

CHAPTER 97: STREETS AND SIDEWALKS

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STREET USE AND MAINTENANCE

§ 97.001 REMOVAL OF WARNING DEVICES.

It is unlawful for a person to willfully remove, throw down, destroy or carry away from any street or alley any lamp, obstruction, guard or other article or things, or extinguish any lamp or other light, erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in the street or alley without the consent of the person in control thereof.

(Iowa Code § 716.1) (1999 Code, § 135.01) Penalty, see § 10.99

§ 97.002 OBSTRUCTING OR DEFACING.

It is unlawful for any person to obstruct, deface or injure any street or alley in any manner.

(Iowa Code § 716.1) (1999 Code, § 135.02) Penalty, see § 10.99

§ 97.003 PLACING DEBRIS ON.

It is unlawful for any person to throw or deposit on any street or alley any glass, glass bottle, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, leaves, grass or any other debris likely to be washed into the storm sewer and clog the storm sewer, or any substance likely to injure any person, animal or vehicle.

(Iowa Code § 321.369) (1999 Code, § 135.03) Penalty, see § 10.99

§ 97.004 PLAYING IN.

It is unlawful for any person to coast, sled or play games on streets or alleys, except in the areas blocked off by the city for those purposes.

(Iowa Code § 364.12(2)) (1999 Code, § 135.04) Penalty, see § 10.99

§ 97.005 TRAVELING ON BARRICADED STREET OR ALLEY.

It is unlawful for any person to travel or operate any vehicle on any street or alley temporarily closed by barricades, lights, signs or flares placed thereon by the authority or permission of any city official, police officer or member of the Fire Department.

(1999 Code, § 135.05) Penalty, see § 10.99

§ 97.006 USE FOR BUSINESS PURPOSES.

It is unlawful to park, store or place, temporarily or permanently, any machinery or junk or any other goods, wares and merchandise of any kind upon any street or alley for the purpose of storage, exhibition, sale or offering same for sale, without permission of the Council.

(1999 Code, § 135.06) Penalty, see § 10.99

§ 97.007 WASHING VEHICLES.

It is unlawful for any person to use any public sidewalk, street or alley for the purpose of washing or cleaning any automobile, truck equipment or any vehicle of any kind when the work is done for hire or as a business. This does not prevent any person from washing or cleaning his or her own vehicle or equipment when it is lawfully parked in the street or alley.

(1999 Code, § 135.07) Penalty, see § 10.99

§ 97.008 MAINTENANCE OF PARKING OR TERRACE.

It shall be the responsibility of the abutting property owner to maintain all property outside the lot and property lines and inside the curb lines upon the public streets, except that the abutting property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right-of-way. Maintenance includes timely mowing, trimming trees and shrubs and picking up litter.

(Iowa Code § 364.12(1)(c)) (1999 Code, § 135.08) Penalty, see § 10.99

§ 97.009 FAILURE TO MAINTAIN PARKING OR TERRACE.

If the abutting property owner does not perform an action required under the above section within a reasonable time, the city may perform the required action and assess the cost against the abutting property for collection in the same manner as a property tax.

(Iowa Code § 364.12(2)(e)) (1999 Code, § 135.09) Penalty, see § 10.99

§ 97.010 DUMPING OF SNOW.

It is unlawful for any person to throw, push or place or cause to be thrown, pushed or placed, any ice or snow from private property, sidewalks or driveways onto the traveled way of a street or alley so as to obstruct gutters, or impede the passage of vehicles upon the street or alley or to create a hazardous condition therein; except where, in the cleaning of large commercial drives in the business district it is absolutely necessary to move the snow onto the street or alley temporarily, the accumulation shall be removed promptly by the property owner or agent. Arrangements for the prompt removal of the accumulations shall be made prior to moving the snow.

(Iowa Code § 364.12(2)) (1999 Code, § 135.10) Penalty, see § 10.99

§ 97.011 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 the 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 the repairs, the cost shall be certified to the County Treasurer and specially assessed against the property as by law provided.

(1999 Code, § 135.11) Penalty, see § 10.99

SIDEWALK REGULATIONS

§ 97.025 PURPOSE.

The purpose of this subchapter is to enhance safe passage by citizens on sidewalks, to place the responsibility for the maintenance, repair, replacement or reconstruction of sidewalks upon the abutting property owner and to minimize the liability of the city.

(1999 Code, § 136.01)

§ 97.026 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BROOM FINISH. A sidewalk finish that is made by sweeping the sidewalk with an approved broom when it is hardening.

DEFECTIVE SIDEWALK. Any public sidewalk exhibiting one or more of the following characteristics:

- (1) Sidewalks with damage that could cause pedestrians to fall, or which prohibits safe pedestrian travel;
- (2) Sidewalks with damage that could impede the safe travel of wheelchair users or other disabled pedestrians;
- (3) Sidewalks with common defects, such as uneven cracks, settled slabs, or heaved sections;
- (4) Spalling over 50% of a single square of the sidewalk with one or more depressions equal to one-half inch or more;

- (5) Spalling over less than 50% of a single square of the sidewalk with one or more depressions equal to three-fourths inch or more;
- (6) A single square of sidewalk cracked in a manner that no part thereof has a piece greater than one square foot;
- (7) A sidewalk with any part thereof missing to the full depth; and
- (8) A change from the design or construction grade equal to or greater than three-fourths inch per foot.

ESTABLISHED GRADE. The grade established by the city for the particular area in which a sidewalk is to be constructed.

ONE-COURSE CONSTRUCTION. The full thickness of the concrete is placed at one time, using the same mixture throughout.

OWNER. The person owning the fee title to property abutting any sidewalk and includes any contract purchaser for purposes of notification required herein. For all other purposes, **OWNER** includes the lessee, if any.

PORTLAND CEMENT. Cement meeting the requirements of AASHTO M85, Type I.

SIDEWALK. All permanent public walks in business, residential or suburban areas.

SIDEWALK CAFÉ. A non-enclosed area, as defined in § 159.046(P)(1), located on a sidewalk, and consisting of patios or outdoor dining areas where food and/or alcoholic beverages from the associated establishment are consumed by patrons seated at tables within that area.

SIDEWALK IMPROVEMENTS. The construction, reconstruction, repair, replacement or removal, of a public sidewalk and/or the excavating, filling or depositing of material in the public right-of-way in connection therewith.

(1999 Code, § 136.02) (Ord. 2451, passed 5-24-2011; Ord. 2508, passed 6-24-2014)

§ 97.027 SIDEWALK SNOW REMOVAL RESPONSIBILITY.

(A) *Generally.* The abutting property owner is responsible for the removal of the natural accumulations of snow and ice from the sidewalks within a reasonable amount of time.

(B) *Business district sidewalks.*

(1) Sidewalks on the following streets are hereby defined as business district sidewalks:

- (a) Main Avenue between Harding and Third Streets;
- (b) North Second Street between Twenty-Third Avenue and Main Avenue;
- (c) Fourth Avenue South between First and Third Streets;
- (d) Fifth Avenue South between First and Fourth Streets;
- (e) Sixth Avenue South between First and Fourth Streets;
- (f) Seventh Avenue South between Second and Fourth Streets;
- (g) Eighth Avenue South between Second and Fourth Streets;
- (h) First Street between Fourth and Seventh Avenues South;
- (i) Second Street between Third and Eighth Avenues South; and
- (j) Third Street between Fourth and Eighth Avenues South.

(2) In the event snow and/or ice remains on a business district sidewalk for more than 12 hours after the snow stops falling, or after ice forms, the city may remove the snow or ice from the sidewalk. The cost of the actual removal, plus a filing fee, will be assessed against the property for collection the same manner as a property tax.

(C) *Sidewalks other than business district sidewalks.* This division applies to all sidewalks not defined as business district sidewalks in division (B) above. In the event snow and/or ice remains on the sidewalk for more than 48 hours after the snow stops

falling, or after ice forms, the city may remove the snow or ice from the sidewalk. The costs of actual removal, plus a filing fee, will be assessed against the property for collection in the same manner as a property tax.

(1999 Code, § 136.03) (Ord. 2399, passed 2-24-2009) Penalty, see § 10.99

§ 97.028 RESPONSIBILITY FOR MAINTENANCE.

It is the responsibility of the abutting property owners to repair, replace or reconstruct, or cause to be repaired, replaced or reconstructed, all broken or defective sidewalks and to maintain in a safe and hazard-free condition any sidewalk outside the lot and property lines and inside the curb lines or traveled portion of the public street. The owner of any lot or parcel who fails to maintain the sidewalk shall be liable to any person injured as a result of the failure to maintain the sidewalk and shall further save, defend, indemnify and hold harmless the city from and against any claim arising out of the failure to maintain the sidewalk.

(Iowa Code § 364.12(2)(c)) (1999 Code, § 136.04) Penalty, see § 10.99

§ 97.029 CITY MAY ORDER REPAIRS.

If the abutting property owner does not maintain sidewalks as required, the Council may serve notice on the owner, by certified mail, requiring the owner to repair, replace or reconstruct sidewalks within a reasonable time and if the action is not completed within the time stated in the notice, the Council may require the work to be done and assess the costs against the abutting property for collection in the same manner as a property tax.

(Iowa Code §§ 364.12(2)(d), 364.12(2)(e)) (1999 Code, § 136.05) Penalty, see § 10.99

§ 97.030 SIDEWALK CONSTRUCTION ORDERED.

The Council may order the construction of permanent sidewalks upon any street or court in the city and may specially assess the cost of the improvement to abutting property owners in accordance with the provisions of the Iowa Code Chapter 384.

(Iowa Code § 384.38) (1999 Code, § 136.06) Penalty, see § 10.99

§ 97.031 SIDEWALK STANDARDS.

Sidewalks repaired, replaced or constructed under the provisions of this chapter shall be of the following construction and meet the following standards.

- (A) *Cement.* Portland cement concrete shall be the only cement used in the construction and repair of sidewalks.
- (B) *Construction.* Sidewalks shall be of one-course construction, using State Department of Transportation Class C portland cement concrete.
- (C) *Sidewalk base.* Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a four-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 city.
- (D) *Sidewalk bed.* The sidewalk bed shall be so graded that the constructed sidewalk will be at established grade.
- (E) *Length, width and depth.* Length, width and depth requirements are as follows:
 - (1) Residential sidewalks shall be at least four feet wide and four inches thick, and each section shall be no more than four feet in length;
 - (2) Business district sidewalks shall extend from the property line to the curb. Each section shall be four inches thick and no more than six feet in length and width unless the City Engineer so directs; and
 - (3) Driveway areas shall be not less than six inches in thickness.

(F) *Grade.* The City Engineer shall establish the sidewalk grade.

(G) *Elevations.* The street edge of a sidewalk shall be at an elevation even with the curb at the curb or not less than one-half inch above the curb for each foot between the curb and the sidewalk.

(H) *Slope.* All sidewalks shall have a maximum slope of 2% towards the curb.

(I) *Finish.* All sidewalks shall be finished with a broom finish. All walks must be true to grade.

(J) *Ramps for persons with disabilities.* There shall be not less than two 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 48 inches wide, shall be sloped at not greater than one inch of rise per 12 inches lineal distance, with a maximum cross slope of 2%. Each curb ramp shall include installation of detectable warning panels with truncated domes. All curb ramp installations should comply with the Iowa SUDAS Standard Specifications, Division 7, Section 7030.

(Iowa Code § 216C.9) (1999 Code, § 136.07) (Ord. 2451, passed 5-24-2011) Penalty, see § 10.99

§ 97.032 BARRICADES AND WARNING LIGHTS.

Whenever any material of any kind is deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it shall be the duty of all persons having an interest therein, either as the contractor or the owner, agent or lessee of the property in front of or along which the material may be deposited, or a dangerous condition exists, to put in conspicuous places at each end of the sidewalk and at each end of any pile of material deposited in the street, a sufficient number of approved warning lights, and to keep them lighted during the entire night and to erect sufficient barricades both at night and in the daytime to secure the same. The party or parties using the street for any of the purposes specified in this subchapter shall be liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties or their agents or employees or for any misuse of the privileges conferred by this subchapter or of any failure to comply with provisions hereof.

(1999 Code, § 136.08) Penalty, see § 10.99

§ 97.033 FAILURE TO REPAIR OR BARRICADE.

It is the duty of the owner of the property abutting the sidewalk, or the owner's contractor or agent, to notify the city immediately in the event of failure or inability to make necessary sidewalk improvements or to install or erect necessary barricades as required by this subchapter.

(1999 Code, § 136.09) Penalty, see § 10.99

§ 97.034 INTERFERENCE WITH SIDEWALK IMPROVEMENTS.

No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while in the process of being improved or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar or deface any sidewalk at any time or destroy, mar, remove or deface any notice provided by this subchapter.

(1999 Code, § 136.10) Penalty, see § 10.99

§ 97.035 ENCROACHING STEPS.

It is unlawful for a person to erect or maintain any stairs or steps to any building upon any part of any sidewalk without permission by resolution of the Council.

(1999 Code, § 136.11) Penalty, see § 10.99

§ 97.036 OPENINGS AND ENCLOSURES.

It is unlawful for a person to:

(A) *Stairs and railings.* Construct or build a stairway or passageway to any cellar or basement by occupying any part of the sidewalk, or to enclose any portion of a sidewalk with a railing without permission by resolution of the Council, unless authorized with respect to a sidewalk café pursuant to § 97.042;

(B) *Openings.* Keep open any cellar door, grating or cover to any vault on any sidewalk except while in actual use with adequate guards to protect the public; and/or

(C) *Protect openings.* Neglect to properly protect or barricade all openings on or within six feet of any sidewalk.

(1999 Code, § 136.12) (Ord. 2508, passed 6-24-2014) Penalty, see § 10.99

§ 97.037 FIRES OR FUEL ON SIDEWALKS.

It is unlawful for a person to make a fire of any kind on any sidewalk or to place or allow any fuel to remain upon any sidewalk.

(1999 Code, § 136.13) Penalty, see § 10.99

§ 97.038 DEFACING.

It is unlawful for a person to scatter or place any paste, paint or writing on any sidewalk.

(Iowa Code § 716.1) (1999 Code, § 136.14) Penalty, see § 10.99

§ 97.039 DEBRIS ON SIDEWALKS.

It is unlawful for a person to throw or deposit on any sidewalk any glass, nails, glass bottle, tacks, wire, cans, trash, garbage, rubbish, litter, offal or any other debris or any substance likely to injure any person, animal or vehicle.

(Iowa Code § 364.12(2)) (1999 Code, § 136.15) Penalty, see § 10.99

§ 97.040 MERCHANDISE DISPLAY.

It is unlawful for a person to place upon or above any sidewalk, any goods or merchandise for sale or for display in a manner as to interfere with the free and uninterrupted passage of pedestrians on the sidewalk; in no case shall more than three feet of the sidewalk next to the building be occupied for the purposes.

(1999 Code, § 136.16) Penalty, see § 10.99

§ 97.041 SALES STANDS.

It is unlawful for a person to erect or keep any vending machine or stand for the sale of fruit, vegetables or other substances or commodities on any sidewalk without first obtaining a written permit from the Council.

(1999 Code, § 136.17) Penalty, see § 10.99

§ 97.042 SIDEWALK CAFÉS.

(A) *Purpose.* The purpose of this section is to provide for the establishment, administration, and regulation of sidewalk cafés.

(B) *Leases and permits.*

(1) Sidewalk cafés may be authorized by lease or permit pursuant to the provisions of this § 97.042 .

(2) Sidewalk cafés authorized by lease or permit shall be permitted to operate upon public sidewalks located within the city's commercial zoning districts.

(3) The city shall retain ownership of all areas utilized for sidewalk cafés.

(4) Sidewalk café leases and permits shall expire one year following issuance unless renewed.

(5) All sidewalk cafés shall be adjacent to such building or storefront.

(6) All sidewalk cafés shall provide for safe and adequate pedestrian walkway in accordance with relevant laws and regulations and must further provide for adequate space for parking meters, if any, passage to and from parked vehicles, and ingress and egress to and from parked vehicles, all as more fully set forth in the Design Standards for sidewalk cafés adopted by resolution of the City Council.

(C) *Applications.*

(1) Fees for annual sidewalk café leases and permits shall be adopted and modified from time to time by resolution of the City Council. Such fees shall be sufficient to offset the costs of processing applications and to establish a fund to remove retainers and return sidewalks to their original condition in the event a sidewalk café is abandoned.

(2) Application materials and submittal requirements necessary to effectuate annual leases and permits for sidewalk cafés, in accordance with this § 97.042 , shall be prepared and supplied by city staff, and shall include, without limitation, lease and permit agreements (containing indemnity provisions), site plans, floor plans, retainer details, and insurance certificates (including dram shop insurance for leased sidewalk cafés serving alcohol beverages).

(3) *Leases.*

(a) Upon receipt of all required application materials and submissions for a new sidewalk café lease and completion and approval of any required fire and building inspections, the City Clerk, or the City Clerk's designee, shall provide property owners and/or tenants directly adjacent to the proposed sidewalk café no less than seven days' advance written notice of the date of the City Council meeting at which the Council will consider the application for approval.

(b) If the proposed sidewalk café is to be utilized as an outdoor service area adjacent to a bar, tavern, or other establishment whose sale of goods and services other than alcoholic beverages are less than 50% of gross sales, City Council shall consider the applicant's application for a new sidewalk café lease concurrently with the applicant's application for the proposed outdoor service area. City Council will not grant a sidewalk café license to any such establishment absent approval of an outdoor service area.

(c) Applications for the renewal of unexpired sidewalk café leases issued during the prior calendar year may be issued by city staff within five business days of receipt of a complete application.

(4) *Permits.*

(a) Sidewalk café permits may be issued by city staff within five business days of receipt of a complete application.

(b) Any applicant or adjacent property owner or tenant who feels aggrieved by a determination of city staff regarding the issuance or non-issuance of a sidewalk café permit may appeal that determination to City Council. Appeals must be made in writing within 30 days of the determination complained of, and shall clearly state the determination being appealed, and the nature of the appeal. The appeal shall be scheduled for hearing at the next available City Council meeting.

(D) *Permanent retainer.* All sidewalk cafés, not excluded pursuant to division (D)(5), below, shall be enclosed by a permanent retainer, as follows:

(1) The retainer must measure a minimum of 36 inches in height from finish floor surface or grade to the top of the retainer;

(2) A permanent retainer shall consist of a top rail with lower intermediate rails spaced so that a 12-inch sphere cannot pass through, or a fence consisting of a top rail with permanent fencing material, both of which shall be supported by columns or posts spaced no more than ten feet on center;

(3) Snow fence, field fence, chain link fence, chicken wire fence or plastic fence shall not be deemed permanent retainer material or suitable barriers for sidewalk cafés for purposes of this section;

(4) Notwithstanding divisions (D)(1) through (D)(3) of this section, densely planted shrubbery may be considered equivalent to

the intermediate rails or fencing, subject to approval of the building official; and

(5) Sidewalk cafés authorized pursuant to a permit may not require a permanent retainer, but only if the size of the café area will provide for no more than two dining tables, and those tables are as close to the storefront as physically possible and will not encroach the required pedestrian walkway when utilized to capacity.

(E) *Design standards.* All sidewalk cafés shall conform to the Design Standards for sidewalk cafés (including standards requiring an unimpeded pedestrian walkway) adopted by resolution of the City Council;

(F) *Hours of operation.* Hours of operation of sidewalk cafés shall be as follows:

(1) Except within the Main Avenue Overlay and the Central Business District Overlay areas, a sidewalk café may operate between the hours of 9:00 a.m. and 10:00 p.m.

(2) Within the Main Avenue Overlay and the Central Business District Overlay areas, a sidewalk café may operate between the hours of 9:00 a.m. and 11:00 p.m. Sunday through Thursday, and between the hours of 9:00 a.m. and 12:00 a.m. (midnight) Friday and Saturday.

(G) *Sidewalk cafés where alcoholic beverages are served.* No alcoholic beverages shall be served in any sidewalk café which is not authorized pursuant a lease and designated and licensed as an outdoor service area pursuant to § 159.046(P). All regulations generally applicable to outdoor service areas pursuant to § 159.046(P) shall be specifically applicable to sidewalk cafés so designated and licensed. In the event of a conflict between the provisions of § 159.046(P) and this § 97.042, the more restrictive provision shall control.

(H) *Miscellaneous provisions.*

(1) No amplified music or loudspeakers shall be used in connection with a sidewalk café in violation of the city's noise regulations.

(2) In compliance with the Iowa Smokefree Air Act of 2008, smoking shall be prohibited in any sidewalk café.

(3) No roof or roof covering over more than 50% of the total sidewalk café space shall be permitted. Individual table shade umbrellas are permitted provided they do not encroach upon the pedestrian walkway.

(4) Adequate toilet facilities must be available to accommodate added seating within a sidewalk café.

(5) Exits shall be provided in accordance with applicable laws and regulations.

(6) Lessees shall promptly remove snow and ice from their respective sidewalk cafés, and shall further promptly abate any additional snow and ice removal burden imposed upon neighboring properties by improvements constructed for the sidewalk café.

(7) No lessee or permittee shall operate a sidewalk café at any time without adequate supervision of patrons.

(I) *Penalty.* Any person violating any provision of this section, for which no other penalty is provided, shall be subject to temporary revocation of permit or lease until the infraction is determined corrected by inspection from designated city staff and/or subject to the penalty provisions of § 10.99.

(Ord. 2508, passed 6-24-2014)

VACATION AND DISPOSAL OF STREETS

§ 97.055 POWER TO VACATE.

When, in the judgment 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 subchapter.

(Iowa Code § 364.12(2)(a)) (1999 Code, § 137.01)

§ 97.056 PLAN COMMISSION.

Any proposal to vacate a street or alley shall be referred by the Council to the Plan Commission for its study and recommendation prior to further consideration by the Council. The Commission shall submit a written report including recommendations to the Council within 30 days after the date the proposed vacation is referred to the Commission.

(Iowa Code § 392.1) (1999 Code, § 137.02)

§ 97.057 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.

(1999 Code, § 137.03)

§ 97.058 FINDINGS REQUIRED.

No street or alley, or portion thereof, shall be vacated unless the Council finds that:

(A) *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; or

(B) *Abutting property.* The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

(Iowa Code § 364.15) (1999 Code, § 137.04) Penalty, see § 10.99

§ 97.059 DISPOSAL OF VACATED STREETS OR ALLEYS.

When in the judgment of the Council it would be in the best interest of the city to dispose of a vacated street or alley, or portion thereof, the Council may do so in accordance with the provisions of the Iowa Code § 364.7.

(Iowa Code § 364.7) (1999 Code, § 137.05)

§ 97.060 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.

(Iowa Code § 364.7(3)) (1999 Code, § 137.06)

Cross-reference:

Vacations, see Table of Special Ordinances, Table IV

STREET GRADES

§ 97.075 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.

(1999 Code, § 138.01)

§ 97.076 RECORD MAINTAINED.

The Clerk shall maintain a record of all established grades and furnish information concerning the grades upon request.

(1999 Code, § 138.02)

Cross-reference:

Street grades, see Tables of Special Ordinances, Table II

NAMING OF STREETS

§ 97.090 NAMING NEW STREETS.

New streets shall be assigned names in accordance with the following.

(A) *Extension of existing street.* Streets added to the city that are natural extensions of existing streets shall be assigned the name of the existing street.

(B) *Resolution.* All street names, except streets named as a part of a subdivision or platting procedure, shall be named by resolution.

(C) *Plan Commission.* Proposed street names shall be referred to the Plan Commission for review and recommendation.

(1999 Code, § 139.01)

§ 97.091 CHANGING NAME OF STREET.

The Council may, by resolution, change the name of a street.

(1999 Code, § 139.02)

§ 97.092 RECORDING STREET NAMES.

Following official action naming or changing the name of a street, the Clerk shall file a copy thereof with the County Recorder, County Auditor and City Assessor.

(Iowa Code § 354.26) (1999 Code, § 139.03)

§ 97.093 OFFICIAL STREET NAME MAP.

Streets within the city are named as shown on the official street name map which is hereby adopted by reference and declared to be a part of this subchapter. The official street name map shall be identified by the signature of the Mayor, and bearing the seal of the city under the following words:

This is to certify that this is the official street name map referred to in § 97.093 of the code of ordinances of Clinton, Iowa.

(1999 Code, § 139.04)

§ 97.094 REVISION OF STREET NAME MAP.

(A) If in accordance with the provisions of this chapter, changes are made in street names, the changes shall be entered on the official street name map promptly after the change has been approved by the Council with an entry on the official street name map as follows:

On (date), by official action of the City Council, the following changes were made in the official street name map: (brief description).

(B) The entry shall be signed by the Mayor and attested by the Clerk.

STREET EXCAVATIONS AND DRIVEWAY CURB CUTS

§ 97.105 PERMIT REQUIRED FOR EXCAVATION.

It is unlawful for any person except the Public Works Department of the city to make any opening in or to block or obstruct any public way or public place in the city without having first obtained a permit from the Public Works Department. Utilities operating under a franchise granted by the city are not required to obtain a permit in case of emergencies, but persons operating these utilities shall notify the Public Works Department of any street opening within two business days after the street opening.

(1999 Code, § 141.01) Penalty, see § 10.99

§ 97.106 CONDITIONS FOR ISSUANCE.

The Public Works Department shall not issue any permit for the blocking or closing of any public way or place for a longer period of time than 30 days without specific authorization from the Council. Before a permit is granted to make any excavation or opening in any public way or public place for any purpose, the Public Works Department may make an estimate of the cost of inspection, the cost of restoring the excavation or opening, the maintenance of the area, the cost of temporary surfacing and the restoration of the pavement or surface to a condition equal to or better than the type of surface removed, plus a sum as a margin for maintenance and contingent damages.

(1999 Code, § 141.02) Penalty, see § 10.99

§ 97.107 ANNUAL FEE.

The license fee shall be established by City Council resolution.

(1999 Code, § 141.03) (Ord. 2271, passed 11-11-2003)

§ 97.108 MINIMUM CASH DEPOSIT REQUIRED.

Any application for a permit for a street opening or excavation shall be accompanied by a cash deposit in the amount of \$500 for openings in public ways or places with improved surfaces or \$100 for public ways or places having unimproved surfaces. This amount is to be held by the city binding the holder of the permit until the time as the public way or place is restored to the satisfaction of the Public Works Department. In case the restoration work does not meet with the approval of the Public Works Department, the holder of the permit shall proceed at once to reconstruct the work, and if the work is not completed within 30 days, the cash deposit shall be forfeited to the city without further notice.

(1999 Code, § 141.04) Penalty, see § 10.99

§ 97.109 PERMIT ISSUED.

The application for the permit shall remain on file in the Public Works Department. The original of the permit shall be kept at the work site and exhibited to the Public Works Director or to any city officer asking for the same. Upon completion of the work, it shall be returned to the Public Works Department endorsed with the name of the permit holder performing the work and the time at which the work has been completed. The duplicate of the permit shall be retained by the applicant.

(1999 Code, § 141.05) Penalty, see § 10.99

§ 97.110 ADDITIONAL DEPOSIT MAY BE REQUIRED.

The deposit of a larger sum may be required if the estimated cost of the replacement as determined by the Public Works Department is greater than the minimum cash deposit. The deposit shall guarantee the cost of maintenance of the street surface in a condition suitable and safe for traffic, placing barricades and flashing lights when necessary, for the entire period of time from the date of the issuance of the permit up to the date of the release of the cash deposit. The Public Works Department shall file at the time of the release a statement of all costs, if any, incurred by the city by reason of the failure of the party holding the permit to comply with any of the regulations specified in this subchapter. The costs shall be deducted from the deposit made at the time of the issuance of the permit. In case the deposit is not sufficient to cover the charges, the Clerk shall render a statement to the holder of the permit of the amount due the city for additional costs and expenses. No further permits shall be issued to the party until the costs have been paid in full. The cash deposit shall in no way be construed to release the party holding the permit from penalties or liabilities for or on account of failure to provide for the public safety or for damage to sewers, utilities or other structures during the progress of the work.

(1999 Code, § 141.06) Penalty, see § 10.99

§ 97.111 APPROVAL REQUIRED.

All work done under the authority of a permit for an excavation shall be approved by the Public Works Department.

(1999 Code, § 141.07) Penalty, see § 10.99

§ 97.112 REFUNDS AND EXEMPTIONS.

After final inspection by the Public Works Department showing satisfactory completion of the work required, the workmanship guarantee deposit shall be refunded except for a \$50 inspection fee for openings in public ways and places with improved surfaces or \$25 for public ways and places with unimproved surfaces. Utilities operating under a municipal franchise are exempt from workmanship guarantee deposits; however, the required inspections shall be made for each excavation and itemized monthly statements shall be issued to each utility by the Public Works Department at the prescribed rate per each excavation. Multiple excavations within the same general area may be considered as one excavation for the purposes of inspection, as determined by the Public Works Department.

(1999 Code, § 141.08) Penalty, see § 10.99

§ 97.113 PROCEDURAL REGULATIONS.

Parties taking out permits for excavations or openings or blocking any portion of the streets, alleys or the public ways must comply with the following regulations.

(A) The area to be excavated or opened or blocked shall be properly barricaded, guarded and equipped with flashing lights. Barricades are to be constructed and equipped according to Part VI of the *Manual on Uniform Traffic Control Devices for Streets and Highways* as adopted by the Federal Highway Administrator as a national standard for application on all highways open to public travel in accordance with 23 U.S.C. §§ 109(b), 109(d) and 402(a) and any amendments or additions thereto. In addition, barricades shall bear the identification of the party responsible for the excavation. In the case of blocking a sidewalk, a suitable temporary sidewalk must be provided by the permit holder.

(B) On improved streets, the holder of the permit shall neatly saw cut the pavement, sidewalk or curb in a square or rectangular shape and to a width of 12 inches greater on all sides than the actual earth excavation, and shall remove all the excavated material and dispose of the same at a site designated by the city and to backfill the excavation with an approved soil. After thoroughly compacting the soil in eight-inch lifts, the permittee shall replace the permanent pavement to meet city specifications and shall barricade and protect the replaced pavement for the proper curing time.

(C) On unimproved streets, the work shall be done in all respects in the same manner as on improved streets. The top six inches of backfill shall consist of crushed stone, surfaced and stabilized with road oil or cutback asphalt or asphaltic concrete as directed.

(D) When a street opening is made between November 1 and April 1 of the next year, the permanent replacement of the pavement shall not be made until weather conditions permit the work to be done in a first-class workmanlike manner, unless other permission is granted by the Public Works Department.

(E) When the excavation is left over winter due to inclement weather, a temporary surface consisting of six inches of crushed

stone base and a two-inch cold mix compacted asphalt patch shall be placed over the excavation area. The temporary patch shall be maintained in a smooth and level condition by the permit holder until weather conditions permit the replacing with the permanent paving.

(F) As soon as weather conditions are suitable, the holder of the permit shall replace the pavement. The parties holding the permit must notify the Public Works Department at least 48 hours in advance of commencing the replacement work. The Public Works Department may then inspect the opening to determine that the backfill is properly settled and weather conditions are suitable for the replacement of the permanent pavement. The replacement shall not be done without approval by the Public Works Department of the personnel, equipment and materials which are to be used. The temporary surfacing shall then be removed and disposed of. The subgrade shall be recompacted and graded. The pavement shall then be replaced according to city specifications. The work shall then be protected from traffic and the elements by barricades and flashing lights until properly cured. Concrete pavement surfaces must be protected for a minimum of three days from drying or from frost action by placing earth or burlap or curing compound over the exposed surfaces. A final inspection shall be made by the Public Works Department upon completion.

(G) If, in the opinion of the Public Works Director, the permit holder does not have the equipment, materials or personnel to replace the permanent pavement in a proper workmanlike manner, the Public Works Director may order the permit holder to employ, at the permit holder's expense, approved persons who are properly equipped to make the necessary replacement of the pavement.

(H) Each portland cement concrete pavement patch shall be stamped with letters which will identify the utility responsible and shall be stamped with the date of the work. In the case of restored brick or asphaltic cement concrete pavements, each utility or contractor shall notify the Public Works Department of the location and date the work was done. For pavement restoration work done by those who are not utilities, the portland cement concrete patch must be stamped with the name of the contractor and dated. All portland cement concrete patches must be constructed with State Department of Transportation Class M portland cement concrete. Patches shall be opened to traffic within 48 hours after completion. Class M portland cement concrete shall also be used for bases under brick and asphaltic cement concrete patches.

(I) If within four years after the replacement, the pavement and/or subgrade should fail and cause a traffic hazard, it will be the responsibility of the person who constructed the same to recompact the subgrade and replace the pavement at the person's own expense.

(J) No person or his or her agent shall remove any stone or other mark made or set by the authority of the Public Works Department to designate any established corner, line or benchmark of the city. When it becomes necessary to have the same relocated for the purpose of opening any street or alley, a person shall request the Public Works Department to remove and replace the same. Upon receipt of the application, the Public Works Department shall remove and replace the stone, mark or other device as soon as practicable.

(1999 Code, § 141.09) Penalty, see § 10.99

§ 97.114 CURB AND DRIVEWAY CONSTRUCTION PERMITS.

The Public Works Department is authorized to grant permits for the cutting of curbs for the construction of driveways within the city.

(A) *Fee.* The permit fee shall be established by City Council resolution.

(B) *Inspections.* An inspection shall be made under the direction of the Public Works Department to determine and approve the location and width of the curb cut prior to the issuance of a permit. Another inspection shall be made after the work has been completed to approve workmanship and the location of the curb cut.

(C) *Width and location standards.* The width and location of curb cuts shall not exceed the current standards of the State Department of Transportation, unless approved by the Council.

(1999 Code, § 141.10) (Ord. 2271, passed 11-11-2003) Penalty, see § 10.99