

Agenda  
 City of Elk Run Heights  
 Workshop August 25, 2020 - 6:00 p.m.  
 Located at Eddis Winstead Council Chambers

1. Call to order
2. Pledge of Allegiance
3. Roll call
4. Approval of the August 25, 2020 Agenda
5. Council to consider the support of the Black Hawk County Face Covering Regulation
6. Review of City Ordinances:
  - a. New Construction: Paved Driveways
  - b. Parking in grass
  - c. Page 31 & 49-3, Cable TV Franchise 5.08 and Cable TV rates 5.16 – Does the City have a current cable franchise? This franchise is expired. I found a franchise listed on the State utilities board webpage.  
<https://iub.iowa.gov/regulated-industries/cable-or-video-service-franchises>

Iowa Utilities Board

Certificate No.	Company Name	Docket No.	Date Filed	Effective Date	Type of Filing	Service Area
C-0002	MCC Iowa LLC (Incumbent)	VCA-08-2	1/8/2019	1/13/2019	add community	Elk Run Heights

- Iowa Codification - We typically omit the cable franchise chapters because the state now issues the certificate for service. I just need the City to approve omitting the chapter. I copied what I found on the state page
  - d. Sample I - Page 75.7 – I included our updated Fireworks sections, if the City would like to use them. Let us know how you would like the section to read.

Heather Prendergast: To try and be clear, for the fireworks issue YOU will have to calendar that the council will need to pass a resolution every year (most councils do that in April) indicating what dates fireworks are okay in Elk Run. That is how that is done to give the council the flexibility of date changes from year to year.

- e. Page 49-1 – The surveillance chapter is a City process. Does the City want this chapter included or omitted? Notify us of any changes

Julie: THEY WOULD LIKE TO KEEP THIS CHAPTER BUT UPDATE IT

Iowa Codification - Notify me of any revisions. The ordinance is City policy and practice, so I do not have any recommendations for updates.

- f. Page 93 – Verify the Controlled-Access Information.
- g. Page - 100 – Does the City establish street names by resolution or ordinance?
- h. Who issues permission for street excavations? Council?
- i. Page 104 - The fee can be established by ordinance or resolution. If the City wants to pass rates by ordinance, is \$10 correct?
- j. Page 108 – It appears the telephone franchise expired in 2007. Is there a current one? If not, we will delete the telephone chapter.
- k. Sample L - Page 110 – Does the City maintain a list of recommended trees? If yes, we can add the list to this chapter.
- l. Page 111 – Does the City enforce the topping or dehorning trimming regulations?
- m. Page 113 - Does the City have lines that the park benches need to be kept within?
- n. Page 114 –Does the City have a 6-foot leash law? The impounding regulations will be integrated into Chapter 55.
- o. Page 137.3 Penalty – we state penalties in municipal infractions chapter.
- p. Does the City complete annual rate reviews by January 1? Should this be stated in the new code?
- q. Which City Officials can request a legal opinion from the City Attorney? Mayor, Council, Clerk, Department Heads?
- r. Does the City want to regulate peddlers? Does the City issue permits to or grant permission for peddlers to work in town?
- s. What hours are Peddlers allowed to sell door to door?

## 7. Adjournment

BLACK HAWK COUNTY IOWA  
FACE COVERING REGULATION

***-DRAFT-***

**Section I. Authority and Applicability**

- 1.01 Iowa Code 137.104 provides that, “a local board of health shall...make and enforce such reasonable rules and regulations not inconsistent with law and the rules of the state board as may be necessary for the protection and improvement of the public health.”
- 1.02 The novel coronavirus, SARS-CoV-2, also referred to as COVID-19, is a virus that primarily spreads from person to person and can result in serious illness, long-term negative health impacts or death.
- 1.03 The Black Hawk County Board of Health finds that COVID-19 poses a continuing and immediate threat to the public health of Black Hawk County, Iowa residents and visitors.

**Section II. Definitions**

- 2.01 “ADMINISTRATIVE AUTHORITY” means the local board of health as authorized by Iowa Code Chapter 137, or its appointed representative.
- 2.02 “THE BOARD” means the Black Hawk County Board of health.
- 2.03 “THE COUNTY” means Black Hawk County, Iowa.
- 2.04 “FACE COVERING” means a material that securely covers a person’s nose and mouth and remains affixed in place without the use of one’s hands, whether purchased or homemade, and consistent with the Center for Disease Control and Prevention guidelines.
- 2.05 “HOUSEHOLD MEMBER” means a person who lives a majority of time with the person in their apartment, house, mobile home, or other structure intended for residential occupancy.
- 2.06 “INDOOR PUBLIC SETTING” means an enclosed area to which the public is invited.

**Section III. General Regulations**

Therefore, pursuant to Iowa Code 137.104, be it hereby ordered and enforced by the Board as the Administrative Authority, as follows:

3.01 Every person in Black Hawk County shall wear a face covering when:

A. In public as opposed to being in ones place of residence, when one cannot stay six (6) feet away from others;

B. Inside of any indoor public settings, for example, but not limited to:

1. Grocery stores;
2. Pharmacies;
3. Hardware stores;
4. Retail stores;
5. Schools; and
6. Other public settings that are not ones place of residence and when you are with persons who do not live in the household;

C. Outside, if keeping six (6) feet away from others is not possible; or

D. Using public transportation or private car service (including taxis, ride share, or carpooling)

3.02 Place and Time Exemptions. Places and times where persons are exempt from wearing a face covering:

A. While traveling in a personal vehicle alone or with household members;

B. While a person is alone or in is in the presence of only household members;

C. While exercising at moderate or high intensity e.g. jogging or biking;

D. While seated at a bar or food establishment in the process of eating or drinking;

E. While obtaining a service that would require temporary removal of the persons face covering; and

F. When federal or state law prohibits wearing a face covering or requires the removal of the face covering

3.03 Persons Exempted. Persons who are exempt from wearing a face covering:

A. Persons younger than 2 years old due to the risk of suffocation;

B. Anyone who has trouble breathing, on oxygen therapy or ventilator;

C. Anyone who is unconscious, incapacitated, or otherwise unable to remove the face covering without assistance; and

D. Anyone who has been told by a medical, legal, or behavioral health professional not to wear face coverings.

3.04 Appropriate Use. If a cloth face covering is chosen, appropriate use of a cloth face covering includes:

A. A snug fit, but comfortable against the side of the face;

B. Completely covers the nose and mouth;

C. Is secured with ties or ear loops;

D. Includes multiple layers of fabric;

E. Allows for breathing without restriction; and

F. Can be laundered and machine dried without damage or change to shape.

#### **Section IV. Enforcement, Penalties and Implementation**

4.01 The following ordinance is not intended to be punitive or stigmatizing and is in the best interest of health, safety, and economic recovery. A violation shall constitute a simple misdemeanor.

4.02 The first offense shall be punishable by the minimum fine for a simple misdemeanor.

4.03 The second or subsequent offense shall be punishable by a fine up to the maximum fine for a simple misdemeanor.

4.05 This ordinance shall become effective upon approval of the Board of Supervisors and publication in the local paper of record as described in Iowa Code section 137.104(1)(b)(2).

4.06 This ordinance will expire when the Governor's proclamation of disaster emergency expires or when the Black Hawk County Board of Supervisors' declaration of public health disaster expires, whichever date is later.

Issued this \_\_\_\_ day of \_\_\_\_\_ 2020.

By:

\_\_\_\_\_  
Rev. Dr. Mary Robinson, Chair

Black Hawk County Board of Health

Attest: \_\_\_\_\_

## CHAPTER XXX

### DRIVEWAY REGULATIONS

140.01 Definitions

140.02 Permission Required

140.03 Permit

140.04 Inspection and approval

140.05 Driveways to Be Paved

140.06 Driveway requirements

140.07 Number of Curb Openings

140.08 Method of Curb Cutting

140.09 Sidewalks

140.10 Excavations

140.11 Culverts-Requirements

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

1. “Driveway” means that part of any approach for motor vehicles to private property that lies between the property line and roadway of the public street.

2. “Paving” includes any kind of hard surfacing including, but not limited to, concrete, brick, stabilized gravel, combinations of such materials with the necessary base, asphalt or other material approved by Council. “Paving” does not include surfacing with oil, gravel, oil and gravel, or chloride.

3. “New Construction” means

4. “New construction” means new buildings and structures and includes new buildings and structures that are constructed as additions to existing buildings and structures. New construction does not include reconstruction of an existing building or structure that does not constitute complete replacement of an existing building or structure or refitting of an existing building or structure unless the reconstruction of an existing building or structure is required due to economic obsolescence and the reconstruction is necessary to implement recognized industry standards for the manufacturing and processing of specific products and the reconstruction is required for the owner of the building or structure to continue competitively to manufacture or process those products, which determination shall receive prior approval from the City Council.

5. “New construction” means new buildings or structures and includes new buildings or structures that are constructed as additions to existing buildings or structures. “New construction” also includes reconstruction or renovation of an existing building or structure that constitutes complete replacement of an existing building or structure or refitting of an existing building or structure, if the reconstruction or renovation of the existing building or structure is required due to economic obsolescence, if the reconstruction or renovation is necessary to implement recognized industry standards for the manufacturing or processing of products, and the reconstruction or renovation is required in order to competitively manufacture or process products or for [community development organizations] [not-for-profit cooperative associations under Chapter 499 of the *Code of Iowa*] or [for-profit entities] to market a building or structure as a speculative shell building, which determination must receive prior approval from the Council.

6. Code of Iowa Chapter 103A, State Building Code:

“New construction” means construction of buildings and factory-built structures which is commenced on or after January 1, 1978. Notwithstanding the definition in subsection 5 of this section, when the term “new construction” appears in this chapter, “construction” is limited to the erection, reconstruction or conversion of a building or factory-built structure and additions to buildings or factory-built structures and does not include renovations or repairs.

**140.02 PERMISSION REQUIRED.** No curb shall be cut or changed, and no parking or public property shall be used for a driveway or parking without first obtaining written permission from the Council.

**140.03 PERMIT.** Before any person shall construct or repair a driveway, said person shall obtain a written permit from the City. A written application for the permit shall be filed with the Building Inspector. The application shall include the name and address of the property owner, the name and address of the person who will do the work and the proposed plan of construction or repair, which shall include the depth, width and type of surfacing material to be used. No other plan shall be followed except by written permission of the Building Inspector, who may allow amendments to the application or permit that do not conflict with this chapter. The Building Inspector shall issue the permit, bearing the signature of the Building Inspector and the date of issuance, if the proposed plan meets all of the requirements of this chapter, if the fee required under this chapter has been paid, and if the construction or repair as planned will not create any substantial hazard in the use of the street or sidewalk for public travel or drainage, or create any defect. Each permit shall expire six months after the date of issuance, if not constructed within that time.

**140.04 INSPECTION AND APPROVAL.** The driveway must be inspected and approved by the City within 30 days after completion of the work. The City shall keep a record of such approvals. If the work is not approved, it must be corrected immediately so it will meet with the City's approval. If the work has been done improperly, the City shall have the right to finish or correct the work and the Council shall assess the cost to the property owner. Such assessment shall be collected with the general property taxes and in the same manner.

**140.05 DRIVEWAYS TO BE PAVED.** All driveways shall be paved to property line with one of the following types of surfaces: concrete, brick, stabilized gravel, or combinations of such materials with the necessary base or other hard surface approved by Council. Any driveway in compliance with the Elk Run Code of Ordinances previous to the adoption of this provision shall be allowed to remain. Any new construction including a new residential home or garage constructed after implementation of this code of ordinances shall be required to comply with the requirements of hard surface or driveway pavement as indicated in this section.

**140.06 DRIVEWAY REQUIREMENTS.** All driveways shall meet the following requirements:

1. Except as set forth in Subsection 2, all driveways shall be of paving of a depth of not less than six inches and shall be at least 10 feet in width. Alternatively, driveways for non-multi-family residential properties may be of a paving depth of not less than four inches if the paving is reinforced with #9 welded reinforced wire. The driveway may be placed directly on compact and well-drained soil. Where soil is not well drained, a three-inch sub-base of compact, clean, coarse gravel, sand or cinders shall be laid. The driveway shall slope not more than three inches per foot toward the roadway. The maximum driveway width at the curb line shall be 25 feet for a one-car garage, 28 feet for a two-car garage, and 38 feet for a three-car garage. All other construction shall comply with the City's Standard Specifications, which shall be considered an outline of minimal standards.
2. Driveways accessing multi-family property shall have a minimum width of 12 feet and shall be prepared with six-inch square reinforced wire mesh. The minimum radius for that part of such driveways connecting to streets shall be 10 feet.

**140.07 NUMBER OF CURB OPENINGS.** In general, only one opening shall be granted per residence in residential areas. The Council may grant additional openings in special cases such as for larger corner lots, etc. The width and number of curb openings for business and commercial places shall be determined as to the needs by the Council. Any opening onto a State-owned road will have to be approved by the State Department of Transportation and the Council.

**140.08 METHOD OF CUTTING CURB.** Curb shall be saw cut at least two inches deep as close to face of curb as possible. Saw cut the curb at ends of opening as deep as possible. Curb shall then be removed to full depth of pavement. When curb is removed by this method, no expansion joint will be used between drive and existing pavement. One-half inch pre-formed expansion joint is to be used between drive and existing pavement when existing curb drop is used.

**140.09 SIDEWALKS.** The grade of any sidewalk shall not be altered by the work done. The driveway shall be at the same level as any existing sidewalk.

**140.10 EXCAVATIONS.** Excavations to do work under this chapter 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. Any street, sidewalk or other public property that is affected by the work shall be restored to as good a condition as it was previous to the excavation. The affected area shall be maintained in good repair to the satisfaction of the Council for three months after refilling.

**140.11 CULVERTS-REQUIREMENTS.** The building official shall determine whether a culvert shall be required in the driveway serving the real estate. The building official shall determine the length of the culvert, diameter, and the placement of the culvert, including the relationship to the center line of the road and the level or height of the culvert. (Ord. 167 (part), 1996)

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**69.10 MOTOR VEHICLE PARKING AND STORAGE.** Motor vehicle parking and storage is not permitted in any yard in a zoning district, except as provided in this section.

1. Sidewalks. No parked motor vehicle shall obstruct a public sidewalk. If no public sidewalk exists.
2. Driveways. A motor vehicle may be parked upon a driveway. For purposes of this section, a driveway shall be considered to be that designated area to provide access from the street to a parking area, an attached or basement garage, carport or detached garage, and shall be surfaced, free of grass and weeds and maintained with concrete, brick, stabilized gravel, combinations of such materials with the necessary base, asphalt or other material approved by Council
3. Recreational Vehicle –
  - For purposes of this section, recreational vehicles shall include bus campers, camper trailers, pickup campers, travel trailers, motor homes, snowmobiles, boats, trailers, and similar vehicles. No such recreational vehicle shall be used for living, sleeping or housekeeping purposes while parked or stored as permitted by this section.
  - Front Yard Parking. No more than one recreational vehicle may temporarily be parked within a front yard and only if in operable condition and if parked upon a driveway for up to 14 days.
  - Setback. Any recreational vehicle parked in the front yard must be setback a minimum of ten feet from the street.
4. Side Yard Parking. No more than two motor vehicles may be parked or stored in any side yard or rear yard, and such motor vehicle(s) must be parked or stored on a driveway, carport, hard surface pad or enclosed structure.
5. Equipment and Materials. No farming equipment or farming machinery shall be parked or stored unless within an enclosed lawful structure. Exceptions by the Council.
6. Hard Surface Pads. For purposes of this section, a hard surface pad shall be surfaced and maintained with concrete, brick, stabilized gravel, combinations of such materials with the necessary base, asphalt or other material approved by Council.

7. Motor Vehicles. For purposes of this section, motor vehicles shall include automobiles, motorcycles, vans, pickup trucks, similar vehicles, and recreational vehicles.

8. Temporary Parking. means parking limited to, weekend visitors, family gatherings, special events or large gatherings that are temporary in nature. No temporary parking shall exceed 48 hours in any seven-day period. Provided, however, that at no time shall such temporary parking or driving into the front yard be the cause of ruts and/or the non-growth of grass in the front yard such that the track of the vehicle is visible from the street for more than 72 hours after the end of the temporary parking.

9. Exceptions. Properties used for agricultural purposes and any state or railroad-owned property are excepted from the requirements of this ordinance; however, any agriculturally used property that is adjacent to a city right-of-way shall not be excepted and shall adhere to this chapter

## Chapter 5.12

### SURVEILLANCE CAMERAS IN CONVENIENCE STORES/ BUSINESSES

#### Sections:

- 5.12.010 Purpose.
- 5.12.020 Definitions.
- 5.12.030 Surveillance camera required.
- 5.12.040 Surveillance camera specifications.
- 5.12.050 Surveillance camera placement.
- 5.12.060 Inspection of surveillance devices.
- 5.12.070 Violation—Penalty.

#### 5.12.010 Purpose.

The purpose of this chapter is to provide protection for employees and customers within the city of Elk Run Heights, Iowa. (Ord. 155 § 1, 1992)

#### 5.12.020 Definitions.

As used in this chapter:

“Consumer products” means all durable goods and food products whether or not subject to Iowa sales tax.

“Convenience store business” means any business which sells consumer products or petroleum products and which routinely remains open for business twenty-four hours per day or any portion of that time between the hours of ten p.m. and six a.m.

“Surveillance camera” means a videotape camera or similar recording device. (Ord. 155 § 2, 1992)

#### 5.12.030 Surveillance camera required.

Upon passage of the ordinance codified in this chapter and within thirty days thereafter, all convenience stores/businesses shall be equipped with a functioning surveillance camera. This camera will be installed and in operation between the hours of eight p.m. and eight a.m. of each day the convenience store/business is open. (Ord. 155 § 3, 1992)

#### 5.12.040 Surveillance camera specifications.

The minimum standard for surveillance cameras will be as follows:

- A. Must provide photographs of sufficient clarity to enable identification;
- B. Vertical head size of persons photographed must be capable of being enlarged to a vertical head size of one inch;
- C. Must show the time of photographing on film;
- D. Must be relatively silent in operation;
- E. Must be designed and constructed to allow for easy repair;
- F. Must be constructed to allow a separate recorder to be placed in a separate, concealed and secured area. (Ord. 155 § 4, 1992)

#### 5.12.050 Surveillance camera placement.

The surveillance camera or cameras shall be positioned so as to film all persons entering and departing the premises and all persons in the immediate vicinity of the cash register and all persons using the automatic teller machines. (Ord. 155 § 5, 1992)

**5.12.060 Inspection of surveillance devices.**

The surveillance camera or cameras shall be subject to inspection by the city's police department or its designee. On request, the convenience store/business owner or employee must furnish to the inspecting official an inspection report by a qualified technician, certifying that the devices have been inspected and are in working order. (Ord. 155 § 6, 1992)

**5.12.070 Violation—Penalty.**

All violations of this chapter shall constitute misdemeanors, and upon conviction thereof shall be punishable by a fine and/or imprisonment set forth by the governing laws of the jurisdiction. Each separate day or any portion thereof during which any violation of this chapter occurs or continues shall be deemed to constitute a separate offense. (Ord. 155 § 7, 1992)

**Chapter 10.12**

**CONTROLLED-ACCESS  
FACILITIES**

**Sections:**

- 10.12.010**    **Controlled access facility defined.**
- 10.12.020**    **Establishment.**
- 10.12.030**    **Unlawful uses designated.**

**10.12.010**    **Controlled access facility defined.**

For the purpose of this chapter, a controlled-access facility means a highway or street especially designed for through traffic, and over, from or to which owners or occupants of abutting land or other persons have no right of easement of access, light, air or view by the reason of the fact that their property abuts upon such controlled-access facility. (Prior code § 6.15)

**10.12.020**    **Establishment.**

There are fixed and established controlled-access facilities on the primary road system extension improvement, Project No. F-1049(3) Primary Road No. US 20 relocation with the city of Elk Run Heights, Iowa, described as follows:

From STA. 1163 + 20.7  
(West corporation line)  
to STA. 1192 + 54.9  
(East corporation line)  
regulating access to and from  
STA. 1163 + 20.7 to  
STA. 1192 + 54.9

abutting properties along the highway, all in accordance with the plans for such improvement identified as Project No. F-1049(3) on file in the office of the city clerk. (Prior code § 6.17)

**10.12.030**    **Unlawful uses designated.**

It is unlawful for any person to:

A. Drive a vehicle over, upon or across any curb, central dividing section or other separation or dividing line on such controlled-access facilities;

B. Make a left turn or a semicircular or U turn except through an opening provided for that purpose in the dividing curb section, separation or line;

C. Drive any vehicle except in the proper lane provided for that purpose and in the proper direction and to the right of the central dividing curb, separation section or line;

D. Drive any vehicle into the controlled access facility from a local service road except through an opening provided for that purpose in the dividing curb or dividing section or dividing line which separates such service road from the controlled-access facility property. (Prior code § 6.16)

## Chapter 12.04

### STREET NAMES

#### Sections:

- 12.04.010** Designated—North  
Gilbertville Road
- 12.04.020** Designated—Douglass  
Road
- 12.04.030** Designated—Plaza  
Drive.

#### **12.04.010 Designated—North Gilbertville Road.**

The name of the public street running north from U.S. Highway No. 20 on the boundary line between Sections 33 and 34, in Township No. 89 North, Range No. 12 West of the Fifth P.M., in Black Hawk County, Iowa, to the north corporation line of the city of Elk Run Heights, Iowa, which is presently unnamed, is by these presents given the name of North Gilbertville Road. (Prior code § 6.4)

#### **12.04.020 Designated—Douglass Road.**

The name of the public street located between the west half of the southwest quarter and the east half of the southwest quarter of Section 34, Township 89 North, Range 12, West of the Fifth P.M., in Black Hawk County, Iowa, running north from Lafayette Road approximately two thousand six hundred forty feet; thence east approximately six hundred sixty feet to the northeast corner of the corporation line of the city of Elk Run Heights, Iowa, which is presently unnamed, is by these presents given the name of Douglass Road. (Prior code § 6.5)

#### **12.04.030 Designated—Plaza Drive.**

The name of the public street located between Gilbertville Road and Dubuque Road (see legal material attached to Ord. 139) which is presently unnamed, is by these presents given the name of and designated as Plaza Drive. (Ord. 139, 1989)

**Chapter 12.08****EXCAVATIONS****Sections:**

- 12.08.010 Compliance with chapter provisions required.**
- 12.08.020 Interpretation of language.**
- 12.08.030 Permit required—Exception.**
- 12.08.040 Permit—Application.**
- 12.08.050 Bond required.**
- 12.08.060 Restoring parkings required.**
- 12.08.070 Restoring streets and street services.**

**12.08.010 Compliance with chapter provisions required.**

All excavations made in the public streets, alleys, highway or public grounds of the city shall be made according to the provisions of this code, unless otherwise directed by the city council of the city of Elk Run Heights, Iowa. (Prior code § 6.19)

**12.08.020 Interpretation of language.**

Whenever the term city engineer or street commissioner appears in this chapter, it also means and includes the authorized representative of that officer. (Prior code § 6.20)

**12.08.030 Permit required—Exception.**

No person, firm or corporation, except the street commissioner, or the city engineer, while acting in their official capacity, or a contractor in performing

the necessary work on a contract with the city, shall make or cause to be made any excavation, in any street, avenue, alley or highway in the city of Elk Run Heights, Iowa, for any purpose whatever, except for the grading and landscaping of parkings, without first obtaining a permit therefor signed by the street commissioner, city engineer or city clerk. (Prior code § 6.21)

**12.08.040 Permit—Application.**

Any person, firm or corporation proposing to excavate in a public street, avenue, alley or highway of the city for any purpose whatever, except for the grading and landscaping of parkings, shall make application therefor to the city engineer or street commissioner on blanks to be furnished by such officer, stating the name of the person or corporation desiring to make such excavations, and his or its place of residence, the act or acts for which the permit is desired, for time during which the work is to be done, location of cut in street, dimensions of cut, house number, lot and block number and the name of addition, and that the applicant agrees to comply with the requirements of this chapter and to pay the city on demand, all damages which it may sustain by reason of the act or acts for which a permit is asked, not being performed according to the requirements of such permit and this chapter, and to pay any person injured in person or property all damages which it may sustain by reason of the act or acts for which a permit is asked, not being performed according to the requirements of such permit and this chapter, and to

pay any person injured in person or property all damages which such person may sustain by reason of negligence on the part of such applicant, his or its employees, agents or servants and to indemnify and save harmless the city from any damages resulting by reason of such person or persons, firm or corporation to whom such permit is to be issued. (Prior code § 6.22)

**12.08.050 Bond required.**

No permit shall be issued for disturbing any street, alley, walk, public highway or grounds to any person, firm, corporation or contractor not holding and having a franchise, license or contract for which satisfactory bonds have been given to protect and hold the city harmless against carelessness and neglect, and otherwise to do and perform all such acts as the ordinances of the city and provisions of the contract require. Any person, firm or corporation desiring to secure a permit for excavating or digging or disturbing any street, alley, walk, public highway or grounds shall first file with the city clerk, to be approved by the city council, a surety bond in the penal sum of three thousand dollars conditioned on the faithful performance of all the duties and regulations required by this chapter and any other laws or ordinances regulating the excavating and digging in public streets. The filing of a general contractor's bond with the city clerk shall be considered compliance with this provision of this chapter. (Prior code § 6.23)

**12.08.060 Restoring parkings required.**

Every person, firm or corporation making excavations or disturbance in the

parking of any street, avenue or highway in front of or abutting property not owned by persons employing the applicant for the permit, shall preserve and protect all sod, trees and shrubbery, and shall restore such parking to a condition as nearly equivalent to its original condition as is possible and to the satisfaction of the city engineer or street commissioner, and the party holding the permit shall upon notice by the city engineer or street commissioner, make such restoration or repairs, as ordered by the engineer or street commissioner, within five days after notice to do so by the city engineer or street commissioner, at any time within a period of one year from the date the permit was issued and in case the permit holder fails to make the ordered restoration or repair within such time, the city may make the repair or restoration, without further notice, and the permit holder shall be liable to the city for the cost of such repair or restoration. (Prior code § 6.24)

**12.08.070 Restoring streets and street services.**

Every person, firm or corporation making excavations or disturbances in any street, avenue or highway or the surface thereof shall restore the same to a condition as nearly equivalent to its original condition as is possible and to the satisfaction of the city engineer or street commissioner and the party holding the permit shall upon notice by the city engineer or street commissioner, make such restoration or repairs, as ordered by the engineer or street commissioner within five days after notice to do so by the city engineer or street commissioner,

at any time within a period of one year from the date that the permit was issued, and in case the permit holder fails to make the order of restoration or repair within such time, the city may make the

repair or restoration without further notice and the permit holder shall be liable to the city for the cost of such repair or restoration. (Ord. 128 (part), 1988: prior code § 6.25)

**Chapter 12.12****DRIVEWAYS****Sections:**

**12.12.010 Construction—Permit  
required—Fee.**

**12.12.020 Culverts—  
Requirements.**

**12.12.010 Construction—Permit  
required—Fee.**

Before construction, reconstruction, alteration or major repair of a driveway, the owner of the real estate shall obtain a driveway permit from the building official. The fee for the driveway permit shall be ten dollars. The owner of the real estate which the driveway serves shall be responsible for the driveway, including a culvert in the driveway, if required by the building official. (Ord. 167 (part), 1996)

**12.12.020 Culverts—Requirements.**

The building official shall determine whether a culvert shall be required in the driveway serving the real estate. The building official shall determine the length of the culvert, diameter, and the placement of the culvert, including the relationship to the center line of the road and the level or height of the culvert. (Ord. 167 (part), 1996)

**12.16.110 Gas utility franchise—  
Cooperation with public  
improvements.**

If the city proposes to improve or make a public improvement in any street, alley or public way (referred to as “public improvement”) in a manner that may conflict with existing gas utilities, the contractor awarded the public improvement contract shall ascertain the exact number, location and depth of gas utilities and at all times protect gas utilities from damage during the performance of the contract. The grantee shall, upon resolution of the city council, temporarily relay, relocate guard barriers or, gas utilities that are deemed in conflict with the public improvement, at its own expense, at a time that will not cause unreasonable inconvenience to the grantee or its customers. (Prior code § 8.74)

**12.16.120 Gas utility franchise—  
Damages to system.**

If any party shall damage any part of the gas utilities, or shall cause any weakening of the structural or lateral support thereof, such party shall immediately notify the grantee of the location, time of the occurrence, and nature of the damage. If the damage causes or contributes to uncontrolled venting of gas, such party shall give warnings and use safeguards as may be necessary to prevent injury to persons and property in the vicinity of such venting gas, including evacuation of buildings, shall immediately notify the city as well as the grantee, and shall maintain reasonable warnings and safeguards until all damage has been repaired. (Prior code § 8.75)

**12.16.130 Gas utility franchise—  
Hold harmless agreement.**

The grantee shall hold the city harmless from liability and damages resulting from negligence of the grantee in the construction, operation or maintenance of the gas utilities. (Prior code § 8.76)

**12.16.140 Telephone franchise—  
Granted—Term.**

Northwestern Bell Telephone Company, a corporation, its successors and assigns, are granted the right to use and occupy the streets, alleys and other public places of the city of Elk Run Heights, Iowa, for a term of twenty-five years from the effective date of the ordinance codified in this chapter, for the purpose of constructing, maintaining and operating a general telephone system within the city. (Ord. 111 § 1, 1982)

**12.16.150 Telephone franchise—  
Rights subject to police  
power.**

The rights granted in this chapter are subject to the exercise of the police power and the same now is or may hereafter be conferred upon the city. (Ord. 111 § 2, 1982)

**12.16.160 Telephone franchise—  
Responsibilities of grantee.**

The Northwestern Bell Telephone Company shall, upon demand, pay the cost of publishing the ordinance codified in this chapter and of holding the election hereinafter referred to. (Ord. 111 § 3, 1982)

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### CHAPTER 151

## TREES

#### 151.01 Definition

#### 151.02 Planting Restrictions

#### 151.03 Duty to Trim Trees

#### 151.04 Trimming Trees to Be Supervised

#### 151.05 Disease Control

#### 151.06 Inspection and Removal

**151.01 DEFINITION.** For use in this chapter, “parking” means that part of the street, avenue, or highway in the City not covered by sidewalk and lying between the lot line and the curb line or, on unpaved streets, that part of the street, avenue, or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.

**151.02 PLANTING RESTRICTIONS.** No tree shall be planted in any parking or street except in accordance with the following:

1. Alignment. All trees planted in any street shall be planted in the parking midway between the outer line of the sidewalk and the curb. In the event a curb line is not established, trees shall be planted on a line 10 feet from the property line.
2. Spacing. Trees shall not be planted on any parking that is less than nine feet in width, or contains less than 81 square feet of exposed soil surface per tree. Trees shall not be planted closer than 20 feet from street intersections (property lines extended) and 10 feet from driveways. If it is at all possible, trees should be planted inside the property lines and not between the sidewalk and the curb.
3. Prohibited Trees. No person shall plant in any street any fruit-bearing tree or any tree of the kinds commonly known as cottonwood, poplar, box elder, Chinese elm, evergreen, willow, or black walnut.

**151.03 DUTY TO TRIM TREES.** The owner or agent of the abutting property shall keep the trees on, or overhanging the street, trimmed so that all branches will be at least 15 feet above the surface of the street and eight feet above the sidewalks. If the abutting property owner fails to trim the trees, the City may serve notice on the abutting property owner requiring that such action be taken within five days. If such action is not taken within that time, the City may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

*(Code of Iowa, Sec. 364.12[2c, d & e])*

**151.04 TRIMMING TREES TO BE SUPERVISED.** Except as allowed in Section 151.03, it is unlawful for any person to trim or cut any tree in a street or public place unless the work is done under the supervision of the City.

**151.05 DISEASE CONTROL.** Any dead, diseased, or damaged tree or shrub that may harbor serious insect or disease pests or disease injurious to other trees is hereby declared to be a nuisance.

**151.06 INSPECTION AND REMOVAL.** The Council shall inspect or cause to be inspected any trees or shrubs in the City reported or suspected to be dead, diseased or damaged, and such trees and shrubs shall be subject to the following:

1. City Property. If it is determined that any such condition exists on any public property, including the strip between the curb and the lot line of private property, the Council may cause such condition to be corrected by treatment or removal. The Council may also order the removal of any trees on the streets of the City which interfere with the making of improvements or with travel thereon.

2. Private Property. If it is determined with reasonable certainty that any such condition exists on private property and that danger to other trees or to adjoining property or passing motorists or pedestrians is imminent, the Council shall notify by certified mail the owner, occupant or person in charge of such property to correct such condition by treatment or removal within 14 days of said notification. If such owner, occupant, or person in charge of said property fails to comply within 14 days of receipt of notice, the Council may cause the condition to be corrected and the cost assessed against the property.

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

**12.20.050 Standards of practice—  
Trimming or pruning.**

No topping or dehorning of trees shall be permitted except by special written permission of the public works superintendent. Trees becoming stag-headed may have the dead portions removed back to sound green wood, with a proper forty-five degree cut only. (Ord. 123 § 3(3), 1986)

**12.20.060 Removal of trees.**

The public works superintendent shall remove, on the order of the council, any tree on the streets of the municipality which creates a traffic hazard, or interferes with any utilities or street improvements. (Ord. 123 § 4, 1986)

**12.20.070 Violation—Penalty.**

Anyone violating any of the provisions of this chapter shall, upon conviction, be subject to a fine not exceeding one hundred dollars. (Ord. 123 § 5, 1986)

**12.24.060 Harm to trees or plants.**

No person shall in any manner deface, injure or remove any trees, shrub or plant standing or growing in any public park or pick or destroy any flowers or seeds growing therein. (Prior code § 12.3)

**12.24.070 Water use regulations.**

No person shall throw or place any foreign or waste substance in any body of water in or adjacent to any public park. No person shall swim or bathe in such body of water. (Prior code § 12.8)

**12.24.080 Disturbing buildings or animals.**

No person shall disturb or interfere with any building or improvement of any kind made or being made in or about any public park, or disturb or interfere with birds or animals kept or found therein or in any of the park. (Prior code § 12.9)

**12.24.090 Moving benches or picnic facilities.**

No person shall move benches, seats and tables from their places in any park, excepting on picnic grounds, and there only within designated lines. (Prior code § 12.17)

**12.24.100 Removal of wood, grass or rocks.**

No person shall cut or remove any wood, turf, grass, soil, rock, sand or gravel from any public park without written permission of the park board or its authorized officials. (Prior code § 12.18)

**12.24.110 Obedience to sign posting required.**

No person shall enter upon portions of any public park in disregard of signs or posted notices forbidding the same. (Prior code § 12.10)

**12.24.120 Fires.**

No fires shall be lighted or made in any public park except by permission of the park authorities. This does not refer to the fires in stoves and ovens provided by the park board for use in public cooking. (Prior code § 12.4)

**12.24.130 Discharge of firearms or fireworks.**

No person shall use firearms, explosives, weapons, firecrackers or fireworks of any type in any public park without permission of the city council. (Ord. 128 (part), 1988: prior code § 12.5)

**12.24.140 Deposit of litter or waste materials.**

No person shall deposit upon or litter the ground with any form of waste material, all such waste material shall be deposited in receptacles provided therefor. (Prior code § 12.6)

**12.24.150 Disorderly conduct.**

No person shall use any loud, violent, obscene or profane language while in any public park, nor shall anyone conduct himself in a disorderly or obscene manner or commit any nuisance therein. (Prior code § 12.7)

**12.24.160 Park hours.**

No person shall remain at or in any public park after the hour of eleven p.m.

unless special permission has been given by the park authorities or police department, for any such person or group to remain there. The public parks shall be closed to the public from eleven to five a.m. (Prior code § 12.14)

**12.24.170 Activities on ice prohibited.**

No person shall throw any stone, stick or other missile or obstruction upon the ice in any park; nor shall they engage in tandem skating, games, racing or other activities on the ice. (Prior code § 12.15)

**12.24.180 Posting signs or bills.**

No person shall paste, post, fasten, paint or affix any placard, bill or notice or sign upon any structures, tree, stone, fence or enclosure along or within any park. (Prior code § 12.16)

**12.24.190 Riding horses.**

No person shall lead or ride a horse in any public park except on public drives or designated bridle paths. (Prior code § 12.19)

**12.24.200 Sports or recreational activities.**

No person shall engage in a sport, game or recreational activity in any public park except in area designated or maintained for the particular purpose. (Prior code § 12.20)

**12.24.210 Dogs running at large.**

No dog shall be allowed to run at large in any public park, and any dog found in any such park shall be deemed to be found running at large unless the owner carries said dog or leads him by a chain,

strap or rope not exceeding six feet in length, or keeps any such dog confined in wagon, automobile or other vehicle by chain, rope or strap not exceeding six feet in length. It shall be the duty of the park police or any person in the employ of the park department to remove and impound any dog running at large in any public park. (Prior code § 12.11)

**12.24.220 Model airplanes.**

No motor driven model airplanes may be operated except in designated area. (Prior code § 12.21)

**12.24.230 Control of minors.**

No parent, guardian or custodian of a minor shall knowingly permit such minor to do any act prohibited above. (Prior code § 12.22)

**13.24.090 Burning of refuse unlawful.**

It is unlawful to burn any refuse, garbage or rubbish. (Ord. 147 § 8, 1990)

**13.24.100 Burning of refuse permissible when.**

A resident or property owner may burn leaves, branches, and other combustible yard and garden waste in a controlled area on their own property provided objectionable odors and smoke nuisance does not occur. Burning is subject to further restrictions of air pollution control laws and this code. (Ord. 147 § 9, 1990)

**13.24.110 Council to designate sanitary landfill.**

The council, by resolution, may designate a sanitary landfill. (Ord. 147 § 10, 1990)

**13.24.120 Residential garbage service—Customer responsibilities.**

A. All residential garbage and refuse placed for city collection shall be fully enclosed in a container.

B. All containers shall be placed at the curblineline of the street or in such other place as specified by the collector. All containers shall be placed for collection no sooner than twenty-four hours prior to the day of collection. All containers shall be removed from a public street within twenty-four hours after refuse is collected. (Ord. 147 § 11, 1990)

**13.24.130 Items excluded from collection.**

A. Residential garbage pickup furnished by the city does not include the following:

1. Vehicle batteries;
2. Tires;
3. Household appliances;
4. Fill construction waste; or
5. Other items too bulky or heavy for one person to handle.

B. It is the responsibility of the resident to make arrangements with our collector or other approved hauler to have excluded items picked up.

C. Any person authorized to collect garbage or refuse under the provisions of this chapter may refuse to furnish service to any person who violates the provisions of this section. (Ord. 147 § 12, 1990)

**13.24.140 Yard waste disposal requirements.**

A. It is the responsibility of the owner or occupant of the premises to dispose of yard waste by composting, burning, or removal from the premises. Yard waste shall be separated from, and shall not be disposed with, other garbage and refuse which is set out for collection by the city, its employees or agents.

B. Disposal of tree limbs and branches will be the responsibility of the resident or property owner. (Ord. 147 § 13, 1990) (Ord. No. 214, 11-10-2009)

**13.24.150 Violation—Penalty.**

Anyone violating any provisions of this chapter shall, upon conviction, be subject to imprisonment not exceeding thirty days, a fine not exceeding one hundred dollars, but payment of penalty under this section shall not be a bar to other remedies at law or equity to stop such violations. (Ord. 147 § 14, 1990)

**13.24.160 Garbage schedule of fees, rates and charges.**

Schedule of fees shall be as follows:

A. For each single-family residence, ~~eight dollars and thirty-one cents per month;~~

B. For each unit of a two-family dwelling unit, ~~eight dollars and thirty-one cents per month;~~

C. Housing complexes, apartment buildings, businesses, firms or corpora-

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# PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

122.01 Purpose	122.11 Revocation of License
122.02 Definitions	122.12 Notice
122.03 License Required	122.13 Hearing
122.04 Application for License	122.14 Record and Determination
122.05 License Fees	122.15 Appeal
122.06 Bond Required	122.16 Effect of Revocation
122.07 License Issued	122.17 Rebates
122.08 Display of License	122.18 License Exemptions
122.09 License Not Transferable	122.19 Charitable and Nonprofit Organizations
122.10 Time Restriction	

**122.01 PURPOSE.** The purpose of this chapter is to protect residents of the City against fraud, unfair competition and intrusion into the privacy of their homes by licensing and regulating peddlers, solicitors and transient merchants.

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

1. “Peddler” means any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house to house or upon the public street.
2. “Solicitor” means any person who solicits or attempts to solicit from house to house or upon the public street any contribution or donation or any order for goods, services, subscriptions or merchandise to be delivered at a future date.
3. “Transient merchant” means any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases or occupies any building or structure whatsoever, or who operates out of a vehicle which is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader or auctioneer does not exempt any person from being considered a transient merchant.

**122.03 LICENSE REQUIRED.** Any person engaging in peddling, soliciting or in the business of a transient merchant in the City without first obtaining a license as herein provided is in violation of this chapter.

**122.04 APPLICATION FOR LICENSE.** An application in writing shall be filed with the Clerk for a license under this chapter. Such application shall set forth the applicant’s name, permanent and local address, and business address if any. The application shall also set forth the applicant’s employer, if any, and the employer’s address, the nature of the applicant’s business, the last three places of such business and the length of time sought to be covered by the license. An application fee of twenty-five dollars (\$25.00) shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein.

**122.05 LICENSE FEES.** The following license fees shall be paid to the Clerk prior to the issuance of any license.

1. Solicitors. In addition to the application fee for each person actually soliciting (principal or agent), a fee for the principal of ten dollars (\$10.00) per year.

2. Peddlers or Transient Merchants. License fee is \$50.00 per day.

**122.06 BOND REQUIRED.** Before a license under this chapter is issued to a transient merchant, an applicant shall provide to the Clerk evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the *Code of Iowa*.

**122.07 LICENSE ISSUED.** If the Clerk finds the application is completed in conformance with the requirements of this chapter, the facts stated therein are found to be correct and the license fee paid, a license shall be issued immediately.

**122.08 DISPLAY OF LICENSE.** Each solicitor or peddler shall keep such license in possession at all times while doing business in the City and shall, upon the request of prospective customers, exhibit the license as evidence of compliance with all requirements of this chapter. Each transient merchant shall display publicly such merchant's license in the merchant's place of business.

**122.09 LICENSE NOT TRANSFERABLE.** Licenses issued under the provisions of this chapter are not transferable in any situation and are to be applicable only to the person filing the application.

**122.10 TIME RESTRICTION.** All peddler's and solicitor's licenses shall provide that said licenses are in force and effect only between the hours of eight o'clock (8:00) a.m. and seven o'clock (7:00) p.m.

**122.11 REVOCATION OF LICENSE.** After notice and hearing, the Clerk may revoke any license issued under this chapter for the following reasons:

1. Fraudulent Statements. The licensee has made fraudulent statements in the application for the license or in the conduct of the business.
2. Violation of Law. The licensee has violated this chapter or has otherwise conducted the business in an unlawful manner.
3. Endangered Public Welfare, Health or Safety. The licensee has conducted the business in such manner as to endanger the public welfare, safety, order or morals.

**122.12 NOTICE.** The Clerk shall send a notice to the licensee at the licensee's local address, not less than ten (10) days before the date set for a hearing on the possible revocation of a license. Such notice shall contain particulars of the complaints against the licensee, the ordinance provisions or State statutes allegedly violated, and the date, time and place for hearing on the matter.

**122.13 HEARING.** The Clerk shall conduct a hearing at which both the licensee and any complainants shall be present to determine the truth of the facts alleged in the complaint and notice. Should the licensee, or authorized representative, fail to appear without good cause, the Clerk may proceed to a determination of the complaint.

**122.14 RECORD AND DETERMINATION.** The Clerk shall make and record findings of fact and conclusions of law, and shall revoke a license only when upon review of the entire record the Clerk finds clear and convincing evidence of substantial violation of this chapter or State law.

**122.15 APPEAL.** If the Clerk revokes or refuses to issue a license, the Clerk shall make a part of the record the reasons therefor. The licensee, or the applicant, shall have a right to a hearing before the Council at its next regular meeting. The Council may reverse, modify or affirm the decision of the Clerk by a majority vote of the Council members present and the Clerk shall carry out the decision of the Council.

**122.16 EFFECT OF REVOCATION.** Revocation of any license shall bar the licensee from being eligible for any license under this chapter for a period of one year from the date of the revocation.

**122.17 REBATES.** Any licensee, except in the case of a revoked license, shall be entitled to a rebate of part of the fee paid if the license is surrendered before it expires. The amount of the rebate shall be determined by dividing the total license fee by the number of days for which the license was issued and then multiplying the result by the number of full days not expired. In all cases, at least five dollars (\$5.00) of the original fee shall be retained by the City to cover administrative costs.

**122.18 LICENSE EXEMPTIONS.** The following are excluded from the application of this chapter.

1. Newspapers. Persons delivering, collecting for, or selling subscriptions to newspapers.
2. Club Members. Members of local civic and service clubs, Boy Scout, Girl Scout, 4-H Clubs, Future Farmers of America, and similar organizations.
3. Local Residents and Farmers. Local residents and farmers who offer for sale their own products.
4. Students. Students representing the any public or parochial school within the County conducting projects sponsored by organizations recognized by the school.
5. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.
6. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.

**122.19 CHARITABLE AND NONPROFIT ORGANIZATIONS.** Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504A of the *Code of Iowa* desiring to solicit money or to distribute literature are exempt from the operation of Sections 122.04 and 122.05. All such organizations are required to submit in writing to the Clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees or wages are to be charged by the solicitor and the amount thereof. If the Clerk finds that the organization is a bona fide charity or nonprofit organization the Clerk shall issue, free of charge, a license containing the above information to the applicant. In the event the Clerk denies the exemption, the authorized representatives of the organization may appeal the decision to the Council, as provided in Section 122.15 of this chapter.