

# BREDA CODE OF ORDINANCES

## 2025

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**REGION XII**  
COUNCIL OF GOVERNMENTS



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# **TITLE I GENERAL PROVISIONS**

## **CHAPTER 1 GENERAL PROVISIONS**

- 1-1-1 Definitions
- 1-1-2 Grammatical Interpretation
- 1-1-3 Prohibited Acts Include Causing, Permitting
- 1-1-4 Construction
- 1-1-5 Amendment
- 1-1-6 Severability
- 1-1-7 Catchlines, Titles, Headings, and Notes
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**1-1-1 DEFINITIONS.** The following words and phrases whenever used in the Ordinances of the City, shall be construed as defined in this section unless, from the context, a different meaning is intended or unless different meaning is specifically defined and more particularly directed to the use of such words or phrases:

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

(Amended in 2010)

8. “Fiscal Year” means July 1 to June 30;

9. “Law” denotes applicable federal law, the Constitution and statutes of the State of Iowa, the Ordinances of the City; and when appropriate, any and all rules and regulations which may be promulgated thereunder;

10. “May” confers a power;

11. “Month” means a calendar month;

12. “Must” states a requirement;

13. “Oath” shall be construed to include an affirmation or declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words “affirm” and “affirmed” shall be equivalent to the words “swear” and “sworn”;

14. “Or” may be read “and” and “and” may be read “or” if the context requires it;

15. “Ordinance” means a law of the City; however, an administrative action, order or directive, may be in the form of a resolution;

16. “Owner” applied to a building or land includes any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or part of such building or land;

17. “Person” means natural person, any other legal entity, or the manager, lessee, agent, servant, officer, or employee of any of them;

18. “Personal property” includes money, goods, chattels, things in action and evidences of debt;

19. “Preceding” and “following” mean next before and next after, respectively;

20. “Property” includes real and personal property;

21. “Real property” includes any interest in land;

22. “Shall” imposes a duty;

23. “Sidewalk” means that portion of a street between the curb line and the adjacent property line intended for the use of pedestrians;

24. “State” means the State of Iowa;

25. “Street” includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, or other public ways in this City which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this state;

26. “Tenant” and “occupant” applied to a building or land, includes any person who occupies whole or a part of such building or land, whether alone or with others;

27. “Title of Office”. Use of the title of any officer, employee, board or commission means that officer, employee, department, board or commission of the City;

28. “Writing” and “Written” include printed, typewritten, or electronically transmitted such as facsimile or electronic mail;

29. “Year” means a calendar year;

30. All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases and such other as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning;

31. When an act is required by an Ordinance the same being such that it may be done as well by an agent as by the principal, such requirement shall be construed as to include all such acts performed by an authorized agent.

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

1. Gender. Any gender includes the other gender;

2. Singular and Plural. The singular number includes the plural, and the plural includes the singular;

3. Tenses. Words used in the present tense include the past and the future tenses and vice versa;

4. Use of Words and Phrases. Words and phrases not specifically defined shall be construed according to the content and approved usage of the language.

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

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

**1-1-5 AMENDMENT.** All Ordinances of the City Council passed thereafter shall be in the form of an addition or amendment to the Breda Municipal Code of 2025 constituting this Municipal Code, and shall include proper references to chapter and section to maintain the orderly codification of the Ordinances.

(Code of Iowa, Sec. 380.2)

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

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

(Amended in 2010)

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

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

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

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

(Amended in 2010)

## **TITLE I GENERAL PROVISIONS**

### **CHAPTER 2 RIGHT OF ENTRY**

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

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

## **TITLE I GENERAL PROVISIONS**

### **CHAPTER 3 PENALTY**

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

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

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

#### **1-3-2 CIVIL PENALTY - MUNICIPAL INFRACTION.**

(Code of Iowa, Sec. 364.22)

##### **1. Definitions.**

a. **Municipal Infraction.** Except those provisions specifically provided under state law as a felony, an aggravated misdemeanor, or a serious misdemeanor or a simple misdemeanor under Chapters 687 through 747 of the Iowa Code, the doing of any act prohibited or declared to be unlawful, an offense or a misdemeanor by the Code of Ordinances City of Breda, or any Ordinance or Code herein adopted by reference, or omission or failure to perform any act or duty required by the Code of Ordinances City of Breda, or any Ordinance or Code herein adopted by reference, is a “municipal infraction” and is punishable by civil penalty as provided herein.

b. **Officer.** The term “officer” shall mean any employee or official authorized to enforce the Code of Ordinances of the City of Breda.

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

2. Violations, Penalties, and Alternative Relief.

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

Schedule of Civil Penalties

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

Repeat Offense: Not more than one thousand dollars (\$1,000.00)

(Amended during 2010)

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

c. Seeking a civil penalty as authorized in this chapter does not preclude the City from seeking alternative relief from the court in the same action.

3. Civil Citations

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

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

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

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

- (1) The name and address of the defendant.
- (2) The name or description of the infraction attested to by the officer issuing the citation.
- (3) The location and time of the infraction.
- (4) The amount of civil penalty to be assessed or the alternative relief sought, or both.
- (5) The manner, location, and time in which the penalty may be paid.
- (6) The time and place of court appearance.

(7) The penalty for failure to appear in court.

(8) The legal description of the affected property, if applicable.

4. Seeking a civil penalty as authorized in Section 364.22, Code of Iowa, does not preclude the City from seeking alternative relief from the court in the same action. Such relief may include the imposition of a civil penalty by entry of a personal judgment against the defendant, directing that the payment of the civil penalty be suspended or deferred under conditions imposed by the court, ordering the defendant to abate or cease the violation or authorizing the City to abate or correct the violation, or ordering that the City's cost for abatement or correction of the violation be entered as a personal judgment against the defendant or assessed against the property where the violation occurred, or both. If a defendant willfully violates the terms of an order imposed by the court, such violation will be subject to a contempt of court action.

5. This section does not preclude a peace officer from issuing a criminal citation for violation of a City Code or regulation if criminal penalties are also provided for the violation, nor does it preclude or limit the authority of the City to enforce the provisions of the Code of Ordinances by criminal sanctions or other lawful means. Each day that a violation occurs or is permitted to exist by the defendant constitutes a separate offense. The violation of any provision of this Code of Ordinances or any regulation promulgated thereunder shall also constitute a simple misdemeanor punishable by a fine of not less than \$65.00 but not to exceed \$625.00. No violation of the City Code shall subject an individual to incarceration. A simple misdemeanor criminal charge filed pursuant to this Code of Ordinances shall only subject an individual to a monetary fine.

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

## **TITLE I GENERAL PROVISIONS**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

request the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by filing an affidavit therefor with the City Clerk.”

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

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

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

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

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

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

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

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

a. To call and examine witnesses on any matter relevant to the issues of the hearing;

b. To introduce documentary and physical evidence;

c. To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;

d. To impeach any witness regardless of which party first called the witness to testify;

e. To rebut the evidence against the party; and

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

7. Official notice.

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

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

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

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

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

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

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

#### **1-4-6 METHOD AND FORM OF DECISION.**

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

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

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



## **TITLE II POLICY AND ADMINISTRATION**

### **CHAPTER 1 CITY CHARTER**

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

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

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

(Code of Iowa, Sec. 372.4)

**2-1-3 POWERS AND DUTIES.** The City Council and Mayor and other City officers have such powers and shall perform such duties as are authorized or required by state law and by the Ordinances, resolutions, rules and regulations of the City of Breda, Iowa.

**2-1-4 NUMBER AND TERM OF CITY COUNCIL.** The City Council consists of five City Council members elected at large, elected for terms of four years, staggered so that no more than a majority are elected at one election.

(Code of Iowa, Sec. 372.4)

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 372.4)

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 372.1)

## **TITLE II POLICY AND ADMINISTRATION**

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

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

**2-2-1 CREATION OF APPOINTIVE OFFICERS.** There are hereby created the following appointive officers: Clerk, Attorney, and Fire Chief.

**2-2-2 APPOINTMENT OF OFFICERS.** The Mayor shall appoint a Mayor Pro Tempore.

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

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

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

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

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

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

(Code of Iowa, Sec. 64.13)

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

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

(Code of Iowa, Sec. 64.13)

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

(Code of Iowa, Sec. 64.23)

## **2-2-9 BOARDS AND COMMISSIONS.**

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

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

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

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

**TITLE II POLICY AND ADMINISTRATION**  
**CHAPTER 3 POWERS AND DUTIES OF MUNICIPAL OFFICERS**

- 2-3-1 General Duties
- 2-3-2 Books and Records
- 2-3-3 Deposits of Municipal Funds
- 2-3-4 Transfer of Records and Property To Successor
- 2-3-5 Powers and Duties of the Mayor
- 2-3-6 Powers and Duties of the Clerk
- 2-3-7 Powers and Duties of the City Attorney
- 2-3-8 Powers and Duties of the Public Works Employees
- 2-3-9 Powers and Duties of the Fire Chief

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

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

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

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

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

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

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

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

(Code of Iowa, Section 372.14(1))

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

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

3. The Mayor may veto an Ordinance, amendment, or resolution within fourteen days after passage. The Mayor shall explain the reasons for the veto in a written message to the City Council at the time of the veto. Within thirty days after the Mayor's veto, the City Council may pass the measure again by an affirmative vote of not less than two-thirds of all of the members of the City Council. If the Mayor vetoes an ordinance, amendment, or resolution and the City Council repasses the measure after the Mayor's veto, a resolution becomes effective immediately upon repassage, and an Ordinance or amendment becomes a law when the Ordinance or a summary of the Ordinance is published, unless a subsequent effective date is provided within the Ordinance or amendment.

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

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

4. The Mayor shall represent the City in all negotiations properly entered into in accordance with law or Ordinance. The Mayor shall not represent the City where this duty is specifically delegated to another officer by law or Ordinance.

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

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

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

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

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

9. The Mayor shall, upon order of the City Council, secure for the City such specialized and professional services not already available to the City. In executing the order of the City Council, the Mayor shall conduct said duties in accordance with the City Ordinance and the laws of the State of Iowa.

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

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

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

**2-3-6 POWERS AND DUTIES OF THE CLERK.** The duties of the Clerk shall be as follows:

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 362.3)

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

(Code of Iowa, Sec. 380.11)

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

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

(Code of Iowa, Sec. 384.20)

9. Following City Council adoption for the budget, the Clerk shall certify the necessary tax levy for the following year by sending two copies each of the detailed budget as adopted, and of the tax certificate to the County Auditor and the County Board of Supervisors.

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

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

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

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

(Code of Iowa, Sec. 384.22)

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

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

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

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

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

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

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

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

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

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

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

19. The Clerk shall issue all licenses and permits approved by the City Council and keep a record of licenses and permits issued which shall show a date of issuance, license or permit number, official receipt number, name of person to whom issued, term of license or permit, and purpose for which issued.

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

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

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

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

(Code of Iowa, Sec. 376.4)

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 384.16)

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

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

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

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

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

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

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

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

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

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

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

**2-3-7 POWERS AND DUTIES OF THE CITY ATTORNEY.** The duties of the City Attorney shall be as follows:

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

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

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

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

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

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

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

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

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

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

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

**2-3-8 POWERS AND DUTIES OF THE PUBLIC WORKS EMPLOYEES.** The duties of the public works employees shall be as follows:

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

1. They shall be responsible for the management, operation and maintenance of all municipal utilities.

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

3. They shall supervise the installation of all storm sewers in the City in accordance with the regulations of the department of public works pertaining to the installation of storm sewers.

4. They shall supervise maintenance and repair of sidewalks, alleys, bridges, and streets and keep them in a reasonably safe condition for travelers. The employees shall immediately investigate all complaints of the existence of dangerous or impassable conditions of any sidewalk, street, alley, bridge, underpass or overpass, or other city property, and is charged with the duty of correcting unsafe defects.

5. They shall, whenever snow or ice imperil travel upon streets and alleys, be in charge of removing said snow and ice from the streets and alleys in the City and shall do whatever else is necessary and reasonable to make travel upon streets and alleys of the City safe.

6. The employees shall compile and maintain written records of the purchases, accomplishments, disposition of equipment and manpower, an up-to-date inventory, and activities contemplated by the street department. They shall make monthly an oral report of the activities of the department to the Mayor on or before the first day of each month.

7. The public works employees shall perform all other duties of a public works nature which are not specifically assigned to other municipal officials or employees.

**2-3-9 POWERS AND DUTIES OF THE FIRE CHIEF.** The duties of the Fire Chief shall be as follows:

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

1. The Fire Chief shall be charged with the duty of maintaining the efficiency, discipline and control of the fire department. The members of the fire department shall, at all times, be subject to the direction of the Fire Chief.

2. The Fire Chief shall enforce all rules and regulations established by the City Council for the conduct of the affairs of the fire department.

3. The Fire Chief shall exercise and have full control over the disposition of all fire apparatus, tools, equipment, and other property used by or belonging to the fire department.

4. The Fire Chief shall cause to be kept records of the fire department personnel, operating cost and efficiency of each element of fire fighting equipment, depreciation of all equipment and apparatus, the number of responses to alarms, their cause and location, and an analysis of losses by value, type and location of buildings.

5. The Fire Chief shall make monthly written reports on or before the fifth day of each month to the Mayor and City Council concerning the general status and efficiency of the fire department, the number of alarms answered during the month previous, and additional information that may be requested by the Mayor or the City Council. The Fire Chief shall compile an annual report based upon the records maintained by the fire department and summarizing the activities of the fire department for the year. This report shall be filed with the Mayor. The annual report shall also contain recommendations for the improvement of the department.

6. The Fire Chief shall enforce all Ordinances and, where enabled, state laws regulating the following:

- a. Fire prevention.
- b. Maintenance and use of fire escapes.
- c. The investigation of the cause, origin and circumstances of fires.

d. The means and adequacy of exits in case of fire from halls, theatres, churches, hospitals, asylums, lodging houses, schools, factories, and all other buildings in which the public congregates for any purpose.

e. The installation and maintenance of private fire alarm systems and fire extinguishing equipment.

7. The Fire Chief shall have the right of entry into any building or premises within the Fire Chief's jurisdiction at a reasonable time and after reasonable notice to the occupant or owner. The Fire Chief shall there conduct such investigation or inspection that the Fire Chief considers necessary in light of state law, regulations or Ordinance.

8. The Fire Chief shall make such recommendations to owners, occupants, caretakers or managers of buildings necessary to eliminate fire hazards.

9. The Fire Chief shall, at the request of the State Fire Marshal, and as provided by law, aid said Marshal in the performance of the Marshal's duties by investigating, preventing and reporting data pertaining to fires.

## **TITLE II POLICY AND ADMINISTRATION**

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

- 2-4-1 Council Member
- 2-4-2 Mayor
- 2-4-3 Mayor Pro Tem
- 2-4-4 Other Officers

**2-4-1 COUNCIL MEMBER.** The salaries of each City Council member shall be \$40 for each meeting of the City Council.

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

**2-4-2 MAYOR.** The Mayor shall receive an annual salary of \$2,700 to be paid in equal monthly installments in addition to \$40 for each meeting of the City Council.

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

**2-4-3 MAYOR PRO TEM.** If the Mayor Pro Tem performs the duties of the Mayor during the Mayor's absence or disability for a continuous period of fifteen days or more, the Mayor Pro Tem may be paid for that period the compensation determined by the City Council, based upon the Mayor Pro Tem's performance of the mayor's duties and upon the compensation of the mayor.

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

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

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

## TITLE II POLICY AND ADMINISTRATION

### CHAPTER 5 CITY FINANCE

- 2-5-1 Budget Adoption
- 2-5-2 Budget Amendment
- 2-5-3 Reserved
- 2-5-4 Accounts and Programs
- 2-5-5 Annual Report
- 2-5-6 Council Transfers
- 2-5-7 Reserved
- 2-5-8 Budget Officer
- 2-5-9 Expenditures
- 2-5-10 Authorizations to Expend
- 2-5-11 Accounting
- 2-5-12 Budget Accounts
- 2-5-13 Contingency Accounts

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

(Code of Iowa, Sec. 384.16)

1. A budget shall be prepared for at least the following fiscal year. When required by rules of the State City finance committee, a tentative budget shall be prepared for one or two ensuing years. The proposed budget shall show estimates of the following:

- a. Expenditures for each program.
- b. Income from sources other than property taxation.
- c. Amount to be raised by property taxation, and the property tax rate expressed in dollars per one thousand dollars valuation.

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

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

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

3. The City Council shall set a time and place for a public hearing on the budget before the final certification date and shall publish notice before the hearing as provided in Iowa law. Proof of publication shall be filed with the County Auditor.

4. At the hearing, any resident or taxpayer of the City may present to the City Council objections to any part of the budget for the following fiscal year or arguments in favor of any part of the budget.

5. After the hearing, the City Council shall adopt a budget for at least the following fiscal year, and the Clerk shall certify the necessary tax levy for the following year to the County Auditor and the County Board of Supervisors. The tax levy certified may be less than, but not more than the amount estimated in the proposed budget, unless an additional tax levy is approved at a City election. Two copies of the complete budget as adopted shall be transmitted to the County Auditor.

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

(Code of Iowa, Sec. 384.18)

1. To permit the appropriation and expenditures of unexpended, unencumbered cash balances on hand at the end of the preceding fiscal year which had not been anticipated in the budget.

2. To permit the appropriation and expenditure of amounts anticipated to be available from sources other than property taxation, and which had not been anticipated in the budget.

3. To permit transfers from the debt service fund, the capital improvements reserve fund, the emergency fund, or other funds established by State law, to any other City fund, unless specifically prohibited by State law.

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

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

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

(Code of Iowa, Sec. 384.19)

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

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

(Code of Iowa, Sec. 384.20)

**2-5-5 ANNUAL REPORT.** Not later than December first of each year the City shall publish an annual report containing a summary for the preceding fiscal year of all collections and receipts, all accounts due the City, and all expenditures, the current public debt of the City, and the legal debt limit of the City for the current fiscal year. A copy of this report shall be furnished to the Auditor of State.

(Code of Iowa, Sec. 384.22)

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

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

## **2-5-7 RESERVED**

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

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

**2-5-9 EXPENDITURES.** No expenditure shall be authorized by any City officer or employee except as herein provided. All purchases of services, supplies and equipment shall be made only

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

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

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

(Code of Iowa, Sec. 384.20)

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

(Code of Iowa, Sec. 384.20)

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

## **TITLE II POLICY AND ADMINISTRATION**

### **CHAPTER 6 CITY ELECTIONS**

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

**2-6-1 PURPOSE.** The purpose of this chapter is to designate the method by which candidates for elective municipal offices in the City shall be nominated and elected.

**2-6-2 NOMINATING METHOD TO BE USED.** All candidates for elective municipal offices shall be nominated under the provisions of Chapter 45 of the Code of Iowa.

(Code of Iowa, Sec. 376.3)

**2-6-3 NOMINATIONS BY PETITION.** Nominations for elective municipal offices of the City may be made by nomination paper or papers signed by not less than ten eligible electors, residents of the City.

(Code of Iowa, Sec. 45.1)

**2-6-4 ADDING NAME BY PETITION.** The name of a candidate placed upon the ballot by any other method than by petition shall not be added by petition for the same office.

(Code of Iowa, Sec. 45.2)

**2-6-5 PREPARATION OF PETITION.** Each eligible elector shall add to the signature the elector's residence address and date of signing. The person whose nomination is proposed by the petition may not sign it. Before filing said petition, there shall be endorsed thereon or attached thereto an affidavit executed by the candidate, which affidavit shall contain:

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

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

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

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

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

(Code of Iowa, Sec. 45.5)

**2-6-6 FILING, PRESUMPTION, WITHDRAWALS, OBJECTIONS.** The time and place of filing nomination petitions, the presumption of validity thereof, the right of a candidate so nominated to withdraw and the effect of such withdrawal, and the right to object to the legal sufficiency of such petitions, or to the eligibility of the candidate, shall be governed by the appropriate provisions of Chapter 44 of the Code of Iowa.

**2-6-7 PERSONS ELECTED.** The candidates who receive the greatest number of votes for each office on the ballot are elected, to the extent necessary to fill the positions open.

## **TITLE II POLICY AND ADMINISTRATION**

### **CHAPTER 7 CITY COUNCIL**

2-7-1 Powers and Duties

2-7-2 Exercise of Power

2-7-3 Meetings

**2-7-1 POWER AND DUTIES.** The powers and duties of the City Council include, but are not limited to the following:

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

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

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

(Code of Iowa, Sec. 372.13(7))

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

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

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

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

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

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

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

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

7. Setting Compensation for Elected Officers. By ordinance, the City Council shall prescribe the compensation of the Mayor, City Council members, and other elected City officers,

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

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

**2-7-2 EXERCISE OF POWER.** The City Council shall exercise a power only by the passage of a motion, a resolution, an amendment, or an ordinance in the following manner:

(Code of Iowa, Sec. 364.3(1))

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

(Code of Iowa, Sec. 380.4)  
(Amended in 2008)

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

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

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

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

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

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

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

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

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

## **2-7-3 MEETINGS.**

1. Regular Meetings. The regular meetings of the City Council are on the second Monday of each month at 5:30 p.m. in the City Council Chambers at City Hall. If such day falls on a legal holiday or for other reason, the meeting will be held on such different day or time as determined by the City Council.

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

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

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

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

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

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

5. Compelling Attendance. Any three (3) members of the City Council can compel the attendance of the absent members at any regular, adjourned, or duly called meeting, by serving a written notice upon the absent members to attend at once.



## TITLE III COMMUNITY PROTECTION

### CHAPTER 1 OFFENSES

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

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

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

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

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

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

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

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

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

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

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

5. Without lawful authority or order of authority, disturb any lawful assembly or meeting of persons by conduct intended to disrupt the meeting or assembly.

(Code of Iowa, Sec. 723.4(4))

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

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

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

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

### **3-1-3 PUBLIC MORALS.**

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

(Code of Iowa, Sec. 709.9)

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

### **3-1-4 STREETS.**

1. Removal of safeguards or danger signals. No person shall willfully remove, tear down, destroy, deface, or carry away from any highway, street, alley, avenue or bridge any lamp, obstruction, guard or other article or things, or extinguish any lamp or other light, erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said highway, street, alley, avenue or bridge without the consent of the person in control thereof.

(Code of Iowa, Sec. 716.5)

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

(Code of Iowa, Sec. 716.1)

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

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

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

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

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

(Code of Iowa, Sec. 364.1)

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

(Code of Iowa, Sec. 321.369)

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

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

5. Discharging firearms and fireworks.

(Code of Iowa, Sec. 727.2)

a. No person, firm, corporation, or other legal entity shall discharge or fire any cannon, gun, bomb, pistol, air gun, or other firearms or set off or burn firecrackers, torpedoes, skyrockets, roman candles, or other fireworks of like construction or any fireworks containing any explosive or inflammable compound, or other device containing any explosive, except as otherwise permitted by State statute or City ordinance.

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

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

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

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

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

(Code of Iowa, Sec. 727.3)

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

(Code of Iowa, Sec. 718.2)

8. Harassment of City Employees.

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

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

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

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

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

(Code of Iowa, Sec. 364.1)

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

(Code of Iowa, Sec. 364.12)12. Littering Prohibited.

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

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

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

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

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

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

### **3-1-6 PUBLIC PROPERTY.**

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

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

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

(Code of Iowa, 364.12(2))

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

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

4. Defacing or destroying proclamations or notices. No person shall intentionally deface, obliterate, tear down or destroy in whole or in part any transcript or extract from or of any law of the United States or of this State, or any proclamation, advertisement, or notification, set up at any place within the City by authority of law or by order of any court, during the time for which the same is to remain set up.

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

6. Damage to fire apparatus. No person shall willfully destroy or damage any engines, hose carriage, hose, hook and ladder carriage, or other things used and kept for extinguishment of fires.

(Code of Iowa, Sec. 716.1)

7. Damage to city ambulance or paramedic apparatus. No person shall willfully destroy or damage any ambulance or paramedic unit, equipment or other things used to administer medical care.

(Code of Iowa, Sec. 716.1)

8. Obstructing or defacing roads. No person shall obstruct, deface or damage any public road by breaking up, plowing or digging within the boundary lines thereof, except by written authorization of the Mayor.

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

10. Tapping into Utility Transmission Cables. No person shall connect to any transmission cable without first obtaining permission from the owner of the cable.

(Code of Iowa, Sec. 727.8)

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

(Code of Iowa, Sec. 716.1)

## TITLE III COMMUNITY PROTECTION

### CHAPTER 2 NUISANCES

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

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

1. **DANGEROUS BUILDING.** The term “dangerous building” shall include, but not be limited to, any building, structure, manufactured or mobile home that meets any or all of the following criteria:

a. **Structural Instability** - any building or structure that becomes dilapidated, decays, or part or portion of the building may collapse, become dislodged or detached causing injury or health hazards, including but not limited to exterior walls with the below structural issues:

(1) Exterior walls that lean, list, or buckle;

(2) Exterior walls which contain holes or openings that are not boarded up.

b. **Damaged Building** - a building or structure that has been damaged by fire, earthquake, wind, flood or by any other cause resulting in deteriorated structural stability, is manifestly dilapidated, unsafe or subject to significant deterioration.

c. **Health Hazard** - where a building or structure is inadequately maintained, becomes dilapidated, decays, becomes unsanitary or unfit for human habitation such that it is likely to cause disease or sickness.

d. **Fire Hazard** - where a structure or building that is dilapidated, obsolete, damaged, has inadequate exits, lacks fire resistive construction, has faulty electrical wiring, faulty heating apparatuses or gas connections. This condition is to be determined by the Fire Chief.

2. **NUISANCES DECLARED.** The term “nuisance” means whatever is injurious to health, indecent, or unreasonably offensive to the senses or an obstacle to the free use of property, so as essentially to unreasonably interfere with the comfortable enjoyment of life or property.

Nuisances shall include, but not be limited to, those activities and items hereinafter set forth in this section below:

(Code of Iowa, Sec. 657.1)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

m. Trees infected with Dutch elm disease.

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 657.2)

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

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

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

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

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

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

v. Unoccupied buildings or unoccupied portions of buildings which are unsecured.

w. Abandoned buildings.

x. Any hazardous thing or condition on property which may contribute to injury of any person present on the property; hazards include, but are not limited to, open holes, open wells, open foundation, dangerous trees or limbs, abandoned and unsecured refrigerators or trapping devices.

y. The storage, parking, leaving or permitting the storage, parking or leaving of any inoperable or obsolete vehicle upon private property within the City for a period in excess of 48 hours, unless exempted herein. This section shall not apply to any vehicle enclosed within a building on private property or to any vehicle held in connection with a legal junk yard or automobile or truck-oriented use operated in the appropriate zone and in compliance with the Breda Municipal Code of Ordinances.

z. All junk yard or salvage operations except those permitted by ordinance and operating in full compliance with the Breda Municipal Code of Ordinances.

aa. The open burning of trash, refuse, garbage, junk or salvage materials, yard waste, leaves and tree trimmings shall be prohibited within the City limits, provided, however, the City Council may designate up to three weekends each year to allow City residents to burn leaves and tree trimmings in accordance with the City's Open Burning Policy. Outdoor cooking or burning of wood is permitted if performed in a container constructed of steel, brick or masonry

and the fire is no larger than two feet in diameter. Additional open burning may be permitted upon written request, only with the special permission of the City Council, provided the burning is in compliance with Open Burning Policy guidelines established by the City in consultation with the Fire Department.

bb. Any accumulations of ice, water, and/or snow on public sidewalks, or the failure to remove said accumulations within 48 hours after the creation of such accumulations exist, shall constitute a nuisance and shall be abated pursuant to the provisions specified in the Breda Municipal Code of Ordinances.

cc. Any nuisance described as such or declared by Chapter 657 of the Code of Iowa.

dd. The sounding of any horn or other signaling device on any vehicle on any street, public or private place within the City, except as a danger warning, which makes a loud or harsh sound to the disturbance or annoyance of any person and can be plainly audible at a distance of 50 feet.

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

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

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

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

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

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

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

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

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

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

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

pp. No person shall perform maintenance or repairs on any vehicle or machinery while in the public right-of-way or public street or alley. This provision does not apply when repairs are made in the case of an emergency repair in order to make the vehicle or machinery operable in order to remove it from the street, alley, or right-of-way.

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

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

(Code of Iowa, Sec. 384.37(16))

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

(Code of Iowa, Sec. 657.3)

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

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

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

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

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

3. The numbering of buildings.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**3-2-8 ABATEMENT IN EMERGENCY.** If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance or condition, the City may perform any action that may be required under this chapter without prior notice, and assess the costs as provided herein, after notice to the property owner under the applicable provision of Sections 3-2-4 and 3-2-5 and hearing as provided in Section 3-2-7.

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

**3-2-9 ABATEMENT BY MUNICIPALITY.** If the person notified to abate a nuisance or condition neglects or fails to abate as directed, the City may perform the required action to abate, keeping an accurate account of the expense incurred. The itemized expense account shall be filed with the City Clerk, who shall pay such expenses on behalf of the municipality.

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

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

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

**3-2-11 INSTALLMENT PAYMENT OF COST OF ABATEMENT.** If the amount expended to abate the nuisance or condition exceeds \$100, the City may permit the assessment to be paid in up to ten (10) annual installments, to be paid in the same manner and at the same rate of interest charged delinquent real estate taxes by the County Treasurer.

(Code of Iowa, Sec. 364.13)

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

(Code of Iowa, Sec. 364.12A)

## **TITLE III COMMUNITY PROTECTION**

### **CHAPTER 3 TRAFFIC CODE**

- 3-3-1 Short Title
- 3-3-2 Definitions
- 3-3-3 Traffic Accident Reports

#### **ENFORCEMENT AND OBEDIENCE TO TRAFFIC REGULATIONS**

- 3-3-4 Authority of Sheriff's Department and Fire Department Officials
- 3-3-5 Required Obedience to Provisions of this Chapter and State Law

#### **TRAFFIC CONTROL DEVICES**

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- 3-3-57 Snowmobile Definitions
- 3-3-58 Permitted Areas of Operation
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**3-3-1 SHORT TITLE.** This chapter may be known and cited as the “Traffic Code”.

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

1. “Park and parking” means the stopping or standing of a vehicle, except for the purpose of, and while actually engaged in, loading or unloading merchandise or passengers.
2. “Stand or standing” means the halting of a vehicle, whether occupied or not, except for the purpose of and while actually engaged in receiving or discharging passengers.
3. “Stop”, when required means complete cessation of movement.
4. “Stop or stopping”, when prohibited, means any halting of a vehicle, even momentarily, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of the Sheriff’s Department or traffic-control sign or signal.

5. “Business districts” means: the territory contiguous to and including a highway when 50% or more of the frontage thereon for a distance of 300 feet or more is occupied by buildings in use for business.

6. “Residence districts” means the territory within a city contiguous to and including a highway, not comprising a business, suburban, or school district, where 40% or more of the frontage on such highway for a distance of 300 feet or more is occupied by dwellings or by dwellings and buildings in use for business.

(Code of Iowa, Sec. 321.1)

**3-3-3 TRAFFIC ACCIDENT REPORTS.** The driver of a vehicle involved in an accident within the limits of this City shall file a report as and when required by the Iowa Department of Transportation. A copy of this report shall be filed with the Sheriff’s Department. All such reports shall be for the confidential use of the Sheriff’s Department and shall be subject to the provisions of Section 321.271 of the Code of Iowa.

The City shall maintain a suitable system of filing traffic accident reports.

(Code of Iowa, Sec. 321.266)

## **ENFORCEMENT AND OBEDIENCE TO TRAFFIC REGULATIONS**

**3-3-4 AUTHORITY OF SHERIFF’S DEPARTMENT AND FIRE DEPARTMENT OFFICIALS.** Provisions of this chapter and the Iowa law relating to motor vehicles and law of the road shall be enforced by the officers of the Sheriff’s Department. The officers of the Sheriff’s Department are hereby authorized to direct all traffic by voice, hand or signal in conformance with traffic laws. In the event of a fire or other emergency, officers of the Sheriff’s Department may direct traffic as conditions require, notwithstanding the provisions of the traffic laws. Officers of the fire department may direct or assist the Sheriff’s Department in directing traffic threat or in the immediate vicinity.

(Code of Iowa, Sec. 321.229)

**3-3-5 REQUIRED OBEDIENCE TO PROVISIONS OF THIS CHAPTER AND STATE LAW.** Any person who shall willfully fail or refuse to comply with any lawful order of the Sheriff’s Department or direction of a fire department officer during a fire, or who fails to abide by the provisions of this chapter and the applicable provisions of the following Iowa statutes relating to motor vehicles and the law of the road is in violation of this chapter. These sections of the Code are adopted by reference:

1. 321.98 Operation without registration.
2. 321.180 Violations of instruction permit limitations.
3. 321.193 Violation of conditions of restricted license.
4. 321.194 Violation of conditions of minor’s school license.

5. 321.216 Unlawful use of license.
6. 321.218 Driving without a valid license (as to simple misdemeanor offenses only).
7. 321.219 Permitting unauthorized minor to drive.
8. 321.220 Permitting unauthorized person to drive.
9. 321.229 Failure to comply with lawful order of peace officer.
10. 321.231 Failure of driver of emergency vehicle to exercise caution while on emergency run (stop signs and signals).
11. 321.232 Radar jamming devices.
12. 321.234 Failure to observe seating requirements.
13. 321.236 (Parking) Violation of local ordinance (not a state offense).
14. 321.256 Failure to obey traffic control device.
15. 321.257 Failure to obey or yield to pedestrian or to official traffic control signal.
16. 321.260 Unlawful possession of, or interference with traffic control device.
17. 321.264 Striking unattended vehicle.
18. 321.265 Striking fixtures upon a highway.
19. 321.275 Motorcycle and motorized bicycles violations.
20. 321.277 Reckless driving.
21. 321.278 Drag racing prohibited.
22. 321.285 Speed restrictions.
23. 321.286 Truck speed limits (highway).
24. 321.287 Bus speed limits (highway).
25. 321.288 Failure to maintain control.
26. 321.294 Failure to maintain minimum speed when directed by officer.
27. 321.295 Excessive speed on bridge.

- |     |         |                                                        |
|-----|---------|--------------------------------------------------------|
| 28. | 321.297 | Driving on wrong side of two-way highway.              |
| 29. | 321.298 | Failure to yield half of roadway upon meeting vehicle. |
| 30. | 321.299 | Passing on wrong side.                                 |
| 31. | 321.303 | Unsafe passing.                                        |
| 32. | 321.304 | Unlawful passing.                                      |
| 33. | 321.305 | Violating one-way traffic designation.                 |
| 34. | 321.306 | Improper use of lanes.                                 |
| 35. | 321.307 | Following too closely.                                 |
| 36. | 321.308 | Following too closely (trucks and towing vehicles).    |
| 37. | 321.309 | Failure to use approved drawbar.                       |
| 38. | 321.310 | Unlawful towing of four-wheeled trailer.               |
| 39. | 321.311 | Turning from improper lane.                            |
| 40. | 321.312 | Making U-turn on curve or hill.                        |
| 41. | 321.313 | Unsafe starting of a stopped vehicle.                  |
| 42. | 321.314 | Unsafe turn or failure to give signal.                 |
| 43. | 321.315 | Failure to give continuous turn signal.                |
| 44. | 321.316 | Failure to signal stop or rapid deceleration.          |
| 45. | 321.317 | Signal light requirements; see equipment violation.    |
| 46. | 321.318 | Incorrect hand signal.                                 |
| 47. | 321.319 | Failure to yield to vehicle on right.                  |
| 48. | 321.320 | Failure to yield upon left turn.                       |
| 49. | 321.321 | Failure to yield upon entering through highway.        |
| 50. | 321.322 | Failure to obey stop or yield sign.                    |
| 51. | 321.323 | Unsafe backing on highway.                             |
| 52. | 321.324 | Failure to yield to emergency vehicle.                 |

53.	321.325	Pedestrian disobeying traffic control signal.
54.	321.326	Pedestrian walking on wrong side of highway.
55.	321.327	Pedestrian right-of-way.
56.	321.328	Pedestrian failing to use crosswalk.
57.	321.329	Vehicle failing to yield to pedestrian.
58.	321.331	Soliciting ride from within roadway.
59.	321.332	Unlawful use of white cane.
60.	321.333	Failure to yield to blind person.
61.	321.340	Driving in or through safety zone.
62.	321.341	Failure to properly stop at railroad crossing.
63.	321.342	Failure to obey stop sign at railroad crossing.
64.	321.343	Failure to stop certain cargo or passenger vehicle at railroad crossing.
65.	321.344	Unlawful movement of construction equipment across railroad track.
66.	321.353	Unsafe entry into sidewalk or roadway.
67.	321.354	Stopping on traveled part of highway.
68.	321.358	Stopping, standing, or parking where prohibited.
69.	321.360	Prohibited parking in front of certain buildings.
70.	321.361	Parking too far from curb/angular parking.
71.	321.362	Parking without stopping engine and setting brake.
72.	321.363	Driving with obstructed view or control.
73.	321.365	Coasting upon downgrade.
74.	321.366	Improper use of median, curb, or controlled access facility.
75.	321.367	Failure to maintain distance from fire-fighting vehicle.
76.	321.368	Crossing unprotected fire hose.

77.	321.369	Putting debris on highway/roadway.
78.	321.370	Removing injurious material.
79.	321.371	Clearing up wrecks.
80.	321.372	School bus provisions.
81.	321.377	Excessive speed of school bus.
82.	321.381	Driving or towing unsafe vehicle.
83.	321.382	Operating underpowered vehicle.
84.	321.383	Failure to display reflective device on slow-moving vehicles.
85.	321.384	Failure to use headlamps when required.
86.	321.385	Insufficient number of headlamps.
87.	321.386	Insufficient number of headlamps-motorcycles and motorized bicycles.
88.	321.387	Improper rear lamp.
89.	321.388	Improper registration plate lamp.
90.	321.389	Improper rear reflector.
91.	321.390	Reflector requirements.
92.	321.391	Improper type of reflector.
93.	321.392	Improper clearance lighting on truck or trailer.
94.	321.393	Lighting device color and mounting.
95.	321.394	No lamp or flag on rear-projecting load.
96.	321.395	Parking on certain roadways without parking lights.
97.	321.397	Improper light on bicycle.
98.	321.398	Improper light on other vehicle.
99.	321.402	Improper use of spotlight.
100.	321.403	Improper use of auxiliary driving lights.
101.	321.404	Improper brake light.

102.	321.408	Back-up lamps.
103.	321.409	Improperly adjusted headlamps.
104.	321.415	Failure to dim.
105.	321.419	Improper headlighting when night driving.
106.	321.420	Excessive number of driving lights.
107.	321.422	Lights of improper color-front or rear.
108.	321.423	Special light/signal provision.
109.	321.430	Defective braking equipment.
110.	321.431	Brake performance ability.
111.	321.432	Defective audible warning device.
112.	321.433	Unauthorized use of emergency audible warning devices on motor vehicle.
113.	321.434	Use of siren or whistle on bicycle.
114.	321.436	Defective or unauthorized muffler system.
115.	321.437	Mirrors.
116.	321.438	Windshields.
117.	321.439	Defective windshield wiper.
118.	321.440	Defective tires.
119.	321.441	Unauthorized use of metal tire or track.
120.	321.442	Unauthorized use of metal projection on wheels.
121.	321.444	Failure to use safety glass.
122.	321.445	Failure to maintain or use safety belts.
123.	321.446	Failure to secure child.
124.	321.449	Special regulations.
125.	321.450	Hazardous materials.
126.	321.454	Width and length violations.

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

## **TRAFFIC CONTROL DEVICES**

**3-3-6 AUTHORITY TO INSTALL TRAFFIC CONTROL DEVICES.** The Sheriff or Mayor shall cause to be placed and maintained traffic-control devices when and as required under this chapter or other Ordinances of this City to make effective their provisions, and may so cause to be placed and maintained such additional, emergency, or temporary traffic-control devices for the duration of an emergency or temporary condition as traffic conditions may require, to regulate traffic under the traffic Ordinances of this City or under State law or to guide or warn traffic.

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

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

(Code of Iowa, Sec. 321.255 and 321.256)

**3-3-7 MAYOR TO DESIGNATE CROSSWALKS, ESTABLISH, AND MARK TRAFFIC LANES.** The Council is hereby authorized:

1. To designate and maintain by appropriate devices, marks or lines upon the surface of the roadway, crosswalks at intersections where, due to traffic conditions, there is particular danger to pedestrians crossing the street or roadway, and at such other places as traffic conditions require.

2. To mark lanes for traffic on street pavements at such places as traffic conditions require, consistent with the traffic Code of this City. Where traffic lanes have been marked, it shall be unlawful for the operator of any vehicle to fail or refuse to keep such vehicle within the

boundaries of a lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

**3-3-8 PLAY STREETS.** The Council has the authority to declare any street or part thereof a play street and to place appropriate signs or devices in the roadway indicating and helping to protect the same.

Whenever authorized signs are erected indicating any street or part thereof as a play street, no person shall drive a vehicle upon the street or any portion thereof except drivers of vehicles having business or whose residences are within the closed area, and then the driver shall exercise the greatest care in driving upon the street or portion thereof.

## **SPEED REGULATIONS**

**3-3-9 CHANGING STATE SPEED LIMITS IN CERTAIN ZONES.** It is hereby determined upon the basis of an engineering and traffic investigation that the speed permitted by State law upon the following streets or portions thereof is greater or less than is necessary for the safe operation of vehicles thereon, and it is declared that the maximum speed limit upon these streets or portions thereof described shall be as follows:

1. Increased speed limit:
2. Lower speed limit:

(Code of Iowa, Sec. 321.290)

## **TURNING MOVEMENTS**

**3-3-10 TURNING MARKERS, BUTTONS AND SIGNS.** The Council may cause markers, buttons, or signs to be placed within or adjacent to intersections, and thereby require and direct, as traffic conditions require, that a different course from that specified by the State law be traveled by vehicles turning at intersections, and when markers, buttons, or signs are so placed no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by the markers, buttons, or signs, including right hand turns at intersections with automatic traffic signals.

(Code of Iowa, Sec. 321.311)

**3-3-11 AUTHORITY TO PLACE RESTRICTED TURN SIGNS.** The Council is authorized to determine those intersections, as traffic conditions require, at which the drivers of vehicles shall not make a right or left turn. The making of turns may be prohibited between certain hours of any day, in which event the same shall be plainly indicated on signs.

**3-3-12 OBEDIENCE TO NO-TURN SIGNS.** Whenever authorized signs are erected indicating that no right or left turn is permitted, no driver of a vehicle shall disobey the directions of any such signs.

**3-3-13 “U” TURNS.** It shall be unlawful for a driver to make a “U” turn except at an intersection. “U” turns are prohibited at intersections within the business district and at intersections where there are automatic traffic signals.

## **ONE-WAY STREETS AND ALLEYS**

**3-3-14 AUTHORITY TO DESIGNATE ONE-WAY STREETS AND ALLEYS.** Whenever any traffic Code of this City designates any one-way street or alley the Council shall cause to be placed and maintained signs giving notice thereof and the regulation shall not be effective unless the signs are in place. Signs indicating the direction of traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited. It shall be unlawful for any person to operate any vehicle in violation of markings, signs, barriers or other devices placed in accordance with this section.

**3-3-15 ONE-WAY STREETS AND ALLEYS.** Upon the following streets and alleys vehicular traffic shall move only in the indicated direction.

**3-3-16 AUTHORITY TO RESTRICT DIRECTION OF MOVEMENT ON STREETS DURING CERTAIN PERIODS.** The Mayor is authorized to determine and recommend to the Council certain streets, or specified lanes thereon, upon which vehicular traffic shall proceed in one direction during one period and the opposite direction during another period of the day and shall, upon authority given by Ordinance, place and maintain appropriate markings, signs, barriers, or other devices to give notice thereof. The Mayor may erect signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the center line of the roadway.

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

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

## **SPECIAL STOPS REQUIRED**

**3-3-17 THROUGH HIGHWAYS.** Streets or portions of streets described below are declared to be through highways.

(Code of Iowa, Sec. 321.345 and 321.350)

**3-3-18 AUTHORITY TO ERECT STOP SIGNS.** Whenever any Ordinance of this City designates and describes a through highway it shall be the duty of the Mayor to cause to be placed and maintained a stop sign on each and every street intersecting through highway except as modified in the case of intersecting through highways.

**3-3-19 STOPS AT INTERSECTING THROUGH HIGHWAYS AND OTHER INTERSECTIONS.** At the intersections of through highways and at intersections upon streets other than through highways, where, because of heavy cross-traffic or other traffic conditions, particular hazards exists, the Mayor is hereby authorized to determine whether vehicles shall stop or yield at one or more entrances to the intersection and shall present recommendations to the

Council, and, upon approval of the Council, shall erect an appropriate sign at every place where a stop or yield is required.

**3-3-20 STOP WHEN TRAFFIC IS OBSTRUCTED.** Notwithstanding any traffic-control signal indication to proceed, no driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle.

**3-3-21 SCHOOL STOPS.** When a vehicle approaches an authorized school stop, the driver shall bring the vehicle to a full stop at a point ten (10) feet from the approach side of the crosswalk marked by an authorized school stop sign, and thereafter proceed in a careful and prudent manner until the driver shall have passed such school site.

## **PEDESTRIANS' RIGHTS AND DUTIES**

**3-3-22 PROHIBITED CROSSING.** Pedestrians crossing a street in the business district shall cross in the crosswalks only.

(Code of Iowa, Sec. 321.327)

**3-3-23 PEDESTRIANS ON LEFT.** Where sidewalks are provided it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway. Where sidewalks are not provided, pedestrians walking on or along a roadway, shall walk on the left side of the roadway at all times.

(Code of Iowa, Sec. 321.326)

## **METHOD OF PARKING**

**3-3-24 STANDING OR PARKING CLOSE TO CURB.** No person shall stand or park a vehicle in a roadway other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the right-hand wheels of the vehicle within eighteen (18) inches of the curb or edge of the roadway except as provided in the case of angle parking and vehicles parked on the left hand side of one way streets.

(Code of Iowa, Sec. 321.361)

**3-3-25 STANDING OR PARKING ON THE LEFT-HAND SIDE OF ONE-WAY STREETS.** No person shall stand or park a vehicle on the left-hand side of a one-way street other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the left-hand wheels of the vehicle within eighteen (18) inches of the curb or edge of the roadway except as provided in the case of angle parking.

(Code of Iowa, Sec. 321.361)

**3-3-26 SIGNS OR MARKINGS INDICATING ANGLE PARKING.** The Council, as traffic conditions require, shall determine upon what streets angle parking shall be permitted and shall mark or sign the streets or portions thereof indicating the method of angle parking. The determination shall be subject to approval by Council resolution.

(Code of Iowa, Sec. 321.361)

**3-3-27 OBEDIENCE TO ANGLE PARKING SIGNS OR MARKINGS.** Upon those streets or portions of streets that have been signed or marked for angle parking, no person shall park or stand a vehicle other than at an angle to the curb or edge of the roadway or in the center of the roadway as indicated by the signs and markings.

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

**3-28 STOPPING, STANDING, OR PARKING PROHIBITED IN SPECIFIED PLACES.** No person shall stop, stand, or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the directions of the Sheriff's Department or traffic-control device, in any of the following places:

(Code of Iowa, Sec. 321.358)

1. On a sidewalk.
2. In front of a public or private driveway.
3. Within an intersection.
4. Within five (5) feet of either side of the point on the curb nearest to a fire hydrant.
5. On a crosswalk.
6. Within ten (10) feet upon the approach to any flashing beacon, stop sign, or traffic-control signal located at the side of the roadway.
7. Within fifty (50) feet of the nearest rail of a railroad crossing, except when parked parallel with such rail and not exhibiting a red light.
8. Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of said entrance when properly signposted.
9. Alongside or opposite any street excavation or obstruction when such stopping, standing, or parking would obstruct traffic.
10. On the roadway side of any vehicle stopped or parked at the edge or curb of street.
11. Opposite the entrance to a garage or driveway in such a manner or under such conditions as to leave available less than twenty (20) feet of the width of the roadway for the free movement of vehicular traffic.
12. Upon any street or in any alley in any part of the City in such a manner or under such conditions as to leave available less than ten (10) feet of the width of the roadway of such street or alley for the free movement of vehicular traffic, except when necessary, in obedience to traffic regulations or traffic signs, or signals of a law enforcement officer.

13. At any place where official signs or curb markings prohibit stopping, standing, or parking.
14. Within ten (10) feet of the crosswalk at all intersections within the City.
15. In an alley under any fire escape at any time.
16. Within twenty (20) feet on either side of a mailbox which is so placed and so equipped as to permit the depositing of mail from vehicles on the roadway.
17. No parking shall be allowed on Maple Street between 3<sup>rd</sup> and 4<sup>th</sup> Streets at any time.
18. No parking on any public sidewalk, street or alley for the purpose of washing or cleaning any automobile, truck equipment, or vehicle of any kind when such work is done for hire or as a business.
19. No parking, store or place, temporarily or permanently, any machinery or junk or any other goods, wares, and merchandise of any kind on any street or alley for the purpose of storage, exhibition, sale or offering same for sale, without permission of the Council.

**3-3-29 AUTHORITY TO PAINT CURBS AND ERECT SIGNS PROHIBITING STANDING OR PARKING.** When, because of restricted visibility or when standing or parked vehicles constitute a hazard to moving traffic, or when other traffic conditions require, the Council may cause curbs to be painted with a yellow or orange color and erect “no parking” or “standing” signs. It shall be unlawful for the operator of any vehicle to stand or park a vehicle in an area so painted or sign posted. It shall be unlawful for any person, other than after having first secured the permission of the Council, to paint any curbing, sidewalk, or street with yellow or orange colored paint or to erect “no parking” signs.

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

**3-3-30 AUTHORITY TO IMPOUND VEHICLES.** Members of the Sheriff’s Department are authorized to remove, or cause to be removed, a vehicle from a street, public alley, or highway to the nearest garage or other place of safety, or to a garage designated or maintained by the Sheriff’s Department, or otherwise maintained by the City, under the following circumstances:

1. When a vehicle is upon a roadway and is so disabled as to constitute an obstruction to traffic and the person or persons in charge of the vehicle are by reason of physical injury incapacitated to such an extent as to be unable to provide for its custody or removal.
2. When any vehicle is left unattended upon a street and constitutes a definite hazard or obstruction to the normal movement of traffic.
3. When any vehicle is left parked upon a street for a continuous period of forty-eight (48) hours or more. A diligent effort shall first be made to locate the owner. If the owner is found, the owner shall be given the opportunity to remove the vehicle.

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

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

## **STOPPING, STANDING, OR PARKING**

**3-3-31 PARKING SIGNS REQUIRED.** Whenever by this or any other chapter of this City Code any parking time limit is imposed, or parking is prohibited on designated streets or portions of streets, it shall be the duty of the Council to erect appropriate signs giving notice thereof and the regulations shall not be effective unless signs are erected and in place at the time of any alleged offense. When signs are erected giving notice thereof, no person shall disobey the restrictions stated on such signs.

(Code of Iowa, Sec. 321.236)

**3-3-32 PARKING DURING SNOW EMERGENCY.** No person shall park, abandon, or leave unattended any vehicle on any public street, alley, or City-owned off-street parking area during any time of snow, blowing snow, or ice accumulation unless snow has been removed or plowed from said street, alley, or City-owned off-street parking area and the precipitation has ceased to fall. A snow parking ban shall continue through the duration of the snow or ice storm and the forty-eight (48) hour period after cessation of the storm except as above provided upon streets which have been fully cleared. The ban shall be of uniform application and the City Clerk is directed to publicize the requirements widely, using all available media, in November each year.

Violations of this section of the City Code of Ordinances shall be finable as follows:

1. First offense- \$100.00
2. Second or subsequent offense- \$150.00

In addition, the public works employees or their designee shall have the authority to order the impoundment of any vehicle parked, abandoned, or left unattended in any public street, right of way, or parking lot that is declared to hamper snow removal efforts. If a vehicle is declared to hamper snow removal efforts, the vehicle shall be impounded. The owner of the impounded vehicle shall be responsible for paying the costs of towing and storing the vehicle.

**MAILBOXES:** Mailboxes shall be constructed sturdily enough to withstand snow rolling off a plow or wing. While the installation of mailboxes on a city right-of-way is permitted, the mailbox owner assumes all risk of damage except when a mailbox is damaged due to direct contact by snow plowing equipment, the City, at its option, will repair or replace the mailbox at a cost not to exceed \$100.00. Damage resulting from snow rolling off a plow or wing is the responsibility of the resident. Mailboxes **MUST** be mounted behind the back of the curb and no part may be protruding beyond the back of the curb.

**3-3-33 ALL-NIGHT PARKING PROHIBITED.** No person, except physicians or other persons on emergency calls, shall park a vehicle on any street marked to prohibit all night parking and giving notice thereof, for a period of time longer than thirty (30) minutes between the hours of 2:00 a.m. and 5:00 a.m. of any day.

**3-3-34 TRUCK PARKING LIMITED.** Trucks licensed for five (5) tons or more shall not be parked on city streets.

**3-3-35 TRAILERS.** Commercial tractor-trailers, semi-trailers, and livestock trailers shall not be parked on City streets or right-of-way within the City.

### **MISCELLANEOUS DRIVING RULES**

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

**3-3-37 TRAVELING ON BARRICADED STREET OR ALLEY.** It is unlawful for any person to travel or operate any vehicle on any street or alley temporarily closed by barricades, lights, signs, or flares placed thereon by the authority or permission of any City official, sheriff's deputy, or member of the fire department.

**3-3-38 CLINGING TO VEHICLES.** No person shall drive a motor vehicle on the streets of this City unless all passengers of the vehicle are inside the vehicle in the place intended for their accommodation. No person shall ride on the running board of a motor vehicle or in any other place not customarily used for carrying passengers. No person riding upon any bicycle, coaster, roller skates, sled, or toy vehicle shall attach the same or himself or herself to any vehicle upon a roadway.

**3-3-39 PARKING FOR CERTAIN PURPOSES PROHIBITED.** No person shall park a vehicle upon the roadway for the principal purpose of:

1. Displaying such vehicle for sale.
2. Displaying advertising.
3. Selling merchandise from the vehicle except in a duly established marketplace or when so authorized or licensed under the Ordinances of this City.
4. Storage or as junk or dead storage for more than forty-eight (48) hours.

**3-3-40 DRIVING THROUGH FUNERAL OR OTHER PROCESSION.** No driver of any vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when the vehicles are conspicuously designated as required in this chapter. This provision shall not apply at intersections where traffic is controlled by traffic-control signals or the Sheriff's Department.

**3-3-41 DRIVERS IN A PROCESSION.** Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as practical and shall follow the vehicle ahead as closely as is practical and safe.

**3-3-42 FUNERAL PROCESSIONS TO BE IDENTIFIED.** A funeral procession composed of vehicles shall be identified as such by the display upon the outside of each vehicle of a pennant or other identifying insignia or by such other method as may be determined and designated by the Sheriff's Department.

**3-3-43 LOAD RESTRICTIONS UPON VEHICLES USING CERTAIN STREETS.** When signs are erected giving notice thereof, no person shall operate any vehicle licensed in excess of the amounts specified on the signs at any time upon any of the following streets within the City and none other:

**3-3-44 TRUCK ROUTES.**

1. Every motor vehicle licensed for five (5) tons or more, having no fixed terminal within the City or making no scheduled or definite stops within the City for the purpose of loading or unloading, shall travel over or upon the following streets within the City and none other:

2. Any motor vehicle licensed for five (5) tons or more, having a fixed terminal, making a scheduled or definite stop within the City for the purpose of loading or unloading, shall proceed over or upon the designated routes set out in this section to the nearest point of its scheduled or definite stop and shall proceed thereto, load or unload and return, by the most direct route to its point of departure from the designated route.

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

**3-3-45 VEHICULAR NOISE.**

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

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

**3-3-46 ENGINE AND COMPRESSION BRAKES.**

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

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

## **BICYCLE REGULATIONS**

**3-3-47 DEFINITIONS.** For the purpose of this Chapter, the following terms are defined:

1. "Bicycles" shall mean either of the following:
  - a. A device having two wheels and having at least one saddle or seat for the use of a rider which is propelled by human power.
  - b. A low-speed electric bicycle.

(Code of Iowa, Sec. 321.1)

**3-3-48 TRAFFIC CODE APPLIES TO PERSONS RIDING BICYCLES.** Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to drivers of vehicles by the laws of this State regarding rules of the road applicable to vehicles or by the traffic Ordinances of this City applicable to drivers of vehicles, except as to those provisions which by their nature can have no application. Whenever a person dismounts from a bicycle such person shall be subject to all regulations applicable to pedestrians. Motorized bicycles/e-bikes shall obey the laws pertaining to non-motorized bicycles.

**3-3-49 RIDING ON BICYCLES.** A person propelling a bicycle shall not ride other than astride a permanent and regular seat.

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

**3-3-50 RIDING ON ROADWAYS AND BICYCLE PATHS.** Every person operating a bicycle upon a roadway shall ride as near to the right-hand side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

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

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

**3-3-51 SPEED.** No person shall operate a bicycle at a speed greater than is reasonable and prudent under existing conditions.

**3-3-52 EMERGING FROM ALLEY OR DRIVEWAY.** The operators of a bicycle emerging from an alley, driveway, or building shall, upon approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right of way to all pedestrians approaching on the

sidewalk or sidewalk area, and upon entering the roadway shall yield the right of way to all vehicles approaching on said roadway.

**3-3-53 CARRYING ARTICLES.** No person operating a bicycle shall carry any package, bundle, or article which prevents the rider from keeping at least one hand upon the handlebars.

**3-3-54 PARKING.** Bicycles shall be parked upon the roadway of a street against the curb, or upon the sidewalk in a rack to support bicycles, or against a building, or at the curb, in such a manner as to afford the least obstruction to pedestrian traffic.

**3-3-55 RIDING ON SIDEWALKS.** No person shall ride a bicycle on a sidewalk within a business district.

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

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

**3-3-56 LAMPS AND OTHER EQUIPMENT ON BICYCLES.** Every bicycle when in use at nighttime shall be equipped with a lamp on the front that emits a white light visible from a distance of at least five hundred feet (500') to the front and with a red reflector on the rear of a type that is visible from all distances from fifty feet (50') to three hundred feet (300') to the rear when directly in front of lawful upper beams of head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of five hundred feet (500') to the rear may be used in addition to the red reflector.

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

## **SNOWMOBILES**

### **3-3-57 SNOWMOBILE DEFINITIONS.**

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

**3-3-58 PERMITTED AREAS OF OPERATION.** Snowmobiles will be allowed to operate in the City on a direct path in and out of town.

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

**3-3-59 REGULATIONS.** It shall be unlawful for any person to operate a snowmobile under the following circumstances:

1. On private property of another without the express permission to do so by the owner or occupant of said property.
2. On public school grounds, park property, playgrounds, recreational areas and golf courses without express permission to do so by the proper public authority.
3. In a manner so as to create loud, unnecessary or unusual noise so as to disturb or interfere with the peace and quiet of other persons.
4. In a careless, reckless or negligent manner so as to endanger the safety of any person or property of any other person.
5. Without having such snowmobile registered as provided for by Iowa Statute except that this provision shall not apply to the operation of a snowmobile on the private property of the owner by the owner or a member of his immediate family.
6. Within the right-of-way of any public street or alley within the City unless the operator shall have a valid driver's license; or an instruction permit and accompanied by a qualified licensed driver.
7. No person shall operate a snowmobile in the City from eleven o'clock (11:00) p.m. to ten o'clock (10:00) a.m., except for the purpose of loading and unloading a snowmobile from another vehicle or trailer.

**3-3-60 EQUIPMENT REQUIRED.** All snowmobiles operated within the City shall have the following equipment:

1. Mufflers which are properly attached, and which reduce the noise of operation of the vehicle to the minimum noise necessary for operating the vehicle and no person shall use a muffler cut out, by pass or similar device on said vehicle.
2. Adequate brakes in good operating condition and at least one headlight and one taillight in good operating condition.
3. A safety or so-called "dead-man" throttle in operating condition; a safety or "dead-man" throttle is defined as a device which when pressure is removed from the accelerator or throttle causes the motor to be disengaged from the driving track.

**3-3-61 UNATTENDED VEHICLES.** It is unlawful for the owner or operator to leave or allow a snowmobile to be or remain unattended on public property while the motor is running or the key left in the ignition.

**3-3-62 RESTRICTION OF OPERATION.** The City Council may, by resolution, prohibit the operation of snowmobiles within the right-of-way of the public roads, streets or alley or other City property within the City when the public safety and welfare so requires.

**3-3-63 TRAFFIC REGULATION.** Each person operating a snowmobile shall strictly observe all traffic signs and signals and all other traffic rules and regulations applicable thereto, and shall obey the orders and directions of any Sheriff's Deputy of the City authorized to direct or regulate traffic.

## **OFF-ROAD VEHICLES**

**3-3-64 DEFINITIONS.** For use in this Chapter the following terms are defined:

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

2. "Off-road motorcycle" means a two-wheeled motor vehicle that has a seat or saddle designed to be straddled by the operator and handlebars for steering control and that is intended by the manufacturer for use on natural terrain. "Off-road motorcycle" includes a motorcycle that was originally issued a certificate of title and registered for highway use under Chapter 321, but which contains design features that enable operation over natural terrain. Off-road motorcycles shall be considered all-terrain vehicles for the purposes of registration. All off-road motorcycles shall also be considered all-terrain vehicles for the purpose of titling. An operator of an off-road motorcycle is subject to the provisions governing the operation of all-terrain vehicles.

3. "Off-road utility vehicle (UTV)" means a motorized vehicle with no less than four and not more than eight non-highway tires or rubberized tracks that has a seat that is of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control as defined in Section 321I.1(17), Iowa Code.

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

**3-3-65 OPERATION OF OFF-ROAD VEHICLES.** The operation of ATV, UTV, or off-road motorcycles shall comply with the following restrictions:

1. Streets. Only on such streets as may be designated by the City Council.

(Code of Iowa 321.234A)

(Code of Iowa 321I)

2. Prohibited Operation. Shall not be operated on sidewalks, trails, railroad right-of-way, parks, or other City land or property, except as set forth in Paragraph 1 above.

3. Time of Operation. Shall only be operated between sunrise and sunset.

(Code of Iowa 321I.13)

4. Compliance with State Code. All operation shall comply with Iowa Code Chapter 321I.

5. Use of any ATV or UTV within the City must first be registered with the proper State authority. The operator must carry the registration certificate whenever the ATV or UTV is in use. The State registration decal must be displayed on the ATV or UTV and remain clearly

visible. All ATVs and UTVs operated within the City must have operational headlights, taillights, break lights, horn, brakes, muffler, and rearview mirrors.

6. ATVs and UTVs operating within the City must not exceed a maximum speed of 35 miles per hour.

7. An individual operating an ATV or UTV within the City must be at least 18 years old with a valid driver's license and valid proof of insurance.

### **3-3-66 RESERVED**

### **3-3-67 RESERVED**

### **3-3-68 RESERVED**

## **GOLF CARTS**

**3-3-69 DEFINITIONS.** For use in this ordinance "golf cart" is defined as a motorized 4-wheeled vehicle designed to transport person(s) on a golf course.

**3-3-70 OPERATION OF GOLF CARTS.** Golf carts may be operated on city streets by persons possessing a valid motor vehicle operator's license and able to show proof of liability insurance. The golf cart shall be equipped with a slow-moving sign and a bicycle flag and shall be operated on streets from sunrise to sunset unless equipped with proper road lights. Golf carts operated on city streets shall be equipped with adequate brakes and shall meet any other safety requirements imposed by the Council. The owner of the golf cart shall be criminally liable and may be charged with any offense under this Code Chapter that the owner knowingly permitted a minor operator of the owner's golf cart to commit.

## **PENALTIES AND PROCEDURE**

**3-3-71 NOTICE OF FINE PLACED ON ILLEGALLY PARKED VEHICLE.** Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by any Ordinance of this City or State law, the officer finding such vehicle shall prepare a notice of parking fine giving the registration number, and other identifying information to such vehicle in a conspicuous place and directing the driver of the vehicle to appear within thirty days, or to pay the local scheduled fine.

**3-3-72 PRESUMPTION IN REFERENCE TO ILLEGAL PARKING.** In any prosecution charging a violation of any parking Ordinance or State law governing the standing, stopping, or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of any such Ordinance or law, together with proof that the defendant named in the complaint was at the time of such parking violation the registered owner of such vehicle, shall constitute prima facie evidence that the registered owner of such vehicle was the person who parked or placed such vehicle at the point where, and for the time during which such violation occurred.

**3-3-73 LOCAL PARKING FINES.** Scheduled fines as follows are established, payable by mail or in person at the City Clerk's office within thirty days of the violation, for the following parking violations:

		Penalty After <u>30 Days</u>
1. Overtime parking	\$5.00	\$25.00
2. Prohibited parking	\$5.00	\$25.00
3. No parking zone	\$5.00	\$25.00
4. Blocking alley	\$5.00	\$25.00
5. Illegal parking	\$5.00	\$25.00
6. Street cleaning	\$5.00	\$25.00
7. Snow removal ban	\$5.00	\$25.00
8. Persons with disabilities parking	\$200.00	\$200.00

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

**3-3-74 FAILURE TO PAY PARKING CITATIONS.** If a violator of the restrictions on stopping, standing, or parking under the parking Ordinances of this City or of State law fails to make payment of the scheduled fine as specified on a parking citation affixed to such motor vehicle within the thirty (30) days, the City shall send the owner of the motor vehicle to which the parking citation was affixed a letter informing the owner of the violation and warning that in the event the penalty is not paid within five days from date of mailing, a court citation will be issued requiring a court appearance and subjecting the violator to court costs.

## TITLE III COMMUNITY PROTECTION

### CHAPTER 4 FIRE ZONE

- 3-4-1 Fire Zone Established
- 3-4-2 Plans Submitted
- 3-4-3 Buildings Prohibited
- 3-4-4 Construction Standards
- 3-4-5 Reconstruction Prohibited
- 3-4-6 Special Permit
- 3-4-7 Removal of Buildings
- 3-4-8 Storage of Materials Restricted

**3-4-1 FIRE ZONE ESTABLISHED.** A Fire Zone is established to include all of the following territory:

The north one-half of Blocks five (5) and six (6) and the south one-half of Blocks three (3) and four (4) extending to the first alley on either side of Main Street and parallel therewith

**3-4-2 PLANS SUBMITTED.** It is unlawful to build, enlarge or alter any structure, building or part thereof, within the Fire Sone until a plan of the proposed work, together with a statement of materials to be used has been submitted to the Council, who shall, if in accordance with the provisions of this chapter, issue a permit for the proposed work.

**3-4-3 BUILDINGS PROHIBITED.** The erection of any building or structure of any kind, or additions thereto, or substantial alterations thereof, involving partial rebuilding, are prohibited in the Fire Zone, unless constructed in strict compliance with the provisions of this chapter.

**3-4-4 CONSTRUCTION STANDARDS.** The construction standards for all buildings, structures, or parts thereof within the Fire Zone shall be of Type I, Type II, or, at a minimum, TYPE III- 1 hour fire resistant- construction, as specified in the Uniform Building Code, 1991 edition.

**3-4-5 RECONSTRUCTION PROHIBITED.** Any building within the Fire Zone not constructed in accordance with the provisions of this chapter, which may hereafter be damaged by fire, decay, or otherwise, shall not be rebuilt, altered, or reconstructed except in accordance with the provisions of this chapter.

**3-4-6 SPECIAL PERMIT.** The Council may, by four-fifths (4/5) vote, issue a special permit to improve any property within the Fire Zone contrary to the provisions of this chapter, on condition that such improvement shall not increase the rates for fire insurance or the fire hazard potentials of the area, or to allow any person to erect or move in any building or structure for temporary purposes for a period of time not exceeding six (6) months from the date of such permission.

**3-4-7 REMOVAL OF BUILDINGS.** Any person who erects any building in the Fire Zone, contrary to the provisions of this chapter, shall be given written notice by the Mayor to remove or

tear down the same, and if such removal or taking down is not completed within thirty (30) days from the time of the service of such notice, the Mayor shall cause the same to be removed or taken down. The Mayor shall report an itemized bill of the expense to the Clerk, and the same shall be charged to the person owning such building. The Clerk shall present the bill to the owner of the property and if the bill is not paid within ten (10) days from the date it is presented, the amount of the bill shall be verified, by the Clerk, to the County Treasurer, as a lien against the property and collected the same as other taxes.

**3-4-8 STORAGE OF MATERIALS RESTRICTED.** No person shall have or deposit any grain stack, pile of rubbish, explosives, hazardous chemicals or other flammable substance within the Fire Zone, nor shall any person have or deposit any cord wood or fire wood, within the Fire Zone without written permission from the Mayor, specifying the maximum amount of such cord wood or fire wood, that may be kept, stored, or deposited on any lot or part of a lot within the Fire Zone, unless the same be within one of the buildings allowed by this chapter. No person shall build or allow any fires, whether trash fires or otherwise, within the Fire Zone as described in this chapter.

## TITLE III COMMUNITY PROTECTION

### CHAPTER 5 FIRE PROTECTION

- 3-5-1 Establishment and Purpose
- 3-5-2 Volunteer Fire Fighters
- 3-5-3 Fire Fighter's Duties
- 3-5-4 Worker's Compensation and Hospitalization Insurance
- 3-5-5 Liability Insurance
- 3-5-6 Fires Outside City Limits

**3-5-1 ESTABLISHMENT AND PURPOSE.** A volunteer fire department is hereby established to prevent and extinguish fires and to protect lives and property against fires, to promote fire prevention and fire safety, and to answer all emergency calls for which there is no other established agency.

(Code of Iowa, Sec. 364.16)

**3-5-2 VOLUNTEER FIRE FIGHTERS.** Residents of Breda, Iowa, residents in the fire district, or those who work in Breda, Iowa, at least age eighteen (18) shall be appointed to serve as a volunteer fire fighter. Prior to appointment as a volunteer fire fighter and every ten years thereafter a volunteer fire fighter must pass a medical physical examination.

(Code of Iowa, Sec. 362.10)

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

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

**3-5-4 WORKER'S COMPENSATION AND HOSPITALIZATION INSURANCE.** The City Council shall contract to insure the City against liability for worker's compensation and against statutory liability for the costs of hospitalization, nursing, and medical attention for volunteer fire fighters. All volunteer fire fighters shall be covered by the contract.

**3-5-5 LIABILITY INSURANCE.** The City Council shall contract to insure against liability of the City or members of the department for injuries, death or property damage arising out of and resulting from the performance of departmental duties.

**3-5-6 FIRES OUTSIDE CITY LIMITS.** The department shall answer calls to fires and other emergencies outside the City limits if the Fire Chief determines that such emergency exists and that such action will not endanger persons and property within the City limits or pursuant to an agreement with the County or Township.

(Code of Iowa, Sec. 364.16)

## TITLE III COMMUNITY PROTECTION

### CHAPTER 6 CURFEW FOR MINORS

- 3-6-1 Preamble
- 3-6-2 Findings and Purpose
- 3-6-3 Definitions
- 3-6-4 Offenses
- 3-6-5 Defenses
- 3-6-6 Enforcement

**3-6-1 PREAMBLE.** The City of Breda recognizes that all citizens including minors have certain inalienable rights and that among them are the rights of liberty and the pursuit of happiness. Further, all citizens including minors have the right to freedom of religion, freedom of speech, freedom of assembly, and of association. This section should be interpreted to avoid any construction that would result in the appearance of interference with the free exercise of religious worship and political association and this Ordinance shall not be construed to mean that the City intends to interfere with a minor's freedom of association for political, economic, religious, or cultural matters or association for purposes such as marches, demonstrations, picketing, or prayer vigils which are otherwise lawful and peaceful assemblies.

(Code of Iowa, Sec. 364.1)

**3-6-2 FINDINGS AND PURPOSE.** The City Council has determined that there has been an increase in juvenile violence and crime by persons under the age of 17 in the City of Breda; and

Persons 17 and under are particularly susceptible by their lack of maturity and experience to participate in unlawful and gang-related activities and to be victims of older perpetrators of crime; and

The City of Breda has an obligation to provide for the protection of minors from each other and from other persons, for the enforcement of parental control over and responsibility for children, for the protection of the general public, and for the reduction of the incidence of juvenile criminal activities.

**3-6-3 DEFINITIONS.** In this chapter:

1. Curfew hours means 10:30 p.m. until 5:00 a.m. from Sunday through Thursday, and 12:00 a.m. to 5:00 a.m. on Friday and Saturday.

2. Emergency means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

3. Establishment means any privately-owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

4. Guardian means:
- or
- a. A person who, under court order, is the guardian of the person of a minor;
- b. A public or private agency with whom a minor has been placed by a court.
5. Minor means any person under age 17 years of age.
6. Operator means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.
7. Parent means a person who is:
- a. A biological parent, adoptive parent, or step-parent of another person; or
- b. At least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.
8. Public place means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.
9. Remain means to:
- a. Linger or stay; or
- b. Fail to leave premises when requested to do so by the Sheriff's Department or the owner, operator, or other person in control of the premises.
10. Serious Bodily Injury means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss of impairment of the function of any bodily member or organ.

### **3-6-4 OFFENSES.**

1. A minor commits an offense if the minor remains in any public place or on the premises of any establishment within the City during curfew hours.
2. A parent or guardian of a minor commits an offense if they knowingly permit, or by insufficient control allow the minor to remain in any public place or on the premises of any establishment within the City during curfew hours.
3. The owner, operator, or any employee of an establishment commits an offense if they knowingly allow a minor to remain upon the premises of the establishment during curfew hours.

### **3-6-5 DEFENSES.**

1. It is a defense to prosecution under this chapter that the minor was:
  - a. Accompanied by the minor's parent or guardian;
  - b. On an errand at the direction of the minor's parent or guardian, without any detour or stop;
  - c. In a motor vehicle involved in interstate travel;
  - d. Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
  - e. Involved in an emergency;
  - f. On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the Sheriff's Department about the minor's presence;
  - g. Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the City of Breda, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the City of Breda, a civic organization, or another similar entity that takes responsibility for the minor;
  - h. Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or
2. It is a defense to prosecution under Subsection 3-6-4(3) that the owner, operator, or employee of an establishment promptly notified the Sheriff's Department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

### **3-6-6 ENFORCEMENT.**

1. Before taking any enforcement action under this section, a Sheriff's Deputy shall ask the apparent offender's age and reason for being in the public place. The deputy shall not issue a citation or make an arrest under this section unless the deputy reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in Section 3-6-5 is present.
2. A minor who is in violation of this Ordinance shall be reunited with the minor's parent or guardian or custodian or other adult taking the place of the parent or shall be taken home by the Sheriff's Department.

**“Editor’s Note: The courts have carefully scrutinized curfew Ordinances and before enacting such an Ordinance, you should consult with your City Attorney. See Maquoketa v. Russell, 484 NW2d, 179 (Iowa 1992 TITLE III COMMUNITY PROTECTION) and Quit v. Strauss, 8 F2d 260 (1993).”**

## **TITLE III COMMUNITY PROTECTION**

### **CHAPTER 7 REGULATING PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS**

- 3-7-1 Definitions
- 3-7-2 Exemptions
- 3-7-3 Permits
- 3-7-4 Requirements
- 3-7-5 Hours of Solicitation
- 3-7-6 Consumer Protection Law
- 3-7-7 Bond Required
- 3-7-8 Obstruction of Pedestrian or Vehicular Traffic
- 3-7-9 Display of Permit
- 3-7-10 Permit Not Transferable
- 3-7-11 Revocation of Permit

**3-7-1 DEFINITIONS.** For use in this chapter, the following terms are defined as follows:

1. A “peddler” is any person carrying or transporting goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house-to-house or upon the public street.

2. A “solicitor” is any person who solicits or attempts to solicit from house-to-house or upon public streets orders for commercial goods, wares, subscriptions, publications, periodicals, merchandise, or services to be delivered or fulfilled at a future date.

For the purposes of this chapter, “solicitor” does not include a person who contacts another person at such person’s residence without prior invitation to enlist support for or against, or solicit funds for patriotic, philanthropic, charitable, political, or religious purposes, whether or not there is an incidental purpose involving the sale of some goods or service.

3. A “transient merchant” includes every merchant, whether an individual person, a firm, corporation, partnership, or association, who brings or causes to be brought within the municipality any goods, wares, or merchandise of any kind, nature, or description, with the intention of temporarily or intermittently selling or offering to sell at retail such goods, wares, or merchandise. Temporary association with a local merchant, dealer, trader, or auctioneer for conducting such transient business in connection with, as part of, or in the name of any local merchant, dealer, trader, or auctioneer does not exempt any such person, firm, or corporation from being considered a transient merchant.

The provisions of this chapter shall not be construed to apply to persons selling at wholesale to merchants, nor to persons running a huckster wagon, or selling or distributing livestock feeds, fresh meats, fish, fruit, or vegetables, nor to persons selling their own work or production either by themselves or their employees.

**3-7-2 EXEMPTIONS.** The provisions of this chapter shall not apply to nonprofit civic, charitable, religious, or educational groups engaged in retail sale for the purposes of fund raising.

**3-7-3 PERMITS.** Before any person or organization engages in any of the practices defined herein, they must comply with all applicable Ordinances, and must also obtain from the City Clerk a permit in accordance with the provisions of sections 3-7-4 and 3-7-5. This permit shall extend no longer than sixty days. A fee of \$5.00 shall be paid at the time of registration to cover the cost of investigation and issuance.

(Code of Iowa, Sec. 9C.2)

**3-7-4 REQUIREMENTS.** Any applicant engaged in any activity described in 3-7-1 of this chapter must file with the City Clerk an application in writing that gives the following information:

1. Name and social security number.
2. Permanent and local addresses and, in case of transient merchants, the local address from which proposed sales will be made.
3. A brief description of the nature of the sales method.
4. Name and address of the firm for or on whose behalf the orders are solicited, or the supplier of the goods offered for sale.
5. Length of time for which the permit is desired.
6. A statement as to whether or not the applicant has been convicted of any crime, and if so, the date, the nature of the offense, and the name of the court imposing the penalty.
7. Motor vehicle make, model, year, color, and registration number, if a vehicle is to be used in the proposed solicitation.

**3-7-5 HOURS OF SOLICITATION.** No person may conduct those activities described in Section 3-7-1 except between the hours of 9:00 a.m. and 6:00 p.m. on each day, and no solicitation shall be done on Sundays or legal holidays.

**3-7-6 CONSUMER PROTECTION LAW.** All solicitors and peddlers shall be informed of, agree to comply with, and comply with the State law, Section 555A.3, Code of Iowa, requiring a notice of cancellation to be given in duplicate, properly filled out, to each buyer to whom such person sells a product or service and comply with the other requirements of the law.

**3-7-7 BOND REQUIRED.** Before a permit under this chapter is issued, each person subject to this Ordinance shall post with the Clerk a bond, by a surety company authorized to insure the fidelity of others in Iowa, in the amount of \$1,000 to the effect that the registrant and the surety consent to the forfeiture of the principal sum of the bond or such part thereof as may be necessary: (1) to indemnify the City for any penalties or costs occasioned by the enforcement of this chapter, and (2) to make payment of any judgment rendered against the registrant as a result of a claim or

litigation arising out of or in connection with the registrant's peddling or solicitation. The bond shall not be retired until one year from the expiration of the permit.

**3-7-8 OBSTRUCTION OF PEDESTRIAN OR VEHICULAR TRAFFIC.** No person, while engaged in any of the practices described in Section 3-7-1, shall block or obstruct the path of any pedestrian or vehicular traffic, or block or obstruct any way of ingress or egress to roads, buildings, or other enclosures or conveyances, including, but not limited to, vehicles, elevators, and escalators.

**3-7-9 DISPLAY OF PERMIT.** Each solicitor or peddler shall at all times while doing business in this City keep in his or her possession the permit provided for in Section 3-7-3 of this Chapter, and shall, upon the request of prospective customers, exhibit the permit as evidence that he or she has complied with all requirements of this Chapter. Each transient merchant shall display publicly the permit in his or her place of business.

**3-7-10 PERMIT NOT TRANSFERABLE.** Permits issued under the provisions of this Chapter are not transferable in any situation and are to be applicable only to the person filing the application.

**3-7-11 REVOCATION OF PERMIT.** The City Council after notice and hearing, may revoke any permit issued under this Ordinance where the permittee in the application for the permit or in the course of conducting his or her business has made fraudulent or incorrect statements or has violated this Ordinance or has otherwise conducted business in an unlawful manner.

## TITLE III COMMUNITY PROTECTION

### CHAPTER 8 JUNK AND ABANDONED VEHICLES

- 3-8-1 Purpose
- 3-8-2 Definitions
- 3-8-3 Removal of Abandoned Vehicles
- 3-8-4 Notification of Owners and Lienholders
- 3-8-5 Impoundment Fees and Bonds
- 3-8-6 Hearing Procedures
- 3-8-7 Auction or Disposal of Abandoned Vehicles
- 3-8-8 Junk Vehicles Declared a Nuisance
- 3-8-9 Notice to Abate
- 3-8-10 Abatement by Municipality
- 3-8-11 Collection of Cost of Abatement
- 3-8-12 Exceptions
- 3-8-13 Interference with Enforcement

**3-8-1 PURPOSE.** The purpose of this chapter is to protect the health, safety, and welfare of the citizens and safety of property of this City by providing for removal of abandoned motor vehicles and the elimination of the open storage of abandoned and junk motor vehicles and machinery except in authorized places.

(Code of Iowa, Sec. 364.1)

**3-8-2 DEFINITIONS.** For the purpose of this chapter, the following terms are defined as follows:

1. “Abandoned vehicle” means any of the following:
  - a. A vehicle that has been left unattended on public property for more than twenty-four hours and lacks current registration plates or two or more wheels or other parts which render the vehicle inoperable; or unsafe or
  - b. A vehicle that has remained illegally on public property for more than twenty-four hours; or
  - c. A vehicle that has been unlawfully parked on private property or has been placed on private property without the consent of the owner or person in control of the property for more than twenty-four hours; or
  - d. A vehicle that has been legally impounded by order of the Sheriff’s Department or the Mayor and has not been reclaimed for a period of ten days; or
  - e. Any vehicle parked on the street determined by the Sheriff’s Department or Mayor to create a hazard to other vehicular traffic.

(Code of Iowa, Sec. 321.89(1)(b))

2. “Private property” means any real property within the City which is not public property as defined in this section.

3. “Public property” means any public right-of-way open for the purposes of vehicular travel.

4. A “junk vehicle” means any vehicle without current license plates or which has any one of the following characteristics:

a. Any vehicle with a broken or cracked windshield, or window or headlight or any other cracked or broken glass.

b. Any vehicle with a broken or loose fender, door or bumper or hood or door handle or window handle or steering wheel, trunk top or trunk handle or tail pipe.

c. Any vehicle which has become the habitat of rats, mice, or snakes, or any other vermin or insects.

d. Any motor vehicle if it lacks an engine or two or more wheels or other structural parts which render said motor vehicle totally inoperable.

e. Any other vehicle which, because of its defective or obsolete condition, in any other way constitutes a threat to the public health and safety.

f. Any vehicle left unattended on jacks, blocks, or elevated in any way constituting a safety hazard or threat to the public health or welfare.

(Cedar Falls v. Flett 330 N.W. 2nd 251, 253, Iowa 1983)

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

### **3-8-3 REMOVAL OF ABANDONED VEHICLES.**

1. The Mayor may, without prior notice or hearing, remove and impound any abandoned vehicle as defined in section 3-8-2 (1). The Mayor may hire other personnel, equipment, and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles.

2. The impoundment and storage of all vehicles pursuant to this chapter shall be in such areas or places designated by the City Council.

3. When a vehicle is taken into custody and impounded under the provisions of this chapter, the Mayor shall maintain a record of the vehicle, listing the color, year of manufacture, manufacturer's trade name, body style, vehicle identification number, and license plate and year displayed on the vehicle. The records shall include the date and hour of tow, location towed from, location towed to, person or firm doing the towing, reason for towing, and the name of the officer authorizing the tow.

(Code of Iowa, Sec. 321.89(2))

4. Nothing in this chapter shall govern the procedures of any member of the Sheriff's Department in taking into custody and impounding any vehicle to be used or proposed to be used as evidence in a criminal case involving crimes other than violations of this chapter.

### **3-8-4 NOTIFICATION OF OWNERS AND LIENHOLDERS.**

1. When a vehicle is taken into custody under the provisions of this chapter or under any provisions of State law, the Mayor shall notify, within three days, by certified mail with five-days return receipt, the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to their last known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall:

- a. Describe the year, make, model, and serial number of the vehicle.
- b. Describe the personal property found in the vehicle.
- c. Describe the location of the facility where the vehicle is being held.
- d. Inform the persons receiving notice:

(1) of their right to reclaim the vehicle and personal property within ten days after the effective date of the notice;

(2) that the right can be exercised upon payment of all towing, preservation, notice, and storage charges resulting from placing the vehicle in custody;

(3) that failure of the owner or lienholders to exercise their right to reclaim the vehicle within the reclaiming period shall be deemed a waiver by the owner and all lienholders of all right, title, claim, and interest in the vehicle;

(4) that failure to reclaim the vehicle is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher.

e. State that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or personal property by the Mayor, or the assessment of fees and charges provided by this chapter may request a hearing to contest these matters in accordance with the provisions of Section 3-8-6.

f. State that a request for a hearing must be in writing and received by the department prior to the expiration of the ten-day reclaiming period.

g. State that in the event a hearing is requested immediate release of the vehicle may be obtained by posting a cash bond as required by Section 3-8-5.

(Code of Iowa, Sec. 321.89(3)(a))

2. The owner, lienholders or any person receiving notice may, by written request received by the Mayor prior to the expiration of the ten-day reclaiming period, obtain an additional fourteen days within which the vehicle may be reclaimed.

(Code of Iowa, Sec. 321.89(3)(c))

3. Notice by one publication in one newspaper of general circulation in the area where the vehicle was abandoned shall be sufficient to meet the requirements of this chapter. The published notice may contain multiple listings of abandoned vehicles but shall be published within the same time requirements and shall contain the same information as prescribed for mailed notice in this section. Published notice shall be used if:

- a. the identity of the last registered owner cannot be determined, or
- b. the registration contains no address for the owner, or
- c. it is impossible to determine with reasonable certainty the identity and address of all lienholders.

(Code of Iowa, Sec. 321.89(3)(b))

4. If the persons receiving notice do not request a hearing or exercise their right to reclaim the vehicle or personal property within the reclaiming period, the owner of the vehicle or owners of the personal property shall no longer have any right, title, claim, or interest in or to the vehicle.

5. No court in any case in law or equity shall recognize any right, title, claim, or interest of the owner and lienholders after the ten-day reclaiming period.

(Code of Iowa, Sec. 321.89(3))

### **3-8-5 IMPOUNDMENT FEES AND BOND.**

1. Before the owner or other person lawfully entitled to possession of any vehicle that has been impounded under the provisions of this chapter or any other provision of law may recover such vehicle, such person shall present to the Mayor evidence of such person's identity and right to possession of the vehicle, shall sign a receipt for its return, and shall pay the costs of:

- a. an impoundment fee
- b. towing charges

- c. preservation charges
- d. storage charges
- e. notice charges

(Code of Iowa, Sec. 321.89(3)(a))

2. The amount of the charges specified in a-e shall be set by the City Council. The notice charges shall be limited to the actual cost.

3. If a hearing is requested under Section 3-8-4 (1)(e), the owner or person lawfully entitled to possession of the vehicle shall be permitted to secure the immediate release of the vehicle upon posting a cash bond in an amount equal to the sum of:

- a. the fees required by Section 3-8-5(1)
- b. the amount of the fine or penalty for each violation for which there is an outstanding or otherwise unsettled traffic violation notice or warrant.

**3-8-6 HEARING PROCEDURES.** The registered owner, any lienholder of record, or duly authorized agents thereof, may object to the legality of the impoundment or the assessment of fees and request a hearing thereon. No person shall be entitled to more than one hearing on each impoundment. Upon receipt of a timely objection to the impoundment, the objector shall be informed of the reason for the impoundment and a hearing shall be held, without unnecessary delay, before the City Council pursuant to 1-4-1 at seq.

(Code of Iowa, Sec. 321.89(3))

**3-8-7 AUCTION OR DISPOSAL OF ABANDONED VEHICLES.** The Council shall follow the procedures in State law for the auction or disposal of abandoned vehicles.

(Code of Iowa, Sec. 321.89(4))

**3-8-8 JUNK VEHICLES DECLARED A NUISANCE.** Except as hereinafter provided, it is hereby declared that the parking, leaving, or storage of a junk vehicle upon either public or private property within the corporate limits of the City of Breda, Iowa, constitutes a threat to the health and safety of the citizens and is a nuisance within the meaning of Section 657.1 of the Code of Iowa. If any junk vehicle is stored upon private property or public property in violation thereof, the owner of the property shall be liable for said violation.

**3-8-9 NOTICE TO ABATE.**

1. Whenever the Mayor is unavailable, shall find a junk vehicle placed or stored on private property within the City in violation of Section 3-10-8, the Mayor shall notify, by certified mail with five days' return receipt, the following persons:

- a. the owner of the property.

- b. the occupant of the property.
- 2. The notice to abate shall:
  - a. describe, to the extent possible, the year, make, model, and color of the vehicle.
  - b. describe the location of the vehicle.
  - c. state that the vehicle constitutes a nuisance under the provisions of this chapter.
  - d. state that the owner of the property shall remove or repair the said junk vehicle within ten days.

**3-8-10 ABATEMENT BY MUNICIPALITY.** If the person notified to abate a nuisance or condition neglects or fails to abate as directed, the City may perform the required action to abate, keeping an accurate account of the expense incurred. The itemized expense account shall be filed with the City Clerk who shall pay such expenses on behalf of the municipality.

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

**3-8-11 COLLECTION OF COST OF ABATEMENT.** The Clerk shall mail a statement of the total expense incurred to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one month, the Clerk shall certify the costs to the County Treasurer and the costs shall then be collected with, and in the same manner, as general property taxes.

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

**3-8-12 EXCEPTIONS.** This chapter shall not apply to the following:

- 1. A vehicle in an enclosed building.
- 2. A vehicle on the premises of a business enterprise operated in a district properly zoned therefore, as authorized under the Zoning Ordinance or restricted residence district of this City, when necessary to the operation of said business enterprise.
- 3. A vehicle in an appropriate storage space or depository maintained in a lawful place and lawful manner by this City.

**3-8-13 INTERFERENCE WITH ENFORCEMENT.** No person shall interfere in any way with the enforcement provision of this chapter.

## **TITLE III COMMUNITY PROTECTION**

### **CHAPTER 9 DANGEROUS BUILDINGS**

- 3-9-1 Enforcement Officer
- 3-9-2 General Definition of Unsafe
- 3-9-3 Unsafe Buildings
- 3-9-4 Notice to Owner
- 3-9-5 Conduct of Hearing
- 3-9-6 Posting of Signs
- 3-9-7 Right to Demolish
- 3-9-8 Costs

**3-9-1 ENFORCEMENT OFFICER.** The Mayor is responsible for the enforcement of this chapter.

**3-9-2 GENERAL DEFINITION OF UNSAFE.** All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

(Code of Iowa, Sec. 657 A.1 & 364.12[3a])

**3-9-3 UNSAFE BUILDINGS.** “Unsafe building” means any structure or mobile home meeting any or all of the following criteria:

1. Various inadequacies. Whenever the building or structure, or any portion thereof, because of (a) dilapidation, deterioration, or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or any other cause, is likely to partially or completely collapse.
2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.
4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.

5. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

**3-9-4 NOTICE TO OWNER.** The enforcement officer shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the enforcement officer shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within forty-eight (48) hours or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within ninety (90) days from date of notice, unless otherwise stipulated by the enforcement officer. If necessary, such notice shall also require the building, structure, or enforcement officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected and approved by the enforcement officer.

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

1. Notice Served. Such notice shall be served by sending by certified mail to the owner of record, according to Section 364.12[3h] of the Code of Iowa, if the owner is found within the City limits. If the owner is not found within the City limits such service may be made upon the owner by registered mail or certified mail. The designated period within which said owner or person in charge is required to comply with the order of the enforcement officer shall begin as of the date the owner receives such notice.

2. Hearing. Such notice shall also advise the owner that he or she may request a hearing before the Council on the notice by filing a written request for hearing within the time provided in the notice.

**3-9-5 CONDUCT OF HEARING.** If requested, the Council shall conduct a hearing in accordance with the following:

1. Notice. The owner shall be served with written notice specifying the date, time and place of hearing.

2. Owner's Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.

3. Determination. The Council shall make and record findings of fact and may issue such order as it deems appropriate.

**3-9-6 POSTING OF SIGNS.** The enforcement officer shall cause to be posted at each entrance to such building a notice to read: “DO NOT ENTER. UNSAFE TO OCCUPY. CITY OF BREDAS, IOWA.” Such notice shall remain posted until the required repairs, demolition, or removal are completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

**3-9-7 RIGHT TO DEMOLISH.** In the case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the enforcement officer to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Council.

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

**3-9-8 COSTS.** Costs incurred under Section 145.07 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes.

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

*Note: Caution is urged with this procedure. We recommend you review the situation with your attorney before initiating procedures and follow his or her orders carefully.*

## **TITLE III COMMUNITY PROTECTION**

### **CHAPTER 10 FIREWORKS ORDINANCE**

- 3-10-1 Definitions
- 3-10-2 Violations
- 3-10-3 Prohibitions
- 3-10-4 Sale of Consumer Fireworks
- 3-10-5 Restrictions on the Use of Consumer Fireworks
- 3-10-6 Permits Required
- 3-10-7 Seizure of Fireworks
- 3-10-8 Emergency

**3-10-1 DEFINITIONS.** The following words, terms, and phrases, when used in this Article, shall have the meaning as set forth in this section, except where the context clearly indicates a different meaning:

1. “Consumer Fireworks” means First-Class Consumer Fireworks and Second-Class Consumer Fireworks described in Chapter 3 of the American Pyrotechnics Association’s Standard 87-1 and Chapter 727 of the Iowa Code. Consumer Fireworks do not include Novelties enumerated in Chapter 3 of the American Pyrotechnics Association’s Standard 87-1 or Display Fireworks enumerated in Chapter 4 of the American Pyrotechnics Association’s Standard 87-1.

2. “Display Fireworks” include any explosive composition, or combination of explosive substances, or article prepared for the purpose of providing a visible or audible effect by combustion, explosion, deflagration, or detonation, and includes fireworks containing any explosive or flammable compound, or other device containing any explosive substance. Display Fireworks does not include Novelties or Consumer Fireworks enumerated in Chapter 3 of the American Pyrotechnics Association’s Standard 87-1.

3. “Fireworks” means Consumer Fireworks and Display Fireworks. Fireworks does not include Novelties as defined in American Pyrotechnics Association’s Standard 87-1, Chapter 3, and that comply with the labeling regulations promulgated by the United States Consumer Products Safety Commission.

#### **3-10-2 VIOLATIONS.**

1. 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, shall be punishable as a municipal infraction civil penalty as set forth in this Code.

2. A person who sells Consumer Fireworks to a person who is less than eighteen (18) years of age commits a simple misdemeanor, punishable by a fine of not less than \$250.00.

3. A person who is less than eighteen (18) years of age who purchases Consumer Fireworks commits a simple misdemeanor, punishable by a fine of not less than \$250.00.

1. A person who uses or explodes Consumer Fireworks in violation of this Article commits a simple misdemeanor, punishable by a fine of not less than \$250.00.

2. A person who uses or explodes Display Fireworks while the use of such device is in violation of this Article commits a simple misdemeanor, punishable by a fine of not less than \$250.00.

3. A person who is less than eighteen (18) years of age who uses or explodes Consumer Fireworks or Display Fireworks commits a simple misdemeanor, punishable by a fine of not less than \$250.00.

### **3-10-3 PROHIBITIONS.**

1. It shall be unlawful to manufacture fireworks within the City limits.

2. It shall be unlawful to sell Display Fireworks within the City limits.

3. It shall be unlawful for a person to possess, use, or explode Display Fireworks, except in possession of and in compliance with all requirements of a permit issued by the City under this Ordinance.

### **3-10-4 SALE OF CONSUMER FIREWORKS.**

1. It shall be unlawful for a person to offer for sale, expose for sale, or sell Consumer Fireworks, unless the person is a retailer or community group as defined in Chapter 100, Iowa Code, and possesses and complies with all requirements of a Consumer Fireworks seller license issued by the State Fire Marshall.

2. Consumer Fireworks may only be sold during the dates and times as established by the Iowa Code.

### **3-10-5 RESTRICTIONS ON THE USE OF CONSUMER FIREWORKS.**

1. A person shall not use or explode Consumer Fireworks except on days permitted under the State Code of Iowa (or as determined and established by the City Council).

2. A person shall not use or explode Consumer Fireworks at times other than between the hours of

a. July 3<sup>rd</sup> from 9:00a.m. and 10:00 p.m.

b. July 4<sup>th</sup> from 9:00 a.m. and 11:00 p.m.

c. December 31<sup>st</sup> from 9:00 a.m. and 12:30 a.m. on January 1<sup>st</sup>.

3. A person shall not use Consumer Fireworks on real property other than that person's real property or on the real property of a person who has consented to the use of Consumer Fireworks on that property.

4. Persons using or exploding Consumer Fireworks must be at least eighteen (18) years of age or older.

5. Persons using or exploding Consumer Fireworks are prohibited from being under the influence of alcohol or other drugs or a combination of such substances, while having a blood alcohol concentration of .08 or more, or while having any amount of a controlled substance in the person's body.

6. No use or explosion of Consumer Fireworks is allowed on any public property, including parks, cemeteries, public rights-of-way, public parking lots, or sidewalks.

7. A person who violates this subsection commits a simple misdemeanor punishable as a municipal infraction civil penalty.

(Code of Iowa, Sec. 727.2)

### **3-10-6 PERMITS REQUIRED.**

1. A permit must be obtained from the City in order to use or explode Display Fireworks. In order to obtain a permit, the applicant must comply with City permitting and insurance requirements.

2. Application for a permit must be made in writing, and filed at the Office of the City Clerk in advance of the proposed display.

**3-10-7 SEIZURE OF FIREWORKS.** The Fire Chief may seize, take, remove, or cause to be removed, at the expense of the owner, all Consumer Fireworks or Display Fireworks, offered or exposed for sale, used, stored, possessed, or held in violation of this Chapter.

**3-10-8 EMERGENCY.** When, in the opinion of the Fire Chief, weather and soil conditions create a safety emergency so that the use of Consumer Fireworks and/or Display Fireworks creates a danger to the public or property, the Fire Chief may suspend, cancel, or prohibit the use of Consumer Fireworks and/or Display Fireworks.



## **TITLE IV MENTAL AND PHYSICAL HEALTH**

### **CHAPTER 1 ANIMAL CONTROL**

- 4-1-1 Definitions
- 4-1-2 Immunization
- 4-1-3 At Large Prohibited
- 4-1-4 Animal Nuisances
- 4-1-5 Impounding
- 4-1-6 Dangerous Animals
- 4-1-7 Keeping a Vicious Animal

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

1. The term “dogs” shall mean animals of the canine species whether altered or not.
2. The term “at large” shall mean any licensed or unlicensed animal found off the premises of the owner and not under the control of a competent person, restrained within a motor vehicle, housed in a veterinary hospital or kennel, on a leash or “at heel” beside a competent person and obedient to that person’s command.
3. The term “owner” shall mean any person owning, keeping, sheltering or harboring an animal.

**4-1-2 IMMUNIZATION.** All dogs six (6) months or older shall be vaccinated against rabies. It shall be a violation of this Ordinance for any dog to not be vaccinated against rabies. A tag showing evidence of proper vaccination shall be worn by every dog when not confined.

Code of Iowa, Sec. 351.33)

**4-1-3 AT LARGE PROHIBITED.** No owner or person having custody of an animal shall permit such animal to run at large.

(Code of Iowa, Sec. 351.41)

**4-1-4 ANIMAL NUISANCES.** It shall be unlawful for any person to permit an animal under such person’s control or within such person’s custody to commit a nuisance. An animal shall be considered a nuisance if it:

1. Damages, soils, defiles or defecates on private property other than the owner’s or on public walks and recreation areas unless such waste is immediately removed and properly disposed of by the owner.
2. Causes unsanitary, dangerous or offensive conditions.

3. Causes a disturbance by excessive barking or other noisemaking or chases vehicles, or molests, attacks or interferes with persons or other domestic animals.

(Code of Iowa, Sec. 657.1)

#### **4-1-5 IMPOUNDING.**

1. Any unvaccinated dog found at large, or any dog found at large in violation of Sections 4-1-2 and 4-1-3 of this chapter shall be seized and impounded, or, at the discretion of the Mayor, the owner may be served a summons to appear before a proper court to answer charges made thereunder.

2. Owners of dogs shall be notified within two (2) days that upon payment of impounding fees, the dog will be returned. If the impounded dogs are not recovered by their owners within seven (7) days after notice, the dogs shall be disposed of as provided in Section 717B.4 Code of Iowa.

3. Impounded dogs may be recovered by the owner, upon proper identification, impounding fee and boarding costs, and the costs of vaccination if vaccination is required by Section 4-1-2. If such dogs are not claimed within seven (7) days after notice, they shall be disposed of in a humane manner as directed by the City Council.

(Code of Iowa, Sec. 351.37)

4. Any animal found to have bitten a person or other animal shall be confined as directed by the Mayor.”

(Code of Iowa, Sec. 351.39)

5. This section shall not apply to a law enforcement dog or horse used by the law enforcement agency, that is acting in the performance of its duties, which has bitten a person.

(Code of Iowa, Sec 351.39)

#### **4-1-6 DANGEROUS ANIMALS.**

1. Dangerous Animals Prohibited. No person shall keep, shelter, or harbor for any purpose within the City limits, a dangerous animal.

2. Definitions. A dangerous animal is:

a. Any animal which is not naturally tame or gentle, and which is of a wild nature or disposition, and which is capable of killing, inflicting serious injury upon, or causing disease among human beings or domestic animals, and having known tendencies as a species to do so.

b. The following are animals which shall be deemed to be dangerous animals per se:

- (1) Lions, tigers, jaguars, leopards, cougars, lynx, and bobcats;
- (2) Wolves, coyotes, and foxes;
- (3) Badgers, wolverines, weasels, skunks and mink;
- (4) Raccoons;
- (5) Bears;
- (6) Monkeys, chimpanzees, and apes;
- (7) Alligators and crocodiles;
- (8) Scorpions; gila monsters;
- (9) Snakes that are venomous or constrictors;

c. Any animals declared to be dangerous by the City Council.

3. Dangerous Animals Exceptions. The keeping of dangerous animals shall be permitted only under the following circumstances:

a. The keeping of dangerous animals in a public zoo, bona fide educational or medical institution, humane society, or museum where they are kept as live specimens for the public to view, or for the purpose of instruction, research or study, and has obtained the written approval of the City Council.

**4-1-7 KEEPING A VICIOUS ANIMAL.** Keeping a vicious animal is prohibited. An animal is deemed to be vicious when it has attacked, injured, or bitten any person without provocation or has exhibited the propensity to attack, injure, or bite persons or other domesticated animals, unprovoked, and such propensity is known to the owner or to reasonably have been known to the owner thereof.

1. An animal is deemed vicious under the following circumstances:

a. Has bitten or clawed a person without provocation on two separate occasions within a twelve (12) month period.

b. Did bite or claw a person, without provocation, causing injuries above the shoulders of a person.

c. Has attacked any domestic animal, without provocation, on more than two (2) separate occasions during the life of the animal.

d. Has killed any domestic animal, without provocation, while off the property of the attacking animal's owner.

e. Has bitten another animal or human, without provocation, that causes a fracture, skin puncture, laceration, cut, or injury to the other animal or human.

**TITLE V HUMAN DEVELOPMENT - EDUCATION AND CULTURE**

**CHAPTER 1 RESERVED**



## **TITLE VI PHYSICAL ENVIRONMENT**

### **CHAPTER 1 UTILITIES- ELECTRIC**

#### **6-1-1 Definitions**

#### **6-1-2 Service Connections**

**6-1-1 DEFINITIONS.** The meaning of terms used in this Ordinance shall be as follows:

1. “Customer” means any person, firm, association, or corporation; any agency of the federal, state, or local government; or any legal entity responsible by law for payment for the electric service or heat from the municipal electric utility.

2. “Distribution line” means any single or multiphase electric power line operating at nominal voltage in either of the following ranges: 2,000 to 26,000 volts between ungrounded conductors or 1,155 to 15,000 volts between grounded and ungrounded conductors, regardless of the functional service provided by the line.

3. “Energy” means electric energy measured in kilowatt hours.

4. “Meter” means, unless otherwise qualified, a device that measures and registers the integral of an electrical quantity with respect to time.

5. “Meter box” means a weather-proof, secure enclosure that houses the utility owned electric meter and protects it and the connecting wiring.

5. “Power” means electric power measured in kilowatts.

6. “Service line” means any electric power line that connects the distribution line to the meter.

#### **6-1-2 SERVICE CONNECTIONS.**

1. The City is only responsible for costs and expenses related to the maintenance of the distribution line. All costs and expenses incident to the installation, connection, disconnection, or maintenance of the service line from the distribution line to the individual building served shall be borne by the property owner.

2. The city will provide and maintain a meter for each customer.

3. The meter box shall be owned and maintained by the property owner. When, at such time, the public works employees determine that the meter box has deteriorated, the City shall mail a notice for the replacement or repair of the meter box.

4. Only a licensed contractor or electrician approved by the city may connect the service line to the distribution line.

5. When a customer tears down any structure that was connected to the municipal utility, the customer is responsible to disconnect the service line from the distribution line.

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 2 UTILITIES - SANITARY SYSTEM

- 6-2-1 Definitions
- 6-2-2 Use of Public Sewers Required
- 6-2-3 Building Sewers and Connections
- 6-2-4 Use of the Public Sewers
- 6-2-5 Protection from Damage
- 6-2-6 Powers and Authority to Inspectors
- 6-2-7 Penalties

**6-2-1 DEFINITIONS.** Unless the context specifically indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

1. “BOD” (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 C, expressed in milligrams per liter or parts per million.

2. “Building Drain” shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.

(IAC 567-69.3(1))

3. “Building Sewer” shall mean the extension from the building drain to the public sewer or other place of disposal.

(IAC 567-69.3(1))

4. “Combined Sewer” shall mean a sewer receiving both surface runoff and sewage.

5. “Garbage” shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sales of produce.

6. “Industrial Wastes” shall mean the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

7. “Natural Outlet” shall mean any outlet into watercourse, pond, ditch, or other body of surface or groundwater.

8. “Person” shall mean any individual, firm, company, association, society, corporation, or group.

9. “pH” shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

10. “Properly Shredded Garbage” shall mean the waste from the preparation, cooking, dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch (1.27 centimeters) in any dimension.

11. “Public Sewer” shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

12. “Sanitary Sewer” shall mean a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.

13. “Sewage” shall mean a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and stormwaters as may be present.

14. “Sewage Treatment Plant” shall mean any arrangement of devices and structures used for treating sewage.

15. “Sewage Works” shall mean all facilities for collecting, pumping, treating, and disposing of sewage.

16. “Sewer” shall mean a pipe or conduit for carrying sewage.

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

18. “Storm Drain” (sometimes termed “storm sewer”) shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes other than unpolluted cooling water.

19. “Public works employees” shall mean the Employees of Public Works of the City of Breda or their authorized deputy, agent, or representative.

20. “Suspended Solids” shall mean solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

21. “Watercourse” shall mean a channel in which a flow of water occurs, either continuously or intermittently.

## **6-2-2 USE OF PUBLIC SEWERS REQUIRED.**

1. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City or in any area under the jurisdiction of said City, any human or animal excrement, garbage, or other objectionable waste.

2. It shall be unlawful to discharge to any natural outlet within the City, or in any area under the jurisdiction of said City, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Ordinance.

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

3. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

4. The owner of any house, building, or property used for human occupancy, employment, recreation, or other purposes, situated within the City and abutting on any street, alley, or right of way in which there is now located or may in the future be located a public sanitary or combined sewer of the City, is hereby required at such owner's expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Ordinance, provided that said public sewer is within one hundred fifty (150) feet of the property line. Billing for sanitary sewer service shall begin the date of official notice to connect to the public sewer.

(Code of Iowa, Sec. 364.12(3)(f))  
(IAC 567-69.3(3))

### **6-2-3 BUILDING SEWERS AND CONNECTIONS.**

1. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the public works employees.

2. There shall be a building sewer permit for residential and commercial service and for service to establishments producing industrial wastes. In either case, the owner or the owner's agent shall make application on a special form furnished by the City. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the public works employees.

3. All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

4. A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

5. Old building sewers may be used in connection with new building sewers only when they are found, upon examination and testing by the public works employees, to meet all requirements of this Ordinance. The public works employees may require that the old sewer be excavated for the purpose of facilitating inspection. No old cesspool or septic tank shall be

connected to any portion of a building sewer that is also connected to the public sewer. Cesspools and septic tanks shall be located and drained in a manner approved by the public works employees and removed or filled with sand, crushed rock or any other solid material approved by the public works employees, except as exempted by the public works employees.

6. The building sewer shall be constructed in accordance with applicable portions of the last published (State Plumbing Code of Iowa), applicable specifications of the American Society for Testing and Materials (ASTM) and applicable portions of the Water Pollution Control Federation (WPCF) Manual of Practice No. 9.”

a. Each connection to the public sewer shall be made to the fittings designated for that property. If a fitting in the public sewer is not available for the designated property, the connection shall then be made under the direct supervision of the public works employee. Connections to the public sewer not made to an existing wye or tee shall be made by a hole cutter or careful chisel cutting. The connection shall be rendered water and gas tight, by use of rubber gaskets. The building sewer shall not protrude into the public sewer.

b. All building sewers shall be constructed of the following materials conforming to the indicated standards:

#### Vitrified Clay Pipe VCP

(1) Pipe and Fittings - ASTM C 700 “Standard Specification or Vitrified Clay Pipe, Extra Strength, Standard Strength and Perforated.”

(2) Coupling and Joints - ASTM C 425 “Standard Specification for Compression Joints for Vitrified Clay Pipe and Fittings”.

#### Extra Heavy Cast Iron Soil Pipe

(1) Pipe and Fittings - ASTM A 74 “Standard Specification for Cast Iron Soil Pipe and Fittings.”

(2) Joints - ASTM C 564 “Standard Specification for Rubber Gaskets for Cast Iron Soil Pipe and Fittings.”

#### Polyvinyl Chloride (PVC)

Polyvinyl Chloride (PVC) and joints shall be installed according to the manufacturers’ recommendations and shall conform to:

(1) Pipe - A.S.T.M. D 3034, “Type P.S.M. Poly (PVC) and Fittings.”

Minimum wall thickness:

4" - 0.125"

6" - 0.180"

8" - 0.240"

10" - 0.300"

(2) Joints - A.S.T.M. D 1869, A.S.T.M. D 1312, "Flexible Elastomeric Seals."

c. No building sewer for residential or commercial buildings shall be less than four inches in diameter. No building sewer for industries or multiple dwellings shall be less than six inches in diameter.

d. Unless otherwise authorized, all building sewers shall have a grade of not less than one - eighth (1/8) inch per foot. A grade of one fourth (1/4) inch per foot shall be used wherever practical.

e. All excavation shall be open trench work unless authorized by the public works employees. The foundation in the trench shall be formed to prevent any subsequent settlement of the pipes. If the foundation is good firm earth, the earth shall be pared or molded to give a full support to the lower quadrant of each pipe. Bell holes shall be dug. Where the floor of the trench is of hard or rocky material, the trench shall be excavated to four inches below the pipe and brought back to the proper grade with gravel, coarse sand or similar material so as to provide a firm foundation and uniform support for the building sewer line. Backfilling shall be placed in layers and solidly tamped or packed up to two feet above the pipe. Back-filling shall not be done until final inspection is made by the public works employees. Building sewers shall be laid straight at uniform grade between connections or fittings.

f. Cleanouts shall be provided for each change in direction or grade if the change exceeds 45 degrees and at least every 100 feet.

7. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. The depth shall be sufficient to afford protection from frost. All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the public works employees. Pipe laying and backfill shall be performed in accordance with A.S.T.M. Specification (Designation C12). No backfill shall be placed until the work has been inspected by the public works employees or their representative. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

8. No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

9. The connection of the building sewer into the public sewer shall conform to the requirements of the Plumbing Code or other applicable rules and regulations of the City, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from

the prescribed procedures and materials must be approved by the public works employees before installation.

10. Each and every part of the building sewer shall be inspected and approved by the public works employees before being concealed or back filled. The applicant for the building sewer permit shall notify the public works employees when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the public works employees or their representative.

11. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

12. The City shall, in no event, be held responsible for claims made against it by reason of the breaking of any mains or service pipes, or by reason of any other interruption of the service caused by the breaking of machinery or stoppage for necessary repairs; and no person shall be entitled to damages nor have any portion of a payment refunded for any interruption.

13. The premises receiving sanitary sewer service, shall at all reasonable hours, be subject to inspection by duly authorized personnel of the City.

14. The Owner of the property served by a building sewer shall be responsible for the operation, maintenance, repair, blockage, surface replacement, and any damage resulting from operation, maintenance repair and blockage of said building sewer, from the point of connection with the building drain to the Public Sewer.

#### **6-2-4 USE OF THE PUBLIC SEWERS.**

1. No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, including interior and exterior foundation drains, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Applications may be cancelled and/or sewer service discontinued by the City for any violation of any rule, regulation or condition of service, and especially for any of the following reasons:

a. Misrepresented in the application as to the property or fixtures to be serviced by the sanitary sewer system.

b. Non-payment of bills.

c. Improper or imperfect service pipes and fixtures, or failure to keep same in suitable state of repair.

2. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the public works employees. Industrial cooling water or unpolluted process waters may be discharged, on approval of the public works employees, to a storm sewer, combined sewer, or natural outlet.

3. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

a. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.

b. Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) mg/l as CN in the wastes as discharged to the public sewer.

c. Any waters or wastes having a ph lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

d. Solid or viscous substances in quantities of such size capable of causing obstruction to the flow of sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

e. Any water or wastes having (1) a 5-day bio-chemical oxygen demand greater than 300 parts per million by weight, or (2) containing more than 350 parts per million by weight, or suspended solids, or (3) having an average daily flow greater than 2 percent of the average sewage flow of the City, shall be subject to the review of the public works employees. Where necessary in the opinion of the public works employees, the owner shall provide at the owner's expense, such preliminary treatment as may be necessary to (1) reduce the biochemical oxygen demand to 300 parts per million by weight, or (2) reduce the suspended solids to 350 parts per million by weight, or (3) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the public works employees and no construction of such facilities shall be commenced until said approvals are obtained in writing.

4. No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the public works employees that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming an opinion as to the acceptability of these wastes, the public works employees will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:

a. Any liquid or vapor having a temperature higher than one hundred fifty (150) F (65 C).

b. Any water or wastes containing fats, wax, grease or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150 F) (0 and 65 C).

c. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the public works employees.

d. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.

e. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances, or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the public works employees for such materials.

f. Any waters or wastes containing phenols or other taste-or-odor-producing substances, -in such concentrations exceeding limits which may be established by the public works employees as necessary after treatment of the composite sewage, to meet with requirements of the State, Federal, or other public agencies with jurisdiction for such discharge to the receiving waters.

g. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the public works employees in compliance with applicable State or Federal regulations.

h. Any waters or wastes having a pH in excess of 9.5.

i. Materials which exert or cause:

(1) Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).

(2) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).

(3) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

(4) Unusual volume of flow or concentration of waters constituting "slugs" as defined herein.

j. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

5. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in 6-2-5(4), and which in the judgment of the public works employees, may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the public works employees may:

- a. Reject the wastes,
- b. Require pretreatment to an acceptable condition for discharge to the public sewers.
- c. Require control over the quantities and rates of discharge, and/or
- d. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provision of 6-2-5(10) of this article.

If the public works employees permit the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the public works employees, and subject to the requirements of all applicable codes, Ordinances, and laws.

6. Grease, oil, and sand interceptors shall be provided when, in the opinion of the public works employees, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the public works employees and shall be located as to be readily and easily accessible for cleaning and inspection.

7. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.

8. When required by the public works employees, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the public works employees. The manhole shall be installed by the owner at the owner's expense, and shall be maintained by the owner so as to be safe and accessible at all times.

9. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this Ordinance shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and

to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24-hour composite of all outfalls where pH's are determined from periodic grab samples).

10. No statement contained in this article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment, therefore, by the industrial concern.

**6-2-5 PROTECTION FROM DAMAGE.** No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

(Code of Iowa, Sec. 716.1)

#### **6-2-6 POWERS AND AUTHORITY TO INSPECTORS.**

1. The public works employees and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this Ordinance. The public works employees or their representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

2. While performing the necessary work on private properties referred to in 6 2 7(1), the public works employees or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the City employees and the City shall indemnify the company against loss or damage to its property by the City employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Section 6-2-5(8).

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

#### **6-2-7 PENALTIES.**

1. Any person found to be violating any provision of this Ordinance except Section 6-2-6 shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

2. Any person violating any of the provisions of this Ordinance is liable to the City for any expense, loss, or damage occasioned the City by reason of such violations.

Footnote: See 384.38(3) concerning establishing districts and connection fees (H.F. 2343, 1994 legislative session).

## **TITLE VI PHYSICAL ENVIRONMENT**

### **CHAPTER 3 UTILITIES - WATER SYSTEM**

- 6-3-1 Enforcement/Purposes
- 6-3-2 Definition of Terms
- 6-3-3 Service Connections
- 6-3-4 Mandatory Connections
- 6-3-5 Permit
- 6-3-6 Water Supply Control
- 6-3-7 Making the Connection
- 6-3-8 Excavations
- 6-3-9 Inspection and Approval
- 6-3-10 Completion by the City
- 6-3-11 Service Pipes Not to be Laid Across Public Property
- 6-3-12 Separate Connections
- 6-3-13 Service Cut Off
- 6-3-14 Breaks in Service of Fixtures
- 6-3-15 Abandoned Service Pipes
- 6-3-16 Right to Shut Off Water
- 6-3-17 Responsibility in Turning on Water
- 6-3-18 Discontinue Use of Water
- 6-3-19 Water Meters
- 6-3-20 Unnecessary Waste
- 6-3-21 Owners to Protect Meters
- 6-3-22 Other Supply than City Water
- 6-3-23 Inspection of Meters, Pipes, and Fixtures
- 6-3-24 Fire Hydrants Not to be Used
- 6-3-25 Water Works Property

#### **6-3-1 ENFORCEMENT/PURPOSES.**

1. The purposes of this ordinance are to prescribe the procedure to be followed in making private connections with the municipal water system, to establish regulations governing the connections thereto and prescribing rates for services therefrom.

2. The public works employees shall supervise the installation of water service pipes and their connections to the water main and enforce all regulations pertaining to water services in this City in accordance with this chapter. This chapter shall apply to all replacements of existing service pipes as well as to new ones. The City Council shall make such rules, not in conflict with the provisions of this chapter, as needed for the detailed operation of the waterworks. In the event of an emergency the public works employees may make temporary rules for the protection of the system until due consideration by the City Council may be had.

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

### **6-3-2 DEFINITION OF TERMS.**

1. In this ordinance the words Water Works of City shall mean the City of Breda acting through its qualified officers or employees.

2. A water main shall be defined as any pipe laid by the City of Breda or agents thereof in streets, alleys or other grounds, which shall be a portion of the water distribution system of the City and which shall be intended to be tapped in the prescribed way for water service pipes to the consumer.

3. A service pipe shall be defined as that water pipe line laid from a water main into the premises to be served with water. The service pipe shall include the corporation cock, lead-in pipe, curb stop box, and shut off, and all valves and pipes inside the building through which water passes before it reaches the water meter. A service line includes any line or pipe that leaves the water main regardless of the number of structures or properties the service line may ultimately serve.

4. A consumer shall be any person using water furnished by the City of Breda, Iowa.

### **6-3-3 SERVICE CONNECTIONS.**

1. The City is responsible only for costs and expenses related to the maintenance of the water service line from the public water source to the main connection. All costs and expenses incident to the installation, connection, disconnection, or maintenance of the water service line from the main to the individual building served shall be borne by the property owner.

2. The laying of all service connections and pipes, installation of any water service, setting of water service fixtures in streets, public grounds and in premises to be served by the City water, shall be made by a plumber licensed by the State of Iowa.

3. A residential, commercial or industrial property located within the City on a street, alley or right-of-way must connect to the City water system, provided the water main is located within 300 feet of the property line.

4. When the consumer tears down any structure that was connected to City water service, the consumer is responsible to disconnect the water service at the water main.

5. When an existing water service is abandoned or a service is renewed with a new tap in the main, all abandoned connections with the water main shall be turned off at the corporation stop and made absolutely watertight.

6. The installation of any water service line or pipe and any connection with the water system shall comply with all pertinent and applicable provisions, whether regulatory, procedural or enforcement provisions, of this Code or the International Plumbing Code which is hereby adopted by this reference.

7. No more than one house, building or premises shall be supplied from one tap, unless special written permission is obtained from the Public Works Director and provision is made so that each house, building or premises may be shut off independently of the other.

**6-3-4 MANDATORY CONNECTIONS.** All residences and business establishments within the City limits intended or used for human habitation, occupancy or use shall be connected to the public water supply if it is reasonably available and if the building is not furnished with pure and wholesome water from some other source.

**6-3-5 PERMIT.** Before any person, firm, corporation or other association shall make a connection with the public water system, a written permit must be obtained from the public works employees. The application for the permit shall be filed with the public works employees on blanks furnished by the city. The application shall include a legal description of the property, the name of the property owner, the name and address of the person who will do the work, and the general uses of the water. No different or additional uses shall be allowed except by written permission of the public works employees. They shall issue the permit, bearing their signature and stating the time of issuance, if the proposed work meets all the requirements of this Ordinance and if all fees required under this Ordinance have been paid. Work under any permit must be begun within six (6) months after it is issued. The public works employees may at any time revoke the permit for any violation of this Ordinance and require that the work be stopped.

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

**6-3-6 WATER SUPPLY CONTROL.** The plumber who makes the connection to the municipal water system shall install a main shut-off valve of the inverted key type on the water service pipe near the curb with a suitable lock of a pattern approved by the public works employees. The shut off valve shall be covered with a heavy metal cover having the letter "W" marked thereon, visible and even with the pavement or ground.

The plumber also shall install a shut-off valve and waste cock on every service pipe inside the building near the entrance of the water-service pipe into the building; this must be located so that the water can be shut off conveniently and the pipes drained. Where one service pipe is installed to supply more than one customer, there shall be separate shut-off valves inside the building for each customer so that service to one customer can be shut off without interfering with service to the others.

The plumber making said installation or connection shall be licensed by the city or state.

**6-3-7 MAKING THE CONNECTION.** Any connection with the municipal water system must be made under the direct supervision of the public works employees or their authorized assistant. All taps in the water main must be at least (12) inches apart and on the side and near the top and not in any case within 18 inches of the hub.

**1. Service Pipe.**

a. No water service pipe or tap for any building shall be less than three-quarter (3/4) inches in diameter. All pipe up to and including one and one-half (1½) inch inside diameter shall be "Type K." All pipe over one and one-half (1½) inches must be "Type K" heavy type

copper, cast iron or PVC grade water pipe approved by the Public Works Director. Pipe must be laid to such a depth as to prevent rupture from settling or freezing. PVC pipe must be installed with tracer wire.

b. All water service pipes and their connections to the water system must be inspected and approved by the Public Works Director, before they are covered, and the Director shall keep a record of such approvals. If the Director refuses to approve the work, the plumber or property owner must proceed immediately to correct the work. Every person who uses or intends to use the municipal water system shall permit the Public Works Director or his/her designee to enter the premises to inspect or make necessary alterations or repairs at all reasonable hours and upon proof of authority.

**2. No Connection Between Different Services.** When there are two or more buildings on premises, the piping from each service must be kept separate, and no connection made from one to the other.

**3. Depth of Service Pipe.** Service pipe must be laid at least five and one-half (5 ½) feet below the surface of the ground. When pipes are laid in streets or ground subject to fixed grades where the surface of the ground is higher than the established grades, they shall be laid so that they will be at least five and one-half (5 ½) feet below the established grade.

**4. Maintenance of Service Pipes.** All service pipes and fixtures from the street water main to the premises, including the corporation cocks at the mains (except corporation cocks put in during the initial water installation period) shall be installed and maintained at the expense of the owners, and any leaks or other defects in the same shall be promptly repaired by the owner. If not promptly repaired, the water shall be turned off until such repairs have been made, and the expense incurred thereby shall be charged against such owner and must be paid before water shall be turned on again. If such repair is not made within three (3) days of written notification by the City, the property owner shall be charged the sum of Fifteen dollars (\$15.00) per day for each day after said three (3) day period of grace, during which the said water wastage shall continue.

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

#### **6-3-8 EXCAVATIONS.**

1. Excavations to do work under this Ordinance shall be dug so as to occasion the least possible inconvenience to the public and to provide for the passage of water along the gutter. All such excavations shall have proper barricades at all times, and warning lights placed from one-half hour before sunset to one-half hour after sunrise. In refilling the excavation, the earth must be laid in layers and each layer tamped thoroughly to prevent settlement, and this work, and any street, sidewalk, pavement or other public property that is affected, must be restored to as good a condition as it was previous to the excavation. The plumber must maintain the affected area in good repair to the satisfaction of the City Council for three months after refilling. All water service pipes must be laid so as to prevent rupture by settlement or freezing. No excavation shall be made within six (6) feet of any laid water or sewer pipe while the ground is frozen, and no water or sewer pipe shall be exposed to frost, except by special written permission of the public works employees.

2. Before any permit to excavate in any street for making or repairing, a water connection is granted, the applicant including all plumbers shall have on file with the City Clerk a affidavit of their insurance in the amount of \$1,000,000 of liability approved by the Mayor and City Clerk conditioned upon the faithful observance of all ordinances of the municipality and that the municipality will be saved harmless from all suits and damages for negligence in maintaining barricades for the protection of persons lawfully using the streets.

**6-3-9 INSPECTION AND APPROVAL.** All water-service pipes and their connections to the municipal water system must be inspected and approved in writing by the public works employees before they are covered, and the public works employees shall keep a record of such approvals. If they refuse to approve the work, the plumber or owner must proceed immediately to correct the work so that it will meet with the public works employees' approval. Every person who uses or intends to use the municipal water system shall permit the public works employees or their authorized assistants to enter the premises to inspect and make necessary alterations or repairs at all reasonable hours and on proof of authority.

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

**6-3-10 COMPLETION BY THE CITY.** Should any excavation be left open or partly refilled for twenty-four (24) hours after the water-service pipe is installed and connected with the municipal water system, or should the work be improperly done, the public works employees shall have the right to finish or correct the work, and the City Council shall assess the costs to the property owner or the plumber. If the plumber is assessed, the plumber must pay the costs before the plumber can receive another permit, and the plumber's bond required by the Plumbing Ordinance shall be security for the assessment. If the property owner is assessed, such assessment shall be collected with and in the same manner as general property taxes.

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

**6-3-11 SERVICE PIPES NOT TO BE LAID ACROSS PRIVATE PROPERTY.** No consumer shall be permitted to conduct water pipes across lots or buildings to adjoining premises, but all service pipes shall be laid on streets, alleys, or public grounds to the premises to be served, and entered the building nearest the main.

**6-3-12 SEPARATE CONNECTIONS.** There shall be separate service pipes laid from the main to each dwelling or unit being served. Such service pipe shall be laid in a straight line at right angles to the water main, and connections made within two lines drawn parallel to the sides of the building to be served and not more than ten feet outside of these sides. In all cases each building served must have an independent service shut off. Apartment buildings may have one (1) service line into the apartment building; however, the line must be split once in the building for each apartment. The owner of the apartment building must provide the City with access to the water line shutoff twenty-four (24) hours a day.

**6-3-13 SERVICE CUT OFF.**

a. A curb stop and shut off for controlling the supply of water to consumers shall be placed on every service. When connections are made in streets or alleys the stop box shall be placed inside the City's easement; and when made in alleys, it shall be placed within the area

located twelve (12) inches outside of the lot lines. The cover of said stop box shall be maintained at the same height as the sidewalk or the surrounding ground. Where area walls or curb lines prevent the location of the stop box and shut off at the point indicated, they shall be placed immediately within the area wall or curb line. All stop boxes must be set on a line drawn at right angles to the main through the service corporation or connection in the main.

b. Every service pipe must also have a stop and waste placed in the building within two (2) feet of the point where the pipe enters the building. Said stop must have a handle or wrench attached to turn the same and be kept in working order at all times so that the water supply may be shut off by the occupant of the premises.

c. The outside shut off and stop box shall be under the sole control of the City and no one except an employee or person specially authorized by the City Council shall open the cover of such box or turn on or off the water. Provided, however, that approved plumbers may turn off or on the water for testing plumbing or making repairs, but whenever so used to shut off must be left closed if found closed, and open if found open, by the plumber who uses it.

d. The stop box in every service must be kept flush with the surrounding ground or surface and must be visible from the sidewalk. The curb box and shut off must be kept in good condition and ready for use at all times by the owner. Should the owner neglect to maintain such box and shut off in proper condition to be used, and if the stop box is found to be filled up, or the stop box or shut off found to be out of repair at any time, the City shall have the right to clean or repair the same when needed without giving notice, and charge the cost thereof to the owner, and if payment is refused, the payment thereof may be enforced in the same manner as that provided in the case of delinquent water bills.

e. There shall be installed a shut-off valve on every service pipe inside the building, as close to the entrance of the pipe, within the building, as possible and so located that the water can be shut off conveniently. Where one service pipe supplies more than one customer within the building, there shall be separate valves for each customer so that service may be shut off for one without interfering with service to the others. The interior valves shall be placed on the customer side of the meter within one (1) foot of the meter. This will be required for all new construction and plumbing service upgrades.

**6-3-14 BREAKS IN SERVICE OF FIXTURES.** The City shall not be held responsible by reason of the breaking of any service pipe or water coil, or for failure in the supply of water.

**6-3-15 ABANDONED SERVICE PIPES.** If a service pipe or connection, which is not being used, is found to be leaking, the City may without notice, repair or turn off the same, and charge the expense thereof to the owner of the property last served by this connection.

**6-3-16 RIGHT TO SHUT OFF WATER.**

a. The City reserves the right to at any time, when necessary, without notice, to shut the water off its mains for the purpose of making repairs or extensions or for other purposes, and no claims shall be made against the City by reason of the breakage of any service pipe or service cock or from any other damage that may result from shutting off water for repairing, laying,

or relaying mains, hydrants or other connections. The City may give notice of shutting off water if conditions are such that it is possible to do so.

b. When water is shut off for making repairs in premises having water heating coils in heaters, consumers should turn off the water at the basement shut off and open a faucet in the hot water pipe and leave it open until water is turned on, in order to protect piping and fixtures from excessive pressures from hot water or steam.

**6-3-17 RESPONSIBILITY IN TURNING ON WATER.** In turning on water the city shall not be responsible for any damage that may occur by reason of improper fixtures, open or improper connections, or from any other cause.

**6-3-18 DISCONTINUE USE OF WATER.** Owners or consumers desiring to discontinue the use of water shall give notice thereof in writing to the City who shall then cause the water to be turned off and the meter removed. A service charge of Twenty-five Dollars (\$25.00) shall be made to shut off and reconnect the service. Water rents or charges for services shall be made until notice is given. When water service is discontinued, all water rentals for such service shall become due and payable. No service will be reconnected or turned back on until all past due fees and charges are paid in full. If for any reason, a meter is removed from a house temporarily because of an owner's absence or danger of the meter freezing, a charge of Twenty-five Dollars (\$25.00) shall be made to cover the cost of removing and reconnecting the meter.

#### **6-3-19 WATER METERS.**

a. The City shall provide one (1) water meter per service line. All water meters furnished to the customers shall be metered. All meters shall be set and installed by a public works employee or a plumber licensed through the State of Iowa, at the owner's expense, at a suitable location in the piping system for same. Meters shall be placed on service pipe not to exceed two (2) feet from the location in the wall or floor where such pipe enters the premises.

In the event a meter larger than that required for a single-family residence is needed, the full cost of such larger meter shall be paid by the customer requesting or needing such larger meter. The cost of the meter shall be paid to the City, by the property owner or customer, prior to the installation of the meter.

b. The piping system shall be so constructed and the meters placed so that all water supplied by the City to be used in or about the premises shall pass through the water meter, and the owner of the premises shall be responsible for compliance with this provision of this Ordinance, and he or she shall be liable for the payment for water used in violation of this Ordinance. The first offense for violating this provision will be a fine of up to Five Hundred Dollars (\$500.00). For each subsequent offense, a civil penalty of up to Seven Hundred Fifty Dollars (\$750.00) shall be imposed. The amount of such water used shall be determined by the City, but in every case where City water is used in violation hereof, the water bill shall be increased not less than one and a half (1½) times the average monthly usage.

c. There shall be a stop and waste between the meter and the wall, and a suitable place provided for the meter so as to keep it safe and clean and readily accessible at all times to the meter reader and inspectors of the City. All valves and fittings necessary to comply

with these requirements and to provide connection to the meter, except a coupling or flange at each end of the meter, shall be provided by the owner of the premises to be served. In case that two or more meters are desired for measuring water to two different tenants in the same building from one service connection, they shall be so placed that neither of the meters shall measure water which has passed through another one.

d. Meter pits are to be kept in good repair by the property owner and must be approved by the city council. When, at such time, the city determines that the meter pit has deteriorated to a point where the meter is no longer protected from freezing or the collection of water or debris, the customer shall be given written notice to rehabilitate or replace the pit.

**6-3-20 UNNECESSARY WASTE.** The City reserves the right to prohibit the use of water for yard sprinklers or large consumers of water, when in the judgment of the City, the public welfare requires such action. The City shall adopt a resolution setting forth the basis for the moratorium and the length of time the moratorium will be in effect. Violation of the City prohibition will be a simple misdemeanor enforceable by municipal infraction or criminal citation.

#### **6-3-21 OWNERS TO PROTECT METERS.**

a. The owners or occupants of premises where a meter is installed shall be held responsible for its care and protection from freezing or hot water and from other injury or interference from any person or persons. In case of any injury to the meter, or in case of its stoppage or imperfect working, he or she shall give immediate notice to the City. In all cases where water meters are broken or damaged by negligence of owners or occupants of the premises, or by freezing, hot water, or other injuries except ordinary wear the necessary repairs to the meter shall be made by the City and the cost of such repairs shall be paid for by such owner or occupant, and in case payment thereof is neglected or refused, the cost of such repairs shall be added to the consumer's water bill and payment thereof enforced as provided for delinquent water bills. Damaged meters may be repaired by the City without first giving notice thereof to the owners of the premises where such meter is located.

b. No one shall in any way interfere with the proper registration of water meters, and no one except as authorized by the City shall break a seal of a meter, provided, however, that the City may grant written permission to approved plumbers in cases of emergency to break a water meter seal. The owner of the property may be charged a civil penalty of up to Five Hundred Dollars (\$500.00) for the first offense and up to a Seven Hundred Fifty Dollar (\$750.00) civil penalty for each subsequent violation of this section.

c. Wherever a water meter is installed on a water service in the premises that are to be remodeled, removed or destroyed, or where the service is discontinued so that the water meter is no longer needed, free access to such meter shall be provided at least twenty-four hours after such notice is given so that the meter may be removed. The owner of the premises shall be held responsible for the meter until such written notice is given. If the meter is covered or lost, he or she shall be required to pay to the City a sum equal to the fair, reasonable market value thereof. The replacement cost thereof is presumed to be its fair reasonable market value.

**6-3-22 OTHER SUPPLY THAN CITY WATER.** On premises where water is supplied from two (2) sources, the City water being one of them, the piping system of the City water must be entirely separated from that of the other source.

**6-3-23 INSPECTION OF METERS, PIPES AND FIXTURES.** The City shall be permitted at all reasonable hours to enter the premises or buildings of consumers for the purpose of reading meters and to examine the water pipes and fixtures and the manner in which water is used. The City reserves the right to set or remove a meter whenever it is deemed advisable to do so. Refusal on the part of the owner, consumer or occupant of any premises served with City water to permit an employee of the City to enter such premises at any reasonable hour for reading the water meter or inspecting water pipes and fixtures shall be sufficient cause to forthwith discontinue the water service at such premises.

**6-3-24 FIRE HYDRANTS NOT TO BE USED.** No person, save and except members of the Fire Department of the City of Breda, Iowa, or employees of the City acting in regular performance of their duties, shall open any hydrant belonging to the City at any time without a permit in writing signed by an authorized City Official.

**6-3-25 WATER WORKS PROPERTY.** It shall be unlawful to break, injure, mar, or deface, interfere with or disturb any building, machinery apparatus, fixtures attachments or appurtenance of the water works, or any hydrant, stop cock box, or commit any act tending to obstruct or impair the intended use of any of the above mentioned property, without permission of the City Council or excepting cases herein otherwise provided by Ordinance.

## **TITLE VI PHYSICAL ENVIRONMENT**

### **CHAPTER 4 UTILITIES - REFUSE COLLECTION**

- 6-4-1 Definitions
- 6-4-2 Duty to Provide Cans
- 6-4-3 Administration
- 6-4-4 Storage
- 6-4-5 Collections
- 6-4-6 Necessity of Permits
- 6-4-7 Burning of Refuse
- 6-4-8 Refuse Other Than Garbage
- 6-4-9 Sanitary Landfill
- 6-4-10 Anti-Scavenging

**6-4-1 DEFINITIONS.** For use in this chapter, the following terms are defined as follows:

1. “Refuse”. Includes all garbage, rubbish, ashes, or other substances offensive to sight or smell, dangerous to the public health, or detrimental to the best interests of the community except dead animals not killed for food.
2. “Garbage”. Includes all animal, fruit, vegetable, and other refuse resulting from the preparation of food and drink.
3. “Rubbish”. Includes all other refuse not falling within the term “garbage” except those objects too large to be placed in cans.
4. “Can”. Means a container for the storage of garbage or rubbish, which is:
  - a. Provided with a handle and tight-fitting cover.
  - b. Made of non-corrosive material.
  - c. Water tight.
  - d. With a capacity of no more than thirty-five (35) gallons.

**6-4-2 DUTY TO PROVIDE CANS.** Each person shall provide cans or approved containers for the storage of garbage and rubbish accumulating on the premises owned or occupied by such owner. Such cans or containers shall be kept covered and reasonably clean at all times. The cans or containers shall be in a position readily accessible to the collector.

It shall be the duty of the owner of each household residing in a building arranged for more than one family unit to provide proper cans for garbage and rubbish.

**6-4-3 ADMINISTRATION.** Administration of this chapter shall be by the City Clerk.

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

**6-4-4 STORAGE.** All garbage must be drained. All rubbish shall be placed in a can except as otherwise provided.

**6-4-5 COLLECTIONS.** All garbage and rubbish shall be taken from dwellings at least once each week and from public establishments as frequently as the City Council may require.

All cans for garbage and rubbish shall be kept as provided in the rules and regulations for collection of refuse.

**6-4-6 NECESSITY OF PERMIT.** No person shall collect garbage or rubbish except such person's unless otherwise by contract or permit approved by the city and issued by the Clerk.

In the event any business, firm, or corporation may elect to dispose of refuse or waste matter as may accumulate on any premises, property, or location, the same may be done provided that such disposal and transporting of any refuse or waste matter complies with the provisions of this chapter, is approved by the City, and a permit issued by the Clerk.

**6-4-7 BURNING OF REFUSE.**

1. It shall be unlawful for any person to burn or incinerate any garbage, rubbish, or refuse within the City except by permission of the City Council.

2. This section shall not apply to any incinerator operated under a license granted by the City or any burning conducted under the direction of the fire department for training purposes.

3. This section shall not apply to outdoor cooking appliances used for residential recreational purposes using commonly acceptable fuels.

**6-4-8 REFUSE OTHER THAN GARBAGE.** Each person shall dispose of all refuse other than garbage and rubbish accumulation on the premises such person owns or occupies before it becomes a nuisance. If it does become a nuisance, it shall be subject to provisions of Title III, Chapter 2 of this Code.

**6-4-9 SANITARY LANDFILL.** The City Council by resolution may designate a sanitary landfill and establish reasonable rules and regulations necessary to control its use by the public and make charge for the use thereof.

**6-4-10 ANTI-SCAVENGING.** It shall be a violation of this Code for any person to sort through, scavenge, or remove any garbage, waste, refuse, rubbish or recycling material that has been placed in a designated garbage or recycling container. Unauthorized collection, removal or scavenging of material placed in a garbage or recycling container shall be a violation of this Code and punishable as set forth in the Municipal Code.

## **TITLE VI PHYSICAL ENVIRONMENT**

### **CHAPTER 5 UTILITIES - BILLING CHARGES**

- 6-5-1 Utility Defined
- 6-5-2 Districts
- 6-5-3 Disposition of Fees and Charges
- 6-5-4 Billing, Penalty
- 6-5-5 Discontinuing Services, Fees
- 6-5-6 Residential Rental Property
- 6-5-7 Customer Guarantee Deposits
- 6-5-8 Water Rates
- 6-5-9 Refuse Collection Rates
- 6-5-10 Rate of Sewer Rent and Manner of Payment
- 6-5-11 Electric Rates
- 6-5-12 Determination and Payment of Sewer Rent from Premises with Private Water Systems
- 6-5-13 Lien for Nonpayment
- 6-5-14 Lien Notice

**6-5-1 UTILITY DEFINED.** For use in this chapter, utility is the sewer, water, and refuse collection systems operated by the City.

**6-5-2 DISTRICTS.** There shall be four districts which encompass all of the City of Breda, Iowa: water, sewer, electricity, and refuse.

**6-5-3 DISPOSITION OF FEES AND CHARGES.** All money received under this chapter shall be deposited in the City treasury not later than the last day of the month in which it was received and a written report of the amount and source of the fees and charges shall be on file with the City Clerk.

**6-5-4 BILLING, PENALTY.** Utility bills shall be due on the twentieth (20<sup>th</sup>) of the month following the period for which service is billed. Payment shall be made to the City Clerk. Bills shall become delinquent after the twentieth (20<sup>th</sup>) of the month in which due and bills paid after said day shall have added a penalty of ten (10) percent of the amount of the bill for utility service. When the twentieth (20<sup>th</sup>) falls on Saturday or Sunday, the City Clerk shall accept payment on the next office day without penalty.

(Code of Iowa, Sec. 384.84(1))

#### **6-5-5 DISCONTINUING SERVICE, FEES.**

1. If any account is not paid within twenty (20) days from the end of any given period, the service to such owner or person so supplied with the utility shall be discontinued after the following procedures have been complied with:

a. The City Clerk shall send a disconnect or discontinuance notice by ordinary mail providing the date on which service will be disconnected. Such date will be twelve (12) calendar days from the date of the notice.

b. On the twelfth (12) day, the city shall deliver by hand service a twenty-four (24) hour notice to disconnect and said notice shall be posted on the door of the property or handed to any resident in the home. At the time such notice is delivered a fee of twenty-five dollars (\$25.00) will be added to the delinquent bill. This charge will be referred to commonly as a “door tag fee.”

c. Each twenty-four hour notice will provide the following information to residents: “You are hereby notified that your account for utility series is delinquent and utility service will be disconnected unless the amount stated below is paid in full within 24 hours.

Balance due now: \$\_\_\_\_\_ Door tag fee \$25.00 Total due now \$\_\_\_\_\_

If the past due balance as indicated above is not paid in full within 24 hours, you will be required to pay the account current to the last billing, plus a \$25.00 reconnection fee per account before utilities will be reconnected. You have a right to a hearing before the Breda City Council on (insert next scheduled Council meeting.)”

d. When a hearing is requested by the customer, the Council shall conduct a hearing during the next regularly scheduled City Council meeting. The Customer shall have the right to present evidence or propose a payment plan. The decision of the Council is final.

2. a. If service is discontinued for nonpayment of fees and charges, or for the violation of any Ordinance, a fee of \$25.00 shall be paid to the City Clerk in addition to the rates or charges then due before such service is restored. If any such service charge is not paid within sixty (60) days from the date it is due, the same shall constitute a lien upon the premises served by said municipal system, which said lien shall be collected in the same manner as taxes.

b. If payment is tendered to the City Clerk or his or her authorized representative at the time of the turn-off trip, there shall be added a service fee of twenty-five dollars (\$25.00) between the hours of 7:00 a.m. and 3:30 p.m., Monday through Friday. A turn-off/on fee of twenty-five dollars (\$25.00) shall be charged at the time of turn-on when separate turn-off and turn-on trips are made necessary, between the hours of 7:00 a.m. and 3:30 p.m., Monday through Friday, before payment is rendered and service is to be restored to the delinquent customer. No turn-on fee or service fee shall be charged for the usual or customary trips resulting from the regular changes in occupancies of property, whether the meter is removed for the safety of the meter, or not removed. There will be a \$25.00 administrative charge for hand-delivered shutoff notices.

(Code of Iowa, Sec. 384.84(2))

3. A lien shall not be certified to the County Treasurer for collection unless thirty (30) days prior written notice by ordinary mail of the intent to certify a lien is given to the account holder of the delinquent account. If the account holder is a tenant, and if the owner or property

lessor of the property has made a written request for notice, the notice shall also be given to the owner.

(Code of Iowa, Sec. 384.84 (3))

4. If the property in which there are delinquent utilities owing is sold before the City certifies the lien to the County Treasurer, the City may certify the delinquent utilities against another property located in this state owned by the delinquent user.

(Code of Iowa, Sec. 384.84(3)(a)(3))

5. There will be no extension of water service after the current billing, unless an extension is preapproved due to extenuating circumstances. The City Clerk or the Clerk's authorized representative will determine whether to authorize an extension of time to pay, based on individual circumstances and the customer's payment history. Repeat violators will not be extended past the shutoff date at the discretion of the City.

6. Persons receiving service outside the City limits shall be deemed to have accepted the requirements of the water service and rules set by the City Council and its authorized representatives. Persons receiving water service outside the city limits shall be charged a rate of 1-1/2 times the rate charged to premises located within the corporate city limits of the City.

#### **6-5-6 RESIDENTIAL RENTAL PROPERTY.**

1. Residential rental property where a charge for any of the services of water, sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal is paid directly to the City by the tenant is exempt from a lien for delinquent rates or charges associated with such services if the landlord gives written notice to the City utility that the property is residential rental property and that the tenant is liable for the rates or charges.

2. A City utility may require a deposit not exceeding the usual cost of ninety (90) days of the services of water, sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal to be paid to the utility. Upon receipt, the utility or enterprise shall acknowledge the notice and deposit. A written notice shall contain the name of the tenant responsible for the charges, the address of the residential rental property that the tenant is to occupy, and the date that the occupancy begins.

3. A change in tenant shall require a new written notice to be given to the City utility within thirty (30) business days of the change in tenant. When the tenant moves from the rental property, the City utility shall return the deposit, within ten days, if the charges for the services of water, sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal are paid in full.

A change in the ownership of the residential rental property shall require written notice of such change to be given to the City utility within thirty (30) business days of the completion of the change of ownership. The lien exemption for rental property does not apply to charges for repairs related to a service of water, sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal if the repair charges become delinquent.

(Code of Iowa, Sec. 384.84(3)(d))  
(Code of Iowa, Sec. 384.84(3)(e))  
(Amended in 2012)

**6-5-7 CUSTOMER GUARANTEE DEPOSITS.** Customer deposits shall be required of all customers who are tenants, or others having no established credit record, and of those who have an unacceptable credit record or who have a prior record of failure to pay water bills rendered.

Such deposit shall be:

Water Service	\$50.00
Sewer Service	\$50.00
Refuse Collection	\$30.00
Electric Service	2x the average monthly electric bill calculated on the past 12 months of usage on the property

Deposits of customers having established acceptable credit records for one (1) year shall have their deposits returned. An occurrence or recurrence of a bad payment record may be the occasion for the City Clerk to require a new or larger deposit for the continuation of service.

(Code of Iowa, Sec. 384.84(1))

**6-5-8 WATER RATES.** Water shall be furnished at the following monthly rates per property serviced within the City limits:

(Code of Iowa, Sec. 384.84(1))

1. Metered Gallons- \$30.00 minimum plus charge per gallon
2. Landscape Meters- Customer must pay for the meter. No minimum meter fee and then pay for gallons used at the same rate of the main water meter.
3. All gallons- \$9.92 per 1000 gallons.

The minimum charge shall be billed per water connection per billing month.

**6-5-9 REFUSE COLLECTION RATES.** There shall be collected by the City for its services in collecting garbage and rubbish, the following mandatory fees:

1. Residence Rate. For each resident with alley or curb pickup, \$16.73 per month for one garbage or rubbish collection each week. In the event that alley or curb pickup for any residence is not feasible, the City Clerk is hereby empowered to enter into an agreement with such resident for any additional charge to be paid by such resident for any other location of pickup that may be agreed upon.
2. Commercial Rate. Rates for commercial establishments shall be established by the City Council.

(Code of Iowa, Sec. 384.84(1))

**6-5-10 RATE OF SEWER RENT AND MANNER OF PAYMENT.** The rate of sewer rent shall be based on water usage. The rent shall be paid with the water bill at the same time as payment of the water bill is due and under the same condition as to penalty for late payment, at the office of the City Clerk, beginning with the next payment after the enactment of this Ordinance, or, if connection has not been made, after the connection to the sewer system is made.

The minimum charge shall be \$27.50 per household or business building per billing month except for meters designated as landscape meters. All gallons will be \$5.40 per 1000 gallons.

(Code of Iowa, Sec. 384.84(1))

**6-5-11 ELECTRIC RATES.** Electricity shall be furnished at the following monthly rates.

Base fee per Residential Meter	\$25.00
First 100 kW	\$.217/kW
101-300 kW	\$.124/kW
301-500 kW	\$.106/kW
501 and over	\$.078/kW

Minimum Charge per Residential Meter      \$25.00

Base fee per Commercial Meter	\$40.00
0-1000 kW	\$.10/kW
1001 and over	\$.08/kW

Minimum Charge per Commercial Meter      \$40.00

**6-5-12 DETERMINATION AND PAYMENT OF SEWER RENT FROM PREMISES WITH PRIVATE WATER SYSTEMS.** Users whose premises have a private water system shall pay a sewer rent in proportion to the water used and determined by the City Council either by an estimate agreed to by the user or by metering the water system. The rates shall be the same as provided in Section 6-5-10 applied as if a City water bill were to be paid. Rent shall be paid at the same time and place as provided in Section 6-5-10.

(Code of Iowa, Sec. 384.84(1))

Footnote: See Code of Iowa, Sec. 384.38(3) concerning establishing districts and connection fees.

**6-5-13 LIEN FOR NONPAYMENT.** The owner of the premises served, and any lessee or tenant thereof, shall be jointly and severally liable for utility service charges to the premises. Water service charges remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

The city may require a deposit not exceeding the usual cost of ninety (90) days of water service to be paid to the City by a tenant. The landlord's written notice shall contain the name of the tenant

responsible for the charges, the address of the rental property, and the date of occupancy. A change in tenant shall require a new written notice to be given to the City within thirty (30) business days of the change in tenant. When the tenant moves from the rental property, the City shall refund the deposit to the tenant if the water service charges are paid in full. A change in the ownership of the residential rental property shall require written notice of such change to be given to the City within ten (10) business days of the completion of the change of ownership.

**6-5-14 LIEN NOTICE.** A lien for delinquent utility service charges shall not be certified to the County Treasurer unless prior written notice of intent to certify a lien is given to the customer in whose name the delinquent charges were incurred. If the customer is a tenant and if the owner or landlord of the property or premises has made a written request for notice, the notice shall also be given to the owner or landlord. The notice shall be sent to the appropriate persons by ordinary mail, not less than thirty (30) days prior to certification of the lien to the County Treasurer.

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 6 STREET CUTS AND EXCAVATIONS

- 6-6-1 Excavation Permit Required
- 6-6-2 Application for Permit
- 6-6-3 Insurance Required
- 6-6-4 Safety Measures
- 6-6-5 Backfilling and Restoration
- 6-6-6 Rules and Regulations
- 6-6-7 Driveway Culverts

**6-6-1 EXCAVATION PERMIT REQUIRED.** Excavating within the right-of-way of public streets and alleys, and of public grounds, and the cutting of surfacing or pavings of the traveled way therein, shall not be done by any person, firm, association, or corporation without obtaining a permit from the City Clerk.

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

**6-6-2 APPLICATION FOR PERMIT.** No person shall commence excavation in any public street or public ground until that person has applied to the City Clerk for an excavation permit. Such application shall indicate the location of the excavation, the name and address of the applicant who is to do the work, whether public liability insurance is in force, and that the applicant has checked the underground map of all utilities, and other owners of underground facilities, and that the applicant has notified those persons or companies of the time that excavation will commence. The making of an application shall be deemed notice to the City of the plan to cut the street surfacing or pavements, and to obstruct the public way. Such permits shall not be valid until six hours after receipt unless the Clerk waives this requirement.

In an emergency, authorized persons or companies may commence excavations provided that they shall have made a reasonable effort to inform the City and the utilities whose underground utilities might be involved in any way, and those involved in the excavation shall make written application at the earliest practicable moment. The Clerk may provide on the form for the certification that the applicant has notified all utilities and other parties required by this Ordinance.

**6-6-3 INSURANCE REQUIRED.** Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:

1. Bodily Injury-\$50,000.00 per person; \$100,000.00 per accident
2. Property Damage-\$50,000.00 per accident

**6-6-4 SAFETY MEASURES.** Any person, firm, or corporation cutting a pavement or surfacing or excavating in the streets shall erect suitable barricades, maintain warning lights from sunset to sunrise each night, and take such other precautions as necessary for the safety of the public, whether vehicles or pedestrians. Vehicles, equipment, materials, excavated material, and similar

items shall likewise be protected by lights and warning devices, such as traffic cones, flags, etc. Where traffic conditions warrant, the party excavating may be required to provide flagmen, if in the judgment of the public works employees if the public safety requires it. Compliance with City Ordinances and regulations shall not be deemed to waive the requirements that the party excavating shall comply with all the requirements of the labor safety laws and the rules of the Iowa Department of Labor, nor shall any failure be deemed a responsibility of the City.

**6-6-5 BACKFILLING AND RESTORATION.** Any person excavating in the streets shall be responsible for the backfilling of the excavation in accordance with City specifications and the restoration of the pavement or surfacing to as good a condition as that existing prior to the excavation. If any excavator fails to backfill or restore the pavement or surfacing properly within forty-eight hours of the completion of the underground work, the City reserves the right to backfill and resurface or install new paving and charge the cost thereof to the party excavating. If any backfilling or pavement or surfacing restoration is not in accordance with the City specifications, the City is authorized to remove such material as is necessary and to backfill and restore the pavement or surfacing properly.

**6-6-6 RULES AND REGULATIONS.** The City Council may by resolution establish such rules and regulations for the manner of making cuts and related matters involving excavations.

**6-6-7 DRIVEWAY CULVERTS.** The property owner shall, at the owner's expense, install any culvert deemed necessary under any driveway or any other access to the owner's property, and before installing a culvert, permission must first be obtained from the City. In the event repairs are needed at any time with respect to culverts, it shall be the responsibility of the property owner to make such repairs, and, in the event the owner fails to do so, the City shall have the right to make the repairs. If the property owner fails to reimburse the City for the cost of said repairs, the cost shall be certified to the County Treasurer and specially assessed against the property as by law provided.

**TITLE VI PHYSICAL ENVIRONMENT**  
**CHAPTER 7 SIDEWALK REGULATIONS**

- 6-7-1 Purpose
- 6-7-2 Definitions
- 6-7-3 Cleaning Snow, Ice, and Accumulations
- 6-7-4 Maintenance Responsibility
- 6-7-5 Liability of Abutting Owner
- 6-7-6 Ordering Sidewalk Improvements
- 6-7-7 Repairing Defective Sidewalks
- 6-7-8 Notice of Inability to Repair or Barricade
- 6-7-9 Standard Sidewalk Specifications
- 6-7-10 Permits for Construction or Removal
- 6-7-11 Failure to Obtain Permit; Remedies
- 6-7-12 Inspection and Approval
- 6-7-13 Barricades and Warning Lights
- 6-7-14 Interference with Sidewalk Improvements
- 6-7-15 Special Assessments for Construction and Repair
- 6-7-16 Notice of Assessment for Repair or Cleaning Costs
- 6-7-17 Hearing and Assessment
- 6-7-18 Billing and Certifying to County
- 6-7-19 ADAAG Compliance

**6-7-1 PURPOSE.** The purpose of this chapter is to improve and maintain sidewalks in a safe condition, to require owners of abutting property to maintain, repair, replace, construct or reconstruct sidewalks.

**6-7-2 DEFINITIONS.** As used in this chapter, the following terms have these meanings:

1. Defective Sidewalk. Any public sidewalk exhibiting one or more of the following characteristics:
  - a. vertical separations equal to three-fourths (3/4) inch or more.
  - b. horizontal separations equal to three-fourths (3/4) inch or more.
  - c. holes or depressions equal to three-fourths (3/4) inch or more and at least four (4) inches in diameter.
  - d. spalling over fifty (50) percent of the surface of a single square of the sidewalk with one or more depressions equal to one-half (1/2) inch or more.
  - e. spalling over less than fifty (50) percent of a single square of the sidewalk with one or more depressions equal to three-fourths (3/4) inch or more.

f. a single square of sidewalk cracked in such a manner that no part thereof has a piece greater than one square foot.

g. a sidewalk with any part thereof missing to the full depth.

h. a change from design or construction grade equal to or greater than three-fourths (3/4) inch per foot.

2. Sidewalk Improvements. The construction, reconstruction, repair, replacement, or removal of a public sidewalk or the excavating, filling, or depositing of material in the public right-of-way in connection therewith.

3. Owner. The person owning the fee title or the contract purchaser for purposes of notification required herein. For all other purposes, “owner” shall include the lessee, or person in possession.

**6-7-3 CLEANING SNOW, ICE, AND ACCUMULATIONS.** It shall be the duty of the owner to keep sidewalks abutting the owner’s property clear of the natural accumulations of snow or ice. If the owner fails to do so within twenty-four (24) hours after deposit of accumulation, the Mayor may have the natural accumulations of snow or ice removed without notice to the property owner. The Mayor shall give the Council an itemized and verified statement of the removal costs and a legal description of the property at the next regular Council meeting. The costs shall be reviewed by the Council, and if found correct, shall be assessed against the property as taxes. The City Clerk shall be directed to certify the costs to the County Treasurer for collection as provided in Section 364.12 of the Code of Iowa.

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

**6-7-4 MAINTENANCE RESPONSIBILITY.** In addition to the abutting property owner’s duty to remove snow and ice as described in the prior section, upon order and notice as provided in Sections 6-8-6 and 6-8-7, the abutting property owner or owners shall be responsible for the repair, replacement, or reconstruction of all broken or defective sidewalks to a safe condition and to maintain in a safe condition all sidewalks in the abutting street right-of-way, except that the abutting owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right-of-way.

(Code of Iowa, Sec. 364.12(2c); *Splittgerber v. Bankers Trust CO.*, 8N.W.3d 135 (Iowa 2024))

**6-7-5 LIABILITY OF ABUTTING OWNER.** As provided in Section 364.14, Code of Iowa, in the event the owner of property abutting any public sidewalk fails or refuses to perform any act required of them by this Ordinance and in the event an action is brought against the City for personal injuries alleged to have been caused by a defect in, or the condition of said sidewalk based on either the failure of the abutting owner to properly repair, replace, reconstruct, or otherwise maintain said sidewalk after being properly ordered and notified to do so, or the failure of the abutting owner to remove snow and ice regardless of notice from the City to do so, the City may notify in writing the said abutting owner that it claims the injury was caused by their said negligence. The notice shall state the pendency of the action, the name of the plaintiff, the name and location of the court where the action is pending, a brief statement of the alleged facts from

which the cause arose, that the City believes that the person notified is liable to it for any judgment rendered against the City, and asking the person to appear and defend.

A judgment obtained in the suit is conclusive in any action by the City against any person so notified, as to the existence of the defect or condition or other cause of the injury or damage, as to the liability of the City to the plaintiff in the first named action, and as to the amount of the damage or injury. The City may maintain an action against the person notified to recover the amount of the judgment together with all the expenses incurred by the City in the suit.

(Code of Iowa, Sec. 364.14, *Splittgerber v. Bankers Trust Co.*, 8N.W.3d 135 (Iowa 2024))

**6-7-6 ORDERING SIDEWALK IMPROVEMENTS.** The City Council may order the construction, reconstruction, repair, or replacement of permanent sidewalks upon any street or court. Notice of this order shall be sent to the owner by certified mail. The notice shall include the fact that the owner may request a hearing by the Council within fifteen (15) days of receipt of the notice.

**6-7-7 REPAIRING DEFECTIVE SIDEWALKS.** It shall be the duty of the abutting property owner at any time, or upon receipt of thirty (30) days' notice from the City, to repair, replace, or reconstruct all broken or defective sidewalks in the abutting street right-of-way. If, after the expiration of the thirty (30) days as provided in the notice, the required work has not been done or is not in the process of completion, the Mayor shall order the work to proceed to repair, replace, or reconstruct the sidewalk. Upon completion of the work, the Mayor shall submit to the Council an itemized and verified statement of expenditures for material and labor, and the legal description of the property abutting the sidewalk on which work has been performed. These costs shall be assessed to the property as taxes. The City Clerk shall be directed to certify the costs to the County Treasurer for collection as provided in Section 364.12 of the Code of Iowa.

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

**6-7-8 NOTICE OF INABILITY TO REPAIR OR BARRICADE.** It shall be the duty of the owner of the property abutting the sidewalk, or of the contractor or agent of the owner, to notify the City immediately in the event the owner is unable to make necessary sidewalk improvements or to install or erect warnings and barricades as required by this chapter.

**6-7-9 STANDARD SIDEWALK SPECIFICATIONS.** Sidewalks constructed, repaired, or replaced under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Portland cement concrete shall be the only material used in the construction and repair of sidewalks unless otherwise authorized by the City Council.
2. Sidewalks shall be on one-course construction.
3. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a four (4) inch sub-base of compact, clean, coarse gravel, sand, or cinders shall be laid. The adequacy of the soil drainage is to be determined by the public works employees.

4. The sidewalk bed shall be graded to the established grade.
5. Residential sidewalks shall be at least four (4) feet wide, or match existing sidewalks, and four (4) inches thick, and each section shall be no more than four (4) feet in length. In the central business district, sidewalks shall extend from the property line to the curb unless the Council shall establish a different distance due to the circumstances. Each section shall be four (4) inches thick and no more than six (6) feet in length and width. All driveway areas shall not be less than six (6) inches in thickness.
6. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) on the property line, unless the Council shall establish a different distance due to the circumstances.
7. All elevations of sidewalks are to be established by the City Council with assistance from the public works employees on a case-by-case basis.
8. All sidewalks shall slope at least one-quarter (1/4) inch per foot toward the curb, but in no event more than one-half (1/2) inch per foot toward the curb.
9. All sidewalks shall have a steel trowel finish followed by a “broom” or a “wood float” finish.
10. Ramps for the disabled. There shall not be less than two (2) curb cuts or ramps per lineal block which shall be located on or near the crosswalks at intersections. Each curb cut or ramp shall be at least thirty (30) inches wide, shall be sloped at not greater than one inch of rise per twelve (12) inches lineal distance, except that a slope no greater than one inch of rise per eight (8) inches lineal distance may be used where necessary, shall have a nonskid surface, and shall otherwise be so constructed as to allow reasonable access to the crosswalk for physically disabled persons using the sidewalk.

(Code of Iowa, Sec. 216C.9)

11. All sidewalk improvements on public property, whether performed by the owner of the abutting property or by the City, shall be performed under the supervision and inspection of the City public works employees and in accordance with the standard sidewalk specifications set forth in this chapter.

**6-7-10 PERMITS FOR CONSTRUCTION OR REMOVAL.** No person shall make any sidewalk improvements unless such person shall obtain a permit from the City Clerk. The permit shall state that the person will comply with the Ordinances of the City and with the specifications for sidewalks adopted by the City. The permit also shall state that the work will be done under the direction and approval of the City public works employees. All such permits shall be issued without charge and a copy thereof, with the application, shall be filed and preserved in the office of the City Clerk. The permit shall state when the work is to be commenced and when the work is to be completed. The time of completion for the sidewalk improvements may be extended by the City Council. All permits for sidewalk improvements not ordered by resolution of the City Council shall be issued in compliance with this chapter. The City Council may withhold the issuance of any permit for any sidewalk improvements for a sufficient period to determine the

necessity for the proposed improvements or when weather conditions will adversely affect the sidewalk improvements.

**6-7-11 FAILURE TO OBTAIN PERMIT; REMEDIES.** Whenever any sidewalk improvements are made that do not conform to the provisions of this chapter and with the specifications, or when any sidewalk improvements are made without a permit, the Mayor shall serve notice to obtain a permit upon the property owner and upon the contractor doing the work. If the sidewalk is in the course of construction, the notice shall order the work to stop until a permit is obtained and the work is corrected to comply with the specifications. If the sidewalk work has been completed, the owner shall obtain a permit immediately and perform any needed corrections within five (5) days from receipt of the permit. If the owner fails to comply with this notice, the Mayor shall have the work completed and the costs assessed to the property owner as provided in this chapter.

**6-7-12 INSPECTION AND APPROVAL.** Upon final completion, the public works employees shall inspect the work and may order corrections if the work does not meet specifications. When the work does meet all requirements of this chapter, the specifications, and the permit, the public works employees shall indicate this on both copies of the permit.

**6-7-13 BARRICADES AND WARNING LIGHTS.** Proper warning lights and barricades shall be placed to protect persons from materials, equipment, and dangerous conditions. Placement and maintenance of adequate warnings is the responsibility of the constructor, the owner, and the lessee of the property.

**6-7-14 INTERFERENCE WITH SIDEWALK IMPROVEMENTS.** No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while it is in the process of being improved, or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar, or deface any sidewalk at any time or destroy, mar, remove, or deface any notice or warning device provided by this chapter.

**6-7-15 SPECIAL ASSESSMENTS FOR CONSTRUCTION AND REPAIR.** The City Council may assess the cost of initial construction, improvements, and/or repair of sidewalks in the City according to the special assessment procedures established in Chapter 384, division IV, Code of Iowa.

(Code of Iowa, Sec. 384.38)

**6-7-16 NOTICE OF ASSESSMENT FOR REPAIR OR CLEANING COSTS.** When the Mayor submits a bill for sidewalk improvements or for removal of accumulations as provided in this chapter, the City Clerk shall send a notice of such facts to the owner of the abutting property. The notice may be given either by personal service or by certified mail to the last known address of the owner. The notice shall contain a statement of the work performed, the cost of the work that is being assessed, a description of the property affected, and the fact that the person may pay the amount assessed within thirty (30) days without interest or penalty. The notice also shall indicate that the person may object to such assessment and given the place and time at which

Council will hear such objections. The time set for hearing shall be at least fifteen (15) days after the service or mailing of the notice.

(Code of Iowa, Sec. 384.50)

**6-7-17 HEARING AND ASSESSMENT.** At the time and place designed in the Notice, the Council shall consider all objections to the assessment, correct all errors or omissions, and adopt a corrected list as the amounts to be assessed against the property.

(Code of Iowa, Sec. 384.51)

**6-7-18 BILLING AND CERTIFYING TO COUNTY.** Thirty (30) days after the Council's decision, the City Clerk shall certify any unpaid amounts to the County Treasurer. The unpaid assessments shall constitute a lien against the property and shall be collected by the County Treasurer in the same manner as other taxes. Any assessment that exceeds \$100 may be paid in installments as set by Council, not exceeding ten (10), in the same manner and at the same interest rates as for special assessments under Chapter 384, division IV, Code of Iowa. No interest shall be charged for assessments, or parts thereof, paid within thirty (30) days of the time the Council determined the final amounts.

(Code of Iowa, Sec. 384.60)

**6-7-19 ADAAG COMPLIANCE.** All construction, repair, and maintenance of sidewalks shall comply with Americans with Disabilities Guidelines (ADAAG).

## **TITLE VI PHYSICAL ENVIRONMENT**

### **CHAPTER 8 VACATION AND DISPOSAL OF STREETS**

- 6-8-1 Power to Vacate
- 6-8-2 Planning and Zoning Commission
- 6-8-3 Notice of Vacation Hearing
- 6-8-4 Findings Required
- 6-8-5 Disposal of Vacated Streets or Alleys
- 6-8-6 Disposal of Gift Limited

**6-8-1 POWER TO VACATE.** When, in the judgement of the Council, it would be in the best interest of the City to vacate a street or alley or portion thereof, the Council may do so by ordinance in accordance with the provisions of this chapter.

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

**6-8-2 PLANNING AND ZONING COMMISSION.** Any proposal to vacate a street or alley 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)

**6-8-3 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.

**6-8-4 FINDINGS REQUIRED.** No street or alley, or portion thereof, shall be vacated unless the Council finds that:

1. Public Use. The street or alley 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.

(Code of Iowa, Sec. 364.15)

**6-8-5 DISPOSAL OF VACATED STREETS OR ALLEYS.** When in the judgement of the Council it would be in the best interest of the City to dispose of a vacated street or alley, or portion thereof, the Council may do so in accordance with the provisions of Section 364.7, Code of Iowa.

**6-8-6 DISPOSAL BY GIFT LIMITED.** The City may not dispose of a vacated street or alley, or portion thereof, by gift except to a governmental body for a public purpose.

(Code of Iowa, Sec. 364.7(3))

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 9 STREET GRADES

6-9-1 Established Grades

6-9-2 Record Maintained

**6-9-1 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.

**6-9-2 RECORD MAINTAINED.** The Clerk shall maintain a record of all established grades and furnish information concerning such grades upon request.

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:

1. Ordinance No. 43, March 7, 1934.

## **TITLE VI PHYSICAL ENVIRONMENT**

### **CHAPTER 10 RECREATIONAL VEHICLE/TRAVEL TRAILER RESIDENCE**

6-10-1 Definitions

6-10-2 Occupancy

#### **6-10-1 DEFINITIONS.**

1. A “recreational vehicle” is defined as:
  - a. A factory-built vehicular structure, not certified as a manufactured home;
  - b. Designed only for recreational use and not as a primary residence or for permanent occupancy;
  - c. Any vehicle which is self-propelled;
  - d. Built and certified in accordance with either the NFPA1192-15, standard for recreational vehicles, or ANSI A119.5-15, recreational park trailer standard.

**6-10-2 OCCUPANCY.** No recreational vehicle or travel trailer shall be used as a permanent residence or occupied for more than ten (10) days in any twelve (12) month period within the city.

## TITLE VII SPECIAL ORDINANCES

### CHAPTER 1 TELEPHONE FRANCHISE

- 7-1-1 Franchise Granted
- 7-1-2 Excavations
- 7-1-3 Regulatory Authority of City
- 7-1-4 Successors and Assigns
- 7-1-5 Location and Equipment
- 7-1-6 Use of Grantees Poles
- 7-1-7 Moving Buildings
- 7-1-8 Indemnification
- 7-1-9 Permit for Excavation
- 7-1-10 Telephones Furnished to City

**7-1-1 FRANCHISE GRANTED.** Permission and authority are hereby granted for the period of twenty-five (25) years from and after the acceptance of the franchise provided for in this chapter, to Breda Telephone Corp., its successors or assigns (hereinafter called the Grantee), it being expressly understood that said permission and authority are nonexclusive, to acquire, construct and maintain in the City, as the same now is or as may hereafter be extended, the necessary facilities for the receiving and transmitting of messages by telephone, using wires, cables, carrier, microwave and/or electronic and/or other methods for public and private use, and to sell and furnish telephone service to the City and its inhabitants, for all purposes, and to construct and maintain along, upon, across or under the streets, highways, avenues, alleys, bridges and public places, the necessary fixtures, apparatus and equipment for such purposes, which shall be located, arranged and maintained so as not to endanger persons or unnecessarily hinder or obstruct the free use of streets, alleys or private property. Wires and cables erected over streets, highways, avenues, alleys and other public traveled places shall have a clearance above the surface to safely permit ordinary travel and in no event shall said clearance be less than the clearance prescribed by the State Utilities Board or by any regulatory body of the State hereafter created by statute. Said lines shall be constructed in accordance with the specifications of the National Electric Safety Code, as issued by the United States Department of Commerce, Bureau of Standards, in force at the time of said construction, insofar as the same are applicable to the construction of telephone lines and systems.

**7-1-2 EXCAVATIONS.** Subject to the provisions of existing or subsequently enacted ordinances of the City, the Grantee may take up pavement or make excavations in the streets, alleys, avenues or other public places in the City, provided that the Grantee restores the same to as good condition as they were prior to the excavations.

**7-1-3 REGULATORY AUTHORITY OF CITY.** The franchise shall not restrict in any manner the right of the Council or other governing body of the City in the exercise of any regulatory authority which may now or hereafter be authorized or permitted by the laws of the State.

**7-1-4 SUCCESSORS AND ASSIGNS.** All of the provisions of this chapter shall apply to the successors and assigns of the Grantee, with the same force and effect as they do to the Grantee itself.

**7-1-5 LOCATION OF EQUIPMENT.** The location of all poles, wires, cables and other fixtures shall be under the supervision of the Street Committee of the Council. The Grantee shall prepare and keep current a map showing the location of all conduits and/or cables installed underground in, along, or across streets, alleys, highways and other public places within the limits of the City.

**7-1-6 USE OF GRANTEE'S POLES.** The Grantee shall allow the City to attach at any time to any of said poles of the Grantee the City fire alarm and/or Sheriff Deputy wires, including the necessary apparatus incident thereto, provided such attachment shall be made under the direction and supervision of the Grantee and made and maintained so as not to interfere with the Grantee's use of said poles.

**7-1-7 MOVING BUILDINGS.** The Grantee shall, on request of any person holding a building moving permit issued by the City, temporarily raise or lower its wires to permit their moving of buildings. The expense of such temporary removal, raising or lowering of wires shall be paid by the person requesting the same, and the Grantee shall have the authority to require such payment in advance. The Grantee shall be given no less than forty-eight ( 48) hours' advance notice to arrange for such temporary wire changes.

**7-1-8 INDEMNIFICATION.** It is expressly understood and agreed by and between the Grantee and the City that the Grantee shall save the City harmless from all loss sustained by the City on account of any suit, judgment, execution, claim or demand whatsoever, resulting from negligence on the part of the Grantee in the construction, operation or maintenance of its telephone system in the City. The City shall notify the Grantee's representative in the City within ten (10) days after the presentation of any claims or demands, either by suit or otherwise, made against the City on account of any negligence as aforesaid on the part of the Grantee.

**7-1-9 PERMIT FOR EXCAVATIONS.** Whenever necessary for any person to ditch, trench or excavate along or across any streets, alleys or highways in the City, within ten (10) feet of any of the conduit or cable buried by the Grantee in the streets, alleys or other public places of the City, said person shall, not less than twenty-four (24) hours before commencing such work, secure a permit from the Clerk and pay or give security for payment of any expense incurred by the Grantee by reason of said excavation. The Clerk shall notify the Grantee of any said proposed excavation not less than twenty-four (24) hours prior to commencing of work.

**7-1-10 TELEPHONES FURNISHED TO CITY.** The Grantee shall furnish and maintain, without charge to the City, not to exceed six (6) telephones for use in the performance of governmental services of the City, including the operation of a Municipal Electrical System; said telephones to be installed by the Grantee in locations selected by the City.

## TITLE VII SPECIAL ORDINANCES

### CHAPTER 2 WATER WELL PROTECTION

7-2-1 Separation Distances

7-2-2 Nonconforming Use

**7-2-1 SEPARATION DISTANCES.** No property owner within the city limits of the City of Breda, Iowa shall permit any use of their property which would violate the separation distances required to protect water wells as set forth in this section shall apply to all public water wells existing within the City except public water wells formerly abandoned for use by resolution of the Council.

No structure or facility of the following enumerated types shall be located within the distances hereinafter set forth, from a deep (Dakota Sandstone) public well within the City.

1. Well house floor drains - 5 feet;
2. Water treatment plant wastes- 50 feet;
3. Sanitary and industrial discharges - 200 feet;
4. Floor drains from pump house to surface:
  - A. None within 5 feet;
  - B. 5 to 10 feet - water main, materials enclosed in concrete permitted;
  - C. 10 to 25 feet- must be water main material;
  - D. 25 to 75 feet- must be watertight sewer pipe;
5. Floor drains to sewer, water plant wastes, storm or sanitary sewers or drains:
  - A. None permitted within 25 feet;
  - B. 25 to 75 feet, must be water main material;
  - C. 75 to 200 feet, must be watertight sewer pipe;
6. Force mains:
  - A. None permitted within 75 feet;
  - B. 75 to 200 feet, must be water main materials;
7. Land application of solid waste- 100 feet;
8. Irrigation of wastewater- 100 feet;
9. Concrete vaults and septic tanks - 100 feet;
10. Mechanical wastewater treatment plants- 200 feet;
11. Cesspools and earth pit privies - 200 feet;
12. Soil absorption fields- 200 feet;
13. Lagoons - 200 feet;

14. Chemicals:
  - A. Application to ground surface - 100 feet;
  - B. Above ground storage -100 feet;
  - C. On or underground storage- 200 feet;
15. Animal pasturage- 50 feet;
16. Animal enclosure- 100 feet;
17. Animal wastes:
  - A. Land application of solids - 100 feet;
  - B. Land application of liquid or slurry -100 feet;
  - C. Storage tank- 100 feet;
  - D. Solids stockpile- 200 feet;
  - E. Storage basin or lagoon - 200 feet;
18. Earthen silage storage trench or pit- 100 feet;
19. Basements, pits, sumps - 10 feet;
20. Flowing streams or other surface water bodies- 50 feet;
21. Cisterns- 50 feet;
22. Cemeteries - 200 feet;
23. Private wells - 200 feet;
24. Solid waste disposal sites - 200 feet.

Proscriptions as set forth in this section shall apply to all public water wells existing within the City except public water wells formerly abandoned for use by resolution of the Council.

**7-2-2 NONCONFORMING USES.** The use of structures or facilities existing as of October 1, 1990, may be continued even though such use may not conform with the regulations of this chapter. However, such structures or facilities may not be enlarged, extended, reconstructed or substituted subsequent to such date.