3 Fee refunds. The Code Official is authorized to establish a refund policy.

—10. Subsection 108.4, Violation Penalties, of the IPC, is hereby amended by deleting said subsection and inserting in lieu thereof the following:

~~108.4 Violation penalties. Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, installs, alters, or repairs plumbing work in violation of the approved construction documents or directive of the Code Official, or of a permit issued under the provisions of this code, shall be subject to penalties as prescribed by law.~~

~~—11. Subsection 108.5, Stop Work Orders, of the IPC is hereby amended by deleting the last sentence of said subsection and inserting in lieu thereof the following:~~

~~Any person who shall continue any work on the system after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law.~~

~~—12. Subsection 305.4, Freezing, of the IPC is hereby amended by deleting the last sentence of said subsection and inserting in lieu thereof the following:~~

~~Exterior water supply system piping shall be installed not less than sixty (60) inches below grade.~~

~~—13. Subsection 305.4.1, Sewer Depth, of the IPC is hereby amended by deleting said subsection and inserting in lieu thereof the following:~~

~~305.4.1 Sewer depth. Building sewers shall be a minimum of forty-eight (48) inches below grade.~~

~~—14. Subsection 410.3, Substitution, of the IPC is hereby amended by adding the following exception:~~

~~Exception: Water coolers or bottled water dispensers in accessible locations and within accessible reach ranges may be substituted for the initial drinking fountain in business occupancies with an occupant load of not more than 30 and mercantile occupancies with an occupant load of not more than 100. (re: IBC chapter 11, T1902.1 and IPC T403.1 footnote e)~~

~~—15. Section 605, Materials, Joints and Connections, of the IPC is hereby amended by adding the following subsection:~~

~~605.1.1 Underground copper. Copper tube for underground piping shall have a weight of not less than type K.~~

~~—16. Section 703, Building Sewer, of the IPC is hereby amended by adding the following subsection:~~

~~703.6 Minimum building sewer size. The minimum diameter for a building sewer shall be four (4) inches.~~

~~—17. Subsection 715.1, Sewage Backflow, of the IPC is hereby amended by adding the following:~~

Exception 1: The requirements of this section shall apply when determined necessary by the Code Official based on local conditions.

~~—18. Subsection 901.2.1, Venting Required, of the IPC is hereby amended by adding the following exception:~~

~~Exception: A vent is not required on a three-inch basement floor drain provided its drain branches into the building drain on the sewer side at a distance of five feet or more from the base of the stack and the branch line to such floor drain is not more than 12 feet in length.~~

~~—19. Subsection 903.1, Roof Extension, of the IPC is hereby amended by deleting said subsection and inserting in lieu thereof the following:~~

~~903.1 Roof extension. All open vent terminals which extend through a roof shall be terminated not less than 6 inches above the roof or less than 1 foot from any vertical surface. Where a roof is used for any purpose other than weather protection, the vent extensions shall terminate not less than 7 feet above the roof.~~

~~—20. Subsection 1003.3, Grease Interceptors, of the IPC is hereby amended by deleting said subsection and inserting in lieu thereof the following:~~

~~1003.3 Grease interceptors. Grease interceptors shall comply with the requirements of the adopted Windsor Heights Storm Water Drainage Utility Ordinance (Chapter 101 of this Code of Ordinances).~~

CHAPTER 160
CONSTRUCTION SITE EROSION
AND SEDIMENT CONTROL

Commented [AS39]: Changes as recommended by Bolton & Menk

160.01 Findings	160.07 Monitoring Procedures
160.02 Purpose	160.08 Enforcement
160.03 Definitions	160.09 Failure to Comply
160.04 Applicability	160.10 Appeal
160.05 Application Procedure	160.11 Financial Securities
160.06 Inspection Procedures	160.12 Right of Entry

160.01 FINDINGS.

1. The U.S. EPA's National Pollutant Discharge Elimination System ("NPDES") permit program ("Program") administered by the Iowa Department of Natural Resources ("IDNR")

requires that cities meeting certain demographic and environmental impact criteria obtain from the IDNR an NPDES permit for the discharge of storm water from a Municipal Separate Storm Sewer System ("MS4") ("MS4 Permit"). The City of Windsor Heights is subject to the Program and is required to obtain, and has obtained, an MS4 Permit; the City's MS4 Permit is on file at the office of the City Clerk and is available for public inspection during regular office hours.

2. The Program requires certain individuals engaged in construction activities ("applicants") to submit an application to the IDNR for a State NPDES general permit #2. Notwithstanding any provision of this chapter, every applicant bears final and complete responsibility for compliance with a State NPDES general permit #2 and a City COSESCO permit and any other requirement of State or federal law or administrative rule.

3. As a condition of the City's MS4 Permit, the City is obliged to undertake responsibility for administration and enforcement of the Program by adopting a CONSTRUCTION SITE EROSION AND SEDIMENT CONTROL ("COSESCO") ordinance designed to achieve the following objectives:

A. Any applicant required by law or administrative rule to apply to the IDNR for a State NPDES general permit #2 shall also be required to obtain from the City a COSESCO permit ("City COSESCO permit") in addition to and not in lieu of the State NPDES general permit #2; and

B. The City shall have responsibility for inspection, monitoring and enforcement procedures to promote applicants' compliance with State NPDES ~~G~~general ~~P~~permits #2 and City COSESCO permits.

4. No State or federal funds have been made available to assist the City in administering and enforcing the Program. Accordingly, the City shall fund its application, inspection, monitoring and enforcement responsibilities entirely by fees imposed on the owners of properties which are made subject to the Program by virtue of State and federal law, and/or other sources of funding established by a separate ordinance.

5. Terms used in this chapter shall have the meanings specified in the Program.

160.02 PURPOSE.

The general purpose of this chapter is to establish regulatory requirements for land development and land disturbing activities aimed at minimizing the threats to public health, safety, public and private property, and natural resources within the community from construction site erosion. Specific purposes are to establish performance standards that will provide a single, consistent set of performance standards that apply to all developments and will protect public and private property and Walnut Creek and North Walnut Creek from damage resulting from erosion and sediment in storm water runoff.

160.03 DEFINITIONS.

The following terms are defined for use in this chapter:

1. "Applicant" means a property owner or agent of a property owner who has filed an application for a construction site erosion and sediment control permit.
2. "Developer" means a person who undertakes land disturbance activities.
3. "Development" means ~~activity~~ land disturbance activity on land previously vacant of buildings or largely free of previous land disturbance activity other than traditional agricultural activities; or on land where existing land use is high density commercial or residential (a.k.a. "redevelopment").
4. "Enforcement officer" means that person designated by the City having responsibility for administration and enforcement of this chapter.
5. "Land disturbance activity" means any activity which changes the volume or peak flow discharge rate of rainfall runoff from the land surface. This may include the grading, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving, construction, substantial removal of vegetation, or any activity which bares soil or rock or involves the diversion or piping of any natural or manmade watercourse.
6. "Storm Water Pollution Prevention Plan" (SWPPP) means a plan that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.
7. "Iowa Storm Water Management Manual" (~~ISWMM~~) means the current Iowa Storm Water Management Manual publication, by whatever name, as amended from time to time by Iowa Department of Natural Resources ~~in collaboration with the Center for Transportation Research at Iowa State University~~, and which recommends storm water management guidelines and uniform sizing criteria and BMPs designed to address said guidelines.
8. "Iowa Statewide Urban Design and Specifications" (SUDAS) means the current Iowa Statewide Urban Design and Specifications manual as amended and maintained by the Institute for Transportation at Iowa State University which provides design guidance and standard specifications for typical public works projects.

Commented [CK40]: SUDAS is referenced but this definition is not found any where, so may be helpful to include

160.04 APPLICABILITY.

1. All persons required by law or administrative rule to obtain a State NPDES general permit #2 from the IDNR are required to obtain a City COSESCO permit and prepare a Storm Water Pollution Prevention Plan (SWPPP).

2. All persons are required to obtain a City COSESCO permit and prepare an Erosion and Sediment Control Plan (ESC) if proposing a land disturbance activity that will:

- A. Disturb a total land surface area of between 3,000 square feet and one acre; or
- B. Excavate and/or fill a volume in excess of 50 cubic yards of material; or
- C. Lay, repair, replace, or enlarge an underground utility, pipe or other facility, or disturb a road ditch, grass swale or other open channel for a distance of 300 feet or more.

160.05 APPLICATION PROCEDURE.

1. The applicant shall request a pre-application meeting, which will be facilitated by the City between the applicant, City staff, and staff of partner agencies as applicable. The meeting shall be mandatory prior to submission of a permit application. The purposes of the meeting are to understand the general parameters of the proposed project and to convey the requirements of meeting the provisions of this chapter and other applicable ordinances.

2. The City shall make a determination regarding the completeness of a City COSESCO permit application within ten (10) business days of the receipt of the application and notify the applicant in writing if the application is not complete including the reasons the application was deemed incomplete.

3. The applicant shall not commence any construction activity subject to this chapter until a City COSESCO permit has been authorized by the City. A complete review of the permit application shall be done within fifteen (15) business days of the receipt of a complete permit application from the applicant. The City will work with the necessary State, County, and local agencies to complete its review. The City shall review all information in the permit application, including proposed storm water practices, hydrologic models, and design methodologies and certify compliance with this chapter. Applications for City COSESCO permits shall be made on forms approved by the City, which applications may be obtained from the office of the City Clerk.

4. All permit fees under this chapter shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such permit fees may, from time to time, be amended by the Council by resolution.

5. An applicant in possession of a State NPDES general permit #2 issued by the IDNR shall immediately submit to the City full copies of the materials described below as a basis for the City to determine whether to issue a City COSESCO permit:

- A. Applicant's plans, specifications, and supporting materials previously submitted to the IDNR in support of applicant's application for the State NPDES general permit #2;

B. Applicant's authorizations issued pursuant to applicant's State NPDES general permit #2; and

C. A Storm Water Pollution Prevention Plan ("SWPPP") prepared in accordance with this chapter.

6. Every SWPPP submitted to the City in support of an application for a City COSESCO permit shall:

A. Comply with all current minimum mandatory requirements for SWPPPs promulgated by the IDNR in connection with issuance of a State NPDES general permit #2;

~~B. If the applicant is required by law to file a Joint Application Form, PROTECTING IOWA WATERS, IOWA DEPARTMENT OF NATURAL RESOURCES AND U.S. ARMY CORPS OF ENGINEERS, comply with all mandatory minimum requirements pertaining to such applications;~~

C. Comply with all other applicable State or federal permit requirements in existence at the time of application;

D. Be prepared by a licensed professional engineer or landscape architect or a professional in erosion and sediment control or a representative of the local Soil and Water Conservation District, credentialed in a manner acceptable to the City; and

E. Include within the SWPPP a signed and dated certification by the NPDES general permit #2 permit holder that the SWPPP complies with all requirements of this chapter and the applicant's NPDES general permit #2.

7. In addition to the SWPPP requirements stated in subsection 6 of this section, which constitute minimum mandatory requirements imposed by the Program, every SWPPP submitted to the City in support of an application for a City COSESCO permit shall comply with SUDAS standard design criteria, including but not limited to design, location, and phased implementation of effective, practicable storm water pollution prevention measures, and shall also:

A. Limit total off-site annual aggregate sediment yield for exposed areas to an equivalent amount resulting from sheet and rill erosion equal to an annual, cumulative soil loss rate not to exceed the standard established from time to time by Soil and Water Conservation Districts; erosion rates can exceed soil loss limits as long as sediment yield does not exceed that expected from allowable erosion rates.

B. Identify the nature of the construction activity and the potential for sediment and other pollutant discharges from the site.

C. Calculate the predicted erosion and estimated sediment yield for the construction site using the USDA Revised Universal Soil Loss Equation.

Commented [CK41]: Or alter to only address compliance with mandatory minimum requirements pertaining to USACE permit application(s)

e.g., "Comply with mandatory minimum requirements pertaining to required USACE permit applications, if applicable"

Commented [AS42R41]: Recommend staying with deletion. This then takes the burden from the City and onto the applicant and USACE Permit office.

D. Assure that stockpiles of soil or other materials subject to erosion by wind or water are covered, vegetated, or otherwise effectively protected from erosion and sedimentation in accordance with the amount of time the material will be on site and the manner of its proposed use; no stockpiling is allowed in the street.

E. Include an affidavit stating that the erosion caused by the activity will not exceed the Soil and Water Conservation District's adopted soil and loss limits according to Section 161A.64 of the Code of Iowa.

F. Identify measures and procedures to reasonably minimize site soil compaction and provide soil quality restoration as specified.

G. Assure that all temporary erosion and sediment controls shall not be removed until the City has determined that the site has been permanently stabilized.

H. Assure that all disturbed sites be permanently stabilized with 70% perennial cover as measured by the USDA line transect method.

I. Identify methods to prevent sediment damage to adjacent properties and sensitive environmental areas such as water bodies, plant communities, rare, threatened, and/or endangered species habitats, wildlife corridors, greenways, etc.

J. Provide for design and construction methods to stabilize steep or long continuous slopes.

K. Include measures to control the quantity and quality of storm water leaving a site before, during, and after construction.

L. Provide for stabilization of all waterways and outlets.

M. Protect storm sewer infrastructure from sediment loading/plugging.

N. Specify precautions to be taken to contain sediment when working in or crossing water bodies.

O. Assure stabilization of disturbed areas, including utility construction areas, as soon as possible.

P. Protect outlying roads from sediment and mud from construction site activities, including tracking.

Q. Provide for disposal of collected sediment and floating debris.

R. Assure that, when working near Walnut or North Walnut Creek, the specific practices itemized immediately below are utilized:

(1) During Construction.

a. All exposed soil areas with a slope of 3:1 or steeper, which have a continuous positive slope to Walnut or North Walnut Creek, should have temporary erosion protection

or permanent cover within three days after the area is no longer actively being worked; all other slopes that have a continuous positive slope to Walnut or North Walnut Creek should have temporary erosion protection or permanent cover within seven days after the area is no longer actively being worked.

b. Temporary sediment basin requirements should be used for common drainage locations that serve an area with five or more acres disturbed at one time.

(2) Buffer Zone. Provide for the maintenance at all times of an undisturbed buffer zone consisting of not less than 100 linear feet from Walnut or North Walnut Creek. Exceptions from this for areas such as water crossings or limited water access are allowed if the applicant fully documents in the SWPPP the circumstances and reasons that the buffer encroachment is necessary; all potential water quality, scenic and other environmental impacts of these exceptions should be minimized and documented in the SWPPP for the project.

(3) Enhanced Temperature Controls. Design the permanent storm water management system such that the discharge from the project will minimize any increase in the temperature.

a. Minimize new impervious surfaces; and/or

b. Other methods that will minimize any increase in the temperature of the sensitive waters.

8. Issuance by the City of a City COSESCO permit shall be a condition precedent for the issuance of a City building permit or site plan approval.

9. Every Erosion and Sediment Control Plan (ESC) submitted to the City in support of a City COSESCO permit shall:

A. Phase construction to minimize duration of exposed soil areas.

B. Provide temporary and permanent erosion prevention, sediment control, storm water runoff, and soil stabilization BMPs along with procedures to establish additional temporary BMPs as necessary for the site conditions during construction.

C. Provide final stabilization of all exposed soil areas.

D. Incorporate the following into the site design for erosion and sediment control:

(1) Minimize disturbance of natural soil cover and vegetation.

(2) Minimize, in area and duration, exposed soil and unstable soil conditions.

(3) Protect receiving water bodies, wetlands, and storm sewer inlets.

(4) Protect adjacent properties from sediment deposition.

(5) Minimize off-site sediment transport on trucks and equipment.

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- (6) Minimize work in and adjacent to water bodies and wetlands.
 - (7) Maintain stable slopes.
 - (8) Avoid steep slopes and the need for high cuts and fills.
 - (9) Minimize disturbance to the surrounding soils, root systems, and trunks of trees adjacent to site activity that are intended to be left standing.
 - (10) Minimize the compaction of site soils.

E. Identify the:

- (1) Elevations, sections, profiles, and details as needed to describe all natural and artificial features of the project.
- (2) 100-year flood elevation with and without the floodway, flood fringe, and/or general flood boundary, if available.
- (3) Normal water level, high water level, and emergency overflow elevations for the site and all associated ponding systems.
- (4) Locations of all storm water management practices, infiltration areas, and areas not to be disturbed during construction.
- (5) Location, size, and approximate grade of proposed public sewer and water mains.
- (6) Construction phasing including a map and calculations as necessary of areas of grubbing, clearing, tree removal, grading, excavation, fill and other disturbance; areas of soil or earth material storage; quantities of soil or earth material to be removed, placed, stored or otherwise moved on site, delineated limits of disturbance, and final stabilization methods.
- (7) Locations of planned temporary and permanent erosion prevention, sediment control, storm water runoff, and soil stabilization BMPs.

10. For so long as a construction site is subject to a State NPDES general permit #2 or a City COSESCO permit, the applicant shall provide the City with current information, as follows:

- A. The name, address, and telephone number of the person on site designated by the owner who is knowledgeable and experienced in erosion and sediment control and who will oversee compliance with the State NPDES general permit #2 and the City COSESCO permit;
- B. The names, addresses, and telephone numbers of the contractors and/or subcontractors that will implement each erosion and sediment control measure identified in the SWPPP or ESC.

Applicant's failure to provide current information shall constitute a violation of this chapter.

11. Developers can transfer State NPDES general permit #2 and the City COSESCO permit responsibility to homebuilders, new lot owners, contractors, and subcontractors. Transferees must agree to the transfer in writing, must agree to fulfill all obligations of the SWPPP or ESC, the State NPDES general permit #2 (if applicable), and the City COSESCO permit. Absent such written confirmation of transfer of obligations, the developer remains responsible for compliance on any lot that has been sold. A developer shall notify the City of any application to the DNR for release of any property from a general permit #2 pursuant to Iowa Administrative Code 567, 64.6(6) or any similar successor provision.

12. Upon receipt of an application for a City COSESCO permit, the City shall either find that the application complies with this chapter and issue a City COSESCO permit in accordance with this chapter, or that the application fails to comply with this chapter; in which case, the City shall provide a bill of particulars identifying non-compliant elements of the application. The City will use a consulting engineer to accomplish this review.

13. Application for termination of a City COSESCO permit shall be made by contacting the City Inspector.

14. Before work under the permit is deemed complete, the permittee must submit as-builts and a maintenance plan demonstrating at the time of final stabilization that the storm water facilities conform to design specifications.

160.06 INSPECTION PROCEDURES.

1. All inspections required under this chapter shall be conducted by the Public Works Director, City Engineer, Building Inspector, a subcontractor credentialed in a manner satisfactory to the City, or other appropriate designee, hereinafter referred to as the "enforcement officer."

2. The City shall conduct inspections on a regular basis to ensure that both storm water and erosion and sediment control measures are properly installed and maintained prior to construction, during construction, and at the completion of the project. Mandatory inspections are required as follows:

- A. Before any land disturbing activity begins;
- B. At the time of footing inspections;
- C. At the completion of the project; and
- D. Prior to the release of financial securities.

3. Applicant shall notify the City prior to commencing land disturbing activity, at the time of footing inspections and when all measures required by applicant's SWPPP have been accomplished on-site, whereupon the City shall conduct an initial inspection for the purpose of determining compliance with this chapter, and shall within a reasonable time thereafter report to the applicant either that compliance appears to have been achieved, or that compliance has not been achieved, in which case the City shall provide a bill of particulars identifying the conditions of noncompliance. The applicant shall immediately commence corrective action and shall complete such corrective action within twenty-four (24) hours of receiving the City's bill of particulars. For good cause shown, the City may extend the deadline for taking corrective action. Failure to take corrective action in a timely manner shall constitute a violation of this chapter.

4. Construction shall not occur on the site at any time when the City has identified conditions of noncompliance.

5. Construction activities undertaken by an applicant prior to resolution of all discrepancies specified in the bill of particulars shall constitute a violation of this chapter.

6. The City shall not be responsible for the direct or indirect consequences to the applicant or to third parties for noncompliant conditions undetected by inspection.

160.07 MONITORING PROCEDURES.

1. Upon issuance of a City COSESCO permit, an applicant has an absolute duty to monitor site conditions and to report to the enforcement officer any change of circumstances or site conditions which the applicant knows or should know pose a risk of storm water discharge in a manner inconsistent with applicant's SWPPP, State NPDES general permit #2 and/or City COSESCO permit.

A. Such report shall be made by the applicant to the enforcement officer immediately but in any event within twenty-four (24) hours of the change of circumstances or site conditions.

B. Failure to make a timely report shall constitute a violation of this chapter.

2. Any third party may also report to the City site conditions which the third party reasonably believes pose a risk of storm water discharge in a manner inconsistent with applicant's SWPPP, State NPDES general permit #2, and/or City COSESCO permit.

3. Upon receiving a report pursuant to the previous subsections, the enforcement officer shall conduct an inspection of the site as soon as reasonably possible and thereafter shall provide the applicant with a bill of particulars identifying the conditions of noncompliance. The applicant shall immediately commence corrective action and shall complete such corrective action within 24 hours of receiving the City's bill of particulars. For good cause shown, the City may extend the deadline for completing corrective action. Failure to take

corrective action in a timely manner shall constitute a violation of this chapter, whereupon the enforcement officer shall immediately commence enforcement actions specified in Section 160.05 below.

4. Unless a report is made to the enforcement officer pursuant to the previous subsections, the enforcement officer shall conduct at least one unannounced inspection during the course of construction to monitor compliance with the State NPDES general permit #2 and the City COSESCO permit. If the inspection discloses any significant noncompliance, the enforcement officer shall provide the applicant with a bill of particulars identifying the conditions of noncompliance. The applicant shall immediately commence corrective action and shall complete such corrective action within 24 hours of receiving the City's bill of particulars. For good cause shown, the City may extend the deadline for completing corrective action. Failure to take corrective action in a timely manner shall constitute a violation of this chapter, whereupon the enforcement officer shall immediately commence enforcement actions specified in Section 160.05 below.

5. The City shall not be responsible for the direct or indirect consequences to the applicant or to third parties for noncompliant conditions undetected by inspection.

160.08 ENFORCEMENT.

1. Violation of any provision of this chapter may be enforced by civil action including an action for injunctive relief. In any civil enforcement action, administrative or judicial, the City shall be entitled to recover its attorneys' fees and costs from a person who is determined by a court of competent jurisdiction to have violated this chapter.

2. Violation of any provision of this chapter may also be enforced as a municipal infraction within the meaning of Section 364.22 of the Code of Iowa, pursuant to Chapter 4 of this Code of Ordinances.

3. Enforcement pursuant to this section shall be undertaken by the enforcement officer upon the advice and consent of the City Attorney.

4. In cases where cooperation for inspections is withheld, construction stop work orders shall be issued by the City until storm water and erosion and sediment control measures meet the requirements of this chapter. An inspection must follow before work can resume.

5. If storm water and/or erosion and sediment control management measures malfunction and breach the perimeter of the site, enter streets, other public areas, or Walnut and North Walnut Creek, the applicant shall immediately develop a cleanup and restoration plan, obtain the right-of-way from the adjoining property owner, and implement the cleanup and restoration plan within 48 hours of obtaining permission. If, in the discretion of the City, the applicant does not repair the damage caused by the storm water runoff the City can complete the remedial work required and charge the cost to the

applicant. If payment is not made within thirty days, payment will be made from the applicant's financial securities.

6. The City can take any combination of the following actions in the event of a failure by applicant to meet the terms of this chapter:

- A. Withhold inspections or issuance of certificates or approvals;
- B. Revoke any permit issued by the City to the applicant;
- C. Conduct remedial or corrective action on the development site or adjacent site affected by the failure;
- D. Charge applicant for all costs associated with correcting the failure or remediating damage from the failure; if payment is not made within thirty days, payment will be made from the applicant's financial securities;
- E. Bring other actions against the applicant to recover costs of remediation or meeting the terms of this chapter; and
- F. Any person, firm or corporation failing to comply with or violating any of these regulations shall be deemed guilty of a misdemeanor and be subject to a fine ~~or imprisonment or both~~. Each day that a separate violation exists shall constitute a separate offense.

Commented [AS43]: Removing mentions of imprisonment re: SF374

160.09 FAILURE TO COMPLY.

Failure to comply with this chapter constitutes a municipal infraction. The property owner is responsible to ensure that this chapter is observed.

160.10 APPEAL.

Administrative decisions by City staff and enforcement actions of the enforcement officer may be appealed by the applicant to the City Council pursuant to the following rules:

- 1. The appeal must be filed in writing with the City Clerk within five (5) business days of the decision or enforcement action.
- 2. The written appeal shall specify in detail the action appealed from, the errors allegedly made by the enforcement officer giving rise to the appeal, a written summary of all oral and written testimony the applicant intends to introduce at the hearing, including the names and addresses of all witnesses the applicant intends to call, copies of all documents the applicant intends to introduce at the hearing, and the relief requested.
- 3. The enforcement officer shall specify in writing the reasons for the enforcement action, a written summary of all oral and written testimony the enforcement officer intends

to introduce at the hearing, including the names and addresses of all witnesses the enforcement officer intends to call, and copies of all documents the enforcement officer intends to introduce at the hearing.

4. The City Clerk shall notify the applicant and the enforcement officer by ordinary mail, and shall give public notice, in accordance with Chapter 21 of the Code of Iowa, of the date, time, and place for the regular or special meeting of the City Council at which the hearing on the appeal shall occur. The hearing shall be scheduled for a date not less than four (4) or more than twenty (20) days after the filing of the appeal. The rules of evidence and procedure, and the standard of proof to be applied, shall be the same as provided by Chapter 17A, Code of Iowa. The applicant may be represented by counsel at the applicant's expense. The enforcement officer may be represented by the City Attorney or by an attorney designated by the City Council at City expense.

The decision of the City Council shall be rendered in writing and may be appealed to the Iowa District Court.

160.11 FINANCIAL SECURITIES.

1. The City shall require financial securities from the applicant in an amount sufficient to cover the entirety of the estimated costs of permitted and remedial work based on the final design as established in a set finance security schedule determined by the City.

2. Financial securities shall not be released until all permitted and remedial work is completed.

3. Financial securities may be used by the City to complete work not completed by the applicant.

4. The form of the financial securities shall be one or a combination of the following to be determined by the City:

A. Cash Deposit. The first \$5,000 of the financial security for erosion and sediment control shall be by cash deposit to the City. The cash will be held by the City in a separate account.

B. Securing Deposit. Deposit, either with the City, a responsible escrow agent, or trust company and, at the option of the City, either:

(1) An irrevocable letter of credit or negotiable bonds of the kind approved for securing deposits of public money or other instruments of credit from one or more financial institutions, subject to regulation by State and federal government wherein said financial institution pledges funds are on deposit and guaranteed for payment;

(2) Cash in U.S. currency; or

(3) Other forms of securities (e.g., disbursing agreement) as approved by the City.

5. The security shall save the City free and harmless from all suits or claims for damages resulting from the negligent grading removal, placement or storage of rock, sand, gravel, soil, or other like material within the City.

6. If at any time during the course of the work the amount falls below 50% of the required deposit, the applicant shall make another deposit in the amount necessary to restore the cash deposit to the required amount. If the applicant does not bring the financial security back up to the required amount within seven (7) days after notification by the City that the amount has fallen below 50% of the required amount the City may:

A. Withhold the scheduling of inspections and/or the issuance of a Certificate of Occupancy.

B. Revoke any permit issued by the City to the applicant for the site in question or any other of the applicant's sites within the City's jurisdiction.

7. The City may access financial security for remediation actions if any of the conditions listed below exist. The City shall use the security to finance remedial work undertaken by the City, or a private contractor under contract to the City, to reimburse the City for all direct costs incurred in the process of remedial work, including (but not limited to) staff time and attorney's fees.

A. Abandonment. The applicant ceases land disturbing activities and/or filling and abandons the work site prior to completion of the grading plan.

B. Failure to Implement the SWPPP or ESC Plan. The applicant fails to conform to the grading plan and/or the SWPPP as approved by the City.

C. Failure to Perform. The techniques utilized under the SWPPP or ESC Plan fail within one year of installation.

D. Failure to Reimburse the City. The applicant fails to reimburse the City for corrective action taken.

8. When more than one-third of the applicant's maximum exposed soil area achieves final stabilization, the City can reduce the total required amount of the financial security by one-third. When more than two-thirds of the applicant's maximum exposed soil area achieves final stabilization, the City can reduce the total required amount of the financial security to two-thirds of the initial amount. This reduction in financial security will be determined by the City.

9. The security deposited with the City for faithful performance of the SWPPP or ESC Plan and any related remedial work shall be released one full year after the completion of the installation of all storm water pollution control measures as shown on the SWPPP or ESC Plan.

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160.12 RIGHT OF ENTRY.

The issuance of a permit constitutes a right of entry for the City or its contractor to enter upon the construction site. The applicant shall allow the City and the City's authorized representative upon presentation of credentials to:

1. Enter upon the permitted site for the purpose of obtaining information, examination of records, conducting investigations, or surveys;
2. Bring such equipment upon the permitted site as is necessary to conduct such surveys and investigation;
3. Examine and copy any books, papers, records, or memoranda pertaining to activities or records required to be kept under the terms and conditions of the permit;
4. Inspect the storm water pollution control measures;
5. Sample and monitor any items or activities pertaining to storm water pollution control measures; and
6. Correct deficiencies in storm water and erosion and sediment control measures.

CHAPTER 161

POST-CONSTRUCTION STORM WATER CONTROL

161.01 Findings of Fact	161.09 Approval of Storm Water Management Concept Plan
161.02 Purpose	161.10 Approval of Storm Water Management Final Plan
161.03 Applicability	161.11 Performance Security or Bond
161.04 Compatibility with Other Requirements	161.12 Maintenance Performance Security or Bond
161.05 Definitions	161.13 Construction Inspection
161.06 Permit Procedures and Requirements	161.14 Maintenance and Repair of Storm Water BMPs
161.07 Waivers	161.15 Enforcement and Penalties
161.08 Storm Water Standards	161.16 Appeal

Commented [AS44]: Changes as recommended by Bolton & Menk

161.01 FINDINGS OF FACT.

1. The U.S. EPA's National Pollutant Discharge Elimination System ("NPDES") permit program ("Program") administered by the Iowa Department of Natural Resources ("IDNR") requires that cities meeting certain demographic and environmental impact criteria obtain from the IDNR an NPDES permit for the discharge of storm water from a Municipal Separate Storm Sewer System ("MS4") ("MS4 Permit"). The City of Windsor Heights is subject to the Program and is required to obtain, and has obtained, an MS4 Permit; the City's MS4 Permit is on file at the office of the City Clerk and is available for public inspection during regular office hours.

2. As a condition of the City's MS4 Permit, the City is obliged to develop, implement, adopt and enforce a POST-CONSTRUCTION STORM WATER CONTROL ordinance.

3. No State or federal funds have been made available to assist the City in administering and enforcing the Program. Accordingly, the City shall fund its operations under this chapter entirely by charges imposed on the owners or developers of properties which are made subject to the Program by virtue of State and federal law, and/or other sources of funding established by a separate ordinance.

4. Land development and associated increases in impervious cover alter the hydrologic response of local watersheds and increase storm water runoff rates and volumes, flooding, stream channel erosion, and sediment transport and deposition if left uncontrolled; this uncontrolled storm water runoff contributes to increased quantities of water-borne pollutants; and storm water runoff, soil erosion, and non-point source pollution can be controlled and minimized through the regulation of storm water runoff from development sites.

5. Therefore, City establishes this set of City storm water requirements applicable to all surface waters to provide reasonable guidance for the regulation of storm water runoff for the purpose of protecting local water resources from degradation. It is determined that the regulation of storm water runoff discharges from land development and other construction activities in order to control and minimize increases in storm water runoff rates and volumes, soil erosion, stream channel erosion, and non-point source pollution associated with storm water runoff is in the public interest and will prevent threats to public health and safety.

6. The Iowa Storm Water Management Manual published ~~collaboratively~~ by the Iowa Department of Natural Resources ~~and maintained by the Iowa Storm Water Education Program~~ establishes guidelines consisting of unified sizing criteria (water quality volume, channel protection storage volume, overbank flood protection, extreme flood protection), storm water management designs and specifications and best management practices (BMPs). The City hereby finds and declares that the guidelines provided for in the Iowa Storm Water Management Manual, or future editions thereof, along with any locally adopted modifications, are hereby adopted as the storm water management standards of the City. Any BMP installation that complies with the provisions of the Iowa Storm Water Management Manual, or future editions thereof, at the time of installation shall be deemed to have been installed in accordance with this chapter.

161.02 PURPOSE.

The purpose of this chapter is to ~~establish and~~ adopt ~~as~~ the City's standards and sizing criteria, ~~and to require the and~~ BMPs defined within the ISWMM to address said standards ~~the Guidelines, Sizing Criteria, and BMPs proposed by the Iowa Storm Water Management Manual~~ and as specifically identified above (hereinafter collectively "City storm water requirements") in order to protect and safeguard the general health, safety, and welfare of the public within this jurisdiction. This chapter seeks to meet that purpose through the following objectives:

1. Minimize increases in storm water runoff from development within the City limits and fringe area in order to reduce flooding, siltation, increases in stream temperature, and stream bank erosion and maintain the integrity of stream channels;
2. Minimize increases in non-point source pollution caused by storm water runoff from development which would otherwise degrade local water quality;
3. Minimize the total annual volume of surface water runoff which flows from any specific development project site after completion to not exceed the pre-development hydrologic regime to the maximum extent practicable; and
4. Reduce storm water runoff rates and volumes, soil erosion, and non-point source pollution, wherever possible, through establishment of appropriate minimum storm water management standards and BMPs and to ensure that BMPs are properly maintained and pose no threat to public safety.

161.03 APPLICABILITY.

1. This chapter is applicable to all subdivision or site plan applications meeting the minimum square foot applicability criteria of Subsection 2 of this section, unless eligible for an exemption or granted a waiver by the City under Section 161.07 of this chapter. This chapter also applies to land disturbance activities that are smaller than the minimum square foot applicability criteria specified in Subsection 2 if such activities are part of a larger common plan of development that meets the minimum square foot applicability criteria specified in Subsection 2, even though multiple separate and distinct land development activities may take place at different times on different schedules. In addition, all plans must also be reviewed by an engineer hired by the City to ensure that established water quality standards will be maintained during and after development of the site and that post-construction runoff levels are consistent with any local and regional watershed plans. The following activities are exempt from this chapter:

A. Any logging and agricultural activity which is consistent with an approved soil conservation plan or a timber management plan prepared or approved by the appropriate agency, as applicable.

B. Additions or modifications to existing single-family structures.

C. Repairs to any storm water BMPs deemed necessary by the City.

2. City storm water requirements must be met for development or redevelopment to be approved. Final authorization of all development and redevelopment projects shall be determined after a review by the City. City storm water requirements apply to any development and redevelopment meeting at least one of the following:

A. Any redevelopment adding more than 10,000 square feet of new impervious surface but disturbing less than 50% of the site shall provide stormwater management at the Water Quality Volume standard and shall meet the Channel Protection standard or demonstrate why doing so is infeasible. This threshold is a cumulative amount of new square footage and may be reached over time in increments.

B. Any redevelopment disturbing 50% or more of a site shall be required to meet the same stormwater management standards as a new development. This threshold is a cumulative amount of new square footage and may be reached over time in increments.

C. ~~New Development~~. Any new development ~~of land~~ adding more than 10,000 square feet of new impervious surface shall ~~provide~~ meet the stormwater management standards as outlined ~~above~~. This threshold is a cumulative amount of new square footage and may be reached over time in increments. At such time that a development site exceeds 10,000 cumulative square feet of new impervious surface the site will be required to come into compliance with this ordinance.

D. Land disturbing activity exceeding 25,000 square feet in area where the existing land is being redeveloped.

3. When a site development plan is submitted that qualifies as a development, as defined in this chapter, decisions on permitting any appropriate on-site BMPs shall be guided by the SUDAS Design Manual. Final authorization of all development and redevelopment projects will be determined after a review by City.

161.04 COMPATIBILITY WITH OTHER REQUIREMENTS.

1. It is intended that this chapter be construed to be consistent with Chapter 160, Construction Site Erosion and Sediment Control, and Chapter 102, Illicit Discharge to Storm Sewer System, of this Code of Ordinances. It is intended that this chapter be construed to be consistent with Chapter 185 Floodplain Management of this Code of Ordinances as well as any other applicable local, state or federal regulation.

2. The requirements of this chapter should be considered minimum requirements, and where any provision of this chapter imposes restrictions different from those imposed by any other chapter, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

161.05 DEFINITIONS.

Terms in this chapter, other than those defined below, shall have the meanings set out in the Iowa Storm Water Management Manual.

1. “Applicant” means a property owner or agent of a property owner who has filed an application for a storm water management permit.

2. “Best management practice (BMP).” Best management practices are physical practices or structures determined to be practices used to reduce pollutant loads, discharge volumes, peak flow discharge rates, and detrimental changes in stream temperature that affect water quality and habitat. BMPs can be structural or non-structural. Non-structural BMPs focus on preserving open space, protecting natural systems, and incorporating existing landscape features such as wetlands and stream corridors into a site plan to manage stormwater at its source. Structural BMPs include constructed ponds, pavement systems, oil/grease separators, planted vegetative areas such as grassed swales, bioretention and other infiltration-based practices, outlet structures and other constructed facilities intended to manage stormwater.

3. “Buffer” for this chapter is a vegetative area, including trees, shrubs, and herbaceous vegetation, that exists or is established to protect a stream system, lake, or reservoir area.

4. “Building” means any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property. For purposes of this chapter, structures not intended for shelter such as a pergola, trellis, gazebo, and any other constructed obstacle shall also be considered to be buildings and shall be reviewed for impact on stormwater management.

5. “Channel protection storage volume” means providing for practices that will allow for extended detention of the runoff generated by a 1-year, 24-hour event. This means capturing the runoff volume from a storm of this nature, and slowly releasing it over a period of no less than 24-hours to reduce rapid “bounce” effect common in many urban streams that leads to downcutting and streambank erosion.

6. “City stormwater requirements” means the standards, sizing criteria, BMPs and other requirements established in this chapter.

7. “Concept plan” shall be submitted for review during the planning process. This plan should be considered to be a 30% development plan showing conceptually where

stormwater practices will be located and how the storm water will be routed to the facilities. This submittal shall include all of the information **required** stated in this chapter.

8. “COSESCO” means Construction Site Erosion and Sediment Control Ordinance permit issued by the City of Windsor Heights’ Public Works Department.

9. “Developer” means a person, persons, or entity who undertakes land disturbance activities.

10. “Developer” means a person who undertakes land disturbance activities.

11. “Development” means any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations whether as a single site or part of a larger common plan of development.

12. “Drainage easement” means a legal right granted by a landowner to a cable operator allowing the use of private land for storm water management purposes.

13. “Enforcement officer” means that person designated by the City having responsibility for administration and enforcement of this chapter.

14. “Existing conditions” means the circumstances of the site at the time of first review of site plans or upon-initial submittal of permit applications.

15. “Extreme Flood Protection” means managing the effects of larger storm events (10-year to 100-year recurrence intervals) on the storm water management system, adjacent property, and downstream facilities and property. The management of these extreme events is accomplished using detention controls and/or floodplain management.

16. “Fee in lieu” means a payment of money in place of achieving or exceeding all or part of City storm water requirements.

17. “Impervious surface” means surfaces (roads, sidewalks, driveways, and parking lots) that are covered by impenetrable materials such as asphalt, concrete, brick, and stone, rooftops as well as soils compacted by urban development.

18. “Iowa Storm Water Management Manual” (**ISWMM**) means the current Iowa Storm Water Management Manual publication, by whatever name, as amended from time to time by Iowa Department of Natural Resources **in collaboration with the Center for Transportation Research at Iowa State University**, and which recommends storm water management guidelines and uniform sizing criteria and BMPs designed to address said guidelines.

19. “Land disturbance activity” means any activity which changes the volume or peak flow discharge rate of rainfall runoff from the land surface. This may include the grading, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving,

construction, substantial removal of vegetation, tree clearing, or any activity which bares soil or rock or involves the diversion or piping of any natural or man-made watercourse.

20. “Low impact development” means an approach to storm water management that attempts to mimic pre-development conditions by compensating for losses of rainfall abstraction through infiltration, evapotranspiration, surface storage, and increased travel time to reduce excess runoff.

21. “Landowner” means the legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

22. “Maintenance agreement” means a legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of storm water BMPs.

23. “Native vegetation” refers to vegetation originating naturally in this region of the state. Native vegetation is not to be confused with all existing vegetation. Area preserved in native vegetation shall not contain noxious or invasive weeds as identified by the Iowa Code Chapter 317.1A.

24. “Overbank flood protection” means providing on-site storm water detention to limit runoff peak flows rates from the 5-year recurrence interval storm event to prevent downstream surcharge of conveyance systems and reduce overbank flooding. At the site development level, this can be accomplished by providing detention practices with multi-stage outlets that control the outflow from these events to pre-~~settlementdevelopment~~ conditions ~~(meadow in good condition.~~

25. “Pre-~~settlementdevelopment~~” means the nature of the site prior to ~~human~~ development ~~when the landscape was dominated by naturally occurring features.~~ Intended for storm water calculations, ~~meadow in good condition~~~~existing conditions.~~

26. “Redevelopment” means any manmade change to a previously developed site, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations whether as a single site or part of a larger common plan of development.

27. “Storm water management” means the use of BMPs that are designed in accordance with City storm water requirements to reduce storm water runoff pollutant loads, discharge volumes, peak flow discharge rates, and detrimental changes in stream temperature that affect water quality and habitat.

28. “Stormwater management plan” means the plan produced by a Professional Engineer (P.E.) licensed in the State of Iowa demonstrating how stormwater management will be accomplished by a development.

29. "Storm Water Pollution Prevention Plan" (SWPPP) means a plan that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.

30. "Iowa Stormwater Management Manual (ISWMM)" means the current Iowa Stormwater Management Manual publication, by whatever name, as amended from time to time by Iowa Department of Natural Resources ~~in collaboration with Iowa Stormwater Education Program and other partners.~~

31. "Unified sizing criteria" means an integrated approach to managing storm water runoff quality and quantity by addressing the adverse impacts of stormwater runoff from development. The intent is to comprehensively manage stormwater to remove pollutants and improve water quality, prevent downstream streambank and channel erosion, reduce downstream overbank flooding and safely convey and reduce runoff from extreme storm events.

32. "Water quality volume" means the runoff resulting from rainfall depth of 1.25". By managing these storms, many of the "first flush" pollutants of concern will be effectively managed on-site.

161.06 PERMIT PROCEDURES AND REQUIREMENTS.

1. Permit Required. No landowner or developer shall receive any of the building, grading, or other land development permits required for land disturbance activities without first meeting the requirements of this chapter prior to commencing the proposed activity.

2. Application Requirements.

A. Unless specifically exempted by this chapter, any landowner or developer desiring a permit for a land disturbance activity shall submit to the City a permit application on a form provided for that purpose.

B. Unless otherwise exempted by this chapter, a permit application must be accompanied by the following in order that the permit application be considered:

- (1) A storm water management concept plan;
- (2) A maintenance agreement; and
- (3) A non-refundable permit review fee.

C. The storm water management concept plan and maintenance agreement shall be prepared to meet the requirements of this chapter, and fees shall be those established by the City annually or more often by separate ordinance or resolution.

3. Application Review Fees. The fee for review of any land development application shall be based on the amount of land to be disturbed at the site; the fee structure shall be

established by City, and said fees shall be paid prior to the issuance of any applicable City permits. All such revenue shall be credited to a City budgetary category to support the administration of this chapter.

4. Application Procedure.

A. All development or redevelopment projects shall begin with a pre-application meeting with the City staff. At said pre-application meeting City staff will discuss the proposed project with the developer or developer representatives and will review preliminary information regarding stormwater management as indicated on the City's Stormwater Management Plan Review Checklist.

B. Applications for land disturbance activity permits must be filed for review with the office of the City Clerk on any regular business day.

C. Permit applications shall include the following:

- (1) Two copies of the storm water management concept plan;
- (2) Two copies of the maintenance agreement, and
- (3) Any required review fees.

D. The City shall make a determination regarding the completeness of a permit application within ten (10) business days of the receipt of the application and notify the applicant in writing if the application is not complete including the reasons the application was deemed incomplete.

E. Within 15 business days of the receipt of a complete permit application, including all documents as required by this chapter, City shall inform the applicant whether the application, plan, and maintenance agreement are approved or disapproved by the enforcement officer.

F. If the permit application, storm water management concept plan, or maintenance agreement are disapproved, the applicant may revise the storm water management concept plan or agreement. If additional information is submitted, the City shall have 15 business days from the date the additional information is received to inform the applicant that the storm water management concept plan and maintenance agreement are either approved or disapproved.

G. If the permit application, storm water management final plan, and maintenance agreement are approved by City, all appropriate land disturbance activity permits shall be issued.

H. Permit Duration. Permits issued under this section shall be valid from the date of issuance through the date City notifies the permit holder that all storm water BMPs have passed the final inspection required under permit conditions.

161.07 WAIVERS.

Every applicant shall provide for storm water management as required by this chapter, unless a written request is filed to waive implementation of BMPs, in whole or in part, and such waiver is granted. Requests to waive implementation of BMPs in whole or in part shall be submitted to City for approval.

1. A waiver of BMPs required by this chapter may be granted provided that at least one of the following conditions is established by applicant based on authoritative written evidence satisfactory to City:

A. The proposed development is not likely to impair attainment of the objectives of this chapter.

B. Alternative minimum requirements for on-site management of storm water have been established in a storm water management final plan that has been approved by City and fully implemented.

C. Provisions are made to manage storm water by an off-site facility within the same watershed and that has been approved by the City. The off-site facility is required to be in place, to be designed and adequately sized to provide a level of storm water control that is equal to or greater than that which would be afforded by on-site practices, and there is, in the City's sole judgment, a responsible entity legally obligated to monitor the performance of and maintain the efficiency of storm water BMPs in accordance with a written and recorded maintenance agreement.

D. In instances where one of the above conditions is established, the applicant must further establish by authoritative written evidence satisfactory to City that the partial waiver will not result in any of the following impacts to downstream waterways:

- (1) Deterioration of existing culverts, bridges, dams, and other structures; or
- (2) Degradation of biological functions or habitat; or
- (3) Accelerated stream bank or streambed erosion or siltation; or
- (4) Increased threat of flood damage to public health, life, property.

2. If the City finds that a waiver is appropriate because implementation of no on-site storm water BMPs is feasible due to the natural or existing physical characteristics of a site, or that one of the conditions specified in Subsection 1 above cannot be established to a certainty, or that any one or more of the impacts to downstream waterways specified above cannot be entirely averted, the applicant shall execute a binding written agreement to accomplish one or more of the following mitigation measures selected by City:

A. The purchase and donation of privately owned lands, or the grant of an easement to be dedicated for preservation and/or reconstruction of native ecosystems of lands strategically located in the watershed consistent with the purposes of this chapter, of a sufficient quantity to enable City or others to achieve City storm water requirements with respect to a number of cubic feet of annual storm water equivalent to the estimated number of cubic feet of annual storm water that will not achieve City storm water requirements as a consequence of the waiver.

B. The creation of one or more storm water BMPs on previously developed properties, public or private, that currently lack storm water BMPs, having a capacity to achieve City storm water requirements with respect to a number of cubic feet of annual storm water equivalent to the estimated number of cubic feet of annual storm water that will not achieve City storm water requirements as a consequence of the waiver.

C. Monetary contributions (fee in lieu) to fund storm water management activities such as research and studies (e.g., regional wetland delineation studies, stream monitoring studies for water quality and macroinvertebrates, stream flow monitoring, threatened and endangered species studies, hydrologic studies, monitoring of storm water BMPs, and stream corridor stabilization practices). The monetary contribution required shall be in accordance with a fee schedule (unless the developer and the storm water authority agree on a greater alternate contribution) established by City, based on the estimated cost savings to the developer resulting from the waiver and the estimated future costs to City to achieve City storm water requirements with respect to a number of cubic feet of annual storm water equivalent to the estimated number of cubic feet of annual storm water that will not achieve City storm water requirements as a consequence of the waiver. All of the monetary contributions shall be credited to an appropriate capital improvements program project, and shall be made by the developer prior to the issuance of any building permit for the development.

D. Dedication of land or granting of an easement by the applicant of a value equivalent to the cost to City of the construction of an off-site storm water management facility sufficient to achieve City storm water requirements with respect to a number of cubic feet of annual storm water equivalent to the estimated number of cubic feet of annual storm water that will not achieve City storm water requirements as a consequence of the waiver. The agreement shall be entered into by the applicant and City prior to the recording of plats or, if no record plat is required, prior to the issuance of the building permit.

E. Factors that may generate waivers:

- (1) Shallow bedrock.
- (2) High groundwater.
- (3) Hotspots or contaminated soils.
- (4) City owned construction that was designed prior to 2019.

161.08 STORM WATER STANDARDS.

Unless granted a waiver by the City, applicants shall meet the storm water standards established in this chapter.

1. The site design shall provide on-site treatment during construction and post-construction to ensure no increases over pre-~~settlement~~~~development~~ conditions (~~meadow not in good condition, CD=58~~) for the one-year, 24-hour storm event, the five-year, 24-hour storm event, and the 100-year, 24-hour storm event.

2. The site design shall provide for on-site water quality treatment to reduce potential increases in downstream water pollution. Practices or techniques shall be employed that capture and treat runoff from a 1.25" rainfall event, as further defined within the ISWMM. This standard would address approximately 90% of the rainfall events that occur in Central Iowa.

3. For the purposes of channel protection and as urban developments occur, some of the largest increases in runoff rate and volume (by percentage increase) occur during the smaller, more frequently occurring storm events. For this reason, practices or techniques shall be employed that provide extended detention of the 1-year, 24-hour storm event – with release rates established as per methods defined within the ISWMM manual to provide a minimum drawdown period of 24 hours. This standard would address approximately 98% of the rainfall events that occur in Central Iowa.

4. For the purposes of overbank protection and to minimize surcharge of downstream storm sewer systems and reduce the frequency of flash flooding along urban streams and tributaries, practices and techniques shall be employed that limit allowable peak release rates that are anticipated to occur post-development during the ~~2-year and, 5-year and 10-year~~, 24-hour storm events to levels no greater than those expected to occur from ~~natural pre-development~~ conditions ~~for~~ a given site from an ~~equivalent-similar~~ storm event (e.g. the post-development release rate from 5-year storm event will be no greater than the ~~natural pre-development~~ release rate from a 5-year storm event).

5. For the purposes of extreme protection and to reduce the frequency and impacts caused by larger flood events practices and techniques shall be employed that limit allowable peak release rates that are anticipated to occur post-development during the ~~10-, 25-, 50- and 100-year~~, 24-hour storm events to levels no greater than those expected to occur from ~~natural pre-development~~ conditions on a given site from a ~~similar 5-year, 24-hour~~ storm event (e.g. the post-development release rate from a 100-year storm event will be no greater than the ~~natural pre-development~~ release rate from a ~~1005~~-year storm event).

6. The site design shall retain on-site for recharge a portion of the water quality treatment volume calculated as a soil specific recharge factor multiplied by the volumetric runoff coefficient multiplied by the area and all divided by 12. The soil specific recharge

factor is given as 0.51 for Hydrologic Soil Group (HSG) A soils, 0.34 for HSG B soils, 0.17 for HSG C soils, and 0.08 for HSG D soils. The volumetric runoff coefficient is calculated as $0.05 + 0.009$ multiplied by the site impervious percentage. See the Iowa Storm Water Management Manual for additional clarification on the calculation. For areas of the site where there is no feasible way to achieve the recharge requirement, other options may be considered by the City if the options meet the performance standard listed for sites with restrictions in Subsection 4 below.

7. Applicant shall fully attempt to comply with the standards in Subsections 1 through 3 above. Options considered and presented shall examine the merits of relocating project elements to address varying soil conditions and other constraints across the site. If full compliance is not possible, the following flexible treatment options shall be used:

A. Applicant shall document the flexible treatment options sequence starting with Alternative #1. If Alternative #1 cannot be met, then Alternative #2 shall be analyzed. If Alternative #2 cannot be met then Alternative #3 shall be met. When all of the conditions are fulfilled within an alternative, this sequence is completed.

B. Recharge techniques considered shall include infiltration, reuse and rainwater harvesting, and canopy interception and evapotranspiration and/or additional techniques included in the Iowa Storm Water Management Manual.

C. Higher priority shall be given to BMPs that include volume reduction. Secondary preference is to employ filtration techniques, followed by rate control BMPs.

D. Factors to be considered for each alternative will include:

- (1) Karst or Coal geology.
- (2) Shallow bedrock.
- (3) High groundwater.
- (4) Hotspots or contaminated soils.
- (5) Excessive cost.
- (6) Poor soils (infiltration rates that are too low or too high, problematic urban soils).

E. Alternative #1: Applicant attempts to comply with the following conditions:

- (1) Achieve recharge to the maximum extent practicable, and
- (2) Treat by means of a filtration-based storm water treatment facility, the water quality volume determined in standard 2 above in order to provide removal of fine particles, and
- (3) Options considered and presented shall examine the merits of relocating project elements to address varying soil conditions and other constraints across the site.

F. Alternative #2: Applicant attempts to comply with the following conditions:

- (1) Achieve recharge to the maximum extent practicable, and
- (2) Remove 80% of the annual Total Suspended Solids load, and

(3) Options considered and presented shall examine the merits of relocating project elements to address varying soil conditions and other constraints across the site.

G. Alternative #3: Off-Site Treatment. Off-site mitigation, as outlined in Section 161.07(2), Waivers, of the required treatment volume that cannot be provided on site can be used to protect Walnut Creek or North Walnut Creek.

8. The site shall be designed to provide vegetated buffers for water quality protection adjacent to receiving channels and waters. Buffers shall commence at “top of bank,” or at the delineated boundary of the water body. Buffer width as based on land use and are as follows:

- A. Residential: 30 feet
- B. Industrial: 50 feet
- C. Mid/High Density Residential & Commercial: 50 feet

D. Redevelopment of infill parcels that are surrounded by existing development shall be considered on a case by case basis. The intent of this section of ordinance is not to make existing lots undevelopable.

9. The site shall be designed using the Better Site Design process. Better Site Design involves techniques applied early in the design process to preserve natural areas, reduce impervious cover, distribute runoff and use pervious areas to more effectively treat storm water runoff. Site design should address open space protection, impervious cover minimization, and runoff distribution and minimization, and runoff utilization through considerations such as:

A. Open space protection and restoration.

- (1) Conservation of existing natural areas (upland and wetland).
- (2) Reforestation.
- (3) Re-establishment of prairies.
- (4) Restoration of wetlands.
- (5) Establishment or protection of stream, shoreline and wetland buffers.
- (6) Re-establishment of native vegetation into the landscape.

B. Reduction of impervious cover.

(1) Reduce new impervious cover through redevelopment of existing sites and use of existing roadways, trails etc.

(2) Minimize street width, parking space size, driveway length, sidewalk width.

(3) Reduce impervious surface footprint (e.g., two-story buildings, parking ramp).

C. Distribution and minimization of runoff.

(1) Utilize vegetated areas for storm water treatment (e.g., parking lot islands, vegetated areas along property boundaries, front and rear yards, building landscaping).

(2) Direct impervious surface runoff to vegetated areas or to designed treatment areas (roofs, parking, driveways drain to pervious areas, not directly to storm sewer or other conveyances).

(3) Encourage infiltration and soil storage of runoff through grass channels, soil compost amendment, vegetated swales, rain gardens, etc.

(4) Plant vegetation that does not require irrigation beyond natural rainfall and runoff from the site.

D. Runoff utilization.

(1) Capture and store runoff for use for irrigation in areas where irrigation is necessary.

10. The following general criteria shall be incorporated in site design for storm water runoff to protect surface and ground water and other natural resources:

A. Reduce impacts on water.

B. Protect soils.

C. Preserve vegetation.

D. Decrease runoff volume.

E. Decrease erosion and sedimentation.

F. Decrease flow frequency, duration, and peak runoff rates.

G. Increase infiltration (groundwater recharge).

H. Maintain existing flow patterns.

I. Reduce time to peak flows by increasing the time of concentration to and through storm sewers.

J. Store storm water runoff on-site.

K. Avoid channel erosion.

11. Topsoil Requirements:

~~A. —A.~~ Preservation: No topsoil shall be permanently removed from any construction site in accordance with the Iowa Department of Natural Resources NPDES general permit #2. Topsoil from pre-development pervious areas should be maintained on-site and respread in the post-development conditions. The City may require, at developers expense, soil borings to measure the pre-development and post-development topsoil depths to ensure compliance.

General Permit 2:

~~The preservation of topsoil shall be met only when the depth of topsoil after soil disturbing activities have been completed and final stabilization achieved for the permitted activity is equal to, or greater than, 4.0 inches on all areas of the site where the surface of the ground disturbed for the permitted land disturbing activities is exposed and not covered by concrete, asphalt, gravel or other such impervious material. If 4.0 inches of on-site topsoil is not available, imported topsoil meeting the requirements below or the amendment of existing low-quality on-site material may be used to comply with this requirement. Three inches of low-quality on-site material may be incorporated with a minimum of 1.5 inches of compost meeting the requirements below to achieve an acceptable equivalent alternative. Topsoil shall be defined as the soil material excavated from the upper 12-inches of the soil profile that has a uniform quality free from debris, hard clods, roots, sod, stiff clay, hard pan, stones larger than 1 inch, has a high degree of fertility with an organic matter content of at least 2%, is free of herbicides that prohibit plant growth, has a pH level between 6.0 and 8.0, and is friable with a clay content less than 25%. Compost shall be defined as stable, mature, decomposed organic solid waste that is the result of the accelerated, aerobic biodegradation and stabilization under controlled conditions. The result is a uniform dark, soil-like appearance with 100% of the material passing through a 1 inch sieve (3/8 or 1/2 inch screen preferred), a pH range between 5.5 and 9, a minimum organic matter content of 35% dry weight and a soluble salt content of less than 4.0 mmhos/cm.~~

B. Compaction: For the purposes of compliance with the Iowa Department of Natural Resources NPDES General ~~P~~ermit #2 requirements, the minimum standard for “minimizing soil compaction” shall be defined as working the soil prior to seeding/sodding such at a penetrometer can be inserted into the upper 6 inch with less force than 200 psi. As an alternative to the penetrometer test, a soil with a bulk density of less than 1.6 grams/cubic centimeter shall be deemed compliant with this requirement.

161.09 APPROVAL OF STORM WATER MANAGEMENT CONCEPT PLAN.

No application for development will be accepted unless it includes a storm water management concept plan detailing in concept how runoff and associated water quality impacts resulting from the development will be controlled or managed. The storm water management concept plan shall meet the following requirements:

1. Be prepared by a licensed professional engineer or landscape architect or individual credentialed in a manner satisfactory to the City.
2. Indicate whether storm water will be managed on site or off site and, if on site, the general location and type of practices BMPs, with clear citations to the Iowa Storm Water Management Manual.
3. Include sufficient information (e.g., maps, hydrologic calculations, etc.) to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the storm water BMPs proposed for managing storm water generated at the project site, refer to Section 161.06(4). The intent of this conceptual planning process is to determine the type of storm water BMPs necessary for the proposed project, and ensure adequate planning for management of storm water runoff from future development. To accomplish this goal, the following information shall also be included in the storm water management concept plan:

A. A soil management plan as defined by the Iowa Stormwater Management Manual shall be provided and include a technical assessment of soils that identifies the soil series and the site limitations based on soils data provided in the Web County Soil Survey hosted by Natural Resources Conservation Service (NRCS). It may only be used if soils have not been highly disturbed. Soil borings shall be included when necessary to confirm suitable site conditions for placement of buildings with basements and related structures, especially in areas with hydric soils and shallow depth to groundwater. If a stormwater BMP depends on the hydraulic properties of soils, then the assessment shall include soil borings and measurements of percolation/infiltration rates. The number and location of required soil borings and/or soil test sites shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the BMP. Borings may range from a minimum of 5' to 20' below subgrade depending on the size of the BMP. This information shall be used to provide a summary of the associated risks and potential for adequate drainage related to infiltration practices, groundwater mounding and basement flooding. Consultation with a Certified Professional Soil Scientist, Soil Classifier, or Geotechnical Engineer may be necessary or required.

B. A map (or maps) indicating the location of existing and proposed buildings, roads, parking areas, utilities, structural storm water management and sediment and erosion BMPs. The map(s) will also clearly show proposed land use with tabulation of the percentage of surface area to be adapted to various uses; drainage patterns; locations of utilities, roads, and easements; and the limits of clearing and grading. A written description of the site plan and justification of proposed changes in ~~natural~~pre-development conditions may also be required. A copy of the current SWPPP may satisfy this requirement.

C. Sufficient engineering analysis to show that the proposed BMPs are capable of achieving City storm water requirements for the site in compliance with this chapter.

D. A written or graphic inventory of the natural resources at the site and surrounding area as it exists prior to the commencement of the project and a description of the watershed and its relation to the project site. This description should include a discussion of soil conditions, forest cover, topography, wetlands, and other native vegetative areas on the site. Particular attention should be paid to environmentally sensitive BMPs that provide particular opportunities or constraints for development.

E. Landscaping and stabilization shall be accomplished to prevent stormwater violations or impairment of BMPs. In addition, a landscaping plan must be submitted with the final as-built drawings describing the vegetation stabilization and management techniques to be used at the site after construction is completed. This plan will include the entity responsible for vegetation at the site and practices that will be used to ensure adequate vegetative cover.

F. A written description of the required maintenance burden for any proposed BMPs.

G. The City may also require a concept plan to consider the maximum development potential of a site under existing zoning, regardless of whether the applicant presently intends to develop the site to its maximum potential.

H. For development occurring on a previously developed site, an applicant shall be required to include within the storm water management concept plan BMPs for controlling existing storm water runoff discharges from the site in accordance with this chapter to the maximum extent practicable. The storm water management concept plan shall be referred for comment to all other interested agencies, and any comments must be addressed in a storm water management final plan.

161.10 APPROVAL OF STORM WATER MANAGEMENT FINAL PLAN.

No building, grading, or sediment control permit shall be issued until a satisfactory storm water management final plan (or a waiver thereof) shall have undergone a review and been approved by the City after determining that the plan or waiver is consistent with the requirements of this chapter. After review of the storm water management concept plan, and modifications to that plan as deemed necessary by City, a storm water management final plan must be submitted to the City for approval. The storm water management final plan, in addition to the information included in the storm water management concept plan, shall:

1. Be prepared by a licensed professional engineer or landscape architect or individual credentialed in a manner satisfactory to the City.

2. Indicate whether storm water will be managed on site or off site and, if on site, the general location and type of practices, with clear citations to the Iowa Storm Water Management Manual.

3. Include a signed and dated certification under penalty of perjury by the preparer of the storm water management final plan that it complies with all requirements of this chapter and the SUDAS Design Manual, meets the submittal requirements outlined in the Iowa Storm Water Management Manual, is designed to achieve City storm water requirements, and that City is entitled to rely upon the certification as due diligence on the part of City.

4. The storm water management final plan shall also include:

A. A detailed summary of how and why the storm water management final plan differs, if at all, from the storm water management concept plan previously submitted.

B. Contact information, including but not limited to the name, address, and telephone number of all persons having a legal interest in the property and the tax reference number and parcel number of the property or properties affected.

C. Topographic base map, consisting of a 1" = 200' topographic base map, of the site which extends a minimum of 300 feet beyond the limits of the proposed development and indicates existing surface water drainage including streams, ponds, culverts, ditches, and wetlands; current land use including all existing structures; locations of utilities, roads, and easements; and significant natural and manmade features not otherwise shown. A minimum of 2' contours shall be shown on-site and 2' contours outside of the proposed site.

D. Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in the Iowa Storm Water Management Manual. Such calculations shall include:

(1) Description of the design storm frequency, intensity, and duration;

(2) Time of concentration;

(3) Soil curve numbers or runoff coefficients;

(4) Peak runoff rates and total runoff volumes for each watershed area;

(5) Infiltration rates, where applicable;

(6) Culvert capacities;

(7) Flow velocities;

(8) Data on the increase in rate and volume of runoff for the design storms referenced as referenced in the NOAA Atlas 14, Volumes 8 and 9 (April 2013); and

(9) Documentation of sources for all computation methods and field test results.

E. If a storm water BMP depends on the hydrologic properties of soils (e.g., infiltration basins), then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles. The number and location of required soil borings or soil sites shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the BMP.

F. A maintenance and repair plan for all storm water BMPs including detailed maintenance and repair procedures to ensure their continued efficient function. These plans will identify the parts or components of a storm water BMP that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.

G. A detailed landscaping plan for management of vegetation at the site after construction is finished, including who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved. This plan must be prepared by a registered landscape architect, landscape designer, or by the soil and water conservation district.

H. Proof of permanent recorded maintenance easements that will ensure access to all storm water BMPs at the site for the purpose of inspection and repair. These easements will be recorded with the storm water management final plan and will remain in effect even with transfer of title to the property.

I. Proof of a recorded maintenance agreement binding on all subsequent owners of land served by storm water BMPs to ensure maintenance and repair in accordance with the specifications of this chapter.

J. Copies of all existing SWPPPS (as required by the City's COSESCO ordinance) current as of the date of submission of the storm water management final plan for all construction activities related to implementing any on-site storm water BMPs.

K. Proof that the applicant has acquired all other applicable environmental permits for the site, or that no other such permits are required, prior to submission of the storm water management final plan to the City.

L. For lot development impacted by storm water BMPs and conveyance features:

(1) The permit holder shall provide to the Municipal Engineer, or designated City representative, an Elevation Certificate that is signed and sealed by a land surveyor, engineer, or architect authorized by law to certify elevation information.

(2) The Elevation Certificate shall certify that the protected level (lowest opening or protective flood barrier that achieves the same result) of all buildings shall be a minimum of 3 feet above the 100-year water surface elevation of storm water BMPs.

(3) Building foundations adjacent to storm water BMPs and/or storm water infrastructure (i.e. conveyance features, inlets, manholes) shall be 3 feet above the 100-year water surface elevation.

M. Accommodating Upstream Drainage Areas. Any necessary and appropriate storm water BMPs shall be designed to accommodate runoff from any upstream area potentially draining into or through the area to be subdivided, whether such area is inside or outside the area to be subdivided. Such design shall assume that the upstream area upon development or redevelopment will be regulated such that volume of surface water runoff shall be equal to the runoff from the current land use condition.

N. Protecting Downstream Drainage Areas. Any development shall provide for mitigation of any overload condition reasonably anticipated on any existing downstream storm water BMPs outside the area to be subdivided, provided that the development or use of the area to be subdivided creates or contributes to such condition.

161.11 PERFORMANCE SECURITY OR BOND.

1. The City shall require the submittal of an installation performance security or bond prior to issuance of a permit in order to ensure that the storm water BMPs are installed by the permit holder as required by the approved storm water management final plan.

2. The amount of the installation performance security or bond shall be the total estimated construction cost of the storm water BMPs approved under the permit, plus 25%. The installation performance security or bond shall contain forfeiture provisions for failure to complete work specified in the storm water management final plan.

3. The installation performance security or bond shall be released in full only upon submission of "as-built plans" of all storm water BMPs specified in the storm water management final plan and written certification by a professional engineer that the storm water BMPs have been installed in accordance with the approved storm water management final plan and other applicable provisions of this chapter. The City will make a final inspection of storm water BMPs to ensure compliance with the approved storm water management final plan and the provisions of this chapter. Provisions for a partial pro rata release of the installation performance security or bond based on the completion of various development stages can be made at the discretion of City.

4. The installation performance security or bond shall inure only to the benefit of the City for purposes of completing, modifying, or correcting the storm water BMPs to comply with this chapter.

161.12 MAINTENANCE PERFORMANCE SECURITY OR BOND.

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1. The City shall also require the submittal of a maintenance performance security or bond prior to issuance of a permit in order to insure that the storm water BMPs are maintained in an effective state for a minimum of 10 years.
 2. This maintenance performance security or bond may be released by the City upon a showing satisfactory to the City that:
 - A. The permit holder has assigned to another bona fide, financially responsible legal entity, such as a homeowners' or similar organization organized under Iowa law, responsibility for maintenance of the storm water BMPs in an effective state for the balance of the 10-year period after assignment; and
 - B. Said assignee has fully accepted such responsibility in a written document that qualifies for recording and has been recorded in the County Recorder's office under Iowa law; and
 - C. Said assignee posts a substitute maintenance performance security or bond subject to release at the end of the initial 10-year period upon a further showing by the assignee that the storm water BMPs are, in the City's sole judgment, still reasonably effective.
 3. This maintenance performance security or bond shall inure only to the benefit of the City to ensure the proper maintenance of the storm water BMPs.
 4. This maintenance and performance security or bond may be issued on an annual basis, provided that there is no lapse in coverage.
 5. The maintenance performance security bond amount shall be for 25% of the total cost of the overall permitted project unless otherwise specified by the City.

161.13 CONSTRUCTION INSPECTION.

1. The applicant must notify the City in advance before the commencement of construction. Regular inspections of construction of the storm water BMPs shall be conducted by City or City's designated representative. Inspections will be conducted before any land disturbing activity begins, at the time of footing inspections, at the completion of the project; and prior to the release of financial securities. All inspections shall be documented, and written reports prepared that contain the following information:
 - A. The date and location of the inspection; and
 - B. Whether construction is in compliance with the approved storm water management concept plan; and
 - C. Variations, if any, from the approved storm water management concept plan.
2. If any violations are found, the applicant shall be notified in writing of the nature of the violation and the required corrective actions. No additional work shall proceed until

any violations are corrected and all work previously completed has received approval by City.

3. After construction is completed, applicants are required to submit actual “as-built” drawings satisfactory to City for any storm water BMPs located on site. The drawings must show the final design specifications for all storm water BMPs and must be certified by a professional engineer. A final inspection by City is required before the release of the installation performance security or bond can occur.

4. Landscaping and stabilization shall be accomplished to prevent violation of City storm water requirements or impairment of BMPs. In addition, a landscaping plan must be submitted with the final as-built drawings describing the vegetative stabilization and management techniques to be used at a site after construction is completed. This plan will explain not only how the site will be stabilized after construction, but who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved. This plan must be prepared by a registered landscape architect, landscape designer, or by the local soil and water conservation district, and must be approved prior to receiving a permit. This is by reference incorporated into the site plan review process.

161.14 MAINTENANCE AND REPAIR OF STORM WATER BMPs.

The applicant or owner of every site or an assignee qualified pursuant to Section 161.12 shall be responsible for maintaining as-built storm water BMPs in an effective state as determined in the sole judgment of City in perpetuity or until further redevelopment of the site.

1. Maintenance and Repair Easement. Prior to the issuance of any permit for development involving any storm water BMP, the applicant or owner of the site must execute a maintenance and repair easement agreement that shall be binding on all subsequent owners of land served by the storm water BMP. The agreement shall provide for access to the BMP and the land it serves at reasonable times for periodic inspection by City or City’s designee and for regular or special assessments of property owners to ensure that the BMP is maintained in proper working condition to meet City storm water requirements. The easement agreement shall be recorded by City at the expense of the permit holder or property owners.

2. The applicant or owner of every site or an assignee qualified pursuant to [Section 161.14(1)] shall be responsible for providing as-built drawings at the completion of the project and maintaining as-built stormwater BMPs in an effective state as determined in the sole judgement of City.

3. Maintenance Covenants.

A. Maintenance of all storm water BMPs shall be ensured through the creation of a formal maintenance covenant that must be approved by the City and recorded prior to the storm water management final plan approval. The creation of these maintenance covenants are the responsibility of the property owner or their designated agent. As part of the covenant, a schedule shall be developed for when and how often maintenance will occur to ensure proper function of the storm water BMPs. The covenant shall also include plans for periodic inspections to ensure proper performance of the BMPs between scheduled cleanouts.

B. The City, in lieu of a maintenance covenant, may (but is not required to) accept dedication of any existing or future storm water BMP to include City responsibility for maintenance and repair, provided that: the maintenance and repair of such element will not impose an undue burden on other City taxpayers who enjoy little if any benefit from the BMP; the BMP meets all the requirements of this chapter; and the dedication includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance. By mutual agreement of the City and the party responsible for maintenance for a stormwater BMP, the City may receive an annual payment to cover costs of maintenance and assume maintenance responsibilities. Said payment will be calculated to cover the expected costs of maintenance.]

4. Requirements for Maintenance Covenants. All storm water BMPs must undergo, at the minimum, an annual inspection to document maintenance and repair needs and ensure compliance with the requirements of this chapter and accomplishment of its purposes. These needs may include (but are not limited to) removal of silt, litter, and other debris from all storm water treatment and conveyance facilities, including ponds, infiltration basins, rain gardens, catch basins, inlets, and drainage pipes, grass cutting and vegetation removal, and necessary replacement of landscape vegetation. Any maintenance or repair needs detected must be corrected by the developer or entity responsible under a written maintenance agreement within 30 days, and the inspection and maintenance requirement may be increased as deemed necessary to ensure proper functioning of the storm water BMPs. In the event the identified maintenance or repair cannot be completed within 30 days of notice, the responsible party must contact the City with 30 days of notice to explain why repair or maintenance cannot be completed within 30 days and provide a plan for completing repair or maintenance.

5. Inspection of Storm Water BMPs. Inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of State or federal water or sediment quality standards or the NPDES storm water permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include but are not limited to: reviewing maintenance and repair records; sampling

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discharges, surface water, groundwater, and material or water in storm water BMPs, and evaluating the condition of storm water BMPs.

6. Right of Entry for Inspection. When any new storm water BMP is installed on private property, or when any new connection is made between private property and a public storm water management facility, sanitary sewer or combined sewer, the property owner shall grant to City the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when City has a reasonable basis to believe that a violation of this chapter is occurring or has occurred, and to enter when necessary for abatement of a public nuisance or correction of a violation of this chapter.

7. Records of Installation and Maintenance and Repair Activities. Parties responsible for the operation and maintenance of storm water BMPs shall submit to the City an annual maintenance and inspection report including all records of the installation and of all maintenance and repairs conducted. These records shall be made available to City during inspection of the facility and at other reasonable times upon request. The City may also request an as-built drawing of stormwater BMP to determine compliance with original design if deemed necessary by the City.

8. As-Built Drawings. At the time of final plat an as-built drawing will be provided to the City for all stormwater BMPs. At such time as a developer transfers control of stormwater BMPs to an HOA, the City other responsible party, the developer shall provide notice to the City and the City shall have the right to confirm stormwater BMPs match the as-built provided at final plat prior to transfer. A maintenance bond, agreement to complete, or letter of credit shall be provided to the City for any required work to stormwater BMPs to correct to as-built standard prior to transfer of ownership or responsibility. After transfer of ownership or responsibility, the bond or letter of credit will be released.

9. Failure to Maintain Storm Water BMPs. If a responsible party fails or refuses to meet the requirements of the maintenance covenant or any provision of this chapter, the City, after reasonable notice, may correct a violation by performing all necessary work to place the BMP in proper working condition. In the event that the storm water BMP becomes a danger to public safety or public health, the City shall notify the party responsible for maintenance of the storm water BMP in writing. Upon receipt of that notice, the responsible person shall have thirty (30) days to effect maintenance and repair of the storm water BMP in an approved manner. After proper notice, the City may assess, jointly and severally, the owners of the storm water BMP or the property owners or the parties responsible for maintenance under any applicable written agreement for the cost of repair work and any penalties; and the cost of the work shall be a lien on the property, or prorated against the beneficial users of the property, and may be placed on the tax bill and collected as ordinary taxes.

161.15 ENFORCEMENT AND PENALTIES.

Violation of any provision of this chapter may be enforced by civil action including an action for injunctive relief. In any civil enforcement action, administrative or judicial, the City shall be entitled to recover its attorneys' fees and costs from a person who is determined by a court of competent jurisdiction to have violated this chapter.

1. The City may issue a stop work order for violation of any provision of this chapter. The stop work order shall be applicable to the lot within the development causing the violation and shall remain in effect until the violation is corrected and a subsequent inspection completed. In the event a building is completed and occupied when a violation occurs, the City will not issue additional permits for that property.

2. Violation of any provision of this chapter may also be enforced as a municipal infraction within the meaning of Section 364.22 of the Code of Iowa, pursuant to Chapter 4 of this Code of Ordinances.

3. Enforcement pursuant to this section shall be undertaken by City upon the advice and consent of the City Attorney or other counsel employed by City.

4. Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the City may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

5. Occupancy permits shall not be granted until all storm water BMPs have been inspected and approved by City.

161.16 APPEAL.

Administrative decisions by City staff and enforcement actions may be appealed by the developer or property owner to the City Council pursuant to the following rules:

1. The appeal must be filed in writing with the City Clerk within five (5) business days of the decision or enforcement action.

2. The written appeal shall specify in detail the action appealed from, the errors allegedly made by the enforcement officer giving rise to the appeal, a written summary of all oral and written testimony the applicant intends to introduce at the hearing, including the names and addresses of all witnesses the applicant intends to call, copies of all documents the applicant intends to introduce at the hearing, and the relief requested.

3. The enforcement officer shall specify in writing the reasons for the enforcement action, a written summary of all oral and written testimony the enforcement officer intends to introduce at the hearing, including the names and addresses of all witnesses the enforcement officer intends to call, and copies of all documents the enforcement officer intends to introduce at the hearing.

4. The City Clerk shall notify the applicant and the enforcement officer by ordinary mail and shall give public notice, in accordance with Chapter 21 of the Code of Iowa, of the date, time, and place for the regular or special meeting of the City Council at which the hearing on the appeal shall occur. The hearing shall be scheduled for a date not less than four (4) or more than twenty (20) days after the filing of the appeal. The rules of evidence and procedure and the standard of proof to be applied shall be the same as provided by Chapter 17A, Code of Iowa. The applicant may be represented by counsel at the applicant's expense. The enforcement officer may be represented by the City Attorney or by an attorney designated by the City Council at City expense.

5. The decision of the City Council shall be rendered in writing and may be appealed to the Iowa District Court.

(Ch. 161 - Ord. 20-09 - Jan. 21 Supp.)

CHAPTER 162 **FUEL GAS CODE**

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162.01 Short Title

162.02 Adoption of Fuel Gas Code

162.03 Conflicts

162.04 Amendments, Modifications, Additions and Deletions

-

162.01 SHORT TITLE.

~~—This chapter shall be known as the Windsor Heights Fuel Gas Code, and may be cited as such, and may be referred to herein as this chapter.~~

162.02 ADOPTION OF FUEL GAS CODE.

~~—The International Fuel Gas Code, 2012 Edition, published by the International Code Council, Inc., is adopted in full except for such portions as may be hereinafter deleted, modified, or amended. A copy of the International Fuel Gas Code, 2012 Edition, as adopted and a copy of this chapter are on file in the office of the Code Official.~~

162.03 CONFLICTS.

~~—In the event requirements of this code conflict with applicable State and federal requirements, the more stringent shall apply.~~

Commented [AS45]: Consolidated into proposed Chapter 155

162.04 AMENDMENTS, MODIFICATIONS, ADDITIONS AND DELETIONS.

—The International Fuel Gas Code, 2012 Edition (hereinafter known as the IFGC), is amended as follows:

—1. The following are deleted from the IFGC and are of no force or effect in this chapter:

106.5.4 Extensions; 109 Means of Appeal.

—2. Subsection 101.1, Title, of the IFGC, is hereby deleted and there is enacted in lieu thereof the following subsection:

101.1 Title. These regulations shall be known as the Fuel Gas Code of the City of Windsor Heights, hereinafter known as “this code.”

—3. Subsections 103.1, General, of the IFGC, is hereby amended by adding the following paragraph to said subsection:

The term Code Official is intended also to mean the Building and Zoning Administrator and his or her representatives or designees, who are herewith delegated the same powers, authorities, duties, and responsibilities as designated for the Code Official.

—4. Subsection 106.1.1, Permit Acquisition, of the IFGC is hereby established by adding the following:

—106.1.1 Permit acquisition.

—1. Permits are not transferable. Fuel gas work performed under the provisions of this chapter must be done by a contractor meeting the licensing provisions as set forth by the State of Iowa Plumbing and Mechanical Systems Board in accordance with Chapter 105 of the Code of Iowa. A responsible person or mechanical professional licensed by the State of Iowa Plumbing and Mechanical Systems Board as a “Master” may sign and obtain a permit for the contractor for which said person is employed only when said responsible person or Master has provided proof of employment or written confirmation by said licensed contractor. Any permit required by the provisions of this code may be revoked by the Code Official upon the violation of any provision of this code.

—2. A State of Iowa licensed mechanical contractor shall be allowed only to secure permits for himself or herself, or for a single firm or corporation. When a State of Iowa licensed mechanical contractor has secured such a permit, only the employees of such contractor when meeting the provisions of Chapter 105 of the Code of Iowa shall perform the work for which the permit was obtained.

—3. For purposes of this section, an “employee” is one employed by the contractor, firm, or corporation for a wage or salary. A contractor may be required by the Code Official to show

positive evidence as to the employee status of workers on the job. Such evidence shall be in the form of payroll and time records, canceled checks, or other such documents.

—4. The contractor may also be required to show the agreement or contract pertaining to the work being questioned as evidence that said contractor is, in fact, the actual contractor for such work. Failure or refusal by the contractor to make available such employee or contractual records within 24 hours from demand therefor shall be grounds for immediate revocation of any permit for the work in question.

—5.—

Subsection 106.5.3 Expiration, of the IFGC is hereby amended by deleting said subsection and inserting in lieu thereof the following:

106.5.3 12-month expiration. Every permit issued under the provisions of this Code shall expire twelve (12) months from the date of issue, unless the application is accompanied by a construction schedule of specific longer duration, in which instance the permit may be issued for the term of the construction schedule, with approval of the Code Official. If the work has not been completed by the expiration date of the permit, no further work shall be done until the permit shall have been renewed by the owner or his or her agent and by payment of the renewal fee as established by resolution of the City Council, and provided no changes have been made in plans or location. Upon approval, permits may be extended for no more than two periods not exceeding 180 days each.

—6. Subsection 106.5.6, Retention of Construction Documents, of the IFGC is hereby amended by deleting said subsection and inserting in lieu thereof the following:

—106.5.6 Retention of construction documents. One set of construction documents shall be retained by the Code Official until final approval of the work covered therein.

—7. Subsection 106.6.2, Fee Schedule, of the IFGC is hereby amended by deleting said subsection and inserting in lieu thereof the following:

106.6.2 Fee schedule. Permits shall not be issued until the fees, as set forth and established by resolution of the City Council, have been paid to the City of Windsor Heights. An amended permit or a supplemental permit for additional construction shall not be issued until the permit fee for the additional work has been paid.

—8. Subsection 106.6.3, Fee Refunds, of the IFGC is hereby amended by deleting said subsection and inserting in lieu thereof the following:

—106.6.3 Fee refunds. The Code Official is authorized to establish a refund policy.

—9. Subsection 108.4, Violation Penalties, of the IFGC is hereby amended by deleting said subsection and inserting in lieu thereof the following:

108.4 Violation penalties. Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, installs, alters, or repairs fuel

gas work in violation of the approved construction documents or directive of the Code Official, or of a permit issued under the provisions of this code, shall be subject to penalties as prescribed by law.

~~—10. Subsection 108.5, Stop Work Orders, of the IFGC is hereby amended by deleting the last sentence of said subsection and inserting in lieu thereof the following:~~

~~Any person who shall continue any work on the system after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law.~~

~~—11. Subsection 403.10.1, Pipe Joints, of the IFGC is hereby amended by adding a new subsection as follows:~~

~~403.10.1.1 Welded pipe joints. All joints of wrought iron or steel gas piping larger than two-inch (2") standard iron pipe size and providing gas pressure of two (2) PSIG or greater shall be welded steel. All welded joints shall comply with the State of Iowa requirements and work shall be performed by certified welders.~~

CHAPTER 163
DEMOLITION & RAZE PERMIT

163.01 Demolition Permit Required	163.07 Time Limit for Demolitions
163.02 Application for Permit	163.08 Removal and Disposal
163.03 Demolition with Explosives	163.09 Disconnection of Sewer and Water
163.04 Abatement Ordered – Bond Required	163.10 Plugging Sewers for Abandoned, Razed, Demolished or Destroyed Buildings
163.05 Clearing and Leveling the Site	163.11 Right of the City to Enter Upon Premises in the Event of Noncompliance
163.06 Fencing or Covering Excavation of Building	163.12 Miscellaneous Provisions

163.01 DEMOLITION PERMIT REQUIRED.

1. No building in the City of Windsor Heights can be demolished or razed until a permit authorizing such work has been obtained from the building official.

2. No permit for the demolition of a building shall be issued other than in conformity with the provisions of this ordinance, as well as in conformity with the provisions of other laws and ordinances applicable to historic preservation and to the demolition of buildings.

3. Except as provided in this section, a demolition permit that has expired shall be null and void, and before any demolition work is subsequently commenced a new permit therefore shall be obtained. The fee for such permit shall be at the same rate as the original permit.

4. If a demolition permit to remove an unsafe building or a building that is the subject of a public nuisance action has expired, the building official shall order the prompt removal of such structure, in accordance with all requirements of this article. All of the costs attendant to this action, including administrative costs, shall be either assessed against the property or collected from the owner unless otherwise directed by the City Council.

163.02 APPLICATION FOR PERMIT.

An application for demolition shall be made only by the person, partnership, corporation or realty trust which is the legal deed holder of the building at the time of such application. The applicant must comply with all federal, state and local regulations pertaining to the disposal of hazardous wastes and building demolition. The application must be made on the form provided by the City of Windsor Heights, ~~and must clearly state the following at a minimum:~~

- ~~1. How the anticipated final disposition of material will be accomplished in as sustainable manner as possible;~~
- ~~2. The name and address of the person in responsible charge of the work;~~
- ~~3. The street address and legal description of the property on which the building or structure is located;~~
- ~~4. The name and address of the owner and, when appropriate, his or her legal agent in responsible charge of the property;~~
- ~~5. Overall dimensions, number of stories and materials of construction of the building or structure to be demolished;~~
- ~~6. A plan showing areas to be protected by fences, barricades, covered walkways, or other protective devices, and details of construction for such devices;~~
- ~~7. Location of the site where the demolition debris is to be discarded;~~
- ~~8. Approval from other city departments including: Public services, fire and administration, and other governmental agencies when deemed necessary by the building official and any special conditions or restrictions relating thereto;~~

Commented [AS46]: Removing application requirements from ordinance. Will move to an application form.

~~—9. For demolition by explosives, the applicant shall furnish the information required in this subsection and shall furnish information regarding the person who will be conducting the demolition by explosives and shall furnish plans showing how the building or structure will be prepared for demolition, the type and amount of explosives to be used, and a detailed plan showing what safety precautions will be taken to protect persons and property;~~

~~—10. Identification of any potential hazardous materials and how any hazardous materials contained within the structure proposed for demolition will be determined and remediated;~~

~~—11. Identifying all material. Such as basements, sidewalks, utilities materials, etc., which will not be removed from the property as part of the proposed demolition;~~

~~—12. A plan and schedule for accomplishing the demolition to include safety and security, and access limits.~~

~~—13. The applicant shall provide a certificate of liability insurance for personal injuries, death and for property damage in an amount not less than \$2,000,000.00 naming the City as an additional named insured party. The certificate shall provide that the coverage shall not be cancelled or changed without ten days' prior written notice to the City. The City Council may require additional insurance coverage when the hazard appears greater than normally expected and may also in such instance require the posting of a bond acceptable to the City in an amount commensurate with the severity of the hazard. The bond shall provide that the applicant shall well and satisfactorily perform the demolition. The bond shall be for the benefit of the City and any person who is injured or damaged by the failure of the applicant to satisfactorily perform the demolition.~~

~~—14. The applicant shall agree to indemnify and hold harmless the City from all losses resulting from damages or injuries caused by the applicant or the applicant's employees, servants or agents arising out of the use of explosives in demolition.~~

No permit for demolition of a building shall be granted until plans for use or development of the site after demolition have been filed with the Zoning Administrator and found to comply with all laws pertaining to the issuance of a building permit and where applicable, a site plan unless it is subject to a public nuisance or unsafe building. All approvals necessary for the issuance of such a building permit or certificate of occupancy including without limitation any necessary zoning variances or special permits, must be granted and all appeals from the granting of such approvals must be concluded, prior to the issuance of a demolition permit under this section.

163.03 DEMOLITION WITH EXPLOSIVES.

A permit for the demolition of a building or structure by the use of explosives may be issued by the City Council subject to the following conditions, in addition to those set forth in Section 163.02:

1. The applicant for a permit must demonstrate to the City Council the need for demolition by explosives rather than demolition by conventional means and must demonstrate that demolition by explosives can be safely conducted at the specific location requested;
2. The building official, ~~Public Services Director~~Public Works Director, fire chief and police chief shall review the application and submit their opinions to the City Council concerning whether or not the demolition can be safely conducted, together with any recommendations they may have;
3. The applicant shall pay the City in advance for reasonable expenses that will be incurred by the City in furnishing necessary security and police protection in the vicinity of the demolition site;
4. The applicant shall observe all applicable federal, state and local laws in the course of the demolition, including but not limited to the following:
 - A. The applicable provisions of the city fire prevention code relating to the storage, transportation and use of explosives.
 - B. The rules and regulations of the United States Environmental Protection Agency relating to the demolition of buildings or structures containing asbestos materials or other hazardous air pollutants.
5. The applicant shall meet all other requirements of this article relating to the demolition of structures or buildings; provided, however, that if a conflict exists between the provisions of this subsection and other sections of the City Code, the provisions of this subsection shall be deemed to be controlling;
6. The City Council shall at any time have the authority to impose additional requirements and safety precautions in the interest of the public health, safety and welfare;
7. Such other information as shall be reasonably required by the building official.

163.04 ABATEMENT ORDERED - BOND REQUIRED.

1. Before a permit is issued to remove a building which has been ordered removed as a public nuisance and which period of time granted by the City or by the courts for removal or other remedial action by the applicant or other party of interest has expired, the applicant may be required to post a cash bond equal to the estimated costs of the removal of the building and the disconnection of the existing utility services. If the applicant does

not remove the building at the time the permit expires at a time specified by the building official, such bond shall be forfeited and used toward the costs of the City to remove it.

2. If the building is removed by the applicant prior to the time the permit expires, such bond shall be returned to the applicant. A return of the bond does not exempt the applicant from further assessments to the real estate for costs that have occurred prior to the issuance of the permit.

163.05 CLEARING AND LEVELING THE SITE.

1. The site of any demolition shall be properly cleared of debris, rubbish and pavement and shall be properly graded and leveled to conform with the adjoining grade of the neighboring property; and when so graded and leveled, the site shall be seeded, sodded or treated in some other manner acceptable to the Building Inspector so as to prevent blowing dust, dirt, or sand. Excavations remaining after demolition shall be filled, graded and leveled off, not later than fifteen (15) consecutive days after demolition is completed.

2. Upon completion of the demolition work, the site shall be left in a clean, smooth condition. Inorganic building rubble, sand, clean earth, or other approved fill material may be used to fill excavations, basements, and depressions, provided that the top 12 inches shall be clean earth or its equivalent in terms of surface smoothness, free from dust, and cleanliness.

3. Excavations from demolished buildings or structures shall not be filled with any materials subject to deterioration. The Building Inspector, upon notification by the permit holder, the owner or his/her agent, in writing and upon forms provided by the Building Inspector for that purpose, shall within seventy-two (72) hours inspect each excavation, or part thereof, before applicant is permitted to fill any excavation.

4. It shall be unlawful to fill any such excavation without inspection and approval of the Building Inspector. Voids in filled excavations shall not be permitted. In the event of the unavailability of the Building Inspector to conduct an inspection within the seventy-two (72) hours after written notice; the ~~Director of Public Service~~ Director of Public Works or designee may conduct inspection. Said opinion shall be deemed a sufficient approval by the City provided that a written copy of the opinion delivered to the City Clerk is at least forty-eight (48) hours before filling of the excavation commences.

163.06 FENCING OR COVERING EXCAVATION OF BUILDING.

Before the demolition or razing of any building or structure has commenced the building or structure undergoing such demolition or razing and all debris on the property site shall be fenced and closed off to access by unauthorized persons with a fence not less than four feet in height. When such demolition and razing has reduced the building or structure to

ground level, the resulting excavation consisting of a basement, cellar or other underground excavation shall be promptly filled to ground level not more than fifteen days after said building or structure has been lowered to ground level.

163.07 TIME LIMIT FOR DEMOLITION.

The razing or demolition of any building or structure within the city limits shall be completed within thirty (30) days after such demolition or razing first commences. Completion of razing or demolition shall include the removal of all debris resulting from such razing or demolition from the site where said building or structure was located.

163.08 REMOVAL AND DISPOSAL.

Removal, transportation and disposal of all hazardous waste, hazardous and toxic substances, and asbestos shall be conducted in compliance with all applicable state, federal and local statutes, ordinances and regulations. ~~The permit holder shall give the Building Inspector seventy-two (72) hours written notice prior to any removal, transportation or disposal of hazardous waste, hazardous and toxic substances, and asbestos.~~

Commented [AS47]: Removing burden of inspection of removal of materials from the City.

163.09 DISCONNECTION OF SEWER AND WATER.

No permit to demolish shall be issued until it has been established that existing sewer and/or water services have been properly disconnected and approved.

163.10 PLUGGING SEWERS FOR ABANDONED, RAZED, DEMOLISHED OR DESTROYED BUILDINGS.

From and after the effective date of this ordinance all sewer drains, sewer connections, and water service line serving any razed or demolished building or any building that has been destroyed by fire or other casualty shall be sealed, plugged or capped by concrete or a mechanical watertight device where such sewer line exits from the building. Any plugs, caps or seals applied under the provisions of this ordinance shall be made between the sidewalk and the curb or such other point designated by the ~~Director of Public Service~~**Director of Public Works** and shall remain exposed until they have been viewed and approved by the ~~Director of Public Service~~**Director of Public Works**. Failure to obtain a permit as herein required or failure to seal, plug or cap a sewer drain or water service line within ten days after notice to do so by the Director of Public Works or failure to allow such plug, cap or seal to remain exposed until inspected by the Director of Public Works shall constitute a violation of this ordinance.

163.11 RIGHT OF THE CITY TO ENTER UPON PREMISES IN THE EVENT OF NONCOMPLIANCE.

Authorized representatives of the City of Windsor Heights shall have the right to enter upon any premises where the razing or demolition of any building or structure is in progress for the purpose of constructing the fence or for the purpose of providing fill for the excavation where the owner of said property has failed to do so as required by this ordinance and assess the costs as a lien on the property.

163.12 MISCELLANEOUS PROVISIONS.

1. Demolition permits shall lapse and be void unless the work authorized thereby is commenced within six (6) months from the date thereof or completed within thirty (30) days from the date of commencement of said work. Any unfinished portion of work remaining beyond the required thirty (30) days must have special approval from the Building Inspector.

2. The building official shall have the authority to impose at any time reasonable requirements and safety precautions in the interest of public health, safety, and welfare, which, in his or her opinion, are commensurate with the severity of hazard, either demonstrated or anticipated, provided that such requirements may be appealed to and reviewed by the board of appeals at the request of the affected party.

3. The discharging, loading, or dumping of building materials from any building shall be accomplished in such manner as to minimize the creation of dust and scattering of debris. Materials shall not be dropped by gravity to any point lying outside the building walls except through an enclosed chute, unless such materials are dust free and the height of the drop is at least equal to the horizontal distance to the nearest property or barricade line. Where such horizontal distance is not available and practical necessity dictates the dropping of relatively large masses of materials, the building official may approve appropriate protective measures designed to provide protection from danger equivalent to that afforded by the otherwise required setback; provided, however that in all cases such materials shall be handled in a manner approved by the air pollution control division of the county health department.

4. When necessary as determined by city officials, in order to protect the public health, safety, or welfare, every demolition project shall be barricaded, fenced, lighted, and signed with warning and/or directional signs in a manner approved by the building official or ~~Director of Public Service~~Director of Public Works. The building official may also require the presence of approved security guards or flag persons. Such barricades, fences, lights, and signs as may be deemed necessary by the building official for protection of the public shall be maintained after completion of the demolition work until such time as the site is

cleaned of all debris and all excavations, basements, and depressions in the ground are restored to grade rendered harmless.

5. Adequate precautions shall be taken to ensure that procedures or conditions relation to the demolition work do not constitute a fire hazard. If, in the opinion of the fire chief, a fire hazard exists or is likely to exist, he or she may order the cessation of work or require that appropriate protective measures approved by him or her are taken.

6. All streets, alleys, and public ways adjacent to the demolition site shall be kept free and clear of any rubbish, refuse, and loose material resulting from the demolition work unless an obstruction permit for such space has been obtained.

7. Demolition of structures subject to public nuisance action shall include removal of all footing and foundation materials unless an obstruction permit for such space has been obtained.

8. All debris must be hauled away at the end of each week for the work that was completed during that week. No combustible material shall be used for backfill, but shall be hauled away. There shall not be any burning of materials on the site of the razed building.

9. If any razing or removal operation under this Section results in, or would likely result in, dust particles in the air creating a nuisance in the vicinity thereof, the permittee shall take all necessary steps, by use of water spraying or other appropriate means, to eliminate such nuisance.

10. The permittee shall take all necessary steps, prior to the razing of a building, through the employment of a qualified person in the field of pest control or by other appropriate means, to treat the building as to prevent the spread and migration of rodents and insects therefrom during and after the razing operations.

(Ch. 163 – Ord. 15-07 – Nov. 15 Supp.)

CHAPTER 178 COMPREHENSIVE PLAN

EDITOR'S NOTE

The Comprehensive Plan for the City of Windsor Heights, adopted February 20, 2017, by Ordinance No. 16-11, and amendments thereto, contained in a separate volume, are a part of this Code of Ordinances and are in full force and effect. The following ordinances have been adopted amending the Comprehensive Plan.

ORDINANCE NO.

ADOPTED

ORDINANCE NO.

ADOPTED

(Supp. No. 30)

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EDITOR'S NOTE

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ORDINANCE NO.

ADOPTED

ORDINANCE NO.

ADOPTED

17-04

May 25, 2017

CHAPTER 179 BOARD OF ADJUSTMENT

179.01 Organization and Meetings	179.04 Powers
179.02 Meetings	179.05 Exceptions
179.03 Appeals	179.06 Decisions of the Board of Adjustment

179.01 ORGANIZATION AND MEETINGS.

The Board of Adjustment hereafter referred to by the words "Board of Adjustment," is hereby continued. Such Board of Adjustment shall consist of five members appointed by the City Council. Terms shall be as provided by State statute. The Council shall have the power to remove any member of the Board of Adjustment for cause upon written charges and after public hearing.

179.02 MEETINGS.

The Board of Adjustment shall adopt rules and regulations in accordance with this Zoning Code and the Code of Iowa. The meetings of the Board of Adjustment shall be held at the call of the chairman and at such other times as the Board of Adjustment may determine.

Such chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board of Adjustment shall be open to the public. The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member on each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board of Adjustment and shall be a public record. The presence of three members shall be necessary to constitute a quorum.

179.03 APPEALS.

1. Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of Windsor Heights affected by any decision of the Zoning Administrator, as provided in Iowa Code 414. Such appeal shall be taken within 20 days of the decision by filing with the Zoning Administrator and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board of Adjustment all papers constituting the record upon which the action appealed is taken from.

2. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board of Adjustment, after notice of appeal shall have been filed with him, that by reason of the facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order, which may not be granted by the Board of Adjustment, or by a court of record on application, on notice to the Zoning Administrator and on due cause shown.

3. The Board of Adjustment shall fix a reasonable time for the hearing on the appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing any party may appear in person or by agent, or by attorney. Before an appeal is filed with the Board of Adjustment, the appellant shall pay a fee according to the schedule of fees which is on file in the office of the City Clerk and submit all required paperwork and application.

179.04 POWERS.

The Board of Adjustment shall have the following powers:

1. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Administrator in the enforcement of this ordinance.

2. To grant a variation from the terms of this ordinance; provided, however, that all variations granted under this clause shall be in harmony with the intent of this ordinance

and the applicable State Statute Iowa Code Section 414. For variance regarding floodplain management refer to Chapter 185.10. In granting approval or conditional approval of a variance, the Board of Adjustment shall prepare written findings of fact that all of the conditions below apply to the application:

A. Special Circumstances. Special circumstances exist relating to the physical character of the property that are peculiar to the property and that do not apply generally to other properties in the same zoning district. And these circumstances are not of so general or recurrent a nature as to make it practical to provide, in the form of an amendment to this ordinance, a general rule to cover them.

B. Hardship or Practical Difficulties. Because of these special circumstances, the literal application of the provisions of this ordinance would, without a variance, result in unnecessary and undue hardship or practical difficulties for the applicant, as distinguished from mere inconvenience.

C. Not Resulting from Applicant Action. The special circumstances and either practical difficulties or hardship that are the basis for the variance have not resulted from any act, undertaken subsequent to the adoption of this ordinance or any applicable amendment thereto, of any party with a present interest in the property.

D. Reasonable Use and Return. Without the requested variance, the property cannot yield a reasonable return, or cannot be reasonably used consistent with the intent of the zoning district and the use of other properties therein, but the purpose of the variance is not otherwise to increase the return from the property or to confer special privileges not ordinarily enjoyed by other properties in the same district.

E. Not Alter Local Character. The variance will not alter the essential character of the locality or substantially impair public safety or welfare or property values in the area.

F. Minimum Variance Needed. The variance approved is the minimum required to allow reasonable use and enjoyment of the property.

3. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under this ordinance. Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.

4. No nonconforming use of neighboring lands, structures, or buildings in the same district and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

Commented [AS48]: Adding to refer to chapter 185. We are recommending keeping Floodplain variance standards in Chapter 185 for convenience of applicants and 3rd party reviewers. Chapter 185 will refer back to Chapter 179 for BoA powers and appeal process.

179.05 EXCEPTIONS.

1. To permit the following exceptions to the district regulations set forth in the ordinance, provided all exceptions shall be their design, construction and operation adequately safeguard the health, safety and welfare of the occupants of adjoining and surrounding property, shall not impair an adequate supply of light and air to adjacent property, shall not increase congestion in the public streets, shall not increase public danger of fire and safely, and shall not diminish or impair established property values in surrounding areas.
2. To permit erection and use of a building or the use of premises or vary the height, yard or area regulations in any location for a public service corporation for public utility purposes, or for purposes of public communication, which the Board of Adjustment determines is reasonably necessary for the public convenience or welfare.
3. To issue special permits and decide such matters as may be required by other sections of this ordinance.

179.06 DECISIONS OF THE BOARD OF ADJUSTMENT.

1. In exercising the above mentioned powers, the Board of Adjustment may, in conformity with the provisions of law, reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determinations as it believes proper, and to that end shall have all the powers of the Zoning Administrator. The concurring vote of three of the members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance. The action of the Board of Adjustment shall not become effective until after the resolution of the Board of Adjustment, setting forth the full reason for its decision and the vote of each member participating therein, has been filed. Such resolution, immediately following the Board of Adjustment's final decision, shall be filed in the office of the Board of Adjustment, and shall be open to public inspection.
2. Every variation and exception granted or denied by the Board of Adjustment shall be supported by a written testimony or evidence submitted in connection therewith. Any taxpayer, or any officer, department, board or bureau of Windsor Heights, or any person or persons jointly or severally aggrieved by any decision of the Board of Adjustment may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the office of the Board of Adjustment.

(Ch. 179 – Ord. 18-07 – Jun. 18 Supp.)

CHAPTER 180
CONDITIONAL USE PERMITS

180.01 Intent	180.07 Burden of Persuasion
180.02 Conditional Use Permit Required	180.08 Board of Adjustment Action on Applications
180.03 Issuance of Conditional Use Permit	180.09 Expiration of Permits
180.04 Application of Conditional Use Permits	180.10 Previously Approved Permits
180.05 Notification	180.11 Effect of Permit on Successors and Assigns
180.06 Standards for Approval	180.12 Amendments and Modifications

180.01 INTENT.

Many land use activities, while not inherently inconsistent with other permitted uses in a particular zoning district, may have significant impact on the surrounding area. Conditional use permits for such uses allow special conditions to be “attached” to the development to address those impacts. The conditional use permit process provides for flexibility in identifying the special conditions without making the ordinance unreasonably complicated. The objective of the conditional use permit process is to encourage compatibility of the proposed development with the environment, and with existing and future land uses in the area.

180.02 CONDITIONAL USE PERMIT REQUIRED.

Those uses which require a Conditional Use Permit are listed in the individual districts, as well as those having the discretion of the Zoning Administrator.

180.03 ISSUANCE OF CONDITIONAL USE PERMIT.

1. A Conditional Use Permit may be issued only after review and approval of the submitted application, including any plans, by the Board of Adjustment. An application and plan shall only be approved upon determination that the development, if completed as proposed, will comply with the provisions of this chapter.

2. The Conditional Use Permit shall be issued in the name of the applicant (except that applications submitted by an agent shall be issued in the name of the principal), shall identify the property involved and the proposed use, and shall incorporate by reference the approved application and plan. The permit shall contain any special conditions or requirements lawfully imposed by the Board of Adjustment.

3. All development shall occur strictly in accordance with such approved application and plan.

180.04 APPLICATION FOR CONDITIONAL USE PERMITS.

1. The applicant for a conditional use permit must be a person with the legal authority to take action in accordance with the permit. In general, this means that applications should be made by the owners or lessees of the subject property or their agents, or persons who have contracted to purchase property contingent upon their ability to acquire the necessary permits, or their agents.

2. The application must be submitted on an approved form and must be complete. An application shall be complete when it contains all the information necessary for the Board of Adjustment to decide whether the development, if completed as proposed, will comply with all of the requirements of this section. Unless the Zoning Administrator informs the applicant in what way the application is incomplete, the application shall be presumed to be complete. If the application is deemed incomplete, the Zoning Administrator will not schedule the hearing until all required documentation has been submitted.

3. Additional documents needed:

A. Site plan with dimensions of the proposed with dimensions of the proposed building and land.

B. Property owners within 500 feet of the property in reproducible electronic format.

C. A complete legal description of the property shall be provided in reproducible electronic format.

D. Narrative to the Standards for Approval #1-6.

4. To minimize planning costs to the applicant, avoid misunderstandings or misinterpretations, and to ensure compliance with the requirements of this section, a pre-application conference between the applicant and the Zoning Administrator is strongly encouraged.

180.05 NOTIFICATION.

The Board of Adjustment shall fix a reasonable time for the hearing on the appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time.

180.06 STANDARDS FOR APPROVAL.

1. The Board of Adjustment shall review the proposed development for conformance to the following Standards of Approval:

A. Compatibility. The proposed buildings or use shall be constructed, arranged and operated so as to be compatible with the character of the zoning district and immediate vicinity, and not to interfere with the development and use of adjacent property in accordance with the applicable district regulations. The proposed development shall not be unsightly, obnoxious or offensive in appearance to abutting or nearby properties.

B. Transition. The development shall provide for a suitable transition, and if necessary, buffer between the proposed buildings or use and surrounding properties.

C. Traffic. The development shall provide for adequate ingress and egress, with particular attention to vehicular and pedestrian safety and convenience, traffic flow and control, and emergency access.

D. Parking and Loading. The development shall provide all off-street parking and loading areas as required by this ordinance, and adequate service entrances and areas.

Appropriate screening shall be provided around parking and service areas to minimize visual impacts, glare from headlights, noise, fumes or other detrimental impacts.

E. Signs and Lighting. Permitted signage shall be in accordance with the applicable district regulations and shall be compatible with the immediate vicinity. Exterior lighting, if provided, shall be with consideration given to glare, traffic safety and compatibility with property in the immediate vicinity.

F. Environmental Protection. The development shall be planned and operated in such a manner that will safeguard environmental and visual resources. The development shall not generate excessive noise, vibration, dust, smoke, fumes, odor, glare, groundwater pollution or other undesirable, hazardous or nuisance conditions, including weeds.

2. If the Board of Adjustment concludes that all of the Standards for Approval criteria will be met by the development, it shall approve the application and plans. If it concludes, based on the information submitted at the hearing, which if completed as proposed there is a strong probability the development will:

A. Not adequately safeguard the health, safety and general welfare of persons residing or working in adjoining or surrounding property, or

B. Impair an adequate supply (including quality) of light and air to surrounding property, or

C. Unduly increase congestion in the roads, or the hazard from fire, flood or similar dangers, or

D. Diminish or impair established property values on adjoining or surrounding property, or

E. Not be in accord with the intent, purpose and spirit of the zoning ordinance or comprehensive plan.

180.07 BURDEN OF PERSUASION.

The burden of persuasion as to whether the development, if completed as proposed, will comply with the requirements of this and all chapter is at all times on the applicant. The burden of presenting evidence to the Board of Adjustment sufficient enough for it to conclude that the application does not comply with the requirements of this section is upon the person or persons recommending such a conclusion, unless the information presented by the applicant warrants such a conclusion.

180.08 BOARD OF ADJUSTMENT ACTION ON APPLICATIONS.

In considering whether to approve an application for a conditional use permit, the Board of Adjustment shall proceed according to the following format:

1. The Board of Adjustment shall establish findings of fact based upon information contained in the application, the staff report and information gathered at the Board of Adjustment hearings.

2. The board shall consider such reasonable requirements or conditions to the permit as will ensure the development will satisfy the requirements of this chapter. A vote may be taken on such conditions before consideration of whether the permit should be approved or denied for any of the reasons set forth in 3 or 4.

3. The Board of Adjustment shall consider whether the application complies with all of the applicable Standards for Approval set forth in 180.06. Separate votes may be taken with respect to each criterion. If the Board of Adjustment concludes that the application fails to meet one or more of the criteria, the application shall be denied.

4. If the Board of Adjustment concludes that all such criteria have been met, the application shall be approved unless it adopts a motion that the application fails to meet any of the approval standard set forth in 178.06. Separate votes may be taken with respect to each standard. Any such motion regarding compliance or noncompliance of the

application to the development criteria or Standards for Approval shall specify the supporting reasons for the motion. It shall be presumed the application complies with all criteria and standards not specifically found to be unsatisfied. Without limiting the foregoing, the Board of Adjustment may attach to a permit a conditions it deems necessary to protect the health, safety, and general welfare of the public. All conditions or requirements shall be entered on the permit.

The Board of Adjustment shall not grant a conditional use for any home occupation/home based business which is otherwise prohibited under this zoning code.

180.09 EXPIRATION OF PERMITS.

1. A Conditional Use Permit shall become void one year after its effective date if the applicant has not carried out development or occupancy during that period.
2. The Board of Adjustment may revoke a conditional use permit should the operation of the use subject to such permit violate the conditions under which the permit was granted.

180.10 PREVIOUSLY APPROVED PERMITS.

Any permit approved under regulations in effect before the effective date of this zoning code shall be considered a valid permit, subject to the requirements imposed at the time of its approval.

180.11 EFFECT OF PERMIT ON SUCCESSORS AND ASSIGNS.

A Conditional Use Permit authorizes the permit holder the use of land or structures in a particular way and subject to certain conditions. As such, it is transferable. However, no person (including successors or assigns of the original permit holder) may make use of the land or structures covered under such permit except in accordance with all terms and requirements of the permit, so long as the permit remains in effect.

180.12 AMENDMENTS AND MODIFICATIONS.

1. Insignificant modifications to the approved permit are permissible upon authorization by the Zoning Administrator. A modification is insignificant if it has no discernible impact on neighboring properties, the general public or those intended to use or occupy the proposed development.
2. Minor modifications to the approved permit are permissible with the approval of the Board of Adjustment. Such permission may be obtained without a formal application,

public hearing or payment of fees. A modification is minor if it has no substantial impact on neighboring properties, the general public or those intended to use or occupy the proposed development.

3. All other requests for modifications to the approved permit will be processed as new applications. New conditions may be imposed by the Board of Adjustment, but the applicant retains the right to reject such new conditions by withdrawing the request for modifications and proceeding under the terms and conditions of the original permit.

4. The permit holder requesting approval of modifications shall submit a written request (including plans as necessary) for such approval to the administrator, and the request shall specifically identify the modifications. The administrator shall determine whether the proposed modifications falls within the categories set forth in Subsections 1, 2 and 3.

5. Approval of all modifications must be given in writing.

(Ch. 180 – Ord. 18-08 – Jun. 18 Supp.)

CHAPTER 181

ADMINISTRATION AND ENFORCEMENT

Commented [AS49]: Edits to grammar, language, and narrative changes through out as recommended by City Planner Trey Rouse. No substantial content changes.

181.01 Building Permits

181.03 Complaints Regarding Violations

181.02 Schedule of Fees, Charges and Expenses

181.04 Penalties for Violation

181.01 BUILDING PERMITS.

1. Administration and Enforcement. The Zoning Administrator shall administer and enforce this zoning code. The Board of Adjustment may direct other person to assist the Zoning Administrator. If the Zoning Administrator finds that any of the provisions of this zoning code are being violated, said official shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The Zoning Administrator shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this zoning code to ensure compliance with or to prevent violation of its provisions.

2. Building Permits Required. Except as provided by the building code, no building or other structure regulated by this zoning code shall be erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted, or demolished unless a separate permit for each building or structure has first been obtained from the Building Official. No building permit shall be issued by the Building Official except in conformity with the

provisions of this zoning code, unless ~~he/she~~ they receives a written order from the Board of Adjustment in the form of an administrative review, ~~special exception~~, or variance as provided by this zoning code.

3. Application for Building Permit. All applications for building permits shall include plans if applicable in duplicate drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the administrative official, including existing or proposed building or alterations; ~~existing~~ or proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; ~~conditions existing on the lot~~; and such other matters as may be necessary to determine conformance with, and provide for the enforcement of this zoning code. One copy of the plans shall be returned to the applicant by the administrative official, after said official has marked such copy either as approved or disapproved and attested to ~~the~~ same by signing such copy. One copy of the plans, similarly marked, shall be retained by the administrative official.

4. Certificates of Zoning Compliance for New, Altered or Nonconforming Uses. No building or other structure regulated by this zoning code shall be erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted, or demolished unless a certificate of zoning compliance for each building or structure has first been obtained from the Building Official. No building permit shall be issued by the Building Official except in conformity with the provisions of this zoning code, unless said official receives a written order from the Board of Adjustment in the form of an administrative review, ~~special exception~~, or variance as provided by this zoning code.

5. Expiration of Building Permit.

A. If the work described in any building permit has not begun within 180 days from the date of issuance thereof, said permit shall expire; it shall be canceled by the administrative official; and written notice thereof shall be given to the persons affected.

B. If the work described in any building permit has not been substantially completed within one year of the date of issuance thereof, said permit shall expire and be canceled by the Zoning Administrator, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the canceled permit shall not proceed unless and until a new building permit has been obtained.

C. The expiration date of a building permit may be established for a period longer than one year if established at the time that such permit is issued by the City. The Zoning Administrator may, at ~~his or her~~ their discretion, extend the expiration period of the building permit.

6. Construction and Use to be As Provided in Applications, Plans, Permits, and Certificates of Zoning Compliance. Building permits of certificates of zoning compliance issued on the basis of plans and applications approved by the administrative official authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement or construction. Use, arrangement, or construction at variance with that authorized shall be deemed violation of this zoning code, and punishable as provided herein.

181.02 SCHEDULE OF FEES, CHARGES AND EXPENSES.

The City Council shall establish by resolution a schedule of fees, charges, and expenses and a collection procedure for building permits, certificates of zoning compliance, site plan reviews, appeals, and other matters pertaining to this zoning code. The schedule of fees shall be posted in the office of the City Clerk, and may be altered or amended only by the City Council. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

181.03 COMPLAINTS REGARDING VIOLATIONS.

Whenever a violation of this resolution occurs, or is allowed to have occurred, any person may file a written complaint. Such complaints stating fully the causes and basis thereof shall be filed with the Zoning Administrator. The Zoning Administrator shall record properly such complaint immediately, investigate, and take action thereon as provided by this resolution.

181.04 PENALTIES FOR VIOLATION.

1. Violation and Penalty. Violation of the provisions of this zoning code or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants or variances ~~or special exceptions~~) shall constitute a municipal infraction, subject to the penalties and alternative relief authorized by this zoning code and Section 364.22 of the Code of Iowa.

2. Restraining Order. In case any building is built, developed, altered, or otherwise used in violation of this zoning code, the City Attorney, in addition to other remedies, may institute any proper action or proceed in the name of the City to prevent such unlawful action; to restrain, correct, or abate such violation; or to prevent any illegal act, conduct, business, or use in or about said premises.

3. The owner or tenant of any building, structure, premises, or part thereof, any architect, builder, contractor, agent, or other person who commits, participates in, assists

in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

4. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ch. 181 – Ord. 18-09 – Jun. 18 Supp.)

Chapter 182 Vacant Property Registration

Commented [AS50]: Added per Ordinance No. 24-05. Passed 8.5.24

<u>Section 182.1 Purpose</u>	<u>Section 182.16 Security Requirements</u>
<u>Section 182.3 General</u>	<u>Section 182.17 Additional Authority as to Maintenance and Security</u>
<u>Section 182.4 Interference Prohibited</u>	<u>Section 182.18 Notices</u>
<u>Section 182.5 Definitions</u>	<u>Section 182.19 Service of Notice</u>
<u>Section 182.6 Applicability</u>	<u>Section 182.20 Service of Notice</u>
<u>Section 182.7 Exemptions</u>	<u>Section 182.21 Nuisances Enforced by Civil Action</u>
<u>Section 182.8 Properties in Foreclosure</u>	<u>Section 182.22 Emergency Action</u>
<u>Section 182.9 Registration of Vacant Structure</u>	<u>Section 182.23 Renovation Agreement</u> <u>Section 182.24 Civil Actions; Alternative Relief</u>
<u>Section 182.10 Required Owner and Authorized Management Agent Information</u>	<u>182.25 Right of Entry</u>
<u>Section 182.12 Parties Responsible for Compliance</u>	
<u>Section 182.13 Registration of Vacant Structure</u>	
<u>Section 182.14 Inspection Obligations of</u>	

(Supp. No. 30)

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<u>Owner, Mortgagee and/or Authorized Management Agent</u>	
<u>Section 182.15 Maintenance Requirements</u>	

Sec. 182.1 Purpose.

It is the intent of the City of Windsor Heights, through the adoption of this chapter, to establish a mechanism to protect residential and commercial neighborhoods from becoming blighted through the lack of maintenance and security due to vacant properties; to establish a vacant property registration program; to ensure properties are free of exterior code violations; to prevent potential fire hazards prior to occupation and to set forth guidelines for the maintenance of vacant properties.

Sec. 182.3. General.

The Administrator shall maintain a data base of all vacant properties in the city, cause inspections to be made to determine the condition of dwellings, commercial structures, mobile homes, similar dwellings, accessory structures, and premises located within the corporate limits, and may issue notices as provided in this chapter.

Sec. 182.4. Interference prohibited.

Interference with, or obstruction of, the city's lawful removal of a violation by the city is prohibited.

Sec. 182.5 Definitions.

Unless otherwise expressly stated, or the context clearly indicates a different intention, the following terms have the following meanings and shall be so construed wherever they appear in this chapter:

Administrator means the City Administrator's designated program administrator. The City Administrator's designee shall be the authorized representative for the enforcement of this chapter and for the administration of the division.

Accessible premise means a property that is physically accessible through a compromised or breached gate, fence, wall, or other barriers, intended to provide physical security to the property, or by the absence of such barrier.

Accessible structure means a structure or building that is unsecured, compromised or breached in such a way as to allow access to the interior space by unauthorized persons.

Accessory building means a structure on the same lot, separate from, and of a nature customarily incidental and subordinate to the principal residential structure that may be used for, but is not limited to, the storage of equipment, materials, vehicles, and other miscellaneous items of the occupants of the primary dwelling unit(s). Trailers, semi-trailers, tents, motor vehicles, and component parts thereof shall not be considered accessory buildings. A structure which might otherwise be considered an accessory building, but which is connected to the principal residential structure by a breezeway or other extension of the principal residential structure containing a functional roof and floor shall, for the purposes of this chapter lose its status as an accessory building, become part of the principal residential structure, and shall be subject to all restrictions applicable to a principal residential structure.

Authorized management agent means a property manager, property management or maintenance company, or similar person or entity responsible for the maintenance of real property as agent of an owner, mortgagee, or other responsible party, or any person appointed by the owner(s) or mortgage holder who has charge, care, or control of a structure or premises. Such person shall be authorized to accept service of communications from the City of Windsor Heights.

Easement means that portion of land or property reserved for present or future use by a person or agency other than the owner(s) of the real estate. The easement shall be permitted to be for use under, on, or above said land or property.

Evidence of vacancy means any condition or circumstance that on its own, or combined with other conditions or circumstances present, would lead a reasonable person to believe that a property is vacant. Such conditions may include, but not are limited to, disconnection of utility services, broken windows and or doors, overgrown or dead vegetation, including lawns, shrubbery and other plantings; accumulation of abandoned personal property, trash or waste; visible lack of maintenance of any building or structure on the property; graffiti on or other defacement of buildings or structures on the property; and any other condition or circumstance reasonably indicating that the premise is not occupied.

Exterior property means the open space on the premises and on adjoining property under the control of the owner(s) or authorized management agent of such premises.

Extermination means the control and elimination of insects, rats, or other pests by elimination of harborage places; by removing or making inaccessible materials that serve as food; by poison spraying, fumigation, trapping or by any other approved pest elimination method.

Foreclosure means the process, either judicial or extra-judicial, invoked by the owner or holder of a mortgage, by which a property placed as security for a real estate loan in which the mortgage holder is notified of a default, the filing of a foreclosure, sold at public or private sale to satisfy the debt of the borrower in the event of a default by the borrower under the terms of the promissory note or mortgage.

Garbage means animal or vegetable waste resulting from the handling, preparation, cooking, and/or consumption of food.

Good condition means no obvious maintenance required with all major components and materials still functional and contributing toward the extended life expectancy of the structure(s) and premise(s).

Good repair means fit for human habitation in accordance with all health codes, everything operates as it should, the property is clean and well maintained inside and out, and there is no wasting or neglect of the property, and it is maintained in good condition.

Imminent danger means a condition which could cause serious or life-threatening injury or death at any time.

Infestation means the presence of insects, rats, vermin, or other pests within or contiguous to a structure or premises of insects, rodent's vermin or other pests.

Improvements shall include, but not be limited to, parking lots, grass, ground covers bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf whether shown on an approved site plan or not.

Inoperable and/or unsafe vehicle or boat is any motor vehicle, recreational vehicle, trailer, semitrailer, or boat that meets one or more of the following criteria:

- (1) Lacks a current registration or any component part, engine or parts that render it incapable of use and/or unsafe for its intended use;
- (2) With a missing, broken, or shattered windshield or any exposed broken glass edges;
- (3) With a missing fender, door, hood, steering wheel, trunk top, or trunk handle;
- (4) That has become a habitat of rats, mice, snakes, or other vermin or insects;
- (5) That is left unattended on jacks, blocks, or elevated in any other way which constitutes a threat to the public health, safety or welfare;
- (6) That because of its condition or method of storage constitutes a threat to public health and safety.

Junk means all old or scrap copper, brass, lead, or any other non-ferrous metal; old rope, rags, batteries, paper, trash, rubber debris, waste, used lumber or salvaged wood; dismantled or inoperable vehicles, unsafe vehicles, machinery and appliances or parts of such vehicles, machinery or appliances; iron, steel, or other old or scrap ferrous material; old discarded glass, tin ware, plastic, or old discarded household goods or hardware; cut brush, including dead or decaying plant material, except a contained compost pile or orderly stacked firewood if cut in lengths less than or equal to four feet and stored at least 18 inches above the ground surface.

Mortgagee means the person or entity that is the owner or holder of a mortgage, deed of trust or similar instrument encumbering real property as security for a promissory note or other debt.

Mobile home means any vehicle without motive power and so designed, constructed, or reconstructed as a dwelling unit to permit the vehicle to be used as a place for human habitation by one or more persons. It may also include any such vehicle with motive power not registered as a motor vehicle in this state. A mobile home is factory-built housing built on a

chassis. A mobile home may not be construed to be a travel trailer or other form of recreational vehicle. A mobile home shall be construed to remain a mobile home, subject to all regulations pertaining thereto, whether or not wheels, axles, hitches, or other appurtenances of mobility are removed and regardless of the nature of the foundation provided.

Neglect means the lack of proper maintenance for a building, structure, or premise.

Owner, for the purposes of [this] chapter means any person, agent, firm or corporation having legal or equitable interest in the dwelling unit(s); or a recorded interest in the official records of the state or county as holding title to the real estate; or otherwise having control of the real estate or dwelling unit(s), including but not limited to the guardian of the estate of any such person, the executor or administrator of the estate of such person who is ordered to take possession or control of the real estate by the court.

Person means an individual, a corporation, a partnership, or any other group acting as a unit.

Pest elimination means the control and elimination of insects, rodents, or other pests by eliminating their harborage places; by removing or making inaccessible material that serve as the food or water; or by other approved pest elimination methods.

Premises means a lot, plot, or parcel of land, easement, or public way, including any structure or mobile home thereon.

Secure means the closing and locking of windows, doors, gates, and other openings of such size that may allow access to enclosed areas of the property or to buildings and structures on the property. Walls and fences surrounding the property, or any portion of the property shall be maintained in good repair. Broken windows shall be secured by replacing or repairing and reglazing. Boarding of broken windows shall be used only as a temporary corrective measure secured in accordance with the International Property Maintenance Code.

Structure means that which is built or constructed or a portion thereof.

Vacant property means any property, including any building or structure thereon, that is not legally occupied.

Workmanlike manner means repairs, maintenance work, alterations or installations that are a request, directly or indirectly, pursuant to the enforcement of this chapter which shall be executed and installed in accordance with the manufacturer's instructions and executed in a skilled manner, generally plumb, level, square, in line, undamaged, without marring adjacent work, using compatible materials approved for the use, like in nature and look to remaining material if there is a partial replacement or repair to maintain the structure and premise in good condition.

Sec. 182.6 Applicability.

- (a) This chapter shall apply to vacant properties with residential, accessory, or commercial occupancies or improvements located thereon.
- (b) This chapter shall also apply to properties that are the subject of a foreclosure action as set out in this chapter.

(c) This chapter shall be considered cumulative and not superseding of, or subject to, any other law or provision relating to the same subject but shall rather be an additional remedy available to the city above and beyond any other state, county or local law or regulation.

Sec. 182.7 Exemptions.

Property shall be exempt from the registration requirement of this chapter if either of the following conditions exist.

- (a) The property is not the subject of foreclosure and is listed in the applicable multiple listing service(s) or other substantial competent evidence of actively marketing and the property has remained vacant less than 180 days and the outward appearance is being maintained; or
- (b) The property is under construction and the contractor has applied for and is covered by a valid building permit(s).

At such time either of the qualifications for exemption ceases to exist, the property shall be subject to the registration requirements of this chapter.

Sec. 182.8 Properties in foreclosure.

- (a) Any mortgagee who holds a mortgage on real property located within the city shall perform an inspection of the property that is the security for the mortgage, upon default by the mortgagor, prior to the issuance of a notice of default.
 - (1) If a property is found to be vacant or shows evidence of vacancy, as defined in this chapter, any mortgagee who holds a mortgage on the real property shall comply with the registration requirements of this chapter, within ten days of the inspection.
- (b) Any mortgagee who files a foreclosure or Notice of Lis Pendens shall comply with the registration requirements of this chapter, within ten days of the filing.
- (c) Any mortgagee who holds a mortgage on real property which is in default and is the subject of an outstanding notice of default, Notice of Lis Pendens, or foreclosure action as of the date of the adoption of this code, shall perform an inspection of the property by August 1, 2024. If the property is found to be vacant or shows evidence of vacancy, the mortgagee shall register the property in accordance with this chapter, within ten days of the inspection.

Sec. 182.9 Registration of vacant structure.

Any owner of property located within the city who has a vacant structure(s), or within ten days of vacating a structure(s), shall register the property as required by this chapter.

Sec. 182.10 Required owner and authorized management agent information.

- (a) Owner(s) of property subject to vacant property registration in the city who reside in Polk County or any county contiguous thereto shall provide the City Administrator's designee a physical address, email address, tax identification number and telephone numbers.
- (b) Owner(s) of property subject to vacant property registration located in the city who reside outside Polk County or any contiguous county shall provide the administrator with their a physical address, email address, tax identification number and telephone numbers and the name physical addresses, email address, tax identification number, and telephone number of an individual over the age of 18 who shall reside in Polk County or any county contiguous thereto and who shall be designated as the "authorized management agent" responsible for maintenance of the property and for receiving notice and service of process.
- (c) The name of insurance carrier, agent, and contact information.
- (d) The owner(s) of the property shall be required to update the registration information anytime a change in information is made, including but not limited to mailing address, physical address, email information, change in authorized management agent or sale of the property.

Sec. 182.12. Parties responsible for compliance.

- (a) The property owner and/or authorized management agent, as defined in this chapter, shall comply with all provisions of this chapter, including but not limited to, maintenance of real property for which they are responsible in accordance with the provisions of this chapter, and in accordance with all other applicable provisions of the city code.
- (b) In all instances, the responsibility of a mortgagee to comply with this chapter shall be and remain in effect from the date that the mortgagee gives the owner notice of a default under the terms of the mortgage, or files a Notice of Lis Pendens, whichever first occurs, until such time as the subject property is sold or transferred to a new owner or the original owner is put back in possession of the property.

Sec. 182.13. Registration of vacant structure.

For so long as the property remains vacant, or subject to a Notice of Lis Pendens or a foreclosure action, a registration fee shall be due from the owner or authorized management agent, as applicable under the circumstances, each year not later than the fifteenth day of the month following the month in which the original registration was made. The annual registration fee shall be set out in the schedule of fees adopted by the city council for each year it remains registered.

Sec. 182.14. Inspection obligations of owner, mortgagee and/or authorized management agent.

- (a) A property owner or authorized management agent accepting appointment as the agent of the owner, or the mortgagee shall inspect the property not less than monthly to ensure that the property is in compliance with this chapter.
- (b) If inspection reveals noncompliance,

 - (1) The owner or authorized management agent shall immediately give written notice of the noncompliance to the party responsible for repairs, if not themselves, and
 - (2) Provide the information in writing to the Administrator , and
 - (3) The owner, authorized management agent, or mortgagee, shall have ten business days to begin the action necessary to bring the property into compliance, and not more than 30 days to complete such action.
- (c) The Administrator shall cause the property to be inspected to determine if the violation has been abated and the inspection fees shall be billed to the owner in the amount set out in the schedule of fees adopted by the city council.

Sec. 182.15 Maintenance requirements.

All exterior features must be maintained in good repair and in sound condition. Additionally, structures must be resistant to water, rodents, and deterioration from weather. Repairs must be made with materials that match the existing structure.

- (1) Structure must include an exterior roof in good repair, including any shingles, sheathing, rafters, soffits, and fascia.
- (2) Structure must have a fascia, soffit (in the area around the roof eaves) and soffit screens.
- (3) Gable vents/vent opening must be properly screened to prevent access by animals and other pests.
- (4) Exterior walls must be capable of supporting a normal load.
- (5) Exterior walls and other surfaces of any structure must be maintained to resist water and deterioration from weather by application of paint or other protective materials.
- (6) Outermost layer of paint shall not peel or deteriorate to expose under lying layers of paint to the weather.
- (7) Window glass must be maintained in a weathertight and watertight condition.
- (8) Window screens must be in good repair capable of providing ventilation.
- (9) Exterior doors must be weathertight, watertight, in addition to being secure in a position by a locking device in proper working order.
- (10) Porch of any structure must be safe to use, capable of supporting a normal load, be weathertight, watertight, rodent-proof, insect-proof.

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- (11) Crawl space opening(s) of a foundation wall must be secured against animals and rodents with screen repairs completed in a workmanlike manner according to standards acceptable in the construction industry.
 - (12) Exterior stairs must be capable of supporting the normal load.
 - (13) Handrails must be constructed and maintained to conform to the city building code.
 - (14) Railings are required for any unenclosed portion of a structure more than three feet above ground level or for any steps containing four or more risers.
 - (15) All railings must be capable of supporting normal load.
 - (16) Accessory structure including garages, storage buildings buffer walls, fences, etc. must be maintained in good repair and sound structural condition.
 - (17) Windows, doors, and other openings must be in good condition and locked.
 - (18) Required landscaping must be maintained to be in compliance with any approved site plan.
 - (19) The property shall be mowed, kept clear of weeds, volunteer trees and kept clear of snow as required by this code.
 - (20) Parking areas, driveways and sidewalks shall be kept in good condition as required in this code.
 - (21) The premise shall be kept clear of junk, debris, garbage, graffiti, inoperable and unlicensed vehicles.
 - (22) The premise shall be kept free of all infestations.
 - (23) Pools and spas shall be maintained so the water remains free and clear of pollutants and debris. Pools and spas shall comply with the enclosure requirements of the city code.
 - (24) All fire suppression systems must be functioning as intended.
 - (25) Other features of the site not specifically listed in this section that when in poor state of repair constitute a threat to the public safety or preclude the reasonable enjoyment of adjacent properties.
 - (26) Fallen branches must be removed from the property within 72 hours and dead or diseased trees removed within two weeks of any City notice being provided.

Sec. 182.16. Security requirements.

- (a) The owner or authorized management agent shall secure properties subject to this chapter, so they are not accessible to unauthorized persons.
- (b) Should the city find the structure open and unsecured the property will be immediately boarded as an emergency with no prior notice.
- (c) Broken and/or boarded windows shall be secured with glass by replacement or repair and reglazing.

(d) Boarded up, broken doors or other entry points shall be repaired in a workmanlike manner.

Sec. 182.17 Additional authority as to maintenance and security.

The Administrator or their designee shall have authority to require the owner, mortgagee, and property authorized management agent to implement additional maintenance and security measures as may be reasonably required to prevent further decline of the property.

Sec. 182.18 Notices.

(a) Notice to abate a violation shall be given prior to city action to abate a violation, except that in the event of an emergency, such notice as is practical under the circumstances, if any is practical, shall be given; provided, however, that nothing herein shall require notice in an emergency if impractical. If notice to abate a nuisance is given pursuant to this chapter, said notice shall contain the following information:

- (1) A description, to the extent possible, of the conditions that constitute the violation;
- (2) A description of the location of the violation;
- (3) A statement that the person liable for the presence of the violation must correct the violation within the reasonable time set forth in the notice and in accordance with this chapter; and
- (4) A statement that upon failure to comply with this chapter within the time set forth in the notice, the person so notified of the violation shall be deemed liable for the nuisance, and that the city may enter onto the real property and cause the conditions which constitute the nuisance to be abated and assess the costs of abatement against the real property for collection in the same manner as a property tax, following administrative hearing process if a hearing is requested or court action as applicable.
- (5) If the department elects to follow the administrative hearing procedure set forth in this code, the notice shall also contain a statement that the person notified, or the person's duly authorized agent as identified in a notarized statement provided by the person notified, may file a written request for an administrative hearing as set forth in section 182.20 of this chapter.
- (6) Notice of costs of abatement shall be given prior to city assessment of such costs. If notice of costs of abatement is given following administrative hearing procedure or emergency action pursuant to this chapter, said notice shall contain the following information:
- (7) A statement that upon failure to make full payment as directed in the notice within the time set forth in the notice, the city may assess the costs of abatement against the real property for collection in the same manner as a property tax, following administrative hearing if requested.

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- (8) A statement that the person notified, or the person's duly authorized agent as identified in a notarized statement provided by the person notified, may file a written request for an administrative hearing on costs of abatement only, as set forth in section 182.20 of this chapter.

Sec. 182.19. Service of notice.

Notices given pursuant to this chapter shall be served by certified mail and regular mail, postage prepaid, to all persons deemed responsible for the violation, and to all other parties required by law or by departmental policy or procedure to receive such notices, at their last known mailing addresses as shown by the records of the county auditor, and if deemed appropriate by the department director or his/her designee, at their last known mailing addresses as shown by any other available public record. In addition to and concurrently with mailing, notice may be delivered by a peace officer, process server, or any other method deemed appropriate. Failed attempts to locate the person responsible for the violation shall be documented by the department.

Sec. 182.20 Administrative hearings.

- (a) Recipients of notices pursuant to this chapter for which the department elects to follow the administrative hearing procedure, as stated in the notice, may request an administrative hearing as follows:
- (1) Requests shall be made in writing, and either hand-delivered to the city clerk no later than seven calendar days from the date of the notice or sent to the city clerk via regular mail postmarked by official U.S. postal service cancellation and not by postage meter no later than seven calendar days from the date of the notice.
 - (2) Each request for hearing shall contain the name, address, electronic mail (e-mail) address, and daytime telephone number of any person requesting a hearing and of any attorney and/or agent duly authorized by the person who has received the notice to represent him/her at the hearing.
 - (3) Each request for hearing shall set out the requester's basis for the appeal.
 - (4) Failure to request a hearing within seven calendar days from the date of the notice shall be deemed a waiver of the right to contest the validity of the determination of nuisance and/or determination of costs stated in the notice, as applicable. The information set forth in the notice will be deemed to be valid and abatement and/or assessment of abatement costs will proceed as indicated in the notice.
- (b) All administrative hearings requested in compliance with this section shall proceed as follows:
- (1) Shall be scheduled by the City Clerk to occur as soon as practical following the date of the notice.
 - (2) Shall be held before the City Administrator and be conducted informally. The department and the person in receipt of the notice may be represented by counsel or duly authorized agent, and examine witnesses, and present evidence.

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- (3) The person requesting the hearing shall be notified in writing by regular mail or by electronic mail (e-mail), or by phone of the date and time for the hearing at least three business days in advance thereof.
- (4) For hearings following notice to abate a nuisance, the City Administrator shall either find that a nuisance exists, or void or reverse the notice. If the hearing officer finds that a nuisance exists and evidence of plans for abatement are presented at the hearing by the recipient of the notice, the hearing officer may grant additional reasonable time for the abatement of the nuisance by the recipient of the notice prior to city abatement of the nuisance.
- (5) For hearings following notice of costs of abatement, the City Administrator shall either uphold the amount billed, reduce the amount billed, or waive the costs, and shall not determine any other issue relating to the nuisance abatement including but not limited to any issue that may have been raised at a hearing following notice to abate a nuisance. Any costs not waived by the City Administrator may be assessed against the real property for collection in the same manner as a property tax.
- (6) If an owner(s) or their representative fails to appear at the hearing, they shall be considered in default and the requested relief shall not be granted.
- (c) The determination of the City Administrator shall be in writing, including findings of fact, and is the final administrative decision of the city.
- (1) Any party aggrieved by the determination of the hearing officer pursuant to this chapter may challenge whether the officer exceeded proper jurisdiction or otherwise acted illegally by commencing a certiorari action in the district court for Polk County, Iowa. The petition to initiate a certiorari action must be filed within 30 days after the entry of the final determination unless an extension of time is allowed by the reviewing court pursuant to Division XIV of the Iowa Rules of Civil Procedure. The City Administrator is hereby authorized to initiate a certiorari on behalf of the city when the City Administrator, in consultation with the city attorney, deems it necessary and appropriate.
- (2) The filing of an action in the district court challenging the determination of the City Administrator does not automatically stop the city from taking action pursuant to such determination. Unless the city has been served with an order from the district court directing otherwise, the city may proceed with enforcement of a determination.
- (d) Request for an administrative hearing does not stay an action by the city for alternative relief as allowed by law.

Sec. 182.21. Nuisances enforced by civil action.

Notices pursuant to this chapter for which the department elects to proceed by civil action shall be served in the manner set forth in section 182.19 of this chapter and shall contain all information set forth in section 182.18 of this chapter as well as a statement that the city may file a civil action and seek a court order relating to the existence, abatement, and recovery of abatement costs of the nuisance.

Sec. 182.22. Emergency actions.

If the department determines that a nuisance exists which constitutes an emergency requiring immediate abatement, the city may perform any emergency action necessary to abate the nuisance without prior notice or abatement hearing.

Sec. 182.23 Renovation agreement.

- (a) Any maintenance items which cannot be completed within the noticed timeframe because of weather constraints or extraordinary circumstances not of the owner(s) or authorized management agents making they may request an extension of time.
- (b) An owner(s) or authorized management agent may make a request accompanied by the fee set forth in the schedule of fees adopted by the city council by resolution, for an extension that is specific to the structure or premise and must show that:
 - (i) Strict compliance with this chapter is impractical; and
 - (ii) The extension does not violate the intent and purpose of the Municipal Code; and
 - (iii) At the administrator's discretion, proof of financial ability to complete the repair(s) may be requested and must be provided by the owner(s) or authorized management agent prior to approval.
- (c) Extensions of time will be entered into by the owner(s) or authorized management agent and the administrator through an executed renovation agreement.
- (d) Upon execution of a renovation agreement, a temporary rental license will be issued which will expire upon the date set for completion of the repairs as set out in the agreement.
- (e) An owner(s) or authorized management agent may appeal a denial of an extension pursuant to section 182.20 of this chapter.

Sec 182.24 Civil actions; alternative relief.

- (a) Any person who fails to perform an act required by this chapter or who commits an act prohibited by this chapter shall be guilty of a municipal infraction punishable by a civil penalty as provided by Chapter 4 of the Municipal Code.
- (b) Proceeding with an administrative hearing, civil action, or emergency action as authorized in this chapter does not preclude the city from seeking alternative relief from a court in the same action or as a separate action, including but not limited to an order for abatement, injunctive relief, or authorization to make repairs.
- (c) In addition to other remedies set forth in this chapter, when it is determined by the administrator that a nuisance exists and/or that a person is a habitual violator, the city may file a civil action in the district court seeking an order enjoining the person from further violation of this chapter on real property owned or controlled by such person or

real property where such person acts as an agent, tenant, or lessee of any residential dwelling, commercial establishment and/or real property within the city. The city may further request that upon entry of the injunction the court allow the city to abate further violations without notice and/or seek an order of contempt.

Sec. 182.25. Right of entry.

The administrator is authorized to enter at reasonable times onto and into open unobstructed property and structures to inspect, and a property owner or occupant is required to allow such inspection. If entry onto real estate for the purposes described in this chapter is refused, the administrator may pursue a municipal infraction and/or obtain an administrative search warrant as provided by law to gain entry onto the real estate for the purpose of inspection or otherwise as provided by law.

**CHAPTER 183
MOBILE FOOD UNITS**

183.01 Definitions

**183.06 Pushcart Specific
Regulations**

183.02 License and Permit Required

**183.07 Mobile Food Unit Specific
Regulations**

183.03 Application

183.08 Enforcement and Penalties

183.04 Exceptions

**183.05 General Regulations for All Mobile Food
Units and Pushcarts**

183.01 DEFINITIONS.

—1. “Commissary” means a licensed food facility regulated by a governmental entity where food is stored, prepared, portioned, packaged or any combination thereof, and where such food is intended for consumption at another location or place from a mobile food unit or pushcart.

—2. “Food establishment” means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption. For the purposes of this chapter, “food establishment” does not include an establishment that offers only pre-packaged foods that are non-potentially hazardous; a produce stand which sells only whole, uncut fresh fruits and vegetables; an establishment operating in a farmers market if potentially hazardous food is not sold or distributed; a residence in which food that is non-potentially hazardous is sold for consumption off premises to a consumer customer provided the food is labeled so as to identify its preparer; a private home that receives

catered or home-delivered food; child care facilities or food establishments in hospitals or health care facilities which are subject to regulation by state agencies; supply vehicles and vending machines.

—3. “Mobile food unit” means motorized, a self propelled food establishment or a trailer or vehicle towed by a motorized vehicle, that is readily movable, and which typically operates at a remote location and returns to base of operation or commissary at the end of its daily business. Mobile food units are considered Class IV mobile food units by the Iowa Department of Inspections and Appeals.

—4. “Mobile food unit zone” means an area of governmentally owned property that has been designated as a location upon which mobile food units and pushcarts may sell or offer for sale for immediate consumption food and/or beverages.

—5. “Potentially hazardous food” A biological (microorganism), chemical (cleansers, pesticides), or physical (fingernail, plastic) property that may cause an unacceptable consumer health risk.

—6. “Pushcart” means a non-motorized food establishment limited to serving non-potentially hazardous packaged foods with limited assembly or commercial or commissary prepared foods that are reheated on the pushcart, such a frankfurters. Pushcarts may be towed by a vehicle, but are generally capable of being moved by human power. Pushcarts are considered Class III mobile food units by the Iowa Department of Inspections and Appeals.

~~183.02 LICENSE AND PERMIT REQUIRED.~~

~~—No person shall sell or offer for sale or otherwise engage in a business as a mobile food unit or pushcart within the City without having first obtained a license to operate as such. A mobile food unit license is a special license and is required in addition to any other required City business license or state license or permit the person may hold or be required to hold. A separate mobile food unit license is required for each mobile food vehicle or pushcart from which business is conducted in the City. Mobile food unit licenses are not transferable or assignable. The license fee required shall be established by the City Council by resolution. Permits expire at the end of each calendar year.~~

~~No person shall sell or offer for sale or otherwise engage in business as a mobile food unit or pushcart within the public right-of-way, other than in a designated mobile food unit zone, unless a special occurrence permit has been obtained during a City affiliated event. The owner shall make a formal request and complete an application to the City outlining all dates/times. Special Occurrence Permits require Building Official approval and a fee established by City Council by resolution.~~

183.03 APPLICATION.

—An application form available from the Building and Zoning Department must be filled out and submitted to the Building and Zoning Department for processing. The completed application must be submitted together with a copy of the applicant's Iowa retail sales tax permit and proof of liability insurance, including commercial general liability insurance coverage and automotive liability insurance coverage. Commercial general liability insurance shall include coverage for bodily injury, death and property damage with limits of liability of not less than one million dollars per occurrence and aggregate combined single limit. Automobile liability insurance coverage shall include coverage for bodily injury, death and property damage with limits of liability of not less than one million dollars per occurrence, combined single limit. Certificates of insurance shall provide that the policy or policies have been endorsed to provide thirty days advance notice of cancellation and forty-five days advance notice of non-renewal and ten days advance notice of cancellation for non-payment of premium and that these notices shall be provided to the City finance department by email, facsimile or mail. Cancellation of required insurance automatically revokes and terminates the mobile food unit license to operate in Windsor Heights unless other insurance policies are provided in a timely manner to the City. If the mobile food unit sells food or beverages other than pre-packaged items that do not require hot or cold handling procedures, the application shall also contain a copy of the mobile food unit's license issued by the Iowa Department of Inspections and Appeals, a copy of the food establishment license issued by the Iowa Department of Inspections and Appeals for any commissary kitchen or other premises where food is prepared, copies of the food protection manager certifications, the name and address of the facility at which any waste fat, waste oil or waste grease generated by the mobile food unit operation is disposed of, and a copy of the certificate of annual compliance issued by the fire marshal.

183.04 EXCEPTIONS.

—1. Temporary food units associated with a private party on private, residential property hosted by the owner of the property upon which the unit is dispensing food and/or beverage, such as a graduation party, wedding reception, birthday celebration or similar event, are exempt from the licensing provisions of this chapter provided the unit's participation is by invitation or contract with the host and provided the vendor displays proof of its authorization to operate in Iowa and required health inspection certification.

183.05 GENERAL REGULATIONS FOR ALL MOBILE FOOD UNITS AND PUSHCARTS.

—1. Mobile food units shall have, and at all times maintain, all necessary licenses and permits from the Iowa Department of Inspections and Appeals as well as the City of Windsor Heights's required permits and licenses.

—2. Mobile food units shall at all times operate in compliance with all applicable food, health and sanitation laws and shall comply with all health department regulations regarding food service, food storage and preparation, food handling and food cooking and shall have a valid inspection certificate or permit evincing health department inspection and approval on display and easily visible to the mobile food unit's or pushcart's patrons at all times in operation.

—3. No mobile food unit or pushcart shall offer for sale or sell food and/or beverage between the hours of 12:00 a.m. and 6:00 a.m.

—4. No mobile food unit or pushcart may operate in the right-of-way or outside of a designated mobile food vending zone established by the City of Windsor Heights absent of the premises obtaining a special occurrence permit which must be approved by the Building Official.

—5. No mobile food unit or pushcart shall operate within a City park unless such operation occurs within the boundaries of a designated mobile food unit zone or a separate Special Occurrence Permit permit has been acquired from the Building Official.

—6. No mobile food unit or pushcart shall park or stand its pushcart or vehicle within (1) 40 feet of a pedestrian crosswalk, or a stop sign or traffic signal light, (2) adjacent to a designated bicycle lane, or (3) absent written authorization of the restaurant, within 200 feet of any public entrance to any permanent restaurant during hours the restaurant is open for business. For purposes of this section, bars that serve food are deemed to be restaurants. Mobile food units and pushcarts that are not directly involved with the sponsor organization shall not park or stand within 1,200 feet (3 City blocks) of an approved special event.

—7. No mobile food unit or pushcart shall operate in a manner that violates Chapter 54 of the City Code concerning noise. A mobile food unit or pushcart shall not call out to, cry out, shout out or otherwise communicate or make any noise or use any device to call attention to his or her unit's or cart's location and operation.

—8. A mobile food unit or pushcart is responsible for keeping and maintain the area around and within fifty feet of the mobile food unit or pushcart neat, clean and free from trash, debris, garbage and other hazardous conditions at all times regardless of whether the trash, debris or garbage originated from the operation of the unit or pushcart or was left in the area by a pedestrian passersby or natural conditions. A mobile food unit or pushcart shall provide adequate trash receptacles for the public for all garbage from its operation and from the accumulation of garbage in the area around his or her unit or pushcart at all times the unit is in operation. At the close of its daily business the mobile food unit or pushcart must remove all garbage from the area and properly dispose of it away from the site of its operation; the garbage shall not simply be placed in nearby public garbage receptacles provided for use to the general public at large.

—9. The license required by this chapter, the state sales tax permit and all licenses, permits or certificates required to be displayed by state law, shall be posted on the mobile food unit or pushcart so as to be readily visible to all persons conducting business with the mobile food unit.

—10. Mobile food units and pushcarts shall only offer single service food utensils such as cups, straws, knives, forks, spoons, stirrers, plates, bowls, wrappers, containers, and similar utensils, which shall be individually wrapped if usual, and kept in a clean place and only used once in the service of food and/or beverage.

—11. No mobile food unit or pushcart shall be left at its operating location at the end of its business day and shall be removed to its base business operation location.

—12. No mobile food unit or pushcart shall conduct operations at a location or in a manner that hinders, impedes or restricts access to a pay phone, mail box, emergency call box, traffic control box, fire hydrant, entrance to a building or a driveway.

—13. A mobile food unit or pushcart operating on private property shall not encroach into any public sidewalk or public right-of-way. All private property owners allowing mobile food units on property must register with the City as having a mobile kitchen for public safety purposes.

—14. No mobile food unit or pushcart is allowed on the grounds of any school unless it has been invited to be there as part of a school authorized function.

—15. The City reserves the right to move a mobile food unit or pushcart from any location if determined to be necessary for the provision of emergency or public services or in the interest of public safety, peace and welfare.

—16. No mobile food unit or pushcart shall offer for sale or sell any liquor, beer or wine from such unit unless a Liquor License has been approved by the Iowa Alcoholic Beverage Division.

—17. City sanction or sponsored events may be reserved or restricted by the City of Windsor Heights including the designated mobile food vending zone established by the City of Windsor Heights. Check with the Building Official for current event Special Occurrence Permits. Special Occurrent Permits are given on a first come first serve basis depending on space provided.

183.06 PUSHCART SPECIFIC REGULATIONS.

—1. A pushcart shall not allow, cause or obstruct the passage along any sidewalk, street, alley or parking lot as a result of a congregation of people seeking service from the pushcart or because of the size, shape or placement of the pushcart so as to interfere, inhibit or block the normal flow of pedestrian or vehicular traffic.

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- ~~—2. A pushcart shall not violate parking regulations.~~
 - ~~—3. A pushcart shall not sell to any person operating a vehicle on a public street while the person's vehicle is located within the traveled portion of the roadway. A pushcart may sell to a person operating or occupying a motor vehicle that is legally parked, but may only do so from the curb side of said parked vehicle.~~
 - ~~—4. No pushcart or equipment shall be allowed to remain in the public right-of-way at the close of business.~~
 - ~~—5. All pushcarts and equipment associated with the business shall be maintained so as to enhance the aesthetic and overall appearance of the area in which the pushcart is operated.~~
 - ~~—6. Pushcart vendors agree to indemnify and hold harmless the City from and against any and all loss, cost, damages or claims to persons or property, including property of the City, arising out of or claimed to have arisen out of the operation of a pushcart. In addition, pushcart vendors agree to defend, at no cost to the City, any such claims or lawsuits. The City may, at its option, join the defense of such claim or lawsuit without relieving the pushcart vendor from its obligations to indemnify, hold harmless and defend the City.~~
 - ~~—7. Pushcarts may operate anywhere within a designated mobile food unit zone on a paved surface, designated parking space or sidewalk subject to the other requirements of this chapter. In addition, a pushcart may operate at a requested location on private property provided application has been made for permission to operate the requested location and that application is accompanied by a verifiable letter from the owner or person in control of the property granting permission to operate on the premises. Permission by the owner/person in control of property may be rescinded at any time by notifying the City Building and Zoning Department in writing that permission is rescinded. If permission is rescinded, no fees or portion of fees paid will be refunded.~~
 - ~~—8. No pushcart shall conduct business in areas of the City at which they are not permitted or authorized.~~
 - ~~—9. Pushcarts shall be subject to the same permit and fee structure as all other mobile food units.~~

~~183.07 MOBILE FOOD UNIT SPECIFIC REGULATIONS.~~

- ~~—1. Sales shall be conducted on the sidewalk side of the mobile food unit wherever possible away from moving vehicles.~~
- ~~—2. No mobile food truck should provide or allow any dining area, tables, chairs, booths, benches, bar stools, stand-up counters, or similar furniture unless allowed by a private lease on private property.~~

~~—3. No mobile food unit shall be used for any purpose other than as a mobile food unit offering food and/or beverage to customers.~~

~~183.08 ENFORCEMENT AND PENALTIES.~~

~~—The Polk County Health Department, the Windsor Heights Police Department, the Windsor Heights Fire Department and the Windsor Heights Building and Zoning Department of the City of Windsor Heights are authorized to enforce this chapter. The Polk County Health Department may elect to pursue enforcement under the provision of this chapter or under applicable state laws and regulations with the sanctions available thereunder.~~

~~—The performance of any action contrary to the provisions of this chapter may be cited as a municipal infraction offense. Additionally, failure to adhere to the regulations is cause for revocation or suspension of a license to operate as a mobile food unit or pushcart.~~

~~(Ch. 183 — Ord. 18-10 — Jun. 18 Supp.)~~

CHAPTER 183 MOBILE FOOD UNITS

183.01 Definitions

183.06 Reserved

183.02 License and Permit Required

183.07 Reserved

183.03 Application

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183.04 Exceptions

183.05 General Regulations for All Mobile Food Units

183.01 DEFINITIONS.

1. “Commissary” means a licensed food facility regulated by a governmental entity where food is stored, prepared, portioned, packaged or any combination thereof, and where such food is intended for consumption at another location or place from a mobile food unit..

2. “Food establishment” means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption. For the purposes of this

Commented [AS51]: This is wording from Ordinance No. 23-10. Passed 12.18.23

chapter, “food establishment” does not include an establishment that offers only pre-packaged foods that are non-potentially hazardous; a produce stand which sells only whole, uncut fresh fruits and vegetables; an establishment operating in a farmers market if potentially hazardous food is not sold or distributed; a residence in which food that is non-potentially hazardous is sold for consumption off premises to a consumer customer provided the food is labeled so as to identify its preparer; a private home that receives catered or home-delivered food; child care facilities or food establishments in hospitals or health care facilities which are subject to regulation by state agencies; supply vehicles and vending machines.

3. “Mobile food unit” means motorized, a self-propelled food establishment food truck, or a trailer, pushcart, or vehicle towed by a motorized vehicle, that is readily movable including a tent, and which typically operates at a remote location and returns to base of operation or commissary at the end of its daily business. Mobile food units are considered Class III or Class IV mobile food units by the Iowa Department of Inspections and Appeals.

4. “Potentially hazardous food” A biological (microorganism), chemical (cleansers, pesticides), or physical (fingernail, plastic) property that may cause an unacceptable consumer health risk.

5. “Pushcart” means a non-motorized food establishment limited to serving non-potentially hazardous packaged foods with limited assembly or commercial or commissary prepared foods that are reheated on the pushcart, such a frankfurters. Pushcarts may be towed by a vehicle, but are generally capable of being moved by human power. Pushcarts are considered Class III mobile food units by the Iowa Department of Inspections and Appeals.

6. Mobile Food Unit License: This is a City of Windsor Heights issued license necessary for all Mobile Food Units operating in Windsor Heights City limits, unless the mobile food unit is operating on private property as part of a private event under Code Section 183.04.

7. Special Event Permit: This is a permit necessary for all Mobile Food Units operating in the City of Windsor Heights right-of-way or in a City Park. The permit is valid for a specified period of time and at a specified location. This permit does not supersede the need for a Mobile Food Unit License.

183.02 LICENSE AND PERMIT REQUIRED.

No person shall sell or offer for sale or otherwise engage in a business as a mobile food unit within the City without having first obtained a license to operate as such. A Mobile Food Unit License is a special license and is required in addition to any other required City business license or state license or permit the person may hold or be required to hold. A separate Mobile Food Unit License is required for each mobile food vehicle from which business is conducted in the City. Mobile Food Unit Licenses are not transferable or

assignable. The license fee required shall be established by the City Council by resolution. Licenses expire 365 days after license issuance.

No person shall sell or offer for sale or otherwise engage in business as a mobile food unit within the public right-of-way or in a City Park unless otherwise approved by the City Administrator or their designee by a Special Event Permit. The granting of a Special Event Permit is discretionary based on available space and event requirements. A Special Event fee may be charged by the City of Windsor Heights or the event host.

183.03 APPLICATION.

A Mobile Food License application form available from the Building and Zoning Department must be filled out and submitted to the City Clerk for processing. The completed application must be submitted together with a copy of the applicant's Iowa retail sales tax permit and proof of liability insurance, including commercial general liability insurance coverage and automotive liability insurance coverage. Commercial general liability insurance shall include coverage for bodily injury, death and property damage with limits of liability of not less than one million dollars per occurrence and aggregate combined single limit. Automobile liability insurance coverage shall include coverage for bodily injury, death and property damage with limits of liability of not less than one million dollars per occurrence, combined single limit. Certificates of insurance shall provide that the policy or policies have been endorsed to provide thirty days advance notice of cancellation and forty-five days advance notice of non-renewal and ten days advance notice of cancellation for non-payment of premium and that these notices shall be provided to the City finance department by email, facsimile or mail. Cancellation of required insurance automatically revokes and terminates the Mobile Food Unit License to operate in Windsor Heights unless other insurance policies are provided in a timely manner to the City. If the mobile food unit sells food or beverages other than pre-packaged items that do not require hot or cold handling procedures, the application shall also contain a copy of the mobile food unit's license issued by the Iowa Department of Inspections and Appeals, a copy of the food establishment license issued by the Iowa Department of Inspections and Appeals for any commissary kitchen or other premises where food is prepared, copies of the food protection manager certifications, the name and address of the facility at which any waste fat, waste oil or waste grease generated by the mobile food unit operation is disposed of, and a copy of the certificate of annual compliance issued by the fire marshal of Des Moines, Clive, Ankeny, Urbandale, Norwalk, Grimes, Altoona, Pleasant Hill, Johnston, Waukee, or West Des Moines.

183.04 EXCEPTIONS.

1. Mobile food units associated with a private party on private property hosted by the owner of the property upon which the unit is dispensing food and/or beverage, such as a graduation party, wedding reception, birthday celebration or similar event, are exempt

from the licensing provisions of this chapter provided the unit's participation is by invitation or contract with the host and provided the vendor displays proof of its authorization to operate in Iowa and required health inspection certification.

183.05 GENERAL REGULATIONS FOR ALL MOBILE FOOD UNITS

1. Mobile food units shall have, and at all times maintain, all necessary licenses and permits from the Iowa Department of Inspections and Appeals as well as the City of Windsor Heights's required permits and licenses.

2. Mobile food units shall at all times operate in compliance with all applicable food, health and sanitation laws and shall comply with all health department regulations regarding food service, food storage and preparation, food handling and food cooking and shall have a valid inspection certificate or permit evidencing health department inspection and approval on display and easily visible to the mobile food unit's patrons at all times in operation.

3. No mobile food unit shall offer for sale or sell food and/or beverage between the hours of 12:00 a.m. and 6:00 a.m.

4. No mobile food unit may operate in the right-of-way absent of a receipt of a special event permit from City Administration or their designee.

5. No mobile food unit shall operate within a City park absent receipt of a special event permit from City Administration or their designee.

6. No mobile food unit shall park or stand within (1) 40 feet of a pedestrian crosswalk, or a stop sign or traffic signal light, (2) adjacent to a designated bicycle lane, or (3) absent written authorization of the restaurant, within 200 feet of any public entrance to any permanent restaurant during hours the restaurant is open for business. For purposes of this section, bars that serve food are deemed to be restaurants. Mobile food units that are not directly involved with the sponsor organization shall not park or stand within 1,200 feet (3 City blocks) of an approved special event.

7. No mobile food unit shall operate in a manner that violates Chapter 54 of the City Code concerning noise. A mobile food unit owner or operator shall not call out to, cry out, shout out or otherwise communicate or make any noise or use any device to call attention to their cart's location and operation.

8. A mobile food unit owner or operator is responsible for keeping and maintaining the area around and within fifty feet of the mobile food unit neat, clean and free from trash, debris, garbage and other hazardous conditions at all times regardless of whether the trash, debris or garbage originated from the operation of the unit or was left in the area by a pedestrian passerby or natural conditions. A mobile food unit owner or operator shall provide adequate trash receptacles for the public for all garbage from its operation and from the accumulation of garbage in the area around their unit all times the unit is in

operation. At the close of its daily business, the mobile food unit owner or operator must remove all garbage from the area and properly dispose of it away from the site of its operation; the garbage shall not simply be placed in nearby public garbage receptacles provided for use to the general public at large.

9. The license required by this chapter, the state sales tax permit and all licenses, permits or certificates required to be displayed by state law, shall be posted on the mobile food unit so as to be readily visible to all persons conducting business with the mobile food unit.

10. Mobile food units shall only offer single service food utensils such as cups, straws, knives, forks, spoons, stirrers, plates, bowls, wrappers, containers, and similar utensils, which shall be individually wrapped if usual, and kept in a clean place and only used once in the service of food and/or beverage.

11. No mobile food unit shall be left at its operating location at the end of its business day, unless it is operating as part of a multi-day special event and has approval from the City Administrator.

12. No mobile food unit shall conduct operations at a location or in a manner that hinders, impedes or restricts access to a pay phone, mail box, emergency call box, traffic control box, fire hydrant, entrance to a building or a driveway.

13. A mobile food unit operating on private property shall not encroach into any public sidewalk or public right-of-way. The window or area where a patron orders and receives their purchase shall be located so as to not require a patron to stand, or create a line that may cause pedestrians to be in the public right of way, vehicle travel lane, including parking lot drive aisles, or similar situation that may create a potential safety hazard. Sales shall be conducted on the sidewalk or pathway side of the mobile food unit wherever possible, away from moving vehicles. All private property owners allowing mobile food units on property must maintain a food service license issued by the State of Iowa Department of Inspections & Appeals and certificate of insurance.

14. No mobile food unit is allowed on the grounds of any school unless it has been invited to be there as part of a school authorized function.

15. The City reserves the right to move a mobile food unit from any location if determined to be necessary for the provision of emergency or public services or in the interest of public safety, peace and welfare.

16. No mobile food unit shall offer for sale or sell any liquor, beer or wine from such unit unless a Liquor License has been approved by the Iowa Alcoholic Beverage Division.

17. No mobile food truck should provide or allow any dining area, tables, chairs, booths, benches, bar stools, stand-up counters, or similar furniture unless allowed by a private lease on private property.

18. No mobile food unit shall be used for any purpose other than as a mobile food unit offering food and/or beverage to customers.

19. Mobile food units shall serve patrons which are on foot only; no drive-up service to the unit itself shall be provided or allowed.

20. The mobile food unit must be located on a paved or rocked surface, unless approved as part of an event permit.

183.06 RESERVED.

183.07 RESERVED

183.08 ENFORCEMENT AND PENALTIES.

The Polk County Health Department, the Windsor Heights Police Department, the Windsor Heights Fire Department and the Windsor Heights Building and Zoning Department of the City of Windsor Heights are authorized to enforce this chapter. The Polk County Health Department may elect to pursue enforcement under the provision of this chapter or under applicable state laws and regulations with the sanctions available thereunder.

The performance of any action contrary to the provisions of this chapter may be cited as a municipal infraction offense. Additionally, failure to adhere to the regulations is cause for revocation or suspension of a license to operate as a mobile food unit.

Any license issued under the provisions of this chapter may be suspended or revoked by the City as follows:

- The vendor has violated this chapter or any other chapter of this code or has otherwise conducted his/her business in an unlawful manner.
- The vendor has conducted his/her business in such manner as to endanger the public welfare, safety, order or morals.
- The City has received and investigated three (3) or more found complaints during the license term related to the manner in which the vendor is conducting business.
- Emergency Revocation. The Police or Fire Chief may suspend or revoke any license or permit immediately, upon oral notification to the operator of the mobile food unit, in the event the mobile food unit is creating a danger to the public health or safety. In such event, the vendor shall immediately cease operations. The Police or Fire Chief will cause the notice of revocation to be served in person by a city official or by mail to the vendor's local address within twenty-four (24) hours.
- Notice of Suspension or Revocation; Right to Appeal. The Police or Fire Chief shall cause notice of the certificate revocation to be served in person by a city official or by mail to the vendor's local address, which notice shall specify the reason(s) for such action, at which time operations of the vendor must cease within the corporate limits of the City. The vendor may appeal the revocation of the certificate to the City Council at its next regularly

scheduled meeting by filing with the City Clerk a written request for an appeal to the City Council at least seven (7) days prior to the meeting. The City Council may affirm, modify or reverse the decision of the Police or Fire Chief to revoke such certificate. If a certificate is revoked, no refund of any license fee paid shall be made. Upon the revocation, the vendor is not eligible for the issuance of a new permit under this chapter for a period of one year from the date the permit revocation is served in person or deposited in the U.S. mail.

CHAPTER 185
FLOODPLAIN MANAGEMENT

185.01 Definitions	185.07 Floodway Fringe (Overlay) District FF
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~~185.01 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.~~

~~—1. 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.~~

~~—2. Base flood—The flood having one (1) percent chance of being equaled or exceeded in any given year. (Also commonly referred to as the “100-year flood”).~~

~~—3. Base flood elevation (BFE)—The elevation floodwaters would reach at a particular site during the occurrence of a base flood event.~~

—4. 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.”

—5. Development—Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials. “Development” does not include “minor projects” or “routine maintenance of existing buildings and facilities” as defined in this section. It also does not include gardening, plowing, and similar practices that do not involve filling or grading.

—6. Enclosed area below lowest floor—The floor of the lowest enclosed area in a building when all the following criteria are met:

—A. The enclosed area is designed to flood to equalize hydrostatic pressure during flood events with walls or openings that satisfy the provisions of 185.07(2)(D)(1) of this ordinance, and

—B. The enclosed area is unfinished (not carpeted, drywalled, etc.) and used solely for low damage potential uses such as building access, parking or storage, and

—C. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one (1) foot above the base flood elevation, and

—D. The enclosed area is not a “basement” as defined in this section.

—7. 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.

—8. 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.

—9. 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).

—10. Factory-built home—Any structure, designed for residential use which is wholly or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation, on a building site. For the purpose of this ordinance factory-built homes include mobile homes, manufactured homes, and modular

homes; and also include “recreational vehicles” which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.

—11. ~~Factory-built home park~~—A parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.

—12. ~~Five hundred (500) year flood~~—A flood, the magnitude of which has a two-tenths (0.2) percent chance of being equaled or exceeded in any given year or which, on average, will be equaled or exceeded at least once every five hundred (500) years.

—13. ~~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.

—14. ~~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.

—15. ~~Flood insurance study (FIS)~~—A report published by FEMA for a community issued along with the community’s Flood Insurance Rate Map(s). The study contains such background data as the base flood discharge and water surface elevations that were used to prepare the FIRM.

—16. ~~Floodplain~~—Any land area susceptible to being inundated by water as a result of a flood.

—17. ~~Floodplain management~~—An overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of floodplains, including but not limited to emergency preparedness plans, flood control works, floodproofing and floodplain management regulations.

—18. ~~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.

—19. ~~Floodway~~—The channel of a river or stream and those portions of the floodplains adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one (1) foot.

—20. ~~Floodway fringe~~—Those portions of the Special Flood Hazard Area outside the floodway.

—21. ~~Highest adjacent grade~~—The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

—22. ~~Historic structure~~—Any structure that is:

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- 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.
- 23. Lowest floor—The floor of the lowest enclosed area in a building including a basement except when the criteria listed in the definition of enclosed area below lowest floor are met.
- 24. Maximum damage potential uses—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.
- 25. Minor projects—Small development activities (except for filling, grading and excavating) valued at less than \$500.
- 26. 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.
- 27. 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.
- 28. 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.

—29. Routine maintenance of existing buildings and facilities—Repairs necessary to keep a structure in a safe and habitable condition that do not trigger a building permit, provided they are not associated with a general improvement of the structure or repair of a damaged structure. Such repairs include:

—A. Normal maintenance of structures such as re-roofing, replacing roofing tiles and replacing siding;

—B. Exterior and interior painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work;

—C. Basement sealing;

—D. Repairing or replacing damaged or broken window panes;

—E. Repairing plumbing systems, electrical systems, heating or air conditioning systems and repairing wells or septic systems.

—30. Special flood hazard area (SFHA)—The land within a community subject to the “base flood.” This land is identified on the community’s Flood Insurance Rate Map as Zone A, A1–30, AE, AH, AO, AR, and/or A99.

—31. 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.

—32. 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/or other similar uses.

—33. 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. Volunteer labor and donated materials shall be included in the estimated cost of repair.

—Substantial damage also means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. Volunteer labor and donated materials shall be included in the estimated cost of repair.

—35. 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.

Any repair, reconstruction or improvement of a structure taking place during a 10-year period, the cumulative 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 first improvement of the structure, 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.” An alternative to exempting substantially improved/damaged historic structures from the elevation requirements of the ordinance by definition would be to handle them individually through the variance process. This option provides the community an opportunity to require that all reasonable measures— are used to reduce the structure’s flood damage potential (e.g., by relocating utilities above the base flood elevation, using flood resistant materials where practicable, etc.), provided those measures do not preclude the structure’s designation as an “historic structure.” If this alternative is preferred, the last sentence of the previous paragraph (referring to “historic structures” should be deleted.

—B. Any addition which increases the original floor area of a building by 25 percent or more. All additions constructed 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.

—35. Variance—A grant of relief by a community from the terms of the floodplain management regulations.

~~—36. Violation— The failure of a structure or other development to be fully compliant with the community's floodplain management regulations.~~

~~185.02 STATUTORY AUTHORITY, FINDINGS OF FACT AND PURPOSE.—~~

~~—1. The Legislature of the State of Iowa has in Chapter 414, Code of Iowa, as amended, delegated the power to cities to enact zoning regulations to secure safety from flood and to promote health and the general welfare.~~

~~—2. Findings of Fact.~~

~~—A. The flood hazard areas of the City of Windsor Heights are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare of the community.~~

~~—B. These flood losses, hazards, and related adverse effects are caused by: (i) the occupancy of flood hazard areas by uses vulnerable to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flooding and (ii) the cumulative effect of obstructions on the floodplain causing increases in flood heights and velocities.~~

~~—C. This ordinance relies upon engineering methodology for analyzing flood hazards which is consistent with the standards established by the Department of Natural Resources.~~

~~—3. Statement of Purpose. It is the purpose of this ordinance to protect and preserve the rights, privileges and property of the City of Windsor Heights 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 185.02(2)(A) of this ordinance with provisions designed to:~~

~~—A. Reserve sufficient floodplain area for the conveyance of flood flows so that flood heights and velocities will not be increased substantially.~~

~~—B. 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.~~

~~—C. 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.~~

~~—D. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.~~

—E. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

185.03 GENERAL PROVISIONS:

—1. Lands to Which Ordinance Apply. The provisions of this ordinance shall apply to all lands within the jurisdiction of the City of Windsor Heights shown on the Official Floodplain Zoning Map as being within the boundaries of the Floodway, Floodway Fringe, General Floodplain and Shallow Flooding (Overlay) Districts, as established in 185.03.

—2. Establishment of Official Floodplain Zoning Map. The Flood Insurance Rate Map (FIRM) for Polk County and Incorporated Areas, City of Windsor Heights, Panels 19153C0326F, 0327F, 0329F, dated February 1, 2019, which were prepared as part of the Flood Insurance Study for Polk County, is (are) hereby adopted by reference and declared to be the Official Floodplain Zoning Map. The flood profiles and all explanatory material contained with the Flood Insurance Study are also declared to be a part of this ordinance.

—3. Rules for Interpretation of District Boundaries. The boundaries of the zoning district areas shall be determined by scaling distances on the Official Floodplain Zoning Map. When an interpretation is needed as to the exact location of a boundary, the Building Official shall make the necessary interpretation. The Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Building Official in the enforcement or administration of this ordinance.

—4. 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.

—5. 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.

—6. 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.

—7. Warning and Disclaimer of Liability. The standards required by this ordinance are considered reasonable for regulatory purposes. This ordinance does not imply that areas outside the designated Floodplain (Overlay) District areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Windsor

Heights or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made there under.

~~—8. Severability. If any section, clause, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.~~

185.04 ADMINISTRATION.

~~—1. Appointment, Duties and Responsibilities of Local Official.~~

~~—A. The Building Official is hereby appointed to implement and administer the provisions of this ordinance and will herein be referred to as the Administrator.~~

~~—B. Duties and responsibilities of the Administrator shall include, but not necessarily be limited to the following:~~

~~—(1) Review all floodplain development permit applications to assure that the provisions of this ordinance will be satisfied.~~

~~—(2) Review floodplain development applications to assure that all necessary permits have been obtained from federal, state and local governmental agencies including approval when required from the Department of Natural Resources for floodplain construction.~~

~~—(3) Record and maintain a record of (i) the elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of all new or substantially improved structures or (ii) the elevation to which new or substantially improved structures have been floodproofed.~~

~~—(4) Notify adjacent communities/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.~~

~~—(5) Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this ordinance.~~

~~—(6) Submit to the Federal Insurance Administrator an annual report concerning the community's participation, utilizing the annual report form supplied by the Federal Insurance Administrator.~~

~~—(7) Notify the Federal Insurance Administration of any annexations or modifications to the community's boundaries.~~

~~—(8) Review subdivision proposals to insure such proposals are consistent with the purpose of this ordinance and advise the Planning and Zoning Commission of potential conflict.~~

~~— (9) Maintain the accuracy of the community's Flood Insurance Rate Maps when:~~

~~— a. Development placed within the Floodway (Overlay) District results in any of the following:~~

~~— An increase in the base flood elevations, or~~

~~— Alteration to the floodway boundary.~~

~~— b. 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 elevation; or~~

~~— c. 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.~~

~~— (10) Perform site inspections to ensure compliance with the standards of this ordinance.~~

~~— (11) Forward all requests for variances to the Board of Adjustment for consideration. Ensure all requests include the information ordinarily submitted with applications as well as any additional information deemed necessary to the Board of Adjustment.~~

~~— 2. Floodplain Development Permit.~~

~~— A. Permit Required. A Floodplain Development Permit issued by the Administrator shall be secured prior to any floodplain development (any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, excavation or drilling operations), including the placement of factory-built homes.~~

~~— B. Application for Permit. Application shall be made on forms furnished by the Administrator and shall include the following:~~

~~— (1) Description of the work to be covered by the permit for which application is to be made.~~

~~— (2) Description of the land on which the proposed work is to be done (i.e., lot, block, track, street address or similar description) that will readily identify and locate the work to be done.~~

~~— (3) Location and dimensions of all buildings and building additions.~~

~~— (4) Indication of the use or occupancy for which the proposed work is intended.~~

~~— (5) Elevation of the base flood.~~

~~— (6) Elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of buildings or of the level to which a building is to be floodproofed.~~

~~—(7) For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.~~

~~—(8) Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this ordinance.~~

~~—C. Action on Permit Application. The Administrator shall, within a reasonable time, make a determination as to whether the proposed floodplain development meets the applicable standards of this 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 County Board of Adjustment.~~

~~—D. Construction and Use to be as Provided in Application and Plans. Floodplain Development Permits based on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this 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.~~

~~185.05 ESTABLISHMENT OF ZONING (OVERLAY) DISTRICTS.~~

~~—The floodplain areas within the jurisdiction of this ordinance are hereby divided into the following districts:~~

~~—1. Floodway (Overlay) District (FW)—those areas identified as Floodway on the Official Flood Plain Zoning Map;~~

~~—2. Floodway Fringe (Overlay) District (FF)—those areas identified as Zone AE on the Official Flood Plain Zoning Map but excluding those areas identified as Floodway.~~

~~—3. General Floodplain (Overlay) District (GF)—those areas identified as Zone A on the Official Flood Plain Zoning Map, and;~~

~~The boundaries shall be as shown on the Official Floodplain Zoning Map. Within these districts, all uses not allowed as Permitted Uses are prohibited unless a variance to the terms of this ordinance is granted after due consideration by the Board of Adjustment.~~

~~185.06 FLOODWAY (OVERLAY) DISTRICT (FW).~~

~~—1. Permitted Uses. All uses within the Floodway District shall be permitted to the extent that they are not prohibited by any other ordinance (or underlying zoning district) and provided they meet applicable performance standards of the Floodway District.~~

~~—2. Performance Standards. All Floodway District uses allowed as a permitted shall meet the following standards:~~

~~—A. No use shall be permitted in the Floodway District that would result in any increase in the base flood elevation. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.~~

~~—B. All uses within the Floodway District shall:~~

~~—(1) Be consistent with the need to minimize flood damage.~~

~~—(2) Use construction methods and practices that will minimize flood damage.~~

~~—(3) Use construction materials and utility equipment that are resistant to flood damage.~~

~~—C. No use shall affect the capacity or conveyance of the channel or floodway of any tributary to the main stream, drainage ditch or any other drainage facility or system.~~

~~—D. Structures, buildings and sanitary and utility systems, if permitted, shall meet the applicable performance standards of the Floodway Fringe District and shall be constructed or aligned to present the minimum possible resistance to flood flows.~~

~~—E. Buildings, if permitted, shall have a low flood damage potential and shall not be for human habitation.~~

~~—F. Storage of materials or equipment that are buoyant, flammable, explosive or injurious to human, animal or plant life is prohibited. Storage of other material may be allowed if readily removable from the Floodway District within the time available after flood warning.~~

~~—G. Watercourse alterations or relocations (channel changes and modifications) must be designed to maintain the flood-carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.~~

~~—H. Any fill allowed in the floodway must be shown to have some beneficial purpose and shall be limited to the minimum amount necessary.~~

~~—I. Pipeline river or stream crossings shall be buried in the streambed and banks or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering or due to the action of flood flows.~~

185.07 FLOODWAY FRINGE (OVERLAY) DISTRICT FF.

~~—1. Permitted Uses. All uses within the Floodway Fringe District shall be permitted to the extent that they are not prohibited by any other ordinance (or underlying zoning district) and provided they meet applicable performance standards of the Floodway Fringe District.~~

~~—2. Performance Standards. All uses must be consistent with the need to minimize flood damage and meet the following applicable performance standards. Where 100-year flood data has not been provided on the Flood Insurance Rate Map, the Iowa Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.~~

~~—A. All structures shall:~~

~~—(1) Be adequately anchored to prevent flotation, collapse or lateral movement of the structure.~~

~~—(2) Use construction methods and practices that will minimize flood damage.~~

~~—(3) Use construction materials and utility equipment that are resistant to flood damage.~~

~~—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 or extended foundations) may be allowed subject to favorable consideration by the Board of Adjustment, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding.~~

~~All new residential structures 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 1988) to which any structures are floodproofed shall be maintained by the Administrator.

—D. All new and substantially improved structures:

—(1) Fully enclosed areas below the “lowest floor” (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:

—a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. A minimum of two (2) openings, with positioning on at least two (2) walls, 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. [Note: The NFIP’s Lowest Floor Guide requires that openings be located on “at least two walls.” While FEMA does not require the ordinance to contain this language, including it might help to ensure that the property owner will receive a lower flood insurance premium.]

—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. Where the distance between the floor and ceiling of the fully enclosed area below the “lowest floor” is five (5) feet or more, the applicant shall be required to sign and record with the Polk County Recorder a Non-Conversion Agreement that ensures the lower enclosed area remains compliant with the criteria outlined in Section 185.06(2)(D).

—(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 shall be constructed with electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities elevated or floodproofed to a minimum of one (1) foot above the base flood elevation. New and substantially improved structures shall be constructed with electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities (including ductwork) elevated or floodproofed to a minimum of one (1) foot above the base flood elevation.

—E. Factory-built homes.

—(1) All factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one (1) foot above the 100-year flood level.

—(2) All factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. Anchorage systems may include, but are not limited to, use of over-the-top or frame ties to ground anchors as required by the 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 100-year flood elevation.

—(3) New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities (other than on-site systems) shall be provided with a level of protection equal to or greater than one (1) foot above the 100-year flood elevation.

—(4) Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.

—G. Storage of Materials and Equipment. 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. Flood control structural works such as levees, flood walls, etc. shall provide, at a minimum, protection from the 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. 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. 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 Floodplain (Overlay) District.~~

~~—K. Accessory Structures to Residential Uses.~~

~~—(1) Detached garages, sheds, and similar structures that are incidental to a residential use are exempt from the base flood elevation requirements where the following criteria are satisfied. Accessory structure must comply the elevation requirements as outlined in Section 185.07(2)B.~~

~~—a. The structure shall be designed to have low flood damage potential. Its size shall not exceed 600 sq. ft. in size. Those portions of the structure located less than 1 foot above the BFE must be constructed of flood-resistant materials.~~

~~—b. The structure shall be used solely for low flood damage potential purposes such as vehicle parking and limited storage. The structure shall not be used for human habitation.~~

~~—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 resist flotation, collapse and lateral movement.~~

~~—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 185.07(2)(D)(1) of this ordinance.~~

~~Exemption from the 100-year flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.~~

~~—O. Recreational Vehicles.~~

~~—(1) Recreational vehicles are exempt from the requirements of 185.07(2)(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 185.07(2)(E) of this ordinance regarding anchoring and elevation of factory-built homes.

—M. Pipeline River and Stream Crossings. Pipeline river and stream crossings shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.

—N. Maximum Damage Potential Uses. All new or substantially improved maximum damage potential uses 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.

185.08 GENERAL FLOODPLAIN (OVERLAY) DISTRICT FP.

—1. Permitted Uses.

—A. All uses within the General Floodplain District shall be permitted to the extent that they are not prohibited by any other ordinance (or underlying zoning district) and provided they meet the applicable performance standards of the General Floodplain District.

—B. Any uses which involve placement of structures, factory-built homes, fill or other obstructions, storage of materials or equipment, excavation or alteration of a watercourse shall be reviewed by the Department of Natural Resources to determine (i) whether the land involved is either wholly or partly within the floodway or floodway fringe and (ii) the base flood elevation. The applicant shall be responsible for providing the Department of Natural Resources with sufficient technical information to make the determination.

~~—C. Review by the Iowa Department of Natural Resources is not required for the proposed construction of new or replacement bridges or culverts where:~~

~~—(1) The bridge or culvert is located on a stream that drains less than one hundred (100) square miles, and~~

~~—(2) The bridge or culvert is not associated with a channel modification that constitutes a channel change as specified in 567-71.2(1)b, Iowa Administrative Code.~~

~~—2. Performance Standards.~~

~~—A. All uses, or portions thereof, to be located in the floodway as determined by the Department of Natural Resources shall meet the applicable provisions and standards of the Floodway (Overlay) District 185.06.~~

~~—B. All uses, or portions thereof, to be located in the floodway fringe as determined by the Department of Natural Resources shall meet the applicable provisions and standards of the Floodway Fringe (Overlay) District 185.07.~~

185.09 APPOINTMENT AND DUTIES OF BOARD OF ADJUSTMENT.

~~—1. Appointment and Duties of Board of Adjustment. A Board of Adjustment is hereby established which shall hear and decide (i) appeals and (ii) requests for variances to the provisions of this ordinance, and shall take any other action which is required of the board.~~

~~—2. Appeals. Where it is alleged there is any error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this ordinance, the aggrieved party may appeal such action. The notice of appeal shall be filed with the Board of Adjustment and with the official from whom the appeal is taken and shall set forth the specific reason for the appeal. The official from whom the appeal is taken shall transmit to the Board of Adjustment all the documents constituting the record upon which the action appealed from was taken.~~

~~—3. Variance. The Board of Adjustment 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 not be issued within any designated floodway if any increase in flood levels during the 100-year flood would result. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.~~

~~—C. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.~~

~~—D. In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this 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.~~

~~—E. All variances granted shall have the concurrence or approval of the Department of Natural Resources.~~

~~—4. Hearings and Decisions of the Board of Adjustment.~~

~~—A. Hearings. Upon the filing with the Board of Adjustment of an Appeal or a request for a variance, the board shall hold a public hearing. The board shall fix a reasonable time for the hearing and give public notice thereof, as well as due notice to parties in interest. At the hearing, any party may appear in person or by agent or attorney and present written or oral evidence. The board may require the appellant or applicant to provide such information as is reasonably deemed necessary and may request the technical assistance and/or evaluation of a professional engineer or other expert person or agency, including the Department of Natural Resources.~~

~~—B. Decisions. The board shall arrive at a decision on an appeal or variance within a reasonable time. In passing upon an appeal, the board may, so long as such action is in conformity with the provisions of this ordinance, reverse or affirm, wholly or in part, or modify the order, requirement, decision, or determination appealed from, and it shall make its decision, in writing, setting forth the findings of fact and the reasons for its decision. In granting a variance, the board shall consider such factors as contained in this section and all other relevant sections of this ordinance and may prescribe such conditions as contained in 185.09(4)(B)(2).~~

~~—(1) Factors upon which the decision of the Board of Adjustment shall be based. In passing upon applications for variances, the board shall consider all relevant factors specified in other sections of this ordinance and:~~

~~—a. The danger to life and property due to increased flood heights or velocities caused by encroachments.~~

~~—b. The danger that materials may be swept on to other land or downstream to the injury of others.~~

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- ~~—— 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.~~
 - ~~—— (2) Conditions Attached to Variances. Upon consideration of the factors listed above, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purpose of this ordinance. Such conditions may include, but not necessarily be limited to:~~
 - ~~—— a. Modification of waste disposal and water supply facilities.~~
 - ~~—— b. Limitation of periods of use and operation.~~
 - ~~—— c. Imposition of operational controls, sureties, and deed restrictions.~~
 - ~~—— d. Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purpose of this ordinance.~~
 - ~~—— e. Floodproofing measures shall be designed consistent with the flood protection elevation for the particular area, flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, and other factors associated with the regulatory flood. The Board of Adjustment shall require that the applicant submit a plan or document certified by a~~

registered professional engineer that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

—5. Appeals to the Court. Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty days after the filing of the decision in the office of the board.

185.10 NONCONFORMING USES.

—1. 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:

—A. If such use is discontinued for six (6) consecutive months, any future use of the building premises shall conform to this ordinance.

—B. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.

—C. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (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.

—2. Except as provided in 185.10(1)(B), any use which has been permitted as a variance shall be considered a conforming use.

185.11 PENALTIES FOR VIOLATION.

—Violations of the provisions of this ordinance or failure to comply with any of the requirements (including violations of conditions and safeguards established in connection with grants of variances) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00 (five hundred) or imprisoned for not more than thirty (30) days. Each day such violation continues shall be considered a separate offense. Nothing herein contained prevent the City of Windsor Heights from taking such other lawful action as is necessary to prevent or remedy violation.

185.12 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.

185.01 - 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.

Commented [AS52]: Amended per Ordinance 24-04. Passed 06.07.24

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. (Also commonly referred to as the "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 buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials. "Development" does not include "minor projects" or "routine maintenance of existing buildings and facilities" as defined in this section. It also does not include gardening, plowing, and similar practices that do not involve filling or grading.

ENCLOSED AREA BELOW LOWEST FLOOR - The floor of the lowest enclosed area in a building when all the following criteria are met:

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- A. The enclosed area is designed to flood to equalize hydrostatic pressure during flood events with walls or openings that satisfy the provisions of 185.07(2)(D)(1) of this Ordinance, and
 - B. The enclosed area is unfinished (not carpeted, drywalled, etc.) and used solely for low damage potential uses such as building access, parking or storage, and
 - C. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least two (2) feet above the base flood elevation, and
 - D. The enclosed area is not a “basement” as defined in this section.

EXISTING CONSTRUCTION - Any structure for which the “start of construction” commenced before the effective date of the first floodplain management regulations adopted by the community.

EXISTING FACTORY-BUILT HOME PARK OR SUBDIVISION - A factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management regulations adopted by the community.

EXPANSION OF EXISTING FACTORY-BUILT HOME PARK OR SUBDIVISION - The preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FACTORY-BUILT HOME - Any structure, designed for residential use which is wholly or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation, on a building site. For the purpose of this Ordinance factory-built homes include mobile homes, manufactured homes, and modular homes; and also include “recreational vehicles” which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.

FACTORY-BUILT HOME PARK OR SUBDIVISION - A parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.

FIVE HUNDRED (500) YEAR FLOOD - A flood, the magnitude of which has a two-tenths (0.2) percent chance of being equaled or exceeded in any given year or which, on average, will be equaled or exceeded at least once every five hundred (500) years.

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.

FLOOD INSURANCE STUDY (FIS) - A report published by FEMA for a community issued along with the community's Flood Insurance Rate Map(s). The study contains such background data as the base flood discharge and water surface elevations that were used to prepare the FIRM.

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 floodplains, 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 floodplains adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not

cumulatively increase the water surface elevation of the base flood by more than one (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 the criteria listed in the definition of Enclosed Area below Lowest Floor are met.

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 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;
- E. Repairing plumbing systems, electrical systems, heating or air conditioning systems and repairing wells or septic systems.

SPECIAL FLOOD HAZARD AREA (SFHA) - The land within a community subject to the "base flood". This land is identified on the community's Flood Insurance Rate Map as Zone A, A1-30, AE, AH, AO, AR, and/or A99.

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/or 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. Volunteer labor and donated materials shall be included in the estimated cost of repair. Substantial damage also means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. Volunteer labor and donated materials shall be included in the estimated cost of repair.)

SUBSTANTIAL IMPROVEMENT - Any improvement to a structure which satisfies either of the following criteria:

- A. Any repair, reconstruction or improvement of a structure taking place during a 10-year period, the cumulative 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 first improvement of the structure, 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 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.

185.02 - Statutory Authority, Findings of Fact and Purpose

1. The Legislature of the State of Iowa has in Chapter 414, Code of Iowa, as amended, delegated the power to cities to enact zoning regulations to secure safety from flood and to promote health and the general welfare.
2. Findings of Fact
 - A. The flood hazard areas of the City of Windsor Heights are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare of the community.
 - B. These flood losses, hazards, and related adverse effects are caused by: (i) The occupancy of flood hazard areas by uses vulnerable to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flooding and (ii) the cumulative effect of obstructions on the floodplain causing increases in flood heights and velocities.
 - C. This ordinance relies upon engineering methodology for analyzing flood hazards which is consistent with the standards established by the Department of Natural Resources.

3. Statement of Purpose

It is the purpose of this Ordinance to protect and preserve the rights, privileges and property of the City of Windsor Heights 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 185.02(2)(A) of this Ordinance with provisions designed to:

- A. Reserve sufficient floodplain area for the conveyance of flood flows so that flood heights and velocities will not be increased substantially.
- B. 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.
- C. 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.
- D. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.
- E. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

185.03 - General Provisions

1. Lands to Which Ordinance Apply

The provisions of this Ordinance shall apply to all lands within the jurisdiction of the City of Windsor Heights shown on the Official Floodplain Zoning Map as being within the boundaries of the Floodway, Floodway Fringe, and General Floodplain (Overlay) Districts, as established in Section 185.05.

2. Establishment of Official Floodplain Zoning Map

The Flood Insurance Rate Map (FIRM) for Polk County and Incorporated Areas, City of Windsor Heights, Panels 19153C0326F, 0327F, and 0329F, dated February 1, 2019, which were prepared as part of the Flood Insurance Study for Polk County, is (are) hereby adopted by reference and declared to be the Official Floodplain Zoning Map. The flood profiles and all explanatory material contained with the Flood Insurance Study are also declared to be a part of this ordinance.

3. Rules for Interpretation of District Boundaries

The boundaries of the zoning district areas shall be determined by scaling distances on the Official Floodplain Zoning Map. When an interpretation is needed as to the exact location of a boundary, the Building Official shall make the necessary interpretation. The Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Building Official in the enforcement or administration of this Ordinance.

4. 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.

5. 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.

6. 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.

7. Warning and Disclaimer of Liability

The standards required by this Ordinance are considered reasonable for regulatory purposes. This Ordinance does not imply that areas outside the designated Floodplain (Overlay) District areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of Windsor Heights or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made there under.

8. Severability

If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

185.04 - Administration

1. Appointment, Duties and Responsibilities of Local Official

- A. The Building Official is hereby appointed to implement and administer the provisions of this Ordinance and will herein be referred to as the Administrator.
- B. Duties and responsibilities of the Administrator shall include, but not necessarily be limited to the following:
 - 1) Review all floodplain development permit applications to assure that the provisions of this Ordinance will be satisfied.

- 2) Review floodplain development applications to assure that all necessary permits have been obtained from federal, state and local governmental agencies including approval when required from the Department of Natural Resources for floodplain construction.
- 3) Record and maintain a record of (i) the elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of all new or substantially improved structures or (ii) the elevation to which new or substantially improved structures have been floodproofed.
- 4) Notify adjacent communities/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.
- 5) Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this Ordinance.
- 6) Submit to the Federal Insurance Administrator an annual report concerning the community's participation, utilizing the annual report form supplied by the Federal Insurance Administrator.
- 7) Notify the Federal Insurance Administrator of any annexations or modifications to the community's boundaries.
- 8) Review subdivision proposals to ensure such proposals are consistent with the purpose of this ordinance and advise the Board of Adjustment, Planning and Zoning and City Council of potential conflict.
- 9) Maintain the accuracy of the community's Flood Insurance Rate Maps when;
 - a. Development placed within the Floodway (Overlay) District results in any of the following:
 - (i) An increase in the Base Flood Elevations, or
 - (ii) Alteration to the floodway boundary
 - b. 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 elevation; or
 - c. 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.

- 10) Perform site inspections to ensure compliance with the standards of this Ordinance.
- 11) Forward all requests for Variances to the Board of Adjustment for consideration.
Ensure all requests include the information ordinarily submitted with applications as well as any additional information deemed necessary to the Board of Adjustment.

2. Floodplain Development Permit

- A. Permit Required - A Floodplain Development Permit issued by the Administrator shall be secured prior to any floodplain development (any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, storage of materials or equipment, excavation or drilling operations), including the placement of factory-built homes.
- B. Application for Permit - Application shall be made on forms furnished by the Administrator and shall include the following:
 - 1) Description of the work to be covered by the permit for which application is to be made.

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- 2) Description of the land on which the proposed work is to be done (i.e., lot, block, track, street address or similar description) that will readily identify and locate the work to be done.
- 3) Location and dimensions of all structures and additions
- 4) Indication of the use or occupancy for which the proposed work is intended.
- 5) Elevation of the base flood.
- 6) Elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of structures or of the level to which a structure is to be floodproofed.
- 7) For structures being improved or rebuilt, the estimated cost of improvements and market value of the structure prior to the improvements.
- 8) Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this Ordinance.

C. Permit Fee – A permit fee outlined in the Fee Schedule shall be due upon submission of application.

D. 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 Board of Adjustment.

E. 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, structure 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.

185.05 - Establishment of Zoning (Overlay) Districts

The floodplain areas within the jurisdiction of this ordinance are hereby divided into the following districts:

1. Floodway (Overlay) District (FW) - those areas identified as Floodway on the Official Floodplain Zoning Map;
2. Floodway Fringe (Overlay) District (FF) - those areas identified as Zone AE on the Official Floodplain Zoning Map but excluding those areas identified as Floodway, and;
3. General Floodplain (Overlay) District (GF) - those areas identified as Zone A on the Official Floodplain Zoning Map.

The boundaries shall be as shown on the Official Floodplain Zoning Map. Within these districts, all uses not allowed as Permitted Uses are prohibited unless a variance to the terms of this ordinance is granted after due consideration by the Board of Adjustment.

185.06 - Floodway (Overlay) District (FW)

1. Permitted Uses

All development within the Floodway District shall be permitted to the extent that they are not prohibited by any other ordinance (or underlying zoning district) and provided they meet applicable performance standards of the Floodway District.

2. Performance Standards

All Floodway District uses allowed as a Permitted Use shall meet the following standards.

- A. No development shall be permitted in the Floodway District that would result in any increase in the base flood elevation. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.
- B. All development within the Floodway District shall:
 - 1) Be consistent with the need to minimize flood damage.
 - 2) Use construction methods and practices that will minimize flood damage.
 - 3) Use construction materials and utility equipment that are resistant to flood damage.
- C. No development shall affect the capacity or conveyance of the channel or floodway of any tributary to the main stream, drainage ditch or any other drainage facility or system.
- D. Structures, buildings, recreational vehicles, and sanitary and utility systems, if permitted, shall meet the applicable performance standards of the Floodway Fringe District and shall be constructed or aligned to present the minimum possible resistance to flood flows.
- E. Structures, if permitted, shall have a low flood damage potential and shall not be for human habitation.
- F. Storage of materials or equipment that are buoyant, flammable, explosive or injurious to human, animal or plant life is prohibited. Storage of other material may be allowed if readily removable from the Floodway District within the time available after flood warning.
- G. Watercourse alterations or relocations (channel changes and modifications) must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.
- H. Any fill allowed in the floodway must be shown to have some beneficial purpose and shall be limited to the minimum amount necessary.
- I. Pipeline river or stream crossings shall be buried in the streambed and banks or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering or due to the action of flood flows.

185.07 - Floodway Fringe (Overlay) District FF

1. Permitted Uses

All development within the Floodway Fringe District shall be permitted to the extent that they are not prohibited by any other ordinance (or underlying zoning district) and provided they meet applicable performance standards of the Floodway Fringe District.

2. Performance Standards

All development must be consistent with the need to minimize flood damage and meet the following applicable performance standards. Until a regulatory floodway is designated, no development may increase the Base Flood Elevation more than one (1) foot. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

A. All development 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.

B. Residential structures - All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of two (2) feet above the base flood elevation. Construction shall be upon compacted fill which shall, at all points, be no lower than 2.0 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 or extended foundations) may be allowed, subject to favorable consideration by the Board of Adjustment, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding.

All new residential structures 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 two (2) feet 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 1988) to which any structures are floodproofed shall be maintained by the Administrator.

D. All new and substantially improved structures

- 1) Fully enclosed areas below the "lowest floor" (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:
 - a. A minimum of two (2) openings, with positioning on at least two (2) walls, 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. Where the distance between the floor and ceiling of the fully enclosed area below the "lowest floor" is five (5) feet or more, the applicant shall be required to sign and record with the Polk County Recorder a Non-Conversion Agreement that ensures the lower enclosed area remains compliant with the criteria outlined in Section 185.07(2)(D)(1).

- 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 shall be constructed with electric meter, electrical service panel box, hot water heater, heating, air conditioning, ventilation equipment (including ductwork), and other similar machinery and equipment elevated (or in the case on non-residential structures, optionally floodproofed to) a minimum of two (2) feet above the base flood elevation.
- 4) New and substantially improved structures shall be constructed with plumbing, gas lines, water/gas meters and other similar service utilities either elevated (or in the case of non-residential structures, optionally floodproofed to) a minimum of two (2) feet above the base flood elevation or designed to be watertight and withstand inundation to such a level.

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 two (2) feet 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 the State Building Code.

F. Utility and Sanitary Systems

- 1) On-site wastewater 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 two (2) feet 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 two (2) feet 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 two (2) feet 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 the 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 Floodway Fringe (Overlay) District.

K. Accessory Structures to Residential Uses

- 1) Detached garages, sheds, and similar structures that are incidental to a residential use are exempt from the base flood elevation requirements where the following criteria are satisfied:
 - a. The structure shall be designed to have low flood damage potential. Its size shall not exceed 600 sq. ft. in size. Those portions of the structure located less than 1

foot above the base flood elevation must be constructed of flood-resistant materials.

- b. The structure shall be used solely for low flood damage potential purposes such as vehicle parking and limited storage. The structure shall not be used for human habitation.
- 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 185.07(2)(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 185.07(2)(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 185.07(2)(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 two (2) feet 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.

185.08 - General Floodplain (Overlay) District (GF)

1. Permitted Uses

- A. All development within the General Floodplain District shall be permitted to the extent that they are not prohibited by any other ordinance (or underlying zoning district) and provided they meet the applicable performance standards of the General Floodplain District.
- B. Any development which involves placement of structures, factory-built homes, fill or other obstructions, storage of materials or equipment, excavation or alteration of a watercourse shall be reviewed by the Department of Natural Resources to determine (i) whether the land involved is either wholly or partly within the floodway or floodway fringe and (ii) the base flood elevation. The applicant shall be responsible for providing the Department of Natural Resources with sufficient technical information to make the determination.
- C. Review by the Iowa Department of Natural Resources is not required for the proposed construction of new or replacement bridges or culverts where:
 - 1) The bridge or culvert is located on a stream that drains less than two (2) square miles, and
 - 2) 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.

2. Performance Standards

- A. All development, or portions thereof, to be located in the floodway as determined by the Department of Natural Resources shall meet the applicable provisions and standards of the Floodway (Overlay) District, Section 185.06.
- B. All development, or portions thereof, to be located in the floodway fringe as determined by the Department of Natural Resources shall meet the applicable provisions and standards of the Floodway Fringe (Overlay) District, Section 185.07.

185.09 - Reserved

185.10 - Appointment and Duties of Board of Adjustment

- 1. Appeals - Where it is alleged there is any error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this ordinance, the aggrieved party may appeal such action as outlined in Chapter 179.03.
- 2. Variance - The Board of Adjustment 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 practical difficulties. For variance requests under chapter 185 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 practical difficulties to the

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applicant, and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.

- B. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood would result. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.
- C. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- D. In cases where the variance involves a lower level of flood protection for structures 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.
- E. All variances granted shall have the concurrence or approval of the Department of Natural Resources.

3. Hearings and Decisions of the Board of Adjustment

- A. Hearings. The Board may require the appellant or applicant to provide such information as is reasonably deemed necessary and may request the technical assistance and/or evaluation of a professional engineer or other expert person or agency, including the Department of Natural Resources.
- B. Decisions. In granting a Variance, the Board shall consider such factors as contained in this section and all other relevant sections of this ordinance and may prescribe such conditions as contained in Section 185.10(4)(B)(2).
 - 1) Factors Upon Which the Decision of the Board of Adjustment Shall be Based. In passing upon applications for Variances, the Board shall consider all relevant factors specified in other sections of this Ordinance and:
 - a. The danger to life and property due to increased flood heights or velocities caused by encroachments.
 - b. The danger that materials may be swept on to other land or downstream to the injury of others.
 - c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
 - d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - e. The importance of the services provided by the proposed facility to the City.
 - f. The requirements of the facility for a floodplain location.
 - g. The availability of alternative locations not subject to flooding for the proposed use.
 - h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
 - i. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
 - j. The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - k. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.

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- 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.

2) Conditions Attached to Variances - Upon consideration of the factors listed above, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purpose of this Ordinance. Such conditions may include, but not necessarily be limited to:

- a. Modification of waste disposal and water supply facilities.
- b. Limitation of periods of use and operation.
- c. Imposition of operational controls, sureties, and deed restrictions.
- d. Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purpose of this Ordinance.
- e. Floodproofing measures shall be designed consistent with the flood protection elevation for the particular area, flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, and other factors associated with the regulatory flood. The Board of Adjustment shall require that the applicant submit a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

4. Appeals to the Court - Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment may appeal to the court pursuant to Chapter 179.06 subsection 2.

185.11 - Nonconforming Uses

- 1. 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:
 - A. If such use is discontinued for six (6) consecutive months, any future use of the building premises shall conform to this Ordinance.
 - B. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.
 - C. If any nonconforming use or structure experiences Substantial Damage 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.
- 2. Except as provided in Section 185.11(1)(B), any use which has been permitted as a Variance shall be considered a conforming use.

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(Supp. No. 30)

185.12 - Penalties for Violation

Violations of the provisions of this Ordinance or failure to comply with any of the requirements (including violations of conditions and safeguards established in connection with grants of Variances) shall constitute a misdemeanor. Violation of any provision of this chapter may also be enforced as a municipal infraction within the meaning of Section 364.22 of the Code of Iowa, pursuant to Chapter 4 of this Code of Ordinances.

185.13 - 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.

Windsor Heights Code Update

Questions – Chapters 101-163

- **Section 105.03 – Sanitary Disposal Required.** This section reads that any accumulation remaining on any premises for a period of more than 14 days shall be deemed a nuisance. Is the 14 day limitation what the City enforces or does this time need to be lengthened?
Move to 30 days to match metro (Urbandale, Johnston and Clive).
- **Section 105.05 – Open Burning Restricted.** Please review this section and let me know if any changes need to be made. **No changes.**
- **Does the City still have a recycling collection program agreement with Metro Waste Authority? Yes.**
- **Section 105.11 – Yard Wastes.** Please review and confirm the information in this section. Do any changes need to be made as to how yard waste is handled?
 - The definition of “Bundle” states that they cannot exceed four feet in length and 12 inches in diameter. In Section 105.11(1)(B) it says they can’t larger than 18 inches in diameter. This conflict should be cleaned up. What dimensions do you want use for the diameter? **This is determined by Metro Waste Authority:**
<https://www.mwatoday.com/waste-recycling/recycling-disposal-guide/recycling-guide-items/brush-sticks--twigs/>
 - **Use this wording:** When not in approved bags or containers, tree limbs of less than two inches in diameter and brush will be collected provided they are securely tied in bundles not more than 48 inches long or 18 inches in diameter.
- **Section 106.07 – License Required.** Please confirm the requirements for a license in this section. Do any changes need to be made?
 - **Updated in redline.**
- **Section 106.08 – Authorization for Charges.** Please confirm the fees in this section. If changes need to be made, please let me know.
 - **Updated in redline**
- **Section 106.09 – Billing and Collection Procedures.** Please review and confirm the billing and collection process in this section.
 - **No changes**

- **Chapter 107 – Solid Waste Disposal.** Has anything changed with the Agreement between the City and the Des Moines Metropolitan Area Solid Waste Agency that would require a change to this chapter?
 - Changes in redline
- **Chapter 122 – Peddlers, Solicitors and Transient Merchants.**
 - Section 122.05 – Bonds Required. If the applicant does not have a place of residence or place of business in Iowa are they still required to have a bond? Is the amount still \$5,000?
 - Is the permit still issued by the Police Chief?
 - Are the hours of 9:00 a.m. and 9:00 p.m. still the allowable times?
 - Changes in redline.
- **Section 123.05 – Insurance Required.** Are the insurance minimum amounts in this section still current?
 - Update property Damage to \$300,000
- **Please review the following chapters and let me know if any changes need to be made.** These are specific to the City of Windsor Heights, so we want to make sure nothing has changed that needs to be addressed by this code update.
 - Chapter 124 – Pawnbrokers No changes
 - Chapter 125 – Adult Entertainment Facilities No changes
 - Chapter 126 – Public Dance Halls Recommending removal.
 - Ordinance 23-10 – Mobile Food Units.
 - We would recommend that this be changed to Chapter 127 under the section of the code regarding the “Regulation of Businesses and Vocations.”
 - To Simmering Cory: We do not have a Chapter 127. Is this suggestion to create a new chapter?
 - Chapter 135 – Excavations of Public Property Changes in redline
 - Chapter 140 – Driveway Regulations Changes in redline
 - Chapter 141 – Fiber Optic Cable License No changes
 - Chapter 142 – Parklets Changes in redline
 - Chapter 151 – Trees and Vegetation Changes in redline
 - Chapter 152 – Temporary Structures Changes in redline
 - Chapter 153 – Temporary Signs (Ordinance 2024-08 covers any updates)
 - Chapter 155 – Building Codes (have notes on going to new version with Safe Building)
 - Is the City still following the 2012 Editions of the *International Building Code* and the *International Residential Building Code*? If not, what edition are you using? If you change the edition, you will need to review the amendments, modification, additions and deletions as they may have changed in the newer edition.

- If you are still using the 2012 edition, please review the amendments and make sure they are still current.
- **Changes in redline**
- Chapter 156 – Property Maintenance and Rental Housing Code. (same as 155 with safe building)
 - Is the City still using the 2012 Edition of the *International Property Maintenance Code*?
 - If you are still using the 2012 edition, please review the amendments and make sure they are still current.
- Chapter 157 – Standard Construction Specifications.
 - What edition (year) are you using for SUDAS? The City is required to adopt a specific year vs. “current edition” which is what is in this chapter.
 - **We will adopt year 2025.**
- Chapter 158 – Mechanical Code.
 - Is the City still following the 2012 Edition?
 - If you are still using the 2012 edition, please review the amendments and make sure they are still current.
 - **Consolidated into Chapter 155 in redline.**
- Chapter 159 – Plumbing Code.
 - Is the City still following the 2012 Edition?
 - If you are still using the 2012 edition, please review the amendments and make sure they are still current.
 - **Consolidated into Chapter 155 in redline.**
- Chapter 160 – Construction Site Erosion and Sediment Control.
 - Has anything changed with the MS4 permit that impacts this chapter and needs to be changed?
 - **Updated in redline.**
- Chapter 161 – Post-Construction Storm Water Control.
 - Has anything changes with the MS4 permit or the Iowa Storm Water Management Manual that impacts this chapter and may require changes to be made?
 - **Updated in redline.**
- Chapter 162 – Fuel Gas Code.
 - Is the City still following the 2012 Edition of the *International Fuel Gas Code*?
 - If you are still using the 2012 edition, please review the amendments and make sure they are still current. (think we were looking at updating this?)
 - **Consolidated into Chapter 155 in redline.**
- Chapter 163 – Demolition and Raze Permit
 - **Updated in redline**

- **Section 136.04 – Property Owner’s Responsibility for Maintenance (Ord. 2024-03).**
Based on an Iowa Supreme Court decision in 2024 (see below), we recommend removing the last sentence of this section which states, “The abutting property owner may be liable for damages caused by failure to maintain the sidewalk.”
 - **Agreed.**

Iowa Supreme Court Decision in Bankers Trust Company vs. City of Des Moines. The Iowa Supreme Court recently released a decision in a case brought by Bankers Trust Company against the City of Des Moines. The decision of the Court in this case ultimately shifts the liability for injuries resulting from poor maintenance of public sidewalks to the City, a shift from the previous interpretation of the Court in a 2014 decision (*Madden v. City of Iowa City*) that said the City had the ability to shift the liability to the adjacent property owner. While we believe a City can continue to make the adjacent property owner responsible for maintenance of the sidewalk, the liability of an accident resulting from non-maintenance is the responsibility of the City alone based on the decision of the Iowa Supreme Court. Cities may want to consult with their City Attorney regarding this change.



STAFF REPORT
CITY COUNCIL
October 20, 2025

TO: CITY COUNCIL

FROM:

SUBJECT: Des Moines Water Works Proposed 2026 Rate Change And Capital Improvement Funds Report

GENERAL INFORMATION

Subject: DMWW Capital Improvement Fund and Proposed Rate Increase

A meeting with DMWW was held last week regarding their proposed water rate increase of 10%, for Windsor Heights residents. The rate increase, effective January 1st, continues to have Windsor Heights in the middle of the pack for price point for full service DMWW customers. They will hold a public hearing on the proposed rate increase in October. Other full-service customers also have rate increases proposed between 7%-10% depending on their cost recapture percentage. Water service availability rates are also expected to rise but will have a limited impact in Windsor Heights as the vast majority of users have the smallest meter size (see attached), which is only planned to have a \$1 monthly increase.

Initial capital improvement planning with DMWW also got underway and staff is hoping to obtain source data on historical main breaks to help better facilitate planning of future infrastructure improvements. The capital fund balance for water projects is currently sitting at a healthy \$2.1 million but is expected to be drawn down in the next several years through non-TIF road reconstruction projects including 74th St., 67th St., and 64th St.

Attached:

1. Windsor Heights Meter Size Information
2. Capital Improvement Fund Balance
3. Proposed Rate Changes

ATTACHMENTS

1. DMWW Capital Improvement Fund
2. WH meters

Windsor Heights
Capital Improvement Funds
For the Twelve Months Ended December 31, 2024 - Draft
For the Twelve Months Ended December 31, 2022

Capital Improvement Funds	2024	2023	2022
Prior Year Ending Balance	\$1,887,470	\$1,518,151	\$1,170,717
Revenue Collected from Rates	\$816,224	\$791,943	\$745,106
Connection Fee Revenue	\$44,610	\$0	\$0
Less Allocated Cost of Service	(643,201)	(496,774)	(545,106)
Less Direct Cost of Service	(72,933)	(67,796)	(35,583)
Net Operating Position	\$144,700	\$227,374	\$164,417
Capital Improvement Fee - \$2.00/1000gal	\$214,921	\$218,394	\$215,261
Capital Expenditures	(133,517)	(97,420)	(35,757)
Interest Credit	39,060	20,971	3,513
Ending Capital Fund Balance	\$2,152,635	\$1,887,470	\$1,518,151
Historical Consumption (1000 Gallons)	107,462	109,850	106,637

2024 Capital Expenditures

547-201 PE Reviews-Corr	\$645.70
547-202 LT Reviews-Corr	47.54
547-208 PE GIS	521.23
547-210 LT Inspect-AsBuilt	627.74
548-080 WMR	966.44
548-255 Windsor Heights WSI	(32,915.50)
548-831 WH 73rd St Improve - Dsgn	5,289.90
548-832 WH 73rd St Improve - Const	77,324.86
548-867 Windsor-68th St Reconst-Dsgn	999.81
548-868 Windsor-68th St Reconst-Const	2,849.63
548-934 WH 68th St Improvements - Dsgn	57,750.05
548-935 WH 68th St Improvements - Const	1,152.51
548-945 WH 74th St Improvements - Dsgn	10,689.50
565-040 Replacing Hydrants	67.83
565-060 Replacing Valves	7,499.39
	<u>\$133,516.63</u>

2025 YTD Capital Expenditures

Budgeted in 2025 \$746,304.00

Actual Expenditures thru 8/31/2025 99,996.00

Proposed 2026 SDF Fees

Connection		
Size	Current	Proposed
1"	\$3,050	\$3,600
2"	\$7,125	\$8,500
3"	\$12,350	\$16,750
4"	\$28,000	\$36,800
6"	\$67,200	\$71,100

**Des Moines Water Works
2026 Water Rates
Proposed Final**

All Rates are proposed to be effective January 1, 2026.

Volume Rates (Per Thousand Gallons)

Service Area/Rate	Des Moines Inside City	Des Moines Outside City*	Polk County	Pleasant Hill	Windsor Heights	PCRWd # 1	Berwick	Runnells	Cumming	Alleman
Residential										
Water - Step 1	\$5.35	\$6.60	\$11.35	\$9.40	\$7.05	\$5.45	\$4.60	\$8.50	\$9.00	\$10.45
Water - Step 2	\$8.05	\$9.90	\$17.00	\$14.10	\$10.55	\$8.15	\$6.90	\$12.75	\$13.55	\$15.65
Water - Step 3	\$10.70	\$13.20	\$22.70	\$18.80	\$14.10	\$10.90	\$9.20	\$17.00	\$18.05	\$20.90
DMWW Sewer	n/a	n/a	n/a	n/a	n/a	n/a	n/a	\$12.30	n/a	n/a
Non - Residential										
Water - Step 1	\$7.15	\$8.85	\$15.15	\$12.60	\$7.20	\$7.20	\$6.15	\$11.35	\$12.05	\$13.90
Water - Step 2	\$4.80	\$6.65	\$9.20	\$10.60						
Water - Step 3	\$3.70	\$4.75	\$7.20							
Capital Improvement Fee - Windsor Heights					\$2.00					
Capital Improvement Fee - Greenfield Plaza		\$0.25								
Capital Improvement Fee - Greenbriar Estates		\$0.37								
Irrigation - All	\$10.70	\$13.20	\$22.70	\$18.80	\$14.10	\$10.90	\$9.20	\$17.00	\$18.05	\$20.90

*The Greenfield Plaza and Greenbriar Estates areas of the Des Moines Outside City service area are charged a capital improvement fee.

Proposed Water Availability Rates - All Service Areas

Meter Size	Factor	Current	Rate Using AWWA Factor	2026 Proposed Rate	2027 Proposed Rate
5/8"	1	\$6.00	\$7.00	\$7.00	\$7.00
3/4"	1.5	\$7.00	\$10.50	\$8.50	\$10.50
1"	2.5	\$8.00	\$17.50	\$9.50	\$17.50
1.5"	5	\$14.00	\$35.00	\$16.50	\$35.00
2"	8	\$22.00	\$56.00	\$25.50	\$56.00
3"	16	\$45.00	\$112.00	\$52.50	\$112.00
4"	25	\$75.00	\$175.00	\$87.50	\$175.00
6"	50	\$75.00	\$350.00	\$175.00	\$350.00
8"	80	\$75.00	\$560.00	\$280.00	\$560.00
10"	115	\$75.00	\$805.00	\$402.50	\$805.00

Des Moines Water Works
Cost of Service Comparison
 Budget Year - 2026

<u>Customer</u>	<u>Cost of Service</u>	<u>% Rate</u>	<u>2026 Revenue</u>	<u>COS</u>
	(A)	Increase	(B)	Recovery (B / A)
Retail				
Des Moines Inside City	\$ 55,537,531	7%	\$ 42,339,191	76%
Des Moines Outside City	3,056,649	10%	2,850,947	93%
Contribution from Capital Reserves	(13,536,147)			
Total: Retail	\$ 45,058,033		\$ 45,190,138	100%
Full Service				
Polk County	\$ 9,101,562	7%	\$ 8,708,837	96%
Runnells	208,963	7%	202,834	97%
Cumming	215,900	10%	184,885	86%
Alleman	138,717	7%	162,811	117%
Pleasant Hill Inside City	3,978,200	7%	3,641,294	92%
PCRWD	277,866	10%	207,070	75%
Berwick	373,132	10%	225,662	60%
Windsor Heights	1,333,678	10%	1,176,420	88%
Less: Future FS Capital Costs	(1,278,569)			
Total: Full Service	\$ 14,349,449		\$ 14,509,813	101%
Wholesale - PC				
Altoona	\$ 411,954	7%	\$ 180,294	44%
Bondurant	1,242,145	7%	1,188,094	96%
Total: Wholesale - PC	\$ 1,654,099		\$ 1,368,388	83%
Wholesale with Storage				
Water Development Co	126,034	10%	119,276	95%
Total: Wholesale with Storage	\$ 126,034		\$ 119,276	95%
Total: Utility	\$ 61,187,615		\$ 61,187,615	100%
	\$ (0)		\$ (0)	

Proposed Water Availability Rates - All Service Areas

Meter Size	Factor	Current	2026 Proposed Rate	# WH Meters
5/8"	1	\$6.00	\$7.00	2,057
3/4"	1.5	\$7.00	\$8.50	11
1"	2.5	\$8.00	\$9.50	16
1.5"	5	\$14.00	\$16.50	12
2"	8	\$22.00	\$25.50	19
3"	16	\$45.00	\$52.50	1
4"	25	\$75.00	\$87.50	1
6"	50	\$75.00	\$175.00	-
8"	80	\$75.00	\$280.00	-
10"	115	\$75.00	\$402.50	-