

TITLE II - COMMUNITY PROTECTION**DIVISION 1 - LAW ENFORCEMENT****CHAPTER 1 - PUBLIC OFFENSES****ARTICLE 1
PUBLIC PEACE**

211.101 ASSAULT. A person commits a simple misdemeanor when the person does any of the following without justification:

1. Pain or Injury. Any act which is intended to cause pain or injury to, or which is intended to result in physical contact which will be insulting or offensive to another, coupled with the apparent ability to execute the act.

(Code of Iowa, 2015, Sec. 708.1 [2a])

2. Threat of Pain or Injury. Any act which is intended to place another in fear of immediate physical contact which will be painful, injurious, insulting, or offensive, coupled with the apparent ability to execute the act.

(Code of Iowa, 2015, Sec. 708.1 [2b])

3. Dangerous Weapon. Intentionally point any firearm toward another, or display in a threatening manner any dangerous weapon toward another.

(Code of Iowa, 2015, Sec. 708.1 [2c])

4. Exceptions. Provided, that where the person doing any of the above enumerated acts, and such other person, are voluntary participants in a sport, social or other activity, not in itself criminal, and such act is a reasonably foreseeable incident of such sport or activity, and does not create an unreasonable risk or serious injury or breach of the peace, the act shall not be an assault.

(Code of Iowa, 2015, Sec. 708.1 [3a])

Provided, that where the person doing any of the above enumerated acts is employed by a school district or accredited nonpublic school, or is an area education agency staff member who

provides services to a school or school district, and intervenes in a fight or physical struggle, or other disruptive situation, that takes place in the presence of the employee or staff member performing employment duties in a school building, on school grounds, or at an official school function regardless of the location, the act shall not be an assault, whether the fight or physical struggle or other disruptive situation is between students or other individuals, if the degree and the force of the intervention is reasonably necessary to restore order and to protect the safety of those assembled.

211.102 WILLFUL INJURY. Any person who does an act which is not justified and which is intended to cause and does cause serious injury to another commits a simple misdemeanor.

(Code of Iowa, 2015, Sec. 708.4)

211.103 HARASSMENT. A person commits a simple misdemeanor when the person does any of the following with intent to intimidate, annoy, or alarm another person:

1. Communications. Communicate with another by telephone, telegraph, writing or via electronic communication without legitimate purpose and in a manner likely to cause the other person annoyance or harm.

(Code of Iowa, 2015, Sec. 708.7 [1a(1)])

2. Simulated Explosive. Place any simulated explosive or simulated incendiary device in or near any building, vehicle, airplane, railroad engine or railroad car, or boat occupied by another person.

(Code of Iowa, 2015, Sec. 708.7 [1a(2)])

3. Merchandise or Services. Order merchandise or services in the name of another, or to be delivered to another, without such other person's knowledge or consent.

(Code of Iowa, 2015, Sec. 708.7 [1a(3)])

4. False Reports. Report or cause to be reported false information to a law enforcement

authority implicating another in some criminal activity, knowing that the information is false, or reports the alleged occurrence of a criminal act, knowing the same did not occur.

(Code of Iowa, 2015, Sec. 708.7 [1a(4)])

5. A person commits harassment when the person, purposefully and without legitimate purpose, has personal contact with another person, with the intent to threaten, intimidate, or alarm that other person. As used in this section, unless the context otherwise requires, “personal contact” means an encounter in which two or more people are in visual or physical proximity to each other. “Personal contact” does not require a physical touching or oral communication, although it may include these types of contacts.

(Code of Iowa, 2015, Section 708.7 [1b])

211.104 WILLFUL DISTURBANCE. Any person who willfully disturb any deliberative body or agency of the state, or subdivision thereof, with the purpose of disrupting the functioning of such body or agency by tumultuous behavior, or coercing by force or the threat of force any official conduct or proceeding commits a simple misdemeanor.

(Code of Iowa, 2015, Sec. 718.3)

211.105 DISORDERLY CONDUCT. A person commits a simple misdemeanor when the person does any of the following:

1. Disorderly Conduct. It is unlawful for any person to engage in any of the following:
 - A. Engages in fighting or violent behavior in any public place or in or near any lawful assembly of persons, provided, that participants in athletic contests may engage in such conduct which is reasonably related to that sport.
 - B. Makes loud and raucous noise in the vicinity of any residence or public building which causes unreasonable distress to the occupants thereof.
 - C. Directs abusive epithets or makes any threatening gesture which the person knows or reasonably should know is likely to provoke a violent reaction by another.

D. Without lawful authority or color of authority, the person disturbs any lawful assembly or meeting of persons by conduct intended to disrupt the meeting or assembly.

E. By words or action, initiates or circulates a report or warning of fire, epidemic, or other catastrophe, knowing such report to be false or such warning to be baseless.

F. a. Knowingly and publicly uses the flag of the United States in such a manner as to show disrespect for the flag as a symbol of the United States, with the intent or reasonable expectation that such use will provoke or encourage another to commit trespass or assault.

b. As used in this subsection:

(1) "Deface" means to intentionally mar the external appearance.

(2) "Defile" means to intentionally make physically unclean.

(3) "Flag" means a piece of woven cloth or other material designed to be flown from a pole or mast.

(4) "Mutilate" means to intentionally cut up or alter so as to make imperfect.

(5) "Show disrespect" means to deface, defile, mutilate, or trample.

(6) "Trample" means to intentionally tread upon or intentionally cause a machine, vehicle, or animal to tread upon.

c. This subsection does not apply to a flag retirement ceremony conducted pursuant to federal law.

G. Without authority or justification, the person obstructs any street, sidewalk, highway, or other public way, with the intent to prevent or hinder its lawful use by others.

H. Urinate or defecate in a public place, excluding a public restroom.

(Code of Iowa, 2015, 723.4 [1-7])

2. Disorderly House. The term “disorderly house” means any structure or any room therein, or any part of the premises adjacent thereto, in or upon which occurs any disorderly conduct as defined in Section 211.105 (1) B or any of the following prohibited activities:
 - A. The open storage, use, or consumption of a controlled substance as defined in Chapter 124 of the Iowa Code, under which possession of such substance would be an offense;
 - B. Gambling in violation of Chapter 99B of the Iowa Code;
 - C. Acts of prostitution, pimping, or pandering as defined in Chapter 725 of the Iowa Code;
3. Keeping a Disorderly House. It is unlawful for any person to knowingly keep a disorderly house as defined in Section 211.105 (2). For purposes of this section, “keep” means ownership or having the control of a structure or a room therein or any part of the adjacent premises.
4. Frequenting or Being Found in a Disorderly House. It is unlawful for any person to frequent or be found in a disorderly house as defined in Section 211.105 (2).
5. Unlawful Assembly. An unlawful assembly is three or more persons assembled together, with them or any of them acting in a violent manner, and with intent that they or any of them will commit a public offense. A person who willingly joins in or remains a part of an unlawful assembly, knowing or having reasonable grounds to believe that it is such, commits a simple misdemeanor.

(Code of Iowa, 2015, Sec. 723.2)

6. Riot. A “riot” is defined as three or more persons assembled together in a violent manner, to the disturbance of others, and with any use of unlawful force or violence by them or any of them against person, or causing property damage. A person who joins in or remains a part of a riot, knowing or having reasonable grounds to believe that it is such, commits a simple misdemeanor.

(Code of Iowa, 2015, Sec. 723.1)

7. Failure to Disperse. A peace officer may order participants in a riot or unlawful assembly or persons in the immediate vicinity of a riot or unlawful assembly to disperse. Any person within hearing distance of such command to refuse to obey, commits a simple misdemeanor.

(Code of Iowa, 2015, Sec. 723.3)

8. Overcrowding. No person, firm, or corporation owning, operating, or conducting any hall, opera house, theater, church, or place of amusement resorted to by the general public, shall cause, suffer, or allow the aisles between the seats or pews in any of the halls, opera houses, theaters, churches, or places of amusement, to become in any manner obstructed with chairs or benches, nor shall such chairs, benches or other obstruction be allowed in the aisles, but the same shall at all times be kept open for the use of the public attending at any time any of the places heretofore in this section mentioned.

9. Violation Penalty. Any person or persons, firm, or corporation who shall violate any of the provisions of this chapter shall, upon conviction thereof, be punished according to the provisions of Section 110.107.

211.106 A. TERRORISM. A person commits a simple misdemeanor, if the person does any of the following: shoot, throw, launch, or discharge a dangerous weapon at or into any building, vehicle, airplane, railroad engine or railroad car, or boat occupied by another person, and thereby place the occupants thereof in reasonable apprehension of injury.

B. INTIMIDATION WITH A DANGEROUS WEAPON. No person shall, with the intent to injure or provoke fear or anger in another, shoots, throws, launches, or discharges a dangerous weapon at, into, or in a building, vehicle, airplane, railroad engine, railroad car, or boat, occupied by another person, or within an assembly of people, and thereby places the occupants or people in reasonable apprehension of serious injury or threatens to commit such an act under circumstances raising a reasonable expectation that the threat will be carried out.

No person shall shoot, throw, launch, or discharge a dangerous weapon at, into, or in a building, vehicle, airplane, railroad engine, railroad car, or boat, occupied by another person, or within an assembly of people, and thereby places the occupants or people in reasonable apprehension of serious injury or threatens to commit such an act under circumstances raising a reasonable expectation that the threat will be carried out. Any person who violates this section commits a simple misdemeanor.

(Code of Iowa, 2015, Sec. 708.6)

211.107 PARADES REGULATED. No person shall conduct or cause any parade on any street except as provided herein:

1. "Parade" Defined. Parade shall mean any march or procession of persons or vehicles organized for marching or moving on the streets in an organized fashion or manner or any march or procession of persons or vehicles represented or advertised generally to the public as a parade.
2. Permit Required. No parade shall be conducted without first obtaining a written permit from the mayor or chief of police. Such permit shall state the time and date for the parade to be held and the streets or general route therefor. Such written permit granted to the person organizing or sponsoring the parade shall be permission for all participants therein to parade when such participants have been invited by the permittee to participate therein. No fee shall be required for such permit.

3. Parade Not a Street Obstruction. Any parade for which a permit shall have been issued as herein required, and the persons lawfully participating therein, shall not be deemed an obstruction of the streets notwithstanding the provisions of any other ordinance to the contrary.

4. Control by Police and Firemen. Persons participating in any parade shall at all times be subject to the lawful orders and directions in the performance of their duties of the members of the Police and Fire Departments.

211.108 DISTURBING THE PEACE. A person shall commit a simple misdemeanor if the person disturbs the peace and quiet of any street, alley, avenue, public ground, or any religious or public assembly, or building, public or private, or any neighborhood, private family or person, by any device or means whatever.

211.109 NOISE ABATEMENT EQUIPMENT MODIFICATIONS. A person shall commit a simple misdemeanor, if the person does any of the following: modify the exhaust system of a motor vehicle or any other noise abatement device of a motor vehicle operated upon the streets and highways of Estherville, Iowa, in a manner that the noise emitted by the motor vehicle is above that emitted by the vehicle as originally manufactured. Muffler cutouts, bypasses, or other devices which increase sound emitted shall be considered a violation of this article. No person shall operate a motor vehicle upon the streets and highways with an exhaust system or noise abatement device so modified.

211.110 NUISANCE PARTY REGULATIONS.

1. Nuisance Party Defined. A social gathering or party which is conducted on premises within the City and which, by reason of the conduct of those persons in attendance, results in any one or more of the following conditions of events occurring at the site of said party or social gathering, or on neighboring public or private property: public intoxication; unlawful consumption of beer, wine, or alcoholic beverages in a public place; outdoor urination or defecation in a public place; the unlawful sale, furnishing, dispensing or consumption of beer; wine or alcoholic beverages; underage or unlawful possession of

beer, wine, or alcoholic beverages; the unlawful deposit of litter or refuse; the damage or destruction of property without the consent of the property owner; unlawful pedestrian or vehicular traffic; standing or parking of vehicles that obstructs the free flow of traffic on the public streets and sidewalks or that impedes the ability to render emergency services; unlawfully loud noise; fighting; or any other conduct or condition that threatens injury to persons or damage to property is hereby declared to be an unlawful public nuisance.

2. Duty to Control Premises. Any person who is an owner, occupant, tenant, or otherwise having any possessory control, individually or jointly with others, of any premises who either sponsors, conducts, hosts, invites, or permits a social gathering or party on said premises which is or becomes a public nuisance as defined in subsection (1) above, and which nuisance is either the intentional result of, or within the reasonable expectations of, the person or persons having such possessory control is deemed to be in violation of this section.

3. Attendees. Any person who is present at a party or social gathering that is or becomes a public nuisance as defined in subsection (1) above shall be guilty of a municipal infraction. Alternately, violation of this section can be charged by a police officer as a simple misdemeanor. All attendees shall cease and disperse immediately upon the order of any officer of the Estherville Police Department.

TITLE II - COMMUNITY PROTECTION**DIVISION 1 - LAW ENFORCEMENT****CHAPTER 1 - PUBLIC OFFENSES****ARTICLE 2
PUBLIC MORALS**

211.201 PROSTITUTION. Any person who sells or offers for sale his or her services as a partner in a sex act, or purchase or offer to purchase such services commits a simple misdemeanor.

(Code of Iowa, 2015, Sec. 725.1[1a])

211.202 PIMPING. Any person who solicits a patron for a prostitute, or knowingly take or share in the earnings of a prostitute, or knowingly furnish a room or other place to be used for the purpose of prostitution, whether for compensation or not commits a simple misdemeanor.

(Code of Iowa, 2015, Sec. 725.2[1])

211.203 PANDERING. A person who persuades, arranges, coerces, or otherwise causes another, not a minor, to become a prostitute or to return to the practice of prostitution after having abandoned it, or keeps or maintains any premises for the purposes of prostitution or takes a share in the income from such premises knowing the character and content of such income commits a simple misdemeanor.

(Code of Iowa, 2015, Sec. 725.3[1])

A person who persuades, arranges, coerces, or otherwise causes a minor to become a prostitute or to return to the practice of prostitution after having abandoned it, or keeps or maintains any premises for the purpose of prostitution involving minors or knowingly shares in the income from such premises knowing the character and content of such income commits a simple misdemeanor.

(Code of Iowa, 2015, Sec. 725.3[2])

211.204 LEASING PREMISES FOR PROSTITUTION. Any person who rents or let any building, structure or part thereof, boat, trailer or other place offering shelter or seclusion, or has reason to know, that the lessee or tenant is using such for the purposes of prostitution, and who does not, immediately upon acquiring such knowledge, terminate the tenancy or effectively put an end to such practice of prostitution in such place commits a simple misdemeanor.

(Code of Iowa, 2015, Sec. 725.4)

211.205 INDECENT EXPOSURE. Any person who exposes his or her genitals or pubes to another not his or her spouse, or commit a sex act in the presence of or view of a third person, if the person knows or reasonably should know that his act is offensive to the viewer commits a simple misdemeanor.

TITLE II - COMMUNITY PROTECTION**DIVISION 1 - LAW ENFORCEMENT****CHAPTER 1 - PUBLIC OFFENSES****ARTICLE 3
ADULT ENTERTAINMENT**

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

1. Adult amusement or entertainment means an amusement or entertainment which is distinguished or characterized by an emphasis on acts or material depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in this section, including, but not limited to, topless or bottomless dancers, exotic dancers, strippers, male or female impersonators or similar entertainment.

2. Adult book store or gift shop is an establishment having as a substantial and significant portion of its stock in trade books, magazines and other periodicals or goods and items held for sale which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in this section.

3. Adult hotel or motel means a building with accommodations used for the temporary occupancy of one or more individuals and is an establishment wherein a substantial and significant portion of the materials presented are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in this section, for observation by the individuals therein.

4. Adult photo studio is an establishment which provides photographic equipment and/or models for the purpose of photographing specified anatomical areas or specified sexual activities, as defined herein.

5. Adult theater is a theater wherein a substantial and significant portion of the materials presented are distinguished or characterized by an emphasis on acts or material depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in this section, for observation by the patrons therein.

6. Adult uses includes adult amusement or entertainment, adult book store or gift shop, adult hotel or motel, adult photo studio, adult theater and massage parlor.

7. Massage parlor is any building, room, place or establishment, where manipulated massage or manipulated exercise is practiced for pay upon the human body with an emphasis on specified sexual activities or specified anatomical areas, as defined herein, by anyone not a duly licensed physician, osteopath, chiropractor, registered nurse or practical nurse operating under a physician's direction, physical therapist, podiatrist, registered speech pathologist, licensed massage therapist or occupational therapist who treats only patients recommended by a licensed physician and operates only under such physician's direction, whether with or without the use of mechanical, therapeutic or bathing devices, and includes Turkish bath houses. The term does not include a regular licensed hospital, medical clinic or nursing home, duly licensed beauty parlors or barber shops.

8. Specified anatomical areas means less than completely and opaquely covered human genitalia, pubic region, buttocks: and a female breast below a point above the top of the areola: and human male genitals in a discernibly turgid state even if completely and opaquely covered.

9. Specified sexual activities means patently offensive acts, exhibitions, representations, depictions or descriptions of:

A. Human genitals in a state of sexual stimulation or arousal;

B. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast;

C. Intrusion, however slight, actual or simulated, by an object, of any part of an animal's body or any part of a person's body into the genital or anal openings of any person's body;

D. Cunnilingus, fellatio, anilingus, masturbation, bestiality, lewd exhibition of genitals or excretory function, actual or simulated;

E. Flagellation, mutilation or torture, actual or simulated, in a sexual context.

211.302 REGULATIONS.

1. Location.

A. Adult-oriented establishments shall be prohibited in or within one thousand (1,000) feet of the borders of a residential district.

B. Adult-oriented establishments shall be prohibited in or within one thousand (1,000) feet of federal, state, county, or city governmental offices.

C. Adult-oriented establishments shall be prohibited within two thousand (2,000) feet of any church, synagogue, mosque, temple, or other place of religious worship.

D. Adult-oriented establishments shall be prohibited within two thousand (2,000) feet of any public or private school, regularly scheduled school bus stop, public library or museum.

E. Adult-oriented establishments shall be prohibited within two thousand (2,000) feet of any registered daycare home or registered daycare business.

F. Adult-oriented establishments shall be prohibited within two thousand (2,000) feet of any public park or playground. For purposes of this section, bike paths, trails, waterways, and boat launches shall not be deemed a public park.

G. Adult-oriented establishments shall be prohibited within one thousand (1,000) feet of any other adult entertainment business.

H. Adult-oriented establishments shall be prohibited within one thousand (1,000) feet of any existing restaurant, fast food or food establishment, grocery store, or convenience store catering to family trade.

I. Adult-oriented establishments shall be prohibited within one thousand (1,000) feet of any existing establishment selling alcoholic beverages for consumption on premises. The 1,000 and 2,000 foot restrictions shall be computed by measurement from the nearest property line of the land used for another adult use or in the case of any regularly scheduled school bus stop, public or parochial school, licensed day care facility, church, public park, or dwelling, by measurement to the nearest entrance of the building in which adult uses are to occur, using a route of direct horizontal distance.

2. Concealment.

Exterior: It shall be unlawful for an owner of an adult-oriented establishment:

A. To allow the merchandise or activities of the establishment to be visible from any point outside the establishment;

B. To allow the exterior portion of the adult-oriented establishment to have flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representation of any manner depicting specified anatomical areas or specified sexual activities.

Signage: The operator shall comply with Article 16 of the Zoning Code.

3. **Minors.** No minor shall be permitted in any establishment in which adult uses are permitted.

4. **Alcohol.** No alcohol shall be permitted in any establishment in which adult uses are permitted, unless such is specifically allowed pursuant to the Code of Iowa. This prohibition applies equally to the proprietor and the patrons of the establishment involved.

5. **Hours of Operation.** An adult-oriented establishment may remain open for business no longer than the hours from between 10:00 a.m. to midnight, seven days a week.

6. All other provisions of Title II, Division 1, Chapter 1, Article 3 of the Code of Ordinances of the City of Estherville, Iowa, and not in conflict herewith, shall remain in full force and effect.

TITLE II - COMMUNITY PROTECTION**DIVISION 1 - LAW ENFORCEMENT****CHAPTER 1 - PUBLIC OFFENSES****ARTICLE 4
PUBLIC HEALTH AND SAFETY**

211.401 RESERVED FOR FUTURE USE.

211.402 RESERVED FOR FUTURE USE.

211.403 DISTRIBUTING DANGEROUS SUBSTANCES. Any person who distributes samples of any drugs or medicine, or any corrosive, caustic, poisonous or other injurious substance unless the person delivers such into the hands of a competent person, or otherwise takes reasonable precautions that the substance will not be taken by children or animals from the place where the substance is deposited.

(Code of Iowa, 2015, Sec. 727.1)

***211.404 FIREWORKS.** The use or exploding of fireworks within the city shall be subject to the following:

1. Definition.
 - A. "APA 87-1" means the American Pyrotechnics Association Standard 87-1, as published in December 2001.
 - B. "Consumer fireworks" includes first-class consumer fireworks and second-class consumer fireworks as those terms are defined in this section. "Consumer fireworks" does not include novelties enumerated in Chapter 3 of the American Pyrotechnics Association's Standard 87-1 or display fireworks enumerated in Chapter 4 of the American Pyrotechnics Association's Standard 87-1.

*Revised 5-15-17; Ord. 748 (entire fireworks section)

- C. "Display fireworks" includes any explosive composition, or combination of explosive substances, or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation, and includes fireworks containing any explosive or flammable compound, or other device containing any explosive substance. "Display fireworks" does not include novelties or consumer fireworks enumerated in Chapter 3 of the American Pyrotechnics Association's Standard 87-1.
- D. "First-class consumer fireworks" means the following consumer fireworks, as described in APA 87-1, Chapter 3:
1. Aerial shell kits and reloadable tubes.
 2. Chasers.
 3. Helicopter and aerial spinners.
 4. Firecrackers.
 5. Mine and shell devices.
 6. Missile-type rockets.
 7. Roman candles.
 8. Sky rockets and bottle rockets.
 9. Multiple tube devices under this paragraph "c" that are manufactured in accordance with APA 87-1, Section 3.5.
- E. "Novelties" includes all novelties enumerated in Chapter 3 of the American Pyrotechnics Association's Standard 87-1, and that comply with the labeling regulations promulgated by the United States consumer product safety commission.
1. Party Poppers.
 2. Snappers.
 3. Toy Smoke Devices.
 4. Snakes.

5. Glow Worms.
6. Wire Sparklers, Dipped Sticks.

F. "Second-class consumer fireworks" means the following consumer fireworks, as described in APA 87-1, Chapter 3:

1. Cone fountains.
2. Cylindrical fountains.
3. Flitter sparklers.
4. Ground and hand-held sparkling devices, including multiple tube ground and hand-held sparkling devices that are manufactured in accordance with APA 87-1, Section 3.5.
5. Ground spinners.
6. Illuminating torches.
7. Toy smoke devices that are not classified as novelties pursuant to APA 87-1, Section 3.2.
8. Wheels.
9. Wire or dipped sparklers that are not classified as novelties pursuant to APA 87-1, Section 3.2.

*2. Regulations.

- A. Display Fireworks. It shall be unlawful for any person to use or explode any display fireworks provided the city may, upon application in writing, grant a permit for the use of display fireworks by a city agency, fair associations, amusement parks and other organizations or groups of individuals approved by city authorities when such fireworks display will be handled by a competent operator. No permit shall be granted hereunder unless the operator or sponsoring organization has filed with the city Certificate of Liability Insurance in the total amount of \$10,000,000.

B. Consumer Fireworks. It shall be unlawful for any person to use or explode any consumer fireworks provided the city administration or designee may, upon application in writing, grant a permit for the use of consumer fireworks by organizations or individuals. No permit shall be granted hereunder unless the individual or organization has filed with the city a Certificate of Liability Insurance in the amount of not less than \$300,000. Fireworks permit may be granted only to parcels of common-owned land consisting of at least 1.5 acres at locations at least 150 feet distance from any structure

3. Applicability.

A. This section does not prohibit the sale by any resident, dealer, manufacturer or jobber from selling such fireworks as are not herein prohibited; or the sale of any kind of fireworks if they are to be shipped out of state; or the sale or use of blank cartridges for a show or theatre, or for signal purposes in athletic sports or by railroads, trucks, for signal purposes, or by a recognized military organization. All sales shall be made in accordance with State Code.

B. This section does not apply to any substance or composition prepared and sold for medicinal or fumigation purposes.

(Code of Iowa, 2017, Sec 727.2)

4. Violation Penalty. A person who uses or explodes consumer or display fireworks shall be guilty of a simple misdemeanor, punishable by a fine of not less than two hundred fifty dollars (\$250).

(Code of Iowa, 2017, Sec 727.2)

211.405 FALSE REPORTS TO LAW ENFORCEMENT AUTHORITIES.

1. A person who reports or causes to be reported false information to a fire department, a law enforcement authority, or other public safety entity, knowing that the information is false, or who reports the alleged occurrence of a criminal act knowing the act did not occur, commits a simple misdemeanor.

2. A person who telephones an emergency 911 communications center knowing that the person is not reporting an emergency or otherwise needing emergency information or assistance commits a simple misdemeanor.

3. A person who knowingly provides false information to a law enforcement officer who enters the information on a citation commits a simple misdemeanor.

(Code of Iowa, 2015, Sec. 718.6[1-3])

211.406 FALSE REPORTS OF DESTRUCTIVE SUBSTANCE. A person who knowing the information to be false, conveys or causes to be conveyed to any person any false information concerning the placement of any incendiary or explosive device or material or other destructive substance or device in any place where persons or property would be endangered.

(Code of Iowa, 2015, Sec. 712.7)

211.407 IMPERSONATING A PUBLIC OFFICIAL. Any person who falsely assumes to act as an elected or appointed officer, magistrate, peace officer, or person authorized to act on behalf of the state or any subdivision thereof, having no authority to do so.

(Code of Iowa, 2015, Sec. 718.2)

211.408 INTERFERENCE WITH OFFICIAL ACTS. A person commits interference with official acts when the person knowingly resists or obstructs anyone known by the person to be a peace officer, emergency medical care provider, or fire fighter in the performance of any act which is within the scope of the officer's lawful duty or authority, or shall knowingly resist or obstruct the service or execution by any authorized person of any civil or criminal process or order of any court.

(Code of Iowa, 2015, Sec. 719.1[1a])

211.409 REFUSING TO ASSIST OFFICER. Any person who is requested or ordered by any magistrate or peace officer to render the magistrate or officer assistance in making or attempting to make an arrest, or to prevent the commission of any criminal act, shall render assistance as required. No person shall unreasonably and without lawful cause, refuse or neglect to render assistance when so requested.

(Code of Iowa, 2015, Sec. 719.2)

211.410 HARASSMENT OF PUBLIC OFFICERS AND EMPLOYEES. Any person who willfully prevent or attempt to prevent any public officer or employee from performing the officer's or employee's duty.

(Code of Iowa, 2015, Sec. 718.4)

211.411 ABANDONED OR UNATTENDED REFRIGERATORS. Any person who abandons or otherwise leave unattended any refrigerator, ice box, or similar container, with doors that may become locked, outside of buildings and accessible to children, nor shall any person allow any such refrigerator, ice box, or similar container, to remain outside of buildings on premises in the person's possession or control, abandoned or unattended and so accessible to children, commits a simple misdemeanor.

(Code of Iowa, 2015, Sec. 727.3)

211.412 RECKLESS USE OF FIRE OR EXPLOSIVES. Any person who shall so use fire or any incendiary or explosive device or material as to recklessly endanger the property or safety of another.

(Code of Iowa, 2015, Sec. 712.5)

211.413 BOMB THREATS. Any person who threatens to place or attempt to place any incendiary or explosive device or material, or any destructive substance or device in any place where it will endanger persons or property.

(Code of Iowa, 2015, Sec. 712.8)

211.414 ANTENNA AND RADIO WIRES. It shall be unlawful for a person to allow antenna wires, antenna supports, radio wires, or television wires to exist over any street, alley, highway, sidewalk, or public property.

211.415 BARBED WIRE. It shall be unlawful to place or maintain any barb wire, to enclose in whole or in part, any part, terrace, lot, or parcel of ground fronting on or adjacent to any street, alley or sidewalk, except that barb wire may be installed on the top of a chain link or other fence at a minimum height of six (6) feet above ground level with the prior written consent of the administrative or supervisory person to whom such duty is assigned pursuant to Title I, Chapter 4, Article 4 of this code.

211.416 DISCHARGING WEAPONS. It shall be unlawful for a person to discharge rifles, shot guns, revolvers, pistols, guns, or firearms of any kind within the city limits except by authorization of the mayor.

211.417 THROWING AND SHOOTING. It shall be unlawful for a person to throw stones or missiles of any kind or to shoot arrows, rubber guns, slingshots, air rifles, or other dangerous instruments or toys on or into any street, highway, alley, sidewalk, or public place, except when under proper supervision of persons authorized by the council.

211.418 CARRYING WEAPONS.

1. Except as otherwise provided in this section, a person who goes armed with a dangerous weapon concealed on or about the person, or who, within the limits of any city, goes armed with a pistol or revolver, or any loaded firearm of any kind, whether concealed or not, or who knowingly carries or transports in a vehicle a pistol or revolver, commits simple misdemeanor.

2. A person who goes armed with a knife concealed on or about the person, if the person uses the knife in the commission of a crime, commits an aggravated misdemeanor.

3. A person who goes armed with a knife concealed on or about the person, if the person does not use the knife in the commission of a crime:

a. If the knife has a blade exceeding eight inches in length, commits an aggravated misdemeanor.

b. If the knife has a blade exceeding five inches but not exceeding eight inches in length, commits a serious misdemeanor.

4. Subsections 1 through 3 do not apply to any of the following:

a. A person who goes armed with a dangerous weapon in the person's own dwelling or place of business, or on land owned or possessed by the person.

b. A peace officer, when the officer's duties require the person to carry such weapons.

- c. A member of the armed forces of the United States or of the national guard or person in the service of the United States, when the weapons are carried in connection with the person's duties as such.
- d. A correctional officer, when the officer's duties require, serving under the authority of the Iowa department of corrections.
- e. A person who for any lawful purpose carries an unloaded pistol, revolver, or other dangerous weapon inside a closed and fastened container or securely wrapped package which is too large to be concealed on the person.
- f. A person who for any lawful purpose carries or transports an unloaded pistol or revolver in a vehicle inside a closed and fastened container or securely wrapped package which is too large to be concealed on the person or inside a cargo or luggage compartment where the pistol or revolver will not be readily accessible to any person riding in the vehicle or common carrier.
- g. A person while the person is lawfully engaged in target practice on a range designed for that purpose or while actually engaged in lawful hunting.
- h. A person who carries a knife used in hunting or fishing, while actually engaged in lawful hunting or fishing.
- i. A person who has in the person's possession and who displays to a peace officer on demand a valid permit to carry weapons which has been issued to the person, and whose conduct is within the limits of that permit. A person shall not be convicted of a violation of this section if the person produces at the person's trial a permit to carry weapons which was valid at the time of the alleged offense and which would have brought the person's conduct within this exception if the permit had been produced at the time of the alleged offense.
- j. A law enforcement officer from another state when the officer's duties require the officer to carry the weapon and the officer is in this state for any of the following reasons:

- (1) The extradition or other lawful removal of a prisoner from this state.
 - (2) Pursuit of a suspect in compliance with Chapter 806.
 - (3) Activities in the capacity of a law enforcement officer with the knowledge and consent of the chief of police of the city or the sheriff of the county in which the activities occur or of the commissioner of public safety.
- k. A person engaged in the business of transporting prisoners under a contract with the Iowa department of corrections or a county sheriff, a similar agency from another state, or the federal government.

(Code of Iowa, 2015, Sec. 724.4)

211.419 UNLAWFUL POSSESSION OF DRUG PARAPHERNALIA.

1. a. As used in this section, “drug paraphernalia” means all equipment, products, or materials of any kind used or attempted to be used in combination with a controlled substance, except those items used in combination with the lawful use of a controlled substance, to knowingly or intentionally and primarily do any of the following:
- (1) Manufacture a controlled substance.
 - (2) Inject, ingest, inhale, or otherwise introduce into the human body a controlled substance.
 - (3) Test the strength, effectiveness, or purity of a controlled substance.
 - (4) Enhance the effect of a controlled substance.
- b. “Drug paraphernalia” does not include hypodermic needles or syringes if manufactured, delivered, sold, or possessed for a lawful purpose.
2. It is unlawful for any person to knowingly or intentionally manufacture, deliver, sell, or possess drug paraphernalia.
3. A person who violates this section commits a simple misdemeanor.

(Code of Iowa, 2015, Sec. 124.414)

TITLE II - COMMUNITY PROTECTION**DIVISION 1 - LAW ENFORCEMENT****CHAPTER 1 - PUBLIC OFFENSES****ARTICLE 5
PUBLIC PROPERTY**

211.501 DEFACING PUBLIC GROUNDS. Any person who cuts, breaks, or defaces any tree or shrub on public property on any public way by willfully defacing, cutting, breaking, or injuring commits a simple misdemeanor.

211.502 INJURING NEW PAVEMENT. It shall be unlawful for a person to injure new pavement in any street, alley, or sidewalk by willfully driving, walking, or making marks on such pavement before it is ready for use.

211.503 DESTROYING PARK EQUIPMENT. Any person who destroys or injures any property or equipment in public swimming pools, playgrounds, or parks by willfully defacing, breaking, damaging, mutilating, or cutting commits a simple misdemeanor.

211.504 DEFACING PROCLAMATIONS OR NOTICES. It shall be unlawful for a person to intentionally deface, obliterate, tear down, or destroy in whole or in part, any transcript or extract from or of any law of the United States or this state, or any proclamation, advertisement, or notification, set up at any place within the city by authority of the law or by order of any court, during the time for which the same is to remain set up.

211.505 INJURY TO FIRE APPARATUS. Any person who willfully destroys or injures any engine, hose, hook and ladder truck, or other thing used and kept for extinguishment of fires commits a simple misdemeanor.

211.506 DAMAGE TO PUBLIC OR UTILITY PROPERTY. Any person who maliciously injures, removes, or destroys any electric railway or apparatus belonging thereto; or any bridge, rail or plank road; or place, or cause to be placed, any obstruction on any electric railway, or on any such bridge, rail or plank road; or willfully obstruct or injure any public road or highway; or maliciously cut, burn, or in any way break down, injure, or destroy any post or pole used in connection with any system of electric lighting, electric railway, or telephone or telegraph system; or break down and destroy or injure and deface any electric light, telegraph or telephone instrument; or in any way cut, break, or injure the wires of any apparatus belonging thereto; or to willfully tap, cut, injure, break, disconnect, connect, make connection with, or destroy any of the wires, mains, pipes, conduits, meters, or other apparatus belonging to, or attached to, the power plant or distributing system of any electric light plant, electric motor, gas plant, or water plant; or to aid or abet any other person in so doing commits a simple misdemeanor.

211.507 PUBLIC BUILDINGS. Any person who willfully writes, makes marks, or draws characters on the walls or any other part of any church, college, academy, schoolhouse, courthouse, or other public building, or on any furniture, apparatus, or fixture therein; or to willfully injure or deface the same, or any wall or fence enclosing the same commits a simple misdemeanor.

211.508 OBSTRUCTING DRAINAGE. It shall be unlawful to divert, obstruct, impede, or fill up, without legal authority, any ditch, drain, or watercourse, or to break down any levee lawfully established, constructed, or maintained commits a simple misdemeanor.

211.509 CRIMINAL MISCHIEF. Any person who intentionally damages, defaces, alters, or destroys tangible commits a simple misdemeanor when it is done by someone without the authority to act.

211.510 VEHICLES AND HORSES IN PARKS. Any person who operates any motorized vehicle, including motorcycles and snowmobiles, or to ride, or lead any horse in any city park or recreation facility commits a simple misdemeanor, except on such roadways and trails as are designated for such usage by the parks and recreation board of the City of Estherville.

211.511 LOITER IN A MUNICIPAL PARKING LOT. Any person or persons who loiters, assembles, or frequents a municipal parking lot between the hours of 6:00 p.m. and 6:00 a.m. commits a simple misdemeanor. For purposes of this section, loitering shall be defined as a person's presence unrelated to the normal activity, use, or business associated with the parking or retrieval of motor vehicles.

TITLE II - COMMUNITY PROTECTION**DIVISION 1 - LAW ENFORCEMENT****CHAPTER 1 - PUBLIC OFFENSES****ARTICLE 6
PRIVATE PROPERTY**

211.601 TRESPASSING PROHIBITED. It shall be unlawful for a person to commit one or more of the following acts:

1. For purposes of this section:
 - a. "Property" shall include any land, dwelling, building, conveyance, vehicle, or other temporary or permanent structure whether publicly or privately owned.
 - b. "Public utility" is a public utility as defined in Section 476.1 or an electric transmission line as provided in Chapter 478.
 - c. "Public utility property" means any land, dwelling, building, conveyance, vehicle, or other temporary or permanent structure owned, leased, or operated by a public utility and that is completely enclosed by a physical barrier of any kind.
 - d. "Railway corporation" means a corporation, company, or person owning, leasing, or operating any railroad in whole or in part within this state.
 - e. "Railway property" means all tangible real and personal property owned, leased, or operated by a railway corporation with the exception of any administrative building or offices of the railway corporation.
2. a. "Trespass" shall mean one or more of the following acts:
 - (1) Entering upon or in property without the express permission of the owner, lessee, or person in lawful possession with the intent to commit a public offense, to use, remove therefrom, alter, damage, harass, or place thereon or therein anything animate or inanimate, or to hunt, fish or trap on or in the property, including the act of taking or attempting to take a deer, other than a farm deer as defined in Section

170.1 or preserve whitetail as defined in Section 484C.1, which is on or in the property by a person who is outside the property. This subparagraph does not prohibit the unarmed pursuit of game or fur-bearing animals by a person who lawfully injured or killed the game or fur-bearing animal which comes to rest on or escapes to the property of another.

(2) Entering or remaining upon or in property without justification after being notified or requested to abstain from entering or to remove or vacate therefrom by the owner, lessee, or person in lawful possession, or the agent or employee of the owner, lessee, or person in lawful possession, or by any peace officer, magistrate, or public employee whose duty it is to supervise the use or maintenance of the property.

(3) Entering upon or in property for the purpose or with the effect of unduly interfering with the lawful use of the property by others.

(4) Being upon or in property and wrongfully using, removing therefrom, altering, damaging, harassing, or placing thereon or therein anything animate or inanimate, without the implied or actual permission of the owner, lessee, or person in lawful possession.

(5) Entering or remaining upon or in railway property without lawful authority or without the consent of the railway corporation which owns, leases, or operates the railway property. This subparagraph does not apply to passage over a railroad right-of-way, other than a track, railroad roadbed, viaduct, bridge, trestle, or railroad yard, by an unarmed person if the person has not been notified or requested to abstain from entering onto the right-of-way or to vacate the right-of-way and the passage over the right-of-way does not interfere with the operation of the railroad.

(6) Entering or remaining upon or in public utility property without lawful authority or without the consent of the public utility that owns, leases, or operates the public utility property. This subparagraph does not apply to passage over public utility

right-of-way by a person if the person has not been notified or requested by posted signage or other means to abstain from entering onto the right-of-way or to vacate the right-of-way.

b. "Trespass" shall not mean either of the following:

(1) Entering upon the property of another for the sole purpose of retrieving personal property which has accidentally or inadvertently been thrown, fallen, strayed, or blown onto the property of another, provided that the person retrieving the property takes the most direct and accessible route to and from the property to be retrieved, quits the property as quickly as is possible, and does not unduly interfere with the lawful use of the property. This subparagraph does not apply to public utility property where the person has been notified or requested by posted signage or other means to abstain from entering.

(2) Entering upon the right-of-way of a public road or highway.

3. This section shall not apply to the following persons:

a. Representatives of the state department of transportation, the federal railroad administration, or the national transportation safety board who enter or remain upon or in railway property while engaged in the performance of official duties.

b. Employees of a railway corporation who enter or remain upon or in railway property while acting in the course of employment.

c. Any person who is engaged in the operation of a lawful business on railway station grounds or in the railway depot.

d. Representatives of the Iowa utilities board, the federal energy regulatory commission, or the federal communications commission who enter or remain upon or in public utility property while engaged in the performance of official duties.

e. Employees of a public utility who enter or remain upon or in public utility property while acting in the course of employment.

(Code of Iowa, 2015, Sec. 716.7)

211.602 ELECTRONIC AND MECHANICAL EAVESDROPPING. Any person, having no right or authority to do so, shall tap into or connect a listening or recording device to any telephone or other communication wire, or shall by any electronic or mechanical means listen to, record, or otherwise intercept a conversation or communication of any kind; provided, that the sender or recipient of a message or one who is openly present and participating in or listening to a communication shall not be prohibited hereby from recording such message or communication; and further provided, that nothing herein shall restrict the use of any radio or television receiver to receive any communication transmitted by radio or wireless signal commits a simple misdemeanor.

(Code of Iowa, 2015, Sec. 727.8)

211.603 DAMAGE TO PROPERTY. Any person who cuts, hacks, breaks, defaces, or otherwise injures any ornamental or shade tree, fence, private building, railing, or other property commits a simple misdemeanor.

211.604 THEFT. A person commits theft when the person does any of the following:

1. Takes possession or control of the property of another, or property in the possession of another, with the intent to deprive the other thereof.
2. Misappropriates property which the person has in trust, or property of another which the person has in the person's possession or control, whether such possession or control is lawful or unlawful, by using or disposing of it in a manner which is inconsistent with or a denial of the trust or of the owner's rights in such property, or conceals found property, or appropriates such property to the person's own use, when the owner of such property is known to the person.
 - a. Failure by a bailee or lessee of personal property to return the property within seventy-two hours after a time specified in a written agreement of lease or bailment shall be evidence of misappropriation.
 - b. If a time is not specified in the written agreement of lease or bailment for the expiration or termination of the lease or bailment or for the return of the personal

- property, failure by a lessee or bailee to return the property within five days after proper notice to the lessee or bailee shall be evidence of misappropriation. For the purposes of this paragraph, "proper notice" means a written notice of the expiration or termination of the lease or bailment agreement sent to the lessee or bailee by certified or restricted certified mail at the address of the lessee or bailee specified in the agreement. The notice shall be considered effective on the date of the mailing of the notice regardless of whether or not the lessee or bailee signs a receipt for the notice.
3. Obtains the labor or services of another, or a transfer of possession, control, or ownership of the property of another, or the beneficial use of property of another, by deception. Where compensation for goods and services is ordinarily paid immediately upon the obtaining of such goods or the rendering of such services, the refusal to pay or leaving the premises without payment or offer to pay or without having obtained from the owner or operator the right to pay subsequent to leaving the premises gives rise to an inference that the goods or services were obtained by deception.
 4. Exercises control over stolen property, knowing such property to have been stolen, or having reasonable cause to believe that such property has been stolen, unless the person's purpose is to promptly restore it to the owner or to deliver it to an appropriate public officer. The fact that the person is found in possession of property which has been stolen from two or more persons on separate occasions, or that the person is a dealer or other person familiar with the value of such property and has acquired it for a consideration which is far below its reasonable value, shall be evidence from which the court or jury may infer that the person knew or believed that the property had been stolen.
 5. Takes, destroys, conceals or disposes of property in which someone else has a security interest, with intent to defraud the secured party.

6. Makes, utters, draws, delivers, or gives any check, share draft, draft, or written order on any bank, credit union, person, or corporation, and obtains property, the use of property, including rental property, or service in exchange for such instrument, if the person knows that such check, share draft, draft, or written order will not be paid when presented.

a. Whenever the drawee of such instrument has refused payment because of insufficient funds, and the maker has not paid the holder of the instrument the amount due thereon within ten days of the maker's receipt of notice from the holder that payment has been refused by the drawee, the court or jury may infer from such facts that the maker knew that the instrument would not be paid on presentation. Notice of refusal of payment shall be by certified mail, or by personal service in the manner prescribed for serving original notices.

b. Whenever the drawee of such instrument has refused payment because the maker has no account with the drawee, the court or jury may infer from such fact that the maker knew that the instrument would not be paid on presentation.

7. Obtains gas, electricity or water from a public utility or obtains cable television or telephone service from an unauthorized connection to the supply or service line or by intentionally altering, adjusting, removing or tampering with the metering or service device so as to cause inaccurate readings.

8. Knowingly and without authorization accesses or causes to be accessed a computer, computer system, or computer network, or any part thereof, for the purpose of obtaining computer services, information, or property or knowingly and without authorization and with the intent to permanently deprive the owner of possession, takes, transfers, conceals, or retains possession of a computer, computer system, or computer network or any computer software or computer program, or computer data contained in a computer, computer system, or computer network.

9. a. Obtains the temporary use of video rental property with the intent to deprive the owner of the use and possession of the video rental property without the consent of the owner.
 - b. Lawfully obtains the temporary use of video rental property and fails to return the video rental property by the agreed time with the intent to deprive the owner of the use and possession of the video rental property without the consent of the owner. The aggregate value of the video rental property involved shall be the original retail value of the video rental property.
10. Any act that is declared to be theft by any provision of the Code.

(Code of Iowa, 2015, Sec. 714.1 [1-10])

TITLE II - COMMUNITY PROTECTION

DIVISION 1 - LAW ENFORCEMENT

CHAPTER 1 - PUBLIC OFFENSES

**ARTICLE 7
RESERVED FOR FUTURE USE**

TITLE II - COMMUNITY PROTECTION**DIVISION 1 - LAW ENFORCEMENT****CHAPTER 1 - PUBLIC OFFENSES****ARTICLE 8
PUBLIC ADDRESS SYSTEM**

211.801 DEFINITION. For the purpose of this article "Public Address System" shall mean and include any machine, device, apparatus, horn, loudspeaker, or combinations thereof, operated with word or mouth, phonograph records or radio hookup or in any other manner, for broadcasting purposes.

211.802 PERMIT REQUIRED. A permit shall be required for any person or persons to operate or broadcast from any public address system, on any street, sidewalk, alley or highway, or on any public or private building or structure, within the city.

211.803 APPLICATION FOR PERMIT. The mayor, as the occasion may demand and so far as reasonable and so that all applicants shall be treated as uniformly as possible, taking into consideration the nature and purpose of the broadcast, the time and place thereof and all the circumstances bearing on the matter, may, in his discretion, upon application of one or more interested persons, give permission, in writing, without fee, for the operation of public address systems and broadcasts therefrom, for limited periods of time as may be determined by the mayor.

211.804 EXEMPTIONS. The provisions of this article shall not apply to radio broadcasting stations operating under assigned wave length by the Federal Communications Commission, nor to organizations supported by the city.

TITLE II - COMMUNITY PROTECTION**DIVISION 1 - LAW ENFORCEMENT****CHAPTER 2 - TRAFFIC CODE****ARTICLE 1
GENERAL PROVISIONS**

212.101 TITLE. This chapter may be known and cited as the “Estherville Traffic Code.”

212.102 DEFINITIONS. Where words and phrases used in this chapter are defined by state law, such definitions shall apply to their use in this chapter and are adopted by reference. Those definitions so adopted that need further definition or are reiterated, and other words and phrases used herein, shall have the following meanings:

1. “Park or Parking”: shall mean the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.
2. “Stand or Standing”: shall mean the halting of a vehicle, whether occupied or not, otherwise than for the purpose of and while actually engaged in receiving or discharging passengers.
3. “Stop”: shall mean when required, the complete cessation of movement.
4. “Stop or Stopping”: shall mean, when prohibited, any halting of a vehicle, even momentarily, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or traffic-control sign or signal.
5. “Business District”: shall mean the territory contiguous to and including the following designated streets:
 - A. Fifth Street, from First Avenue South to Second Avenue North.
 - B. Sixth Street, from Fourth Avenue North to Fourth Avenue South.

- C. Seventh Street, from Second Avenue North to Second Avenue South.
- D. Eighth Street, from First Avenue North to First Avenue South.
- E. Second Avenue South from South Seventh Street to South Sixth Street.
- F. First Avenue South from South Ninth Street to South Fifth Street.
- G. Central Avenue from Ninth Street to Fourth Street.
- H. First Avenue North from North Eighth Street to North Fourth Street.
- I. Second Avenue North from North Seventh Street to North Fourth Street.

6. "Residence District": shall mean the territory contiguous to and including a highway not comprising a business, suburban or school district, where forty (40) percent or more of the frontage on such a highway for a distance of three hundred (300) feet or more is occupied by dwellings or by dwellings and buildings in use for business.

(Code of Iowa, 2015, Sec. 321.1 [63])

7. "School District": shall mean the territory contiguous to and including a highway for a distance of two hundred (200) feet in either direction from a school house.

(Code of Iowa, 2015, Sec. 321.1 [70])

8. "Suburban District": shall mean all other parts of the city not included in the business, school, or residence districts.

(Code of Iowa, 2015, Sec. 321.1 [79])

9. "Peace Officer": shall mean every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

(Code of Iowa, 2015, Sec. 321.1 [50])

10. "Traffic Control Device": Local authorities in their respective jurisdiction shall place and maintain such traffic-control devices upon highways under their jurisdiction as they may deem necessary to indicate and to carry out the provisions of this chapter or local traffic ordinances or to regulate, warn, or guide traffic. All such traffic-control devices hereafter erected shall conform to the state manual and specifications.

(Code of Iowa, 2015, Sec. 321.255)

11. "Vehicle": shall mean any vehicle in, upon or by which any person or property is or may be transported or drawn upon a public highway, street, or alley.

(Code of Iowa, 2015, Sec. 321.1 [90])

12. "Controlled Access Facility": shall mean the highways or streets designated by Section 810.204 of the city code.

212.103 ADMINISTRATION AND ENFORCEMENT. Provisions of this chapter and the Iowa law relating to motor vehicles and law of the road shall be enforced by the police chief.

212.104 POWER TO DIRECT TRAFFIC. A peace officer, and any officer of the Fire Department when at the scene of a fire, is authorized to direct all traffic by voice, hand, or signal in conformance with traffic laws. In the event of an emergency, traffic may be directed as conditions require notwithstanding the provisions of the traffic laws.

212.105 TRAFFIC ACCIDENTS: REPORTS. Any incorporated city or other municipality may by ordinance require that the driver of a vehicle involved in an accident shall also file with a designated city department a report of such accident or a copy of any report herein required to be filed with the department. All such reports shall be for the confidential use of the city department and subject to the provisions of Section 321.271.

(Code of Iowa, 2015, Sec. 321.273)

212.106 INVESTIGATION OF TRAFFIC ACCIDENTS. The Police Department shall investigate all accidents reported. If sufficient evidence of a violation is found, proper action will be taken to punish the violator.

212.107 TRAFFIC ACCIDENTS: STUDIES. Whenever the accidents at any particular location become numerous, the chief of police and the city planner and construction engineer shall conduct studies of such accidents and propose remedial measures.

212.108 FILES MAINTAINED. The police chief shall maintain a suitable record of all traffic accidents, warnings, arrests, convictions, and complaints reported for each driver during the most recent three (3) year period.

212.109 RESERVED FOR FUTURE USE.

212.110 ANNUAL SAFETY REPORTS. The police chief shall prepare annually a traffic report which shall be filed with the mayor and council. Such report shall contain information on the number of traffic accidents, the number of persons killed and injured, the number and nature of violations, and other pertinent traffic data including plans and recommendations for future traffic safety activities.

TITLE II - COMMUNITY PROTECTION**DIVISION 1 - LAW ENFORCEMENT****CHAPTER 2 - TRAFFIC CODE****ARTICLE 2
TRAFFIC CONTROL DEVICES**

212.201 INSTALLATION. The city planning and construction office shall cause to be placed and maintained traffic control devices when and as required under the Traffic Code of this city to make effective its provisions; emergency or temporary traffic control devices for the duration of an emergency or temporary condition as traffic conditions may require to regulate traffic under the traffic code of this city or under state law, or to guide or warn traffic. He shall keep a record of all such traffic control devices.

212.202 CROSSWALKS. The city planning and construction office is hereby authorized, to designate and maintain crosswalks by appropriate traffic control devices at intersections where due to traffic conditions there is particular danger to pedestrians crossing the street or roadway, and at such other places as traffic conditions require.

212.203 TRAFFIC LANES. The city planning and construction office is hereby authorized to mark lanes for traffic on street pavements at such places as traffic conditions require consistent with the traffic code of this city. Where such traffic lanes have been marked, it shall be unlawful for the operator of any vehicle to fail or refuse to keep such vehicle within the boundaries of any such lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

212.204 STANDARDS. Local authorities in their respective jurisdiction shall place and maintain such traffic-control devices upon highways under their jurisdiction as they may deem necessary to indicate and to carry out the provisions of this chapter or local traffic ordinances or to regulate, warn, or guide traffic. All such traffic-control devices hereafter erected shall conform to the state manual and specifications.

(Code of Iowa, 2015, Sec. 321.255)

212.205 COMPLIANCE. No driver of a vehicle shall disobey the instructions of any official traffic-control device placed in accordance with the provisions of this chapter, unless at the time otherwise directed by a peace officer subject to the exceptions granted the driver of an authorized emergency vehicle.

(Code of Iowa, 2015, Sec. 321.256)

TITLE II - COMMUNITY PROTECTION**DIVISION 1 - LAW ENFORCEMENT****CHAPTER 2 - TRAFFIC CODE****ARTICLE 3
GENERAL REGULATIONS**

212.301 VIOLATION OF REGULATIONS. Any person who shall willfully fail or refuse to comply with any lawful order of a peace officer or direction of a fire department officer during a fire, or who shall fail to abide by the provisions of this chapter and the applicable provisions of the following Iowa statutory laws relating to motor vehicles and the statutory law of the road is in violation of this chapter. These sections of the Code of Iowa, 2015, are:

1. Display of Registration and License to Drive: 321.32, 321.174, 321.174A, 321.193, and 321.218 through 321.224.
2. Obedience to a Peace Officer and Responsibility of Public Officers, Emergency Vehicles, and Bicycles to Obey Traffic Regulations: 321.229 through 321.234.
3. Traffic Signs, Signals, and Markings: 321.257 through 321.260.
4. Accidents and Accident Reporting: 321.266 and 321.268.
5. Operation of Motorcycles & Motorized Bikes: 321.275.
6. Reckless Driving, Drag Racing, Speed, Control of Vehicle, and Minimum Speed: 321.277, 321.278, 321.288 through 321.295.
7. Driving on Right, Meeting, Overtaking, Following, or Towing: 321.297 through 321.310.
8. Turning and Starting, Signals on Turning and Stopping: 321.311 through 321.318.
9. Right-of-Way: 321.319 through 321.324.

10. Pedestrian Rights and Safety Zones: 321.325, 321.326, 321.327, 321.328, 321.329, 321.330, 321.332 through 321.334 and 321.340.
11. Railroad Crossings: 321.341 through 321.344A.
12. Stopping, Standing, Parking: 321.354 through 321.357 and 321.359.
13. Unattended Vehicle, Obstructing Driver's View, Crossing Median, Following Fire Apparatus, or Crossing Fire Hose, and Putting Glass, Etc., on Streets: 321.362 through 321.371.
14. Lighting Equipment Required and Time of Use: 321.384 through 321.409, 321.415, 321.418 through 321.423. In accordance with authorization granted by Section 321.395, Code of Iowa, motor vehicles parked upon any street where permitted by this chapter need not display required lights where there is sufficient light emitted from city street lights to reveal any person or object within a distance of five hundred (500) feet upon such street.
15. Brakes, Horns, Sirens, Mufflers, Wipers, Child Restraints, Mirrors, Tires, Flares, Windows, Safety Belts, and Special Markings for Hazardous Material: 321.430 through 321.446.
16. Size, Weight, and Load: 321.449 through 321.463, 321.465 and 321.466.

212.302 PLAY STREETS DESIGNATED. The council shall have authority to declare any street or part thereof a play street and to place appropriate signs or devices in the roadway indicating and helping to protect the same. Whenever authorized signs are erected indicating any street or part thereof as a play street, no person shall drive a vehicle upon any such street or portion thereof except drivers of vehicles having business or whose residences are within such closed area, and then any said driver shall exercise the greatest care in driving upon any such street or portion thereof.

212.303 VEHICLES ON SIDEWALKS. The driver of a vehicle or horse shall not drive upon or within any sidewalk area except at a driveway.

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

212.305 QUIET ZONES. Whenever authorized signs are erected indicating a quiet zone, no person operating a motor vehicle within any such zone shall sound the horn or other warning device of such vehicle except in an emergency.

212.306 SCHOOL BUSES.

(RESERVED FOR FUTURE USE)

212.307 FUNERAL OR OTHER PROCESSIONS.

(RESERVED FOR FUTURE USE)

212.308 TAMPERING WITH VEHICLE. Any person who either individually, or in association with one or more other persons, willfully injures or tampers with any vehicle or breaks or removes any part or parts of or from a vehicle without the consent of the owner is guilty of a misdemeanor punishable as provided in Section 321.482 of the Code of Iowa.

212.309 ENGINE BRAKE PROHIBITED. No truck or motor vehicle operating on any street or highway in the City shall use the engine back-pressure braking system commonly known as engine brake or “jake brakes” unless muffled, or in case of emergency.

212.310 EXCESSIVE ACCELERATION. It shall be unlawful for any person in the operation of a motor vehicle, including motorcycles, to so accelerate such vehicle as to cause audible noise by the friction of the tires on the pavement or to cause the tires of the vehicle to leave skid marks on the pavement, or to cause the front wheel of a motorcycle to leave the ground more than two (2) inches, except when such acceleration is reasonably necessary to avoid a collision.

212.311 CARELESS DRIVING. A person commits careless driving if the person intentionally operates a motor vehicle on a public road or highway in any one of the following ways:

1. Creates or causes unnecessary tire squealing, skidding, or sliding upon acceleration or stopping.
2. Simulates a temporary race.
3. Causes any wheel or wheels to unnecessarily lose contact with the ground.
4. Causes the vehicle to unnecessarily turn abruptly or sway.

(Code of Iowa, 2015, Sec. 321.277A)

212.312 OPERATION OF GOLF CARTS.

1. Golf carts may be operated upon the streets of the City of Estherville, Iowa, except as prohibited in subsection 2 of this section, by persons possessing a valid Iowa operator's license.
2. Prohibited Streets. Golf carts shall not be operated upon any city street which is a primary road extension through the city, to-wit: Iowa Highway Number 4 and Iowa Highway Number 9. However, golf carts may cross such a primary road extension.
3. Equipment. Golf carts operated upon city streets shall be equipped with a slow-moving vehicle sign or proper motor vehicle lighting if conditions warrant and at all times during operation shall have adequate brakes.
4. Hours. Golf carts may be operated on city streets only between sunrise and sunset.

5. Financial Responsibility. The owner or operator of any golf cart upon the city streets within the city limits of the City of Estherville, Iowa, must maintain and provide current proof of financial responsibility in accordance with Iowa Code Section 321.20B of the Code of Iowa or equivalent coverage.

TITLE II - COMMUNITY PROTECTION**DIVISION 1 - LAW ENFORCEMENT****CHAPTER 2 - TRAFFIC CODE****ARTICLE 4
SPEED REGULATIONS**

212.401 GENERAL. Any person driving a motor vehicle on a street shall drive the same at a careful and prudent speed not greater than nor less than is reasonable and proper, having due regard to the traffic, surface and width of the street and of any other conditions then existing, and no person shall drive a vehicle on any street at a speed greater than will permit the person to bring it to a stop within the assured clear distance ahead, such driver having the right to assume, however, that all persons using said street will observe the law.

(Code of Iowa, 2015, Sec. 321.285)

212.402 BUSINESS DISTRICT. A speed in excess of twenty-five (25) miles per hour in the business district, unless specifically designated otherwise in this article, is unlawful.

(Code of Iowa, 2015, Sec. 321.285 (2a) [1])

212.403 RESIDENCE OR SCHOOL DISTRICT. A speed in excess of twenty-five (25) miles per hour in any school or residence district, unless specifically designated otherwise in this article, is unlawful.

(Code of Iowa, 2015, Sec. 321.285 [2])

212.404 SUBURBAN DISTRICT. A speed in excess of forty-five (45) miles per hour in any suburban district, unless specifically designated otherwise in this article, is unlawful.

(Code of Iowa, 2015, Sec. 321. 285 [3])

212.405 PARKS, CEMETERIES, AND PARKING LOTS. A speed in excess of fifteen (15) miles per hour in any public park, alley, cemetery, or parking lot, unless specifically designated otherwise in this article, is unlawful.

212.406 MINIMUM SPEED. A person shall not drive a motor vehicle at such a slow speed as to impede or block the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law. Peace officers are hereby authorized to enforce this provision by directions to drivers, and in the event of apparent willful disobedience to this provision and refusal to comply with direction of an officer in accordance herewith the continued slow operation by a driver shall be a simple misdemeanor punishable as a scheduled violation under Section 805.8A, subsection 8.

(Code of Iowa, 2015, Sec. 321.294)

212.407 EMERGENCY VEHICLES.

1. The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected perpetrator of a felony or in response to an incident dangerous to the public or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section.
2. The driver of any authorized emergency vehicle may:
 - A. Park or stand an unauthorized emergency vehicle, irrespective of the provisions of this chapter.
 - B. Disregard laws or regulations governing direction of movement for the minimum distance necessary before an alternative route that conforms to the traffic laws and regulations is available.
3. The driver of a fire department vehicle, police vehicle, or ambulance, or a peace officer riding a police bicycle in the line of duty may do any of the following:
 - A. Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation.
 - B. Exceed the maximum speed limits so long as the driver does not endanger life or property.

4. The exemptions granted to an authorized emergency vehicle under subsection 2 and for a fire department vehicle, police vehicle, or ambulance as provided in subsection 3 shall apply only when such vehicle is making use of an audible signaling device meeting the requirements of Section 321.433 or a visual signaling device, except that use of an audible or visual signaling device shall not be required when exercising the exemption granted under subsection 3, paragraph "b" of this section when the vehicle is operated by a peace officer, pursuing a suspected violator of the speed restrictions imposed by or pursuant to this chapter, for the purpose of determining the speed of travel of such suspected violator.

5. The provisions of this section shall not relieve the driver of an authorized emergency vehicle or the rider of a police bicycle from the duty to drive or ride with due regard for the safety of all persons, nor shall such provisions protect the driver or rider from the consequences of the driver's or rider's reckless disregard for the safety of others.

(Code of Iowa, 2015, Sec., 321.231

212.408 SPECIAL SPEED RESTRICTIONS.

Whenever the department shall determine upon the basis of an engineering and traffic investigation that any speed limit hereinbefore set forth is greater or less than is reasonable or safe under the conditions found to exist at any intersection or other place or upon any part of the primary road system or upon any part of a primary road extension, said department shall determine and declare a reasonable and safe speed limit thereat which shall be effective when appropriate signs giving notice thereof are erected at such intersection or other place or part of the highway.

Whenever the council in any city shall determine upon the basis of an engineering and traffic investigation that any speed limit hereinbefore set forth is greater or less than is reasonable or safe under the conditions found to exist at any intersection or other place or upon any part of the city street system, except primary road extensions, said council shall determine and adopt by ordinance such higher or lower speed limit as it deems reasonable and safe thereat. Such speed

limit shall be effective when proper and appropriate signs giving notice thereof are erected at such intersections or other place or part of the street.

(Code of Iowa, 2015, Sec. 321.290)

212.409 SPECIAL SPEED LIMITS ESTABLISHED. Pursuant to Section 212.408 the following special speed restrictions have been established:

1. On Ninth Street (Iowa State Highway No. 4):
 - A. 45 MPH from a point 185' north of 380th Street to a point 2,580 feet north thereof.
 - B. 35 MPH from the above point, north to a point 620 feet north of South First Street.
 - C. 30 MPH from the above point, north to a point 610 feet north of Maplecrest Drive.
 - D. 45 MPH from the above point, north to a point 140 feet north of 22nd Avenue North.
 - E. 55 MPH from the above point, north to the north corporate limits of the City of Estherville, Iowa.
2. On South First Street:
 - A. 45 MPH from the intersection of Iowa State Highway No. 4 to a point 575 feet southeast of the intersection of South First Street and 2nd Avenue South.
 - B. 30 MPH from the above point northerly to the intersection of South First Street and Iowa State Highway No. 9.
3. On Central Avenue (Iowa State Highway No. 9):
 - A. 45 MPH from the west corporate limits to a point 588 feet east thereof.
 - B. 35 MPH from the above point to a point 1,630 feet east thereof.
 - C. 25 MPH from the east boundary of the above 35 MPH zone to a point 4,650 feet east thereof.
 - D. 30 MPH from the east edge of the above 25 MPH zone to a point 2,900 feet east thereof.
 - E. 35 MPH from the east edge of the above 30 MPH zone to a point 1,000 feet east thereof.

- F. 45 MPH from the east edge of the 35 MPH zone immediately preceding this sentence to a point 3,560 feet east thereof.
- G. 55 MPH from the east limit of the 45 MPH zone immediately preceding this sentence to the east corporate limits.
- 4. On Park Road: 25 MPH from a point one thousand four hundred twenty (1,420) feet north of the south corporation line to the transition into West South First Street.
- 5. On West North Second Street: 25 MPH from the intersection of West North Second and West Fifth Avenue North to the intersection of West North Second Street and West Fourteenth Avenue North.
- 6. On West Fourteenth Avenue North: 25 MPH from west corporate line to the intersection of West Fourteenth Avenue North and Emmet County Road N-26.
- 7. On Murray Road: 25 MPH from North Twentieth Street to North Thirty-fourth Street.
- *8. On Valley Drive: 20 MPH.
- **9. On 5th Avenue North: For the eastbound traffic exiting the City.
 - A. 35 MPH from a point six hundred ninety (690) feet East of the east corporate limits.
- ***10. On North 6th Street: 20 MPH from 1st Avenue North to 5th Avenue North.
- ****11. On 170th Street: For the westbound traffic.
 - A. 35 MPH from Highway 9 to 368th Avenue.
 - B. 55 MPH from 368th Avenue to the West City Limits.

*Revised 10-7-19; Ord. 772

**Revised 9-19-2022, Ord. 798

***Revised 7-1-2024, Ord. 822

****Revised 10-21-2024, Ord. 823

TITLE II - COMMUNITY PROTECTION**DIVISION 1 - LAW ENFORCEMENT****CHAPTER 2 - TRAFFIC CODE****ARTICLE 5
TURNING REGULATIONS**

212.501 AUTHORITY TO MARK. The council may cause markers, buttons, or signs to be placed within or adjacent to intersections and thereby require and direct, as traffic conditions require, that a different course from that specified by the state law be traveled by vehicles turning at intersections, and when markers, buttons, or signs are so placed no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by such markers, buttons, or signs.

(Code of Iowa, 2015, Sec. 321.311[2])

212.502 “U” TURNS. It shall be unlawful for a driver to make a “U” turn at intersections where there are automatic traffic signals and at the following designated locations:

(Code of Iowa, 2015, Sec. 321.255)

1. Intersection of Third Avenue North and North Sixth Street.
2. At any place on Central Avenue within the city.

212.503 RIGHT TURN ON RED SIGNAL PROHIBITED. Vehicular traffic facing a steady red signal shall not proceed or make a right turn at the following locations when appropriate signs are in place.

(Code of Iowa, 2015, Sec. 321. 311 [2])

1. Central Avenue. Vehicles traveling east on Central Avenue shall not turn right on a red signal at Seventeenth Street.

212.504 NO LEFT TURNS PERMITTED. When appropriate signs are in place, no driver shall make a left turn at the following locations.

(Code of Iowa, 2015, Sec. 321.311[2])

1. Central Avenue. It shall be unlawful for vehicular traffic entering upon Central Avenue from the North-South Alley running through Block Seventy-six (76) of the Original Plat of Estherville, Iowa, to turn left upon Central Avenue.

TITLE II - COMMUNITY PROTECTION**DIVISION 1 - LAW ENFORCEMENT****CHAPTER 2 - TRAFFIC CODE****ARTICLE 6
STOP OR YIELD REQUIRED**

212.601 THROUGH STREETS - STOP. The department, based on an engineering study, with reference to primary highways, and local authorities with reference to other highways under their jurisdiction may designate through highways and erect stop signs or yield signs, in accordance with specifications established by the department at specified entrances to the highway or may designate any intersection as a stop intersection or as a yield intersection and erect like signs at one or more entrances to such intersection.

(Code of Iowa, 2015, Sec. 321.345)

1. Central Avenue, from the west corporate limits to the east corporate limits.
2. 9th Street from 7th Avenue South to Alexander Road.
3. South 1st Street from the south corporate limits to Central Avenue.
4. West North 9th Street from Central Avenue to West 14th Avenue North.
5. North 2nd Street from Central Avenue to 4th Avenue North.
6. North 4th Street from Central Avenue to the north city limits.
7. 6th Street from 3rd Avenue North to 22nd Avenue North.
8. 13th Street from 3rd Avenue South to 14th Avenue North.
9. 3rd Avenue South from South 13th Street to Central Avenue.
10. 6th Avenue South from South 9th Street to and including South 13th Street.
11. 2nd Avenue North from North 6th Street to North 9th Street.
12. 3rd Avenue North from North 6th Street to North 9th Street.
13. 4th Avenue North from North 6th Street to North 9th Street.

- *14. 8th Avenue North from North 6th Street to North 8th Street.
- 15. 1st Avenue North from North 7th Street to North 9th Street.
- 16. 7th Avenue South from South 13th Street to South 28th Street.
- *17. 5th Avenue North from 6th Street to North 9th Street.

212.602 SPECIAL STOPS REQUIRED. Every driver of a vehicle shall stop in accordance with the following:

1. West North 7th Street. Vehicles traveling on West North 7th Street shall stop at West 6th Avenue North.
2. West North 6th Street. Vehicles traveling south on West North 6th Street shall stop at West 5th Avenue.
3. West South 2nd Street. Vehicles traveling on West South 2nd Street shall stop at West 1st Avenue South.
4. West South 2nd Street. Vehicles traveling on West South 2nd Street shall stop at West 2nd Avenue South.
5. North 5th Street. Vehicles traveling south on North 5th Street shall stop at 4th Avenue North. Vehicles traveling on North 5th Street shall stop at 1st Avenue North.
6. 1st Avenue North. Vehicles traveling on 1st Avenue North shall stop at North 7th Street.
7. South 8th Street. Vehicles traveling on South 8th Street shall stop at 1st Avenue South.
8. Alexander Road. Vehicles traveling west on Alexander Road shall stop at North 7th Street.
9. North 13th Street. Vehicles traveling north on North 13th Street shall stop at 14th Avenue North.
10. North 15th Street. Vehicles traveling south on North 15th Street shall stop at 5th Avenue North.
11. North 17th Street. Vehicles traveling on North 17th Street shall stop at 5th Avenue North.

12. 1st Avenue South. Vehicles traveling on 1st Avenue South shall stop at South 17th Street.
13. 6th Avenue South. Vehicles on the 13 hundred block of 6th Avenue South shall stop at South 13th Street and South 14th Street.
14. 1st Avenue South. Vehicles traveling on 1st Avenue South shall stop at South 18th Street.
15. West North 3rd Street. Vehicles traveling south on West North 3rd Street shall stop at West 1st Avenue North.
16. 1st Avenue North. Vehicles traveling on 1st Avenue North shall stop at North 16th Street.
17. South 7th Street. Vehicles traveling on South 7th Street shall stop at 1st Avenue South.
18. North 7th Street. Vehicles traveling south on North 7th Street shall stop at 22nd Avenue North.
19. South 6th Street. Vehicles traveling on South 6th Street shall stop at 1st Avenue South.
20. 2nd Avenue South. Vehicles traveling on 2nd Avenue South shall stop at South 6th Street.
21. North 12th Street. Vehicles traveling on North 12th Street shall stop at 2nd Avenue North.
22. North 20th Street. Vehicles traveling on North 20th Street shall stop at 3rd Avenue North and 5th Avenue North.
- *23. 8th Avenue North. Vehicles traveling on 8th Avenue North shall stop at North 8th Street.
- *24. North 2nd Street. Vehicles traveling on North 2nd Street shall stop at the railroad crossing located between 2nd Avenue North and 4th Avenue North.

**25. 7th Avenue North. Vehicles traveling on North 7th Street shall stop at 7th Avenue North.

**26. 7th Avenue North. Vehicles traveling on North 8th Street shall stop at 7th Avenue North.

212.603 THREE-WAY STOP INTERSECTIONS. Every driver of a vehicle shall stop before entering the following designated three-way stop intersections:

1. South 13th Street and 3rd Avenue South. Vehicles approaching the intersection of South 13th Street and 3rd Avenue South from the west, south, and east shall stop before entering such intersection.

2. North 2nd Street and 4th Avenue North. Vehicles approaching the intersection of North 2nd Street and 4th Avenue North from the north, east, and west shall stop before entering such intersection.

212.603.1 FOUR-WAY STOP INTERSECTIONS. Every driver of a vehicle shall stop before entering the following designated four-way stop intersection:

1. South 6th Street and 1st Avenue South. Vehicles approaching the intersection of South 6th Street and 1st Avenue South from the north, south, east and west shall stop before entering such intersection.

212.604 SPECIAL YIELD REQUIRED. Every driver of a vehicle shall yield in accordance with the following:

1. West North 8th Street. Vehicles traveling north on West North 8th Street shall yield at West 6th Avenue North.

2. West North 9th Street. Vehicles traveling north on West North 9th Street shall yield at West 14th Avenue North.

3. West North 2nd Street. Vehicles traveling on West North 2nd Street shall yield at West 14th Avenue North.

4. West North 2nd Street. Vehicles traveling south on West North 2nd Street shall yield at West 2nd Avenue North.
5. West 3rd Avenue North. Vehicles traveling west on West 3rd Avenue North shall yield at West North 2nd Street.
6. West 2nd Avenue North. Vehicles traveling east on West 2nd Avenue North shall yield at West North 1st Street.
7. West 1st Avenue North. Vehicles traveling east on West 1st Avenue North shall yield at West North 1st Street.
8. West 1st Avenue South. Vehicles traveling east on West 1st Avenue South shall yield at West South 1st Street.
9. West 2nd Avenue South. Vehicles traveling east on West 2nd Avenue South shall yield at West South 1st Street.
10. Valley Drive. Vehicles traveling east on Valley Drive shall yield at West South 1st Street.
11. West South 1st Street. Vehicles traveling northwest on West South 1st Street shall yield at Park Road.
12. 1st Avenue South. Vehicles traveling on 1st Avenue South shall yield at South 2nd Street.
13. 2nd Avenue South. Vehicles traveling on 2nd Avenue South shall yield at South 2nd Street.
14. RESERVED FOR FUTURE USE.
15. 7th Avenue North. Vehicles traveling on 7th Avenue North shall yield at North 15th Street.
16. 6th Avenue North. Vehicles traveling on 6th Avenue North shall yield at North 15th Street.
17. 7th Avenue South. Vehicles traveling on 7th Avenue South shall yield at South 28th Street.

18. Dan-Bur Drive. Vehicles traveling north on Dan-Bur Drive shall yield at 22nd Avenue North.
19. Murray Road. Vehicles traveling on Murray Road shall yield at the 3rd Avenue intersection and at North 28th Street.
20. North 10th Street. Vehicles traveling on North 10th Street shall yield at 8th Avenue North.
21. Briar Place Drive. Vehicles traveling south on Briar Place Drive shall yield at 2nd Avenue North.
22. North 11th Street. Vehicles traveling on North 11th Street shall yield at 8th Avenue North.
23. Shaw Drive. Vehicles traveling north on Shaw Drive shall yield at 5th Avenue North.
24. **RESERVED FOR FUTURE USE**
25. North 14th Street. Vehicles traveling on North 14th Street shall yield at 2nd Avenue North.
26. North 15th Street. Vehicles traveling north on North 15th Street shall yield at 5th Avenue North.
27. North 16th Place. Vehicles traveling on North 16th Place shall yield at 5th Avenue North.
28. North 17th Place. Vehicles traveling on North 17th Place shall yield at 5th Avenue North.
29. North 17th Court. Vehicles traveling on North 17th Court shall yield at 5th Avenue North.
30. North 18th Street. Vehicles traveling on North 18th Street shall yield at 5th Avenue North.
31. North 19th Street. Vehicles traveling on North 19th Street shall yield at 5th Avenue North.

32. 8th Avenue North. Vehicles traveling on 8th Avenue North shall yield at North 15th Street.
33. 2nd Avenue North. Vehicles traveling east on 2nd Avenue North shall yield at North 15th Street.
34. 4th Avenue North. Vehicles traveling on 4th Avenue North shall yield at North 17th Street.
35. 3rd Avenue North. Vehicles traveling on 3rd Avenue North shall yield at North 17th Street.
36. 2nd Avenue North. Vehicles traveling on 2nd Avenue North shall yield at North 17th Street.
37. 1st Avenue North. Vehicles traveling on 1st Avenue North shall yield at North 17th Street.
38. Murray Road. Vehicles traveling west on Murray Road shall yield at North 20th Street.
39. South 18th Street. Vehicles traveling south on South 18th Street shall yield at 7th Avenue South.
40. West North 2nd Street. Vehicles traveling on West North 2nd Street shall yield at West 5th Avenue North.
41. North 5th Street. Vehicles traveling on North 5th Street shall yield at 2nd Avenue North.
42. North 5th Street. Vehicles traveling on North 5th Street shall yield at 8th Avenue North.
43. North 5th Street. Vehicles traveling on North 5th Street shall yield at 9th Avenue North.
44. 9th Avenue South. Vehicles traveling on 9th Avenue South shall yield at South 28th Street.
45. North 7th Street. Vehicles traveling on North 7th Street shall yield at 14th Avenue North.

46. RESERVED FOR FUTURE USE.

47. RESERVED FOR FUTURE USE.

48. North 8th Street. Vehicles traveling on North 8th Street shall yield at 14th Avenue North.

49. North 10th Street. Vehicles traveling on North 10th Street shall yield at 5th Avenue North.

50. North 11th Street. Vehicles traveling on North 11th Street shall yield at 5th Avenue North.

51. North 12th Street. Vehicles traveling on North 12th Street shall yield at 5th Avenue North.

52. North 12th Street. Vehicles traveling on North 12th Street shall yield at 8th Avenue North.

53. North 14th Street. Vehicles traveling on North 14th Street shall yield at 5th Avenue North.

54. North 14th Street. Vehicles traveling on North 14th Street shall yield at 8th Avenue North.

55. North 14th Street. Vehicles traveling on North 14th Street shall yield at 14th Avenue North.

56. North 15th Street. Vehicles traveling on North 15th Street shall yield at 14th Avenue North.

*57. South 7th Street. Vehicles traveling on South 7th Street shall yield at 2nd Avenue South.

*58. South 8th Street. Vehicles traveling on South 8th Street shall yield at 2nd Avenue South.

212.605 SCHOOL STOPS. At the following school crossing zones every driver of a vehicle approaching said zone shall bring his vehicle to a full stop at a point ten (10) feet from the approached side of the crosswalk marked by an authorized movable school stop sign and thereafter proceed in a careful and prudent manner until the driver shall have passed through such school crossing zone.

(Code of Iowa, 2015, Sec. 321.249)

1. North 6th Street at 4th Avenue North.
2. South 13th Street at 1st Avenue South.
3. North 5th Street at 4th Avenue North.
4. North 9th Street at 12th Avenue North.

212.606 STOP BEFORE CROSSING SIDEWALK. The driver of a vehicle emerging from a private roadway, alley, driveway, or building shall stop such vehicle immediately prior to driving onto the sidewalk area and thereafter he shall proceed into the sidewalk area only when he can do so without danger to pedestrian traffic and he shall yield the right-of-way to any vehicular traffic on the street into which his vehicle is entering.

(Code of Iowa, 2015, Sec. 321.353[1])

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

212.608 YIELD TO PEDESTRIANS IN CROSSWALKS. Where traffic-control signals are not in place or in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection.

(Code of Iowa, 2015, Sec. 321.327[1])

212.609 OFFICIAL TRAFFIC CONTROL SIGNALS. Every driver shall observe and comply with the directions provided by official traffic-control signals at the following intersections:

1. RESERVED FOR FUTURE USE.
2. Intersection of 6th Street and Central Avenue.
3. RESERVED FOR FUTURE USE.
4. Intersection of North 6th Street and 2nd Avenue North.
5. Intersection of North 7th Street and Central Avenue.
6. RESERVED FOR FUTURE USE.
7. Intersection of North 9th Street and Central Avenue.
8. Intersection of 1st Street and Central Avenue.
9. Intersection of West 1st Street and West Central Avenue.
10. Intersection of 13th Street and Central Avenue.
11. Intersection of South 15th Place and Central Avenue.
12. Intersection of 17th Street and Central Avenue.
13. Intersection of 5th Street and Central Avenue.

TITLE II - COMMUNITY PROTECTION**DIVISION 1 - LAW ENFORCEMENT****CHAPTER 2 - TRAFFIC CODE****ARTICLE 7
LOAD AND WEIGHT RESTRICTIONS**

212.701 TEMPORARY EMBARGO. Local authorities with respect to a highway under their jurisdiction may by ordinance or resolution prohibit the operation of vehicles upon the highway or impose restrictions as to the weight of vehicles to be operated upon the highway for a total period of not to exceed ninety days in any one calendar year, whenever the highway by reason of deterioration, rain, snow, or other climatic conditions will be seriously damaged or destroyed unless the use of vehicles on the highway is prohibited or the permissible weights reduced. The ordinance or resolution shall not apply to implements of husbandry as defined in Section 321.1, implements of husbandry loaded on hauling units for transporting the implements to locations for repair, or fire apparatus and road maintenance equipment owned by, under lease to, or used in the performance of a contract with a state or local authority.

(Code of Iowa, 2015, Sec. 321.471 [1a])

The local authority enacting any ordinance or resolution authorized under Section 321.471 shall erect and maintain signs designating the ordinance or resolution at each end of that portion of any highway or at the location of any bridge or culvert affected thereby, and the ordinance or resolution shall not be effective unless and until the signs are erected and maintained.

(Code of Iowa, 2015, Sec. 321.472)

212.702 PERMITS FOR EXCESS SIZE AND WEIGHT. The administrative or supervisory person to whom such duties are assigned pursuant to Title I, Chapter 4, Article 4 of this code may, upon application in writing and good cause being shown therefore, issue a special permit in writing authorizing the applicant to operate or move a vehicle or combination of vehicles of a size or weight or load exceeding the maximum specified by state law or city ordinance over those streets named in the permit which are under the jurisdiction of the city and for which the city is responsible for maintenance.

(Code of Iowa, 2015, Sec. 321.473)

212.703 LOAD LIMITS UPON CERTAIN STREETS. When signs are erected giving notice thereof, no person shall operate any vehicle with a gross weight in excess of the amounts specified on such signs at any time upon any of the following streets or parts of streets:

(NONE)

(Code of Iowa, 2015, Sec. 321.473 & 475)

212.704 LOAD LIMITS ON BRIDGES. Where it has been determined that any city bridge has a capacity less than the maximum permitted on the streets of the city, or on the street serving the bridge, the administrative or supervisory person to whom such duties are assigned pursuant to Title I, Chapter 4, Article 4 of this code may cause to be posted and maintained signs on said bridge and at suitable distances ahead of the entrances thereof to warn drivers of such maximum load limits, and no person shall drive a vehicle weighing, loaded or unloaded, upon said bridge in excess of such posted limit.

(Code of Iowa, 2015, Sec. 321.473)

TITLE II - COMMUNITY PROTECTION

DIVISION 1 - LAW ENFORCEMENT

CHAPTER 2 - TRAFFIC CODE

**ARTICLE 8
PEDESTRIANS**

212.801 WALKING IN STREET. Pedestrians shall at all times when walking on or along a highway, walk on the left side of such highway.

(Code of Iowa, 2015, Sec. 321.326)

212.802 RESERVED FOR FUTURE USE.

212.803 HITCH HIKING. No person shall stand in the traveled portion of a street for the purpose of soliciting a ride from the driver of any private vehicle.

(Code of Iowa, 2015, Sec. 321.331)

212.804 PEDESTRIAN CROSSING. Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

(Code of Iowa, 2015, Sec. 321.328[1])

TITLE II - COMMUNITY PROTECTION**DIVISION 1 - LAW ENFORCEMENT****CHAPTER 2 - TRAFFIC CODE****ARTICLE 9
ONE-WAY TRAFFIC**

212.901 ONE-WAY TRAFFIC REQUIRED. Upon the following streets and alleys vehicular traffic, other than permitted cross-traffic, shall move only in the indicated direction when appropriate signs are in place.

(Code of Iowa, 2015, Sec. 321.236 [4])

1. Alley in Block 76. It shall be unlawful for vehicular traffic to enter upon the alley running in a North-South direction through Block Seventy Six (76) of the Original Plat of Estherville, Iowa, except from First Avenue North.
2. The West 110' of Alley in Block 51. It shall be unlawful for vehicular traffic to enter upon the alley running in an East-West direction through Block Fifty-One (51) of the Original Plat of Estherville, Iowa, from South 6th Street.

TITLE II - COMMUNITY PROTECTION**DIVISION 1 - LAW ENFORCEMENT****CHAPTER 2 - TRAFFIC CODE****ARTICLE 10
PARKING REGULATIONS**

212.1001 PARK ADJACENT TO CURB. No person shall stand or park a vehicle in a roadway other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the right-hand wheels of the vehicle within eighteen (18) inches of the curb or edge of the roadway except as hereinafter provided in the case of angle parking and vehicles parked on the left-hand side of one-way streets.

(Code of Iowa, 2015, Sec. 321.361)

212.1002 PARK ADJACENT TO CURB: ONE-WAY STREET. No person shall stand or park a vehicle on the left-hand side of a one-way street other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the left-hand wheels of the vehicle within eighteen (18) inches of the curb or edge of the roadway except as hereinafter provided in the case of angle parking.

(Code of Iowa, 2015, Sec. 321.361)

212.1003 DIAGONAL PARKING. Angle or diagonal parking shall be permitted only in the following locations:

(Code of Iowa, 2015, Sec. 321.361)

1. Business District. All streets within the business district as defined in Section 212.102, subsection 5 except along Central Avenue.
2. West South 1st Street from Central Avenue to West 2nd Avenue South.
3. South 17th Street from Central Avenue to 3rd Avenue South.
4. South 18th Street from 3rd Avenue South to 7th Avenue South.

212.1004 ANGLE PARKING: MANNER. Upon those streets or portions of streets which have been signed or marked for angle parking, no person shall park or stand a vehicle other than at an angle to the curb or edge of the roadway or in the center of the roadway as indicated by such signs and markings. No part of any vehicle, or the load thereon, when parked within a diagonal parking district, shall extend into the roadway more than a distance of sixteen (16) feet when measured at right angles to the adjacent curb or edge of roadway.

(Code of Iowa, 2015, Sec. 321.361)

212.1005 PARKING FOR CERTAIN PURPOSES ILLEGAL. No person shall park a vehicle upon the roadway for any of the following principal purposes:

(Code of Iowa, 2015, Sec. 321.236)

1. Sale. Displaying such vehicle for sale.
2. Repairing. For commercial washing, greasing, or repairing such vehicle except such repairs as are necessitated by an emergency.
3. Advertising. Displaying advertising.
4. Merchandise Sales. Selling merchandise from such vehicle except in a duly established market place or when so authorized or licensed under the city code.
5. Storage. Storage or as junk or dead storage for more than twelve (12) hours.

212.1006 PARKING PROHIBITED. No one shall stop, stand, or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or traffic-control device, in any of the following places:

1. Crosswalk. On a crosswalk at an intersection.

(Code of Iowa, 2015, Sec. 321.236 & 321.358 [5])

2. Center Parkway. On the center parkway or dividing area of any divided street.

(Code of Iowa, 2015, Sec. 321.236)

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

(Code of Iowa, 2015, Sec. 321.236)

4. Sidewalks. On or across a sidewalk.

(Code of Iowa, 2015, Sec. 321.358 [1])

5. Driveway. In front of a public or private driveway.

(Code of Iowa, 2015, Sec. 321. 358 [2])

6. Intersection. Within an intersection of any street or alley.

(Code of Iowa, 2015, Sec. 321.358 [3])

7. Fire Hydrant. Within five (5) feet of a fire hydrant.

(Code of Iowa, 2015, Sec. 321.358 [4])

8. Stop Sign or Signal. Within ten (10) feet upon the approach to any flashing beacon, stop, or yield sign, or traffic control signal located at the side of a roadway.

(Code of Iowa, 2015, Sec. 321.358 [6])

9. Railroad Crossing. Within fifty (50) feet of the nearest rail of a railroad crossing, except when parked parallel with such rail and not exhibiting a red light.

(Code of Iowa, 2015, Sec. 321.358 [8])

10. Fire Station. Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of said entrance when properly sign posted.

(Code of Iowa, 2015, Sec. 321.358 [9])

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

(Code of Iowa, 2015, Sec. 321.358 [10])

12. Double Parking. On the roadway side of any vehicle stopped or parked at the edge or curb of a street, except trucks and commercial vehicles when calling for and delivering merchandise or when access to the curb is blocked by other vehicles at the place of calling or delivery, and then only for such length of time as may be necessary to load or unload.

(Code of Iowa, 2015, Sec. 321.358 [11])

13. Hazardous Locations. When, because of restricted visibility or when standing or parked vehicles would constitute a hazard to moving traffic, or when other traffic conditions require, the city planner and construction engineer may cause curbing to be painted with a yellow color or erect no parking or standing signs.

(Code of Iowa, 2015, Sec. 321.358 [13])

14. Theatres, Hotels, and Auditoriums. A space of fifty (50) feet is hereby reserved at the side of the street in front of any theatre, auditorium, hotel having more than twenty-five (25) sleeping rooms, hospital, nursing home, taxicab stand, bus depot, church, or other building where large assemblages of people are being held, within which space, when clearly marked as such, no motor vehicle shall be left standing, parked, or stopped except in taking on or discharging passengers or freight, and then only for such length of time as is necessary for such purposes.

(Code of Iowa, 2015, Sec. 321.360)

15. Alleys. No person shall park a vehicle in any alley and no person shall stop, stand, or park a vehicle within an alley unless said vehicle is parked to deliver or receive goods or services, and then only for such length of time as may be necessary to deliver or receive goods or services.

16. Controlled Access Facility Approach. On the minor street approach for a distance of thirty-five (35) feet in advance of the stop sign or on the exit side of the minor street for a distance of thirty-five (35) feet beyond the crosswalk of any controlled access facility intersection.

17. School Property. Those places located on property owned by the Estherville Community School District where the District has erected a No-Parking sign, or has caused curbing to be painted with a yellow color, or have painted yellow striping to indicate no parking.

***212.1007 ACCESSIBLE PARKING.** Parking for the use of persons with disabilities is provided as follows:

- *1. Designated Spaces. The council, by resolution, may set aside special parking places designated only for parking motor vehicles displaying a persons with disabilities parking permit issued in accordance with State law.

(Code of Iowa, 2015, Sec. 321L.5)

- *2. Improper Use. The use of a persons with disabilities parking space, located on public property, by a motor vehicle not displaying a persons with disabilities parking permit; displaying such permit but not being used by a person with disabilities, or in violation of the rules adopted under Section 321L.8 of the Code of Iowa, constitutes improper use of a persons with disabilities parking permit, which is a misdemeanor.

(Code of Iowa, 2015, Sec. 321L.4 [2])

212.1008 15-MINUTE PARKING ZONES. No person shall park a vehicle at any one time longer than fifteen (15) minutes in any of the following parking stalls which are hereby designated as limited parking stalls:

1. The first two (2) parking stalls east of 7th Street on the north side of Central Avenue.
2. The yellow zone in front of the Gardston Building at 4 North 7th Street.
3. Along the north side of 1st Avenue South from a point thirty (30) feet east of South 9th Street, east a distance of two hundred (200) feet.
4. The first stall north of 2nd Avenue North on the west side of North 6th Street.

212.1008A 15-MINUTE PARKING ZONE - DESIGNATED HOURS. No person shall, between the hours of 8:00 A.M. and 6:00 P.M., except for Sundays, park a vehicle for a period of time longer than fifteen (15) minutes in any of the following limited parking stalls:

1. The second, third, and fourth parking stall east of North 6th Street on the south side of 2nd Avenue North.
2. The first six stalls east of North 6th Street on the north side of 2nd Avenue North.
3. The first two stalls north of 2nd Avenue North on the east side of North 6th Street.
4. The first two (2) stalls south of Central Avenue on the west side of South 6th Street.

Such stalls shall be plainly marked and signs bearing an appropriate legend shall be placed and maintained at each such location.

212.1009 PARKING TIME LIMITS.

1. City Streets. It shall be unlawful to stop or park any wagon, automobile, truck, machinery, or vehicle on any municipal street for more than eighteen (18) hours unless such parking is exempted elsewhere in this Code.
2. Municipal Parking Lot. It shall be unlawful to stop or park any wagon, automobile, truck, machinery, or vehicle on any municipally owned off-street parking lot for more than twenty-four (24) hours at any one time.

212.1010 NO PARKING ZONES. No one shall stop, stand, or park a vehicle in any of the following specifically designated no parking zones except when necessary to avoid conflict with other traffic or in compliance with the direction of a peace officer or traffic control signal.

1. Central Avenue (Iowa No. 9), on both sides from 4th Street to the west corporate limits.
2. Central Avenue (Iowa No. 9), on both sides from 9th Street to the east corporate limits.

3. 1st Avenue North, on the north side from a point one hundred forty-eight (148) feet east of North 17th Place, east a distance of two hundred sixty (260) feet.
- 3.1 1st Avenue North, on the south side, from a point one hundred (100) feet east of North 17th Place to a point three hundred nineteen (319) feet east thereof.
- 3.2 1st Avenue North, on the south side, from North 12th Street to North 13th Street and on the north side of 1st Avenue North from North 13th Street to a point forty (40) feet west thereof.
4. 1st Avenue South, on the north side from South 9th Street to a point thirty (30) feet east of South 9th Street.
5. 1st Avenue South, on the south side from South 1st Street to South 2nd Street.
6. 2nd Avenue North, on the south side from North 7th Street to North 9th Street except that parking is authorized on the south side of 2nd Avenue North between North 7th Street and North 8th Street on Sundays only.
7. 2nd Avenue North, on the north side from North 9th Street to a point one hundred fifty (150) feet west of North 9th Street.
8. West 2nd Avenue North, on the south side from West North 1st Street to the east line of McKinley School property.
9. 2nd Avenue North, on the south side from North 13th Street to North 14th Street.
10. 3rd Avenue South, on the north side between South 17th Street and Central Avenue (Iowa Highway No. 9).
11. 5th Avenue North, both sides from 6th Street to 9th Street.
12. 5th Avenue North, on the north side from North 9th Street to North 11th Street and from the driveway at 1715 5th Avenue North to the east corporate limits of the City of Estherville, Iowa.
- 12.1 5th Avenue North on the south side from North 18th Street to a point forty (40) feet east thereof.

13. West 5th Avenue, on the north side from West North 2nd Street to West North 6th Street.
14. West 5th Avenue North, on the south side from intersection of West North 2nd Street to a point one hundred fifty (150) feet west thereof at any time.
15. 6th Avenue North, on the north side from North 15th Street to North 17th Street.
16. West 6th Avenue North, on the north side from West North 6th Street to West North 9th Street.
- 16.1 7th Avenue South, on both sides, from South 18th Street to a point one thousand four hundred fifty (1,450) feet east thereof.
17. 14th Avenue North, on the south side from 8th Street to 9th Street.
18. South 1st Street, on both sides from South 9th Street (Iowa Highway No. 4) to Central Avenue (Iowa Highway No. 9).
19. West South 1st Street, on the west side from its intersection with the southern right-of-way line of Central Avenue to a point one hundred eighty (180) feet south.
20. West South 1st Street, on the east side from its intersection with the southern right-of-way line of Central Avenue to a point two hundred ninety (290) feet south.
21. West South 1st Street, on the east side from extension of the centerline of West 2nd Avenue South to a point three hundred (300) feet south thereof.
22. West North 2nd Street, on the west side from West 2nd Avenue North to West 5th Avenue North.
23. North 4th Street, on the east side from 9th Avenue two hundred fourteen (214) feet north.
24. North 4th Street, on the west side from a point thirty-six (36) feet north of the north line of 9th Avenue extended north northwest two hundred thirty (230) feet.
25. South 5th Street, on the west side from Central Avenue to 1st Avenue South.
26. North 6th Street, on the east side from 4th Avenue North to the north corporate limits at any time.

27. North 6th Street, on the west side from 9th Avenue North to 10th Avenue North.
28. 9th Street (Iowa Highway No. 4), on both sides from the south corporate limits to the north corporate limits.
29. South 13th Street, on the west side from Central Avenue to 3rd Avenue South.
30. South 13th Street, on the east side from Central Avenue to 1st Avenue South.
31. North 13th Street, on the west side from Central Avenue to a point fifty (50) feet north of Central Avenue.
32. North 13th Street, on the east side from Central Avenue to 14th Avenue North with the exception that during funeral activities at the East Side Cemetery parking will be permitted on the east side of North 13th Street from 5th Avenue North to 7th Avenue North.
33. North 15th Street, on the east side from 1st Avenue North to 5th Avenue North.
34. North 16th Street, on the west side from Central Avenue to 1st Avenue North.
35. North 16th Street, on the west side between 3rd Avenue and North 15th Street.
- 35.1 North 17th Street, on the east side, from Central Avenue to 1st Avenue North.
36. North 20th Street, on the east side, from Murray Road north a distance of 121.6 feet and also on the east side from the intersection of 3rd Avenue North, south a distance of 80 feet.
37. In any municipal parking lot where prohibited by yellow pavement markings or signs.
38. All of West 1st Avenue North on both sides west of the intersection with West North 3rd Street.
39. All of West North 4th Street on both sides south of the south boundary of Woodland Heights 1st Addition to the City of Estherville, Iowa.
40. 3rd Avenue South on the south side from the east entrance to the Iowa Lakes Community College parking lot to the intersection of 3rd Avenue South and Iowa Highway No. 9.

41. The frontage road connecting with 3rd Avenue South, on both sides from the intersection of the frontage road with 3rd Avenue South to the west entrance to the Estherville Plaza Shopping Center.
42. West North 6th Street, on the east side, from West 5th Avenue North to West 6th Avenue North.
43. Central Avenue, on the north side, from North 4th Street to a point 200 feet east thereof.
44. 8th Avenue North, on both sides of the street, from North 8th Street to North 9th Street.
45. North 8th Street, on the east side, from 8th Avenue North to a point sixty (60) feet north thereof, and from the diagonal parking spaces adjacent to the hospital, north to 11th Avenue North. Also, on the west side, from 10th Avenue North to a point one hundred fifty (150) feet north thereof.
46. 3rd Avenue South, on the south side, from the driveway at 1320 to South 14th Street.
47. 11th Avenue North, on the south side of the street, from North 8th Street to North 9th Street.
48. 10th Avenue North, on the south side of the street, from North 7th Street to North 8th Street, and on the north side, from North 8th Street to a point seventy-nine (79) feet west thereof.
49. 3rd Avenue South, on the south side, from South 17th Street to a point 625 feet west thereof on school days.
50. 6th Avenue South, on both sides, from South 9th Street to a point 125 feet east thereof.

212.1011 RESERVED PARKING. No person shall park a vehicle in any of the following areas except as permitted below:

1. The fifth through tenth (5th-10th) parking stalls east of North 6th Street on the south side of 2nd Avenue North shall be reserved for law enforcement vehicle parking only.
- *2. On 1st Avenue South on the south side from South 15th Place to a point one hundred

thirty-five (135') feet west thereof shall be reserved for bus parking only between 7 a.m. and 4 p.m. on school days.

*****212.1012 NO PARKING 2:00 A.M. TO 8:00 A.M.** No person, except physicians or other persons on emergency calls, shall park a vehicle on any of the following named streets between the hours of 2:00 A.M. and 8:00 A.M. of any day from November 1 to April 1.

1. West North 2nd Street, on the east side, from West 2nd Avenue North to West 5th Avenue North.
2. West 5th Avenue North, on the south side, from a point one hundred fifty (150) feet west of West North 2nd Street to a point eight hundred (800) feet west of West North 2nd Street.

***212.1012A NO PARKING 2:00 A.M. TO 5:00 A.M.** No person, except those responding to emergency calls, shall park a vehicle on any of the following named streets between the hours of 2:00 A.M. and 5:00 A.M. of any day:

1. North 7th Street on the east side from Central Avenue to 1st Avenue North.
2. South 7th Street on both the east side from Central to a point 100' south and west side from Central to 1st Avenue South.
3. South 6th Street on both the east and west side from Central Avenue to 1st Avenue South and on the west side only from 1st Avenue South to 2nd Avenue South.
4. North 6th Street on the west side from Central Avenue to 1st Avenue North.
5. South 5th Street on the east side from Central Avenue to 1st Avenue South.
6. Central Avenue on the south side from 5th Street to 8th Street.
7. Central Avenue on the north side from 5th Street to 6th Street and from 7th Street to 8th Street.
7. 1st Avenue South on both the north and south sides from South 5th Street to South 7th Street.

212.1012B NO PARKING 7:00 A.M. TO 8:00 P.M. EXCEPT SATURDAYS AND SUNDAYS.

No person, except those responding to emergency calls, shall park a vehicle on any of the following named streets between the hours of 7:00 A.M. and 8:00 P.M., Monday through Friday:

1. North 8th Street, on the west side, from a point 113 feet north of 8th Avenue North, to a point 68 feet north thereof.

*Revised 1-6-2020; Ord. 776

**Revised 9-6-2022; Ord. 797

***Revised 4-1-2024; Ord. 819

212.1013 TRUCK PARKING PROHIBITED. No person shall park a motor truck, semitrailer, or semi-tractor with trailer attached in violation of the following regulations. The provisions of this section shall not apply to pickup, light delivery, or panel delivery trucks.

(Code of Iowa, 2015, Sec. 321.236 [1])

1. Business District. (Excepting only when such vehicles are actually engaged in the delivery or receiving of merchandise, freight, or cargo) no person shall park or leave unattended such vehicle, on any of the streets within the Central Business District. When receiving or delivering merchandise or cargo, such vehicle shall be stopped or parked in a manner which will not interfere with other traffic.
2. Parking Prohibited. No motor trucks, semitrailer, or semi tractor with trailer attached shall be parked upon any public street or alley for a period of longer than one (1) hour at any time.
3. Parking of Climate-Controlled Vehicles. No person shall operate or allow the running of any auxiliary engines used for heating, cooling, or other purposes on a parked vehicle, truck, or trailer within one hundred (100) feet of any residence, mobile home, or other structure used for residential purposes within the city limits of the City of Estherville, Iowa, between the hours of nine (9) o'clock P.M. and eight (8) o'clock A.M., Central Standard Time.

"Auxiliary engines" shall be defined in a broad sense to include any noise generating engine, generator or motor, or other device that is used to regulate or control the temperature, humidity, or other climatic conditions of a vehicle, truck, or trailer. This does not include any non-noise emitting device, such as electric engine block heaters, oil plan heaters, radiator heaters, or similar non-noise producing systems.
4. Central Avenue. No such vehicle shall be left unattended or parked at any time on either side of Central Avenue.

5. 9th Street. No such vehicle shall be left unattended or parked at any time on either side of 9th Street, also known as Highway 4.

***212.1014 PROHIBITED PARKING DURING SNOW EVENTS & PARKING EMERGENCIES.**

1. A “snow event” shall be deemed to exist when the National Weather Service predicts a snow accumulation of two (2) inches as measured at the facilities of the KILR Radio Station. The snow event shall continue so long as snow accumulation continues and shall continue until the snow has been cleared from the street.

***2. When a snow event exists, no person shall park, abandon, or leave unattended any vehicle on any portions of any public streets or alleys connecting to such streets between the hours of ten o'clock (10:00) P.M. and eight o'clock (8:00) A.M. or until such time as the snow has been cleared from the street, except parking shall be allowed in the Central Business District Snow Removal Area until the City commences cleanup in the Central Business District.

**3. The night following a snow event, when the City commences cleanup in the Central Business District Snow Removal Area, no person shall park, abandon or leave unattended any vehicle on any portions of any public streets or alleys connecting to such streets in the Central Business District Snow Removal Area between the hours of twelve o'clock (12:00) A.M. and eight o'clock (8:00) A.M., or until the snow has been pulled to the center of the street, whichever occurs first.

4. Members of the Police Department are hereby authorized to remove, or have removed, any vehicle found parked, abandoned or unattended in violation of the provisions of this section. In addition to the standard penalties provided, the owner or driver of any vehicle impounded for the violation of any of the provisions of this chapter shall be required to pay the cost of towing and storage.

5. In the event of a conflict between the provisions of this section and any other section or provision of this Code, the provisions of this section shall control.

6. The Mayor is hereby empowered to declare a “parking emergency” should conditions warrant, due to ice accumulation, blowing snow, tree debris, or any other condition that

*Revised 12-2-19; Ord. 744

**Revised 9-8-2020, Ord. 779

***Revised 12-2-2024, Ord. 825

requires streets and alleys to be cleared of parked vehicles. Upon the Mayor's declaration of a "parking emergency" shall continue to exist until such time as it is terminated by order of the Mayor. During a "parking emergency" no person shall park, abandon, or leave unattended any vehicle on any portions of public streets or alleys connecting to such streets.

***212.1015 PARKING ON STREET RIGHT-OF-WAY PROHIBITED.** The parking of any vehicles or equipment upon that portion of a street right-of-way between the curb line and the adjacent property line shall be prohibited at any time except under the following conditions:

1. The existing diagonal parking on the right-of-way in front of the two (2) business properties located at 808 and 814 North 9th Street may continue to be maintained under this ordinance.
2. Parking will be permitted on any existing parking pads constructed of concrete or asphalt installed prior to June 6, 2022.
3. This section does not apply to parking in driveways.

212.1016 PARKING SIGNS REQUIRED. Whenever by this article or any other section of the city code any parking time limit is imposed or parking is prohibited on designated streets or portions of streets it shall be the duty of the city planner and construction engineer to erect or cause to be erected appropriate signs giving notice thereof and no such regulations shall be effective unless signs are erected and in place at the time of any alleged offense. When parking is prohibited for a distance of fifty (50) feet or less along a street or parking lot, yellow curb or pavement markings will be sufficient notification of regulations. When the signs are so erected giving notice thereof, no person shall disobey the restrictions stated on such signs.

(Code of Iowa, 2015, Sec. 321.255 & 321.256)

212.1017 TWO-HOUR PARKING ZONE. No person shall park a vehicle at any one time longer than two (2) hours in any of the following parking stalls which are hereby designated as limited parking stalls:

1. The first two (2) parking spaces north of Central Avenue on the east side of North 7th Street.
2. The first six (6) parking spaces south of 3rd Avenue North on the east side of North 6th Street.
3. The first ten (10) parking spaces north of 2nd Avenue North on the west side of North 6th Street.
4. The first six (6) parking spaces west of North 6th Street on the north side of 2nd Avenue North.
- *5. The 9th, 10th, 11th & 12th parking spaces south of Central Avenue on the east side of South 17th Street.

212.1018 EXEMPTIONS. The following sections:

- 212.1003 Diagonal Parking
- 212.1004 Angle Parking
- 212.1005 Parking For Certain Purposes Illegal
- 212.1006 (5) Parking Prohibited
- 212.1008 15-Minute Parking Zones
- 212.1009 Parking Time Limits
- 212.1013 Truck Parking Limited
- 212.1205 (4) Eighteen-Hour Parking Period

*Revised 4-18-2022, Ord. 794

pertaining to parking regulations shall be exempt from enforcement from noon on Saturdays until 8:00 A.M. on Mondays and on all legal holidays in the following areas only:

1. 2nd Avenue North between 5th Street and 6th Street
2. 1st Avenue North between 5th Street and 6th Street
3. The south half of South 6th Street between 1st Avenue South and 2nd Avenue South
4. The west half of 2nd Avenue South between 6th Street and 7th Street

212.1019 EXCEPTIONS TO EXEMPTIONS. The foregoing sections shall not be exempt from enforcement during any "Snow Removal Period" as defined in 212.1014 of this Code.

212.1020 CENTRAL BUSINESS DISTRICT. The Central Business District of the City of Estherville, Iowa, is hereby declared to encompass the following streets and platted lots fronting thereon:

1. 2nd Avenue North from the westerly line of North 6th Street to the easterly line of North 7th Street.
2. 1st Avenue North from the westerly line of the first platted alley west of North 6th Street to the easterly line of North 7th Street.
3. Central Avenue from the easterly line of 5th Street to the westerly line of 8th Street.
4. 1st Avenue South from the westerly line of South 6th Street to the easterly line of South 7th Street.
5. 6th Street from the northerly line of 2nd Avenue North to the northerly line of 2nd Avenue South.
6. 7th Street from the northerly line of 2nd Avenue North to the southerly line of 1st Avenue South.

212.1021 TRAILER PARKING. It shall be a parking violation to store any trailer, boat, motor home, utility trailer, travel trailer, or cart of any kind on the streets of the city for a period of more than twelve (12) hours.

212.1022 SAFE LOADING & UNLOADING OF SCHOOL CHILDREN. No Person shall stand or stop their motor vehicle in the traveled portion of the roadway within 500 feet of a public school building for the purposes of loading or unloading a person or persons. Violations of this section shall be subject to a minimum fine of \$20.00 and court costs.

TITLE II - COMMUNITY PROTECTION**DIVISION 1 - LAW ENFORCEMENT****CHAPTER 2 - TRAFFIC CODE****ARTICLE 11
NOISE CONTROL**

212.1101 PURPOSE. The purpose of this chapter is to prevent excessive noise which is a serious threat and hazard to public health and welfare and to preserve the quiet and peaceful enjoyment of the property of the citizens of the City of Estherville.

212.1102 DEFINITIONS. For purposes of this chapter, all words and phrases used in this chapter not defined below shall be in conformance with the applicable publications of the American National Standards Institute (ANSI) and its successor bodies.

1. "Decibel" means a logarithmic and dimensionless unit of measure often used in the amplitude of sound. Decibel is denoted as dB.
2. "Emergency vehicle" means a motor vehicle used in response to a (public) calamity or to protect persons or property from imminent danger.
3. "Emergency work" means work made necessary to restore property to a safe condition following a public calamity, work to restore public utilities, or work required to protect persons or property from an imminent danger.
4. "Gross vehicle weight" means the value specified by the manufacturer as the loaded weight of a vehicle.
5. "Sound" means a temporal and spatial oscillation in pressure, or other physical quantity, in a medium with internal forces that causes compression and rarefaction of that medium, and which propagates at finite speed to distant points.

6. "Sound level meter" means an instrument, including a microphone, amplifier, output meter and weighting networks, that is sensitive to pressure fluctuations. The output meter reads sound pressure level in decibels when properly calibrated and the instrument is of Type 2 or better as specified in American National Standards Institute Publications SI 4-1971, or its successor publication.
7. "Weighted sound level (sound level)" means the sound pressure level in decibels as measured on a sound level meter using the A weighted network. The level so read shall be designated dB(A) or dBA.

212.1103 MEASUREMENT OF NOISE AND SOUND. The measurement of sound and noise shall be made with a sound level meter meeting the standards prescribed by the American National Standards Institute. The instruments shall be maintained in calibration and good working order. A calibration check shall be made of the system at the time of any noise measurement. Measurements recorded shall be taken so as to provide a proper representation of the noise source. The microphone during measurement shall be positioned so as not to create any unnatural enhancement or diminution of the measured noise. A windscreen for the microphone shall be used when required. The measurement shall be an A weighted, slow response sound level.

212.1104 TEST MEASUREMENT AND REQUIREMENTS FOR DETERMINATION AND CLASSIFICATION OF SOUND.

1. No person shall engage or participate in the making and creating of any excessive or unusually loud sound or noise within the city heard and measured in the manner prescribed below except for the exceptions to this chapter as set forth in Section 6.
2. It shall be the duty of the party who owns, possesses, or controls the premises to prevent such premises from being the site of activities producing sound levels in excess

of what is permitted under this chapter. Failure or refusal to perform such duty shall constitute a violation of this section.

3. It shall be the duty of persons in positions of leadership or responsibility with respect to unincorporated associations, groups, gatherings, and assemblages of people to prevent such from causing or making sound levels in excess of what is permitted under this chapter. Failure to perform such duty shall constitute a violation of this section.

4. For the purpose of determining and classifying any sound as excessive or unusually loud, the following test measurement and requirements are to be applied:

A. The sound shall be measured at the property line of the complainant lying between the sound source and the complainant.

B. Where no property line exists between the sound source and the complainant, the sound shall be measured at a distance of at least twenty-five (25) feet from the sound source.

C. The sound shall be measured on a sound level meter of standard design and quality operated on the "A" slow response weighting scale.

D. A sound measured or registered in excess of maximum permitted levels according to the following table is declared to be excessive and unusually loud and is unlawful.

Character of Complainant Property	Maximum Number of Decibels Permitted
Residential	60 from 7:00 a.m. to 10:00 p.m. 50 from 10:00 p.m. to 7:00 a.m.

212.1105 VEHICLE NOISE LIMITS. It is unlawful for any person to operate or for the owner to cause or permit to be operated within the city any motor vehicle which emits or is capable of emitting a noise in excess of the dB (A) level established in this section.

1. The maximum allowable noise levels for motor vehicles are listed in the following table:

Type of Vehicle	Maximum Number of Decibels Permitted	Minimum Measurement Distance from Vehicle
Motor vehicles weighing 10,000 pounds or less, gross vehicle weight	84 dB (A)	25 feet
Motor vehicles weighing more than 10,000 pounds, gross vehicle weight	93 dB (A)	25 feet
Motorcycles, ATV's and Snowmobiles	93 dB (A)	25 feet
All motor vehicles not listed	84 dB (A)	25 feet

2. This section applies to the total noise from a motor vehicle and shall not be construed as limiting or precluding the enforcement of any other provisions of this chapter.

3. No person shall modify the exhaust system of a motor vehicle or any other noise abatement device of a motor vehicle or operate any such vehicle or device in the city in a manner that the noise emitted by the motor vehicle is above that emitted by the vehicles in excess of levels established by this section.

4. No person shall operate a motor vehicle capable of emitting noise in excess of the prescribed noise levels set forth in this section.

5. The sound shall be measured on a sound level meter of standard design and quality operated on the "A" slow response weighing scale.

212.1106 PERMITS. Application for a permit for relief from the provisions of this chapter may be made to the City Council pursuant to the following procedures:

1. All permits must be applied for in writing during normal business hours stating what devices are to be employed, where they are to be employed, on what date, and at what times of day they are to be used, the nature of the sounds to be produced or amplified and the number of people in attendance, and the persons responsible for the activity.

2. Permits granted shall state with reasonable specificity the dates, locations, times, nature of the sound devices permitted, number of people in attendance, and the persons responsible for the activity.
3. Permits shall not be arbitrarily or unreasonably withheld nor shall the free expression of ideas or lawful speech be restrained, but sound and noise-producing conduct having no communicative value and serving only to unreasonably disturb and disrupt the enjoyment of residences and normal pursuits shall be restrained.
4. The City Administrator or Code Enforcement Officer may prescribe any conditions or requirements deemed necessary to minimize adverse effects upon the community or the surrounding neighborhood.
5. Applicants shall supply the Estherville Police Department with a copy of the permit no less than 12 hours before the planned event.

212.1107 MAXIMUM SOUND TO BE PERMITTED. When a permit has been issued pursuant to this chapter, the sound levels in the following table shall be the maximum levels permitted. The appropriate duration for each level shall not be exceeded.

Sound Level Limit dB (A)*	Duration
80	24 hours
83	12 hours
86	6 hours
89	3 hours
92	1.5 hours
95	45 minutes
98	22 minutes
101	11 minutes
105	5 minutes
*The sound level shall be measured at a distance of fifty (50) feet from the sound source.	

Sound emitted in excess of 105 dB (A) shall at all times be considered unlawful.

212.1108 EXCEPTIONS. The requirements, prohibitions, and terms of this chapter do not apply to the following:

1. Emergency work or to any authorized emergency vehicle when responding to an emergency call or acting in time of emergency.
2. The emission of sound for the purpose of alerting persons to the existence of an emergency.
3. Activities including, but not limited to, parades, fireworks displays, and community events.
4. Athletic contests.
5. The following activities, between 6:00 a.m. and 9:30 p.m.: all construction work; garbage collection; use of domestic power tools; use of motor-powered, muffler-equipped lawn, garden and tree-trimming equipment; and vehicle repairs.
6. Church and school bells and sirens for governmental meetings.

212.1109 ENFORCEMENT. Upon receipt of a complaint of excessive or unusually loud sound, or upon an officer's own volition, a law enforcement officer shall measure the sound as described herein. If the sound is excessive or unusually loud, as shown on the sound level meter, the officer may request the person in the position of ownership, possession, or control of the premises, or such person's agent, to immediately reduce the sound level to within lawful limits. The failure or refusal of a test request or failure to reduce and maintain the sound level to within lawful limits shall be a simple misdemeanor.

TITLE II - COMMUNITY PROTECTION**DIVISION 1 - LAW ENFORCEMENT****CHAPTER 2 - TRAFFIC CODE****ARTICLE 12
ENFORCEMENT PROCEDURES**

212.1201 ARREST OR CITATION. Whenever a police officer has reasonable cause to believe that a person has violated any provision of this chapter, such officer may:

1. Whenever a peace officer has reasonable cause to believe that a person has violated any provision of this chapter punishable as a simple, serious, or aggravated misdemeanor, such officer may:

a. Immediately arrest such person and take the person before a magistrate; or

b. Without arresting the person, either

(1) Prepare a written citation to appear in court containing the name and address of such person, the driver's license number, if any, the registration number, if any, of the person's vehicle, the offense charged, and the time and place the person shall appear in court; or

(2) Prepare a memorandum of the alleged traffic violation containing the name and address of such person, the registration number, if any, of the person's vehicle, the offense alleged to have been committed, and such other information as may be prescribed by the commissioner of public safety with the concurrence of the director of transportation.

2. If the officer prepares either a citation or a memorandum as provided in this section, the alleged offender shall be requested to sign it. If the person signs, the person may be released without arrest. In case a citation is issued, the signing shall constitute a written promise to appear as stated in the citation. A copy of the citation shall be presented to the person named therein. If a memorandum is prepared, the original shall be retained by the

officer, and a copy shall be sent to the department, and a copy shall be presented to the person named therein.

3. For preparing the summons or memorandum referred to in this section, there shall be charged to the person named in the summons or memorandum, upon conviction, a fee of two dollars. The fee shall be assessed as part of the court costs.

4. The number of copies and the form of the citations and memorandums authorized by this section shall be as prescribed by the commissioner of public safety with the concurrence of the director of transportation.

5. This section shall not apply to a traffic offense which must be charged upon a uniform citation and complaint as provided in Section 805.6.

(Code of Iowa, 2015, Sec. 321.485)

212.1202 PARKING VIOLATIONS. Violations of any parking restrictions imposed by this chapter shall be charged by citation or complaint and shall bear the following fines:

- *1. Snow Events and Parking Emergencies parking violations and street parking over eighteen (18) hours - Thirty dollars (\$30) per offense.
- 2. All other parking violations - Fifteen dollars (\$15) per offense.

212.1203 PARKING VIOLATIONS: VEHICLE UNATTENDED. When a vehicle is parked in violation of this chapter and the driver is not present, the notice of fine or citation as herein-before provided shall be attached to the vehicle in a conspicuous place.

212.1204 PRESUMPTION IN REFERENCE TO ILLEGAL PARKING. In any proceeding charging a standing or parking violation, a prima facie presumption that the registered owner was the person who parked or placed such vehicle at the point where, and for the time during which, such violation occurred, shall be raised by proof that:

1. Described Vehicle. The particular vehicle described in the information was parked in violation of this chapter, and
2. Registered Owner. The defendant named in the information was the registered owner at the time in question.

212.1205 IMPOUNDING VEHICLES. A police officer is hereby authorized to remove, or cause to be removed, a vehicle from a street, public alley, public parking lot, or highway to the nearest garage or other place of safety, or to a garage designated or maintained by the city, under the circumstances hereinafter enumerated:

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

(Code of Iowa, 2015, Sec. 321.236)

2. Illegally Parked Vehicle. When any vehicle is left unattended upon a street and is so illegally parked as to constitute a definite hazard or obstruction to the normal movement of traffic.

(Code of Iowa, 2015, Sec. 321.236)

3. Snow Removal. When any vehicle is left parked in violation of a ban on parking during a snow removal period.
4. Parked Over Eighteen Hour Period. When any vehicle is left parked upon a street for a continuous period of eighteen (18) hours or more. A diligent effort shall first be made to locate the owner. If the owner is found, he shall be given an opportunity to remove the vehicle.

(Code of Iowa, 2015, Sec. 321.236)

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

(Code of Iowa, 2015, Sec. 321.236)

TITLE II - COMMUNITY PROTECTION**DIVISION 1 - LAW ENFORCEMENT****CHAPTER 3 - BEER AND LIQUOR CONTROL****ARTICLE 1
GENERAL PROVISIONS**

213.101 DEFINITIONS. Where words and phrases used in this chapter are defined by state law, such definitions shall apply to their use in this chapter and are adopted by reference. Those definitions so adopted that need further definition or are reiterated, and other words and phrases used herein, shall have the following meanings:

1. "Person of Good Moral Character": shall mean any person who meets all of the following requirements:

(Code of Iowa, 2015, Sec. 123.3 [34])

- A. The person has such financial standing and good reputation as will satisfy the administrator that the person will comply with this chapter and all laws, ordinances, and regulations applicable to the person's operations under this chapter. However, the administrator shall not require the person to post a bond to meet the requirements of this paragraph.
- B. The person is not prohibited by Section 123.40 from obtaining a liquor control license or a wine or beer permit.
- C. Notwithstanding paragraph "e", the applicant is a citizen of the United States and a resident of this state, or licensed to do business in this state in the case of a corporation. Notwithstanding paragraph "e", in the case of a partnership, only one general partner need be a resident of this state.

D. The person has not been convicted of a felony. However, if the person's conviction of a felony occurred more than five years before the date of the application for a license or permit, and if the person's rights of citizenship have been restored by the governor, the administrator may determine that the person is of good moral character notwithstanding such conviction.

E. The requirements of this subsection apply to the following:

- (1) Each of the officers, directors, and partners of such person.
- (2) A person who directly or indirectly owns or controls ten percent or more of any class of stock of such person.
- (3) A person who directly or indirectly has an interest of ten percent or more in the ownership or profits of such person.

2. "Club": shall mean any nonprofit corporation or association of individuals, which is the owner, lessee, or occupant of a permanent building or part thereof, membership in which entails the prepayment of regular dues and is not operated for a profit other than such profits as would accrue to the entire membership.

(Code of Iowa, 2015, Sec. 123.3 [11])

3. "Commercial establishment": shall mean a place of business which is at all times equipped with sufficient tables and seats to accommodate twenty-five (25) persons at one time, and the licensed premises of which conform to the ordinances of the city.

(Code of Iowa, 2015, Sec. 123.3 [12])

4. "Grocery store": shall mean any retail establishment, the business of which consists of the sale of food products or beverages for consumption off the premises.

(Code of Iowa, 2015, Sec. 123.3[18])

5. "Pharmacy": shall mean a drug store in which drugs and medicines are exposed for sale and sold at retail, or in which prescriptions of licensed physicians and surgeons, dentists, or veterinarians are compounded and sold by a registered pharmacist.

(Code of Iowa, 2015, Sec. 123.3[35])

6. “Hotel or Motel”: means premises licensed by the department of inspections and appeals and regularly or seasonally kept open in a bona fide manner for the lodging of transient guests, and with twenty or more sleeping rooms.

(Code of Iowa, 2015, Sec. 123.3 [20])

7. “Legal age”: shall mean twenty-one (21) years of age or more.

(Code of Iowa, 2015, Section 123.3 [24])

8. “Administrator”: means the administrator of the division, appointed pursuant to the provisions of this chapter, or the administrator’s designee.

(Code of Iowa, 2015, Sec. 123.3 [1])

9. “Division”: shall mean the Alcoholic Beverages Division of the Department of Commerce.

(Code of Iowa, 2015, Sec. 123.3 [16])

213.102 ILLEGAL KEEPING OF INTOXICANTS. It is unlawful to manufacture for sale, sell, offer or keep for sale, possess, or transport alcoholic liquor, wine, or beer except upon the terms, conditions, limitations, and restrictions enumerated in this chapter.

(Code of Iowa, 2015, Sec. 123.2)

213.103 LIQUOR STORE: LOCATION. No liquor store shall be located within three hundred (300) feet of a public or private educational institution.

213.104 PERSONS UNDER LEGAL AGE.

1. A person shall not sell, give, or otherwise supply alcoholic liquor, wine, or beer to any person knowing or having reasonable cause to believe that person to be under legal age.

2. a. Except for the purposes described in subsection 3, a person who is the owner or lessee of, or who otherwise has control over, property that is not a licensed premises, shall not knowingly permit any person, knowing or having reasonable cause to believe the person to be under the age of eighteen, to consume or possess on such property any alcoholic liquor, wine, or beer.

b. A person who violates this subsection commits the following:

(1) For a first offense, a simple misdemeanor punishable as a scheduled violation under section 805.8C, subsection 8.

(2) For a second or subsequent offense, a simple misdemeanor punishable by a fine of five hundred dollars.

c. This subsection shall not apply to any of the following:

(1) A landlord or manager of the property.

(2) A person under legal age who consumes or possesses any alcoholic liquor, wine, or beer in connection with a religious observance, ceremony, or rite.

3. A person or persons under legal age shall not purchase or attempt to purchase, consume, or individually or jointly have alcoholic liquor, wine, or beer in their possession or control; except in the case of liquor, wine, or beer given or dispensed to a person under legal age within a private home and with the knowledge, presence, and consent of the parent or guardian, for beverage or medicinal purposes or as administered to the person by either a physician or dentist for medicinal purposes and except to the extent that a person under legal age may handle alcoholic beverages, wine, and beer during the regular course of the person's employment by a liquor control licensee, or wine or beer permittee under this chapter.

(Code of Iowa, 2015, Sec. 123.47)

213.105 PUBLIC CONSUMPTION OR INTOXICATION. It is unlawful for any person to use or consume alcoholic liquor, wine, or beer upon the public streets or highways, or alcoholic liquor in any public place, except premises covered by a liquor control license, or to possess or consume alcoholic liquor, wine, or beer on any public school property or while attending any public or private school related function, and no person shall be intoxicated nor simulate intoxication in a public place. As used in this section "school" means a school or that portion thereof which provides teaching for any grade from kindergarten through grade twelve (12).

(Code of Iowa, 2015, Sec. 123.46)

213.106 OPEN CONTAINER IN PUBLIC PLACES. It shall be unlawful for any person to possess an open container of alcoholic liquor in any public place in the City of Estherville, Iowa, except premises covered by a liquor control license, or to possess an open container of wine or beer upon Library Square, Thoreson Park Complex, or the public streets or highways of the City of Estherville, Iowa, provided however, that wine or beer may be consumed at the Thoreson Park Complex only during special events where prior permission for such consumption has been granted by the Park and Recreation Board of the City of Estherville, Iowa. Such permission may be granted by the Parks and Recreation Board of the City of Estherville, Iowa, only for specific events held at the Thoreson Park Complex on a case-by-case basis.

TITLE II - COMMUNITY PROTECTION**DIVISION 1 - LAW ENFORCEMENT****CHAPTER 3 - BEER AND LIQUOR CONTROL****ARTICLE 2
BEER AND LIQUOR PERMITS**

213.201 LICENSE OR PERMIT REQUIRED. It shall be unlawful for any person to sell, offer, or keep for sale alcoholic liquor or beer without first securing a liquor control license or beer permit in accordance with the provisions of this chapter and state law.

(Code of Iowa, 2015, Sec. 123.2)

213.202 NATURE OF LICENSE OR PERMIT. A liquor control license or beer permit shall be a purely personal privilege and be revocable for cause. It shall not constitute property nor be subject to attachment and execution nor be alienable nor assignable, and in any case it shall cease upon the death of the permittee or licensee. However, the administrator may in his discretion allow the executor or administrator of a permittee or licensee to operate the business of the decedent for a reasonable time not to exceed the expiration date of the permit or license. Every permit or license shall be issued in the name of the applicant and no person holding a permit or license shall allow any other person to use same.

(Code of Iowa, 2015, Sec. 123.38)

213.203 BEER PERMITS - CLASSES. Beer permits shall be classed as follows:

1. Class "B" Permit: shall allow establishments such as bars and restaurants the privilege of selling on premises beer or carry out beer.
2. Class "C" Permit: shall allow establishments such as grocery stores, convenience stores, and pharmacies the privilege of selling carry out beer with no sales on premises.

3. Class "D" Permit: shall allow establishments such as bars and restaurants the privilege of selling on premise beer and carry out beer and wine.
4. Class "E" Permit: shall allow establishments such as grocery stores, convenience stores, and pharmacies the privilege of selling carry out beer and wine with no sales on premises.
5. Sunday Sales Privilege: shall allow establishments the privilege of selling and/or serving beer and/or wine on Sundays. Sunday Sales Privileges are not required of Class E Liquor Licenses as such licenses automatically carry a Sunday Sales Privilege.
6. Seasonal Permits: Seasonal permits may be issued for 14 days, 6 months, or 8 months. A two-month period must elapse after the expiration of a seasonal permit before another seasonal permit can be issued to the same premises.

(Code of Iowa, 2015, Sec. 123.124, 123.129 & 123.130)

213.204 LIQUOR LICENSES AND WINE PERMITS - CLASSES. Liquor control licenses and wine permits shall be classed as follows:

1. Class "A" Liquor License: shall allow establishments such as nonprofit clubs the privilege of selling on premises beer, wine, or liquor to members and guests. No carry out sales shall be allowed.
2. Class "B" Liquor License: shall allow establishments such as hotels and motels with a minimum of 20 rooms the privilege of selling on premises beer, wine and liquor, and carry out beer.
3. Class "B" Wine Permit: shall allow establishments such as wine stores and grocery stores the privilege of selling carry out wine only.
4. Class "C" Liquor License: shall allow establishments such as bars and restaurants with a minimum of 25 tables/chairs the privilege of selling on premises beer, wine or liquor, and carry out beer.

5. Special Class "C" Liquor License: shall allow beer and wine establishments the privilege of selling on premises beer and wine and carry out beer.
6. Class "F" Liquor License: shall allow regular commercial establishments the privilege of selling on premises beer, wine and/or liquor and carry out beer and wine.
7. Class "G" Liquor License: shall allow beer and wine establishments the privilege of selling on premises beer and/or wine and carry out beer and/or wine.
8. Class "H" Liquor License: shall allow hotels and motels of 20 rooms or more the privilege of selling on premises beer, wine and/or liquor, and carry out beer and wine.
9. Seasonal Licenses/Permits: seasonal licenses and/or permits may be issued for 14 days, 6 months, or 8 months. Seasonal licenses and permits cannot be renewed.

213.205 APPLICATION. A verified application for the original issuance or the renewal of a liquor control license or a beer permit shall be filed at such time, in such number of copies and in such form as the administrator shall prescribe, on forms prescribed by him.

(Code of Iowa, 2015, Sec. 123.31)

213.206 BOND FILED. The application shall be accompanied by the required fee and bond and be filed with the council for approval or disapproval. The bond to be submitted shall be in a form prescribed by the administrator of the Division of Alcoholic Beverages of the Department of Commerce.

(Code of Iowa, 2015, Sec. 123.32)

213.207 CONDITIONS. No liquor control license or beer permit shall be approved unless:

1. Character of Applicant. The applicant is a person of good moral character as defined by this chapter and in the case of a club, corporation, or partnership, the officers of the club or corporation and the partners of a partnership are of good moral character as defined by this chapter.

(Code of Iowa, 2015, Sec. 123.30 [1])

2. Right of Entry. The applicant gives consent in writing on the application that members of the fire and police departments may enter upon the premises without warrant to inspect for violations of the provisions of state law and of this chapter.

(Code of Iowa, 2015, Sec. 123.30 [1])

3. Access to Residential or Sleeping Quarters. No interior access to residential or sleeping quarters is permitted or maintained unless permission is granted by the director in the form of a living quarters permit.

(Code of Iowa, 2015, Sec. 123.30 [2])

4. Location of Premises. The premises are located within areas where such businesses are, or hereafter are, permitted by a valid zoning ordinance.

(Code of Iowa, 2015, Sec. 123.128 [1b])

5. Seating Capacity. The premises are, at the time of the application and continue to be, equipped with sufficient tables and seats to accommodate twenty-five (25) persons at one time.

(Code of Iowa, 2015, Sec. 123.128 [1b])

6. Conform to Applicable Laws. The premises conform to all applicable laws, ordinances, resolutions, and health and fire regulations.

(Code of Iowa, 2015, Sec. 123.128 [2])

213.208 CIVIL LIABILITY. Every liquor control licensee and class “B” beer permittee shall furnish proof of financial responsibility either by the existence of a liability insurance policy or by posting bond in such amount as determined by the department.

(Code of Iowa, 2015, Sec. 123.92)
(IAC, 1999, 185-5.9 [123])

213.209 RESERVED FOR FUTURE USE.

213.210 SEPARATE LOCATIONS - CLASS “B” OR “C”. Every person holding a class “B” or class “C” beer permit having more than one place of business where such beer is sold shall be required to have a separate license for each separate place of business, except as otherwise provided by state law.

(Code of Iowa, 2015, Sec. 123.140)

213.211 RESERVED FOR FUTURE USE.

213.212 LICENSE AND PERMIT FEES. The fees for the various beer and/or wine permits and liquor licenses shall be the same as the fees fixed for such licenses and permits by the Alcoholic Beverages Division of the Iowa Department of Commerce. Schedules reflecting the various fees shall be on file in the Office of the City Clerk and are available for inspection by the public during regular business hours.

213.213 RESERVED FOR FUTURE USE.

213.214 ACTION BY COUNCIL. Action taken by the council shall be so endorsed on the application and thereafter the application, fee, and bond shall be forwarded to the department for such further action as is provided by law.

(Code of Iowa, 2015, Sec. 123.32 [2])

213.215 EXPIRATION OF LICENSE OR PERMIT. All liquor control licenses and beer permits, unless sooner suspended or revoked, shall expire one year from date of issuance. Sixty (60) days notice of such expiration must be given in writing by the administrator or as otherwise provided by law.

(Code of Iowa, 2015, Sec. 123.34)

213.216 REFUNDS. Any such licensee or permittee, or his executor, administrator, or any person duly appointed by the court to take charge of and administer the property or assets of the licensee or permittee for the benefit of his creditors, may voluntarily surrender such license or permit to the department and shall notify the city, and the department and the city, or the city by itself in the case of a retail beer permit, shall refund to the person so surrendering the license or permit a proportionate amount of the fee paid for such license or permit as follows:

If surrendered during the first three (3) months of the period for which said license or permit was issued, the refund shall be three-fourths of the amount of the fee; if surrendered more than three (3) months but not more than six (6) months after issuance, the refund shall be one-half of the amount of the fee; if surrendered more than six (6) months but not more than nine (9) months after issuance, the refund shall be one-fourth of the amount of the fee. No refund shall be made, however, for a liquor control license or beer permit surrendered for more than nine (9) months after issuance. No refund shall be made to any licensee or permittee, upon the surrender of his license or permit, if there is at the time of said surrender a complaint filed with the department or the city, charging him with a violation of this chapter or provisions of the Iowa beer and liquor control act. If upon hearing on any such complaint the license or permit is not revoked or suspended, then the licensee or permittee shall be eligible, upon surrender of his license or permit, to receive a refund as herein provided. But if his license or permit is revoked or suspended upon such hearing, he shall not be eligible for the refund of any portion of his license or permit fee. No refund shall be made for seasonal licenses or permits.

(Code of Iowa, 2015, Sec. 123.38)

213.217 TRANSFERS. The council may, in its discretion, authorize a licensee or permittee to transfer the license or permit from one location to another within the city, provided that the

premises to which the transfer is to be made would have been eligible for a license or permit in the first instance and such transfer will not result in the violation of any law or ordinance. An applicant for such a transfer shall file with the application a transfer fee in the amount of fifteen dollars (\$15).

(Code of Iowa, 2015, Sec. 123.38)

213.218 RESERVED FOR FUTURE USE.

213.219 PROHIBITED SALES AND ACTS. No person or club holding a liquor license or beer permit nor his agents or employees shall do any of the following:

1. Intoxicated Persons. Sell, dispense, or give to any intoxicated person, or one simulating intoxication, any alcoholic liquor or beer.

(Code of Iowa, 2015, Sec. 123.49 [1])

2. Hours of Operation. Sell or dispense any alcoholic liquor or beer on the premises covered by a license or permit, or permit the consumption thereon, between the hours of 2:00 a.m. and 6:00 a.m. on any weekday and between the hours of 2:00 a.m. and 10:00 a.m. on Sunday and 12:00 p.m. on Sunday and 6:00 a.m. on the following Monday.

(Code of Iowa, 2015, Sec. 123.49 [2] [b])

3. Credit Sales. Sell alcoholic liquor or beer to any person on credit, except with bona fide credit card. This provision shall not apply to sales by a club to its members nor to sales by a hotel or motel to bona fide registered guests.

(Code of Iowa, 2015, Sec. 123.49 [2c])

4. Employment of Minors. Employ a person under 18 years of age in the sale or serving of alcoholic liquor, wine, or beer for consumption on the premises where sold.

(Code of Iowa, 2015, Sec. 123.49 [2f])

5. Selling of Alcoholic Beverage to Minors. Sell, give, or otherwise supply any alcoholic beverage, wine, or beer to any person, knowing or failing to exercise reasonable care to ascertain whether the person is under legal age, or permit any person, knowing, or failing to exercise reasonable care to ascertain whether the person is under legal age, to consume any alcoholic beverage, wine, or beer.

(Code of Iowa, 2015, Sec. 123.49 [2h])

6. Mixing of Alcoholic Beverage. In the case of a retail beer permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to beer or any other beverage in or about his place of business.

(Code of Iowa, 2015, Sec. 123.49 [2i])

7. Soliciting and Disorderly Conduct. Knowingly permit any solicitors for immoral purposes or disorderly conduct on the premises covered by the license or permit.

(Code of Iowa, 2015, Sec. 123.49 [2a])

8. Beer Brand Signs Prohibited. Permit any signs or other matter advertising any brand of beer to be erected or placed upon the outside of any premises occupied by a licensee or permittee authorized to sell beer at retail.

(Code of Iowa, 2015, Sec. 123.51 [1])

9. Public Indecent Exposure Prohibited. Allow or permit any of the following:

(Code of Iowa, 2015, Sec. 728.5)

A. The actual or simulated public performance of any sex act upon or in such licensed premises.

B. The exposure of the genitals or buttocks or female breast of any person who acts as a waiter or waitress.

C. The exposure of the genitals or female breast nipple of any person who acts as an entertainer, whether or not the owner of the licensed premises in which the activity is performed employs or pays any compensation to such person to perform such activity.

D. Any person to remain in or upon the licensed premises who exposes to public view his or her genitals, pubic hair, or anus.

E. The displaying of moving pictures, films, or pictures depicting any sex act or the display of the pubic hair, anus, or genitals upon or in such licensed premises.

Provided that the provisions of this subsection shall not apply to a theater, concert hall, art center, museum, or similar establishment which is primarily devoted to the arts or theatrical performances and any of the circumstances contained in this section were permitted or allowed as part of such art exhibits or performances.

F. Advertising that any activity prohibited by this section is allowed or permitted in such place of business.

213.220 OPTIONAL SUSPENSION REVOCATION. Following a written notice and hearing, as provided by this article, a liquor license or beer permit may be suspended by the council for a period up to one year, the license or permit may be revoked, or a civil penalty imposed not to exceed one thousand dollars (\$1,000) per violation for violations of the city code, for any of the following causes:

1. Misrepresentation. Misrepresentation of any material fact in the application for such license or permit.

(Code of Iowa, 2015, Sec. 123.39 [1])

2. Violations. Violations of any of the provisions of the Iowa beer and liquor control act.

(Code of Iowa, 2015, Sec. 123.39 [2])

3. Change in Ownership. Any change in the ownership or interest in the business operated under a class "A", class "B", or class "C" liquor control license, or any beer permit which change was not previously reported to and approved by the city and the department.

(Code of Iowa, 2015, Sec. 123.39 [3])

4. Original Disqualifications. Any event which would have resulted in disqualification from receiving such license or permit when originally issued.

(Code of Iowa, 2015, Sec. 123.39 [4])

5. Sale or Transfer. Any sale, hypothecation, or transfer of such license or permit.

(Code of Iowa, 2015, Sec. 123.39 [5])

6. Payment of Taxes. The failure or refusal on the part of any licensee or permittee to render any report or remit any taxes to the department under the state law.

(Code of Iowa, 2015, Sec. 123.39 [6])

7. Commission of Prohibited Sale or Act. The conviction of any liquor control licensee or beer permittee for a violation of any of the provisions of Section 213.219 shall, subject to Section 213.221, be grounds for the suspension or revocation of the license or permit by the department or the city.

(Code of Iowa, 2015, Sec. 123.50 [2])

213.221 MANDATORY SUSPENSION OR REVOCATION. A license or permit shall be suspended or revoked by the City Council in accordance with the following:

1. Sale to Minors or "Spiking." If any licensee, beer permittee, or employee of such licensee or permittee shall be convicted of a violation of Section 213.219, subsection 5, or a retail beer permittee shall be convicted of a violation of subsection 6 of said section, the city shall, in addition to the other penalties fixed for such violations by this article, assess a penalty as follows:

A. Upon a first conviction, the violator's liquor control license, wine permit, or beer permit shall be suspended for a period of fourteen (14) days. However, if the conviction is for a violation of Section 123.49, subsection 2, paragraph "h", the violator's liquor control license or wine or beer permit shall not be suspended, but the violator shall be assessed a civil penalty in the amount of five hundred dollars (\$500). Failure to pay the civil penalty as ordered will result in an automatic suspension of the license or permit for a period of fourteen (14) days.

(Code of Iowa, 2015, Sec. 123.50 [3a])

B. Upon a second conviction within a period of two (2) years, the violator's liquor control license or beer permit shall be suspended for a period of thirty (30) days. However, if the conviction is for a violation of Section 213.219 (5) of this Code of Ordinances, the violator shall also be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500).

(Code of Iowa, 2015, Sec. 123.50 [3b])

C. Upon a third conviction within a period of five (5) years, the violator's liquor control license or beer permit shall be suspended for a period of sixty (60) days. However, if the conviction is for a violation of 213.219 (5), the violator shall also be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500).

(Code of Iowa, 2015, Sec. 123.50 [3c])

D. Upon a fourth conviction within a period of five (5) years, the violator's liquor control license or beer permit shall be revoked.

(Code of Iowa, 2015, Sec. 123.50 [3d])

2. Gambling, Solicitation, Disorderly Conduct, Use of Containers. If any liquor control licensee is convicted of any violation of Code of Iowa, 2015, Sec. 123.49 (2, a, d, or e), or any beer permittee is convicted of a violation of subsection (2), paragraph "A" of said section, the liquor control license or beer permit shall be revoked and shall immediately be surrendered by the holder, and the bond of the license or permit holder shall be forfeited to the department.

(Code of Iowa, 2015, Sec. 123.50 [2])

213.222 HEARING ON SUSPENSION OR REVOCATION. The council shall conduct a hearing on each suspension or revocation in the following manner:

(Code of Iowa, 2015, Sec. 322.13 [5])

1. Notice. The permit holder, and the surety on his bond, shall be served with written notice containing a copy of the complaint against him, the ordinance provisions or state statutes allegedly violated, and the date, time, and place for hearing on the matter.
2. Hearing. The council shall conduct a hearing, at which both the permit holder and complainants shall be present, the purpose of which is to determine the truth of the facts alleged in the complaint. Should the permit holder or his authorized representative fail to appear without good cause, the council may proceed to a determination of the complaint.
3. Rights of Permit Holder. The permit holder shall have the right to be represented by counsel, to testify and present witnesses in his own behalf, and to cross-examine adverse witnesses.
4. Evidence. The council shall admit only reliable and substantial evidence into the revocation or suspension proceeding, and shall give all admitted evidence its natural probative value.

5. Criminal Charges. In the event that criminal charges have been brought against the permit holder on the same facts and circumstances as are the basis for the revocation or suspension complaint, the council shall await a judgment in the criminal action before conducting the revocation or temporary suspension hearing required by this section. Neither a conviction nor an acquittal in the criminal action shall be conclusive for purposes of the revocation or suspension proceeding held under this section.

6. Record and Determination. The council shall make and record findings of fact and conclusions of law, and shall revoke or suspend a permit under this section only when, upon review of the entire record, it finds clear and convincing evidence of a substantial violation of this chapter or state law.

213.223 DEPARTMENT NOTIFIED. When the City Council revokes or suspends a liquor license or beer permit, the Alcoholic Beverages Division of the Department of Commerce shall be given written notice thereof stating the reasons for the revocation or suspension and the length of same.

213.224 APPEAL TO STATE AND COURT. The right of appeal to the hearing board shall be afforded a liquor control licensee or beer permittee whose license or permit has been suspended or revoked. Any applicant who feels aggrieved by a decision of the director or city disapproving, suspending, or revoking issuance of a liquor control license or beer permit may, provided he has exercised his right of appeal to the hearing board as provided by state law, appeal from said decision within ten (10) days to the district court of the county wherein the premises covered by the application are situated. The city may appeal a decision of the hearing board within ten (10) days to the district court of the county wherein the premises covered by the application are situated.

(Code of Iowa, 2015, Sec. 123.32 [4 & 5])

213.225 EFFECT OF REVOCATION. Any liquor control licensee or beer permittee whose license or permit is revoked under the Iowa beer and liquor control act shall not thereafter be permitted to hold a liquor control license or beer permit in the state of Iowa for a period of two (2) years from the date of such revocation. The spouse and business associates holding ten (10) percent or more of the capital stock or ownership interest in the business of a person whose license or permit has been revoked shall not be issued a liquor control license or beer permit, and no liquor control license or beer permit shall be issued which covers any business in which such person has a financial interest for a period of two (2) years from the date of such revocation. In the event a license or permit is revoked, the premises which have been covered by such license or permit shall not be relicensed for one year.

(Code of Iowa, 2015, Sec. 123.40)

TITLE II - COMMUNITY PROTECTION**DIVISION 1 - LAW ENFORCEMENT****CHAPTER 4
POLICE DEPARTMENT**

214.1 DEPARTMENT ESTABLISHED. The Police Department of the city is established to provide for the preservation of peace and enforcement of law and ordinances within the corporate limits of the city.

214.2 ORGANIZATION. The department shall consist of the police chief and such other law enforcement officers and personnel, whether full or part-time, as may be authorized by the council.

214.3 PEACE OFFICER QUALIFICATIONS. In no case shall any person be recruited, selected, or appointed as a police officer unless such person:

1. Resident Citizen. Is a citizen of the United States and a resident of Iowa or intends to become a resident upon being employed.
2. Age. Is at least twenty (20) years of age.
3. Driver's License. Has a current active Iowa driver's license or must obtain such license upon appointment.
4. Language. Is able to read and write the English language.
5. Alcohol and Drugs. Is not addicted to drugs or alcohol.
6. Character. Is of good moral character as determined by a thorough investigation including a fingerprint search conducted of local, state, and national fingerprint files and has not been convicted of a felony or a crime involving moral turpitude.
7. Conscientious Objector. Is not by reason of conscience or belief opposed to the use of force, when appropriate or necessary to fulfill his duties.
8. Vision. Has an uncorrected vision of not less than 20/100 in either eye, correctable to 20/20 and normal color vision.

9. Hearing. Has normal hearing in each ear as determined by an examining physician.

10. Oral Interview. Has participated in an oral interview held by the city, or its representative, to determine such things as appearance, background, and ability to communicate.

11. Health. Has been examined by a physician to determine if free from physical, emotional, or mental condition which might adversely affect the performance of duties.

12. Written Exam. Has attained a satisfactory grade in a pre-employment written examination.

214.4 REQUIRED TRAINING. All police officers shall have received the minimum training required by law at an approved law enforcement training school within one (1) year of employment. Each officer, prior to training, shall enter into a law enforcement training reimbursement agreement with the City of Estherville whereby the officer shall reimburse the City for all or a portion of training costs incurred if such officer leaves employment of the City before a tenure of four (4) years.

(Code of Iowa, 2015, Sec. 80B.11 [17])

214.5 OATH. Every police officer, before entering upon the duties of his office, shall qualify for office by taking the oath prescribed by Section 110.201 of the city code.

214.6 COMPENSATION. Members of the department shall be designated by rank and receive such compensation as shall be determined by resolution of the council.

214.7 PEACE OFFICERS APPOINTED. The police chief shall be appointed by the mayor from the chief's civil service eligible list as provided by the Code of Iowa. Other members of the department shall be appointed by the police chief after recommendation of the Civil Service Commission as provided by the Code of Iowa.

214.8 POLICE CHIEF: DUTIES. The police chief shall have the following powers and duties subject to the approval of the council.

(Code of Iowa, 2015, Sec. 372.13 [4])

1. General. Perform all duties required of the police chief or marshal by law or ordinance.
2. Enforce Laws. Enforce all laws, ordinances, and regulations, and bring all persons committing any offense before the proper court.
3. Writs. Execute and return all writs and other processes directed to him.
4. Accident Reports. Report all motor vehicle accidents investigated to the state department of public safety referred to in Section 321.266.

(Code of Iowa, 2015, Sec. 321.266)

5. Assist Officials. When requested, provide aid to other city officers, boards, and commissions in the execution of their official duties.
6. Investigations. Provide for such investigation as may be necessary for the prosecution of any person alleged to have violated any law or ordinance.
7. Record of Arrests. Keep a record of all arrests made in the city by showing whether said arrests were made under provisions of state law or city ordinance, the offense charged, who made the arrest and the disposition of the charge.
8. Reports. Compile and submit to the mayor and council an annual report as well as such other reports as may be requested by the mayor or council.
9. Command. Be in command of all officers appointed for police work and be responsible for the care, maintenance, and use of all vehicles, equipment, and materials of the department.

214.9 DEPARTMENTAL RULES. The police chief shall establish such rules, not in conflict with the city code, as may be necessary for the operation of the department including rules governing the following:

1. Rules of Conduct. The conduct and activity of members of the department during regular and off-duty hours.
2. Uniform. The wear and care of uniforms.
3. Weapons. The care, use, and practice of side arms and other police weapons.

4. Training. The nature, time, and attendance requirements for in-service training of members of the department.
5. Emergencies. Temporary rules for the protection and functioning of the department as may be necessary in the event of an emergency until such rules may be considered by the council.
6. Other. Such other rules as may be deemed necessary and advisable in assuring efficient and proper performance of the duties of the department.
7. Penalties. The penalties which may be imposed for violation of established departmental rules by members.
8. Notice. The police chief shall give written notice to any member charged with a violation of departmental rules specifying the rule violated, the nature of the violation, and the penalty to be imposed.
9. Appeal. A member of the department charged with a violation of rules may request a hearing before the council by filing notice of appeal with the clerk within ten (10) days of receipt of notice of violation. The council, at its next meeting shall review the facts and affirm, modify, or revoke the action of the police chief.

214.10 SUMMONING AID. Any peace officer making a legal arrest may orally summon as many persons as the officer reasonably finds necessary to aid him or her in making the arrest.

(Code of Iowa, 2015, Sec. 804.17)

214.11 TAKING WEAPONS. Any person who makes an arrest may take from the person arrested all items which are capable of causing bodily harm which the arrested person may have within his or her control to be disposed of according to law.

(Code of Iowa, 2015, Sec. 804.18)

214.12 DISCHARGE OF CHIEF OF POLICE. The mayor shall have the power and authority to temporarily suspend the chief of police from his position and to recommend his removal from office by written order. The order shall give the reasons for such suspension and recommended removal from office, be filed in the Office of the City Clerk, and a copy shall be sent by certified mail to the chief of police who shall, upon request, be granted a public hearing before the City Council of the City of Estherville, Iowa, on all issues connected with the removal as provided by law then in effect. The chief of police may be removed from office only upon the affirmative vote of a majority of the membership of the City Council.

TITLE II - COMMUNITY PROTECTION**DIVISION 1 - LAW ENFORCEMENT****CHAPTER 5 - BICYCLES****ARTICLE 1
BICYCLE REGULATIONS**

215.101 SCOPE OF REGULATIONS. These regulations shall apply whenever a bicycle is operated upon any street or upon any public path set aside for the exclusive use of bicycles, subject to those exceptions stated herein.

(Code of Iowa, 2015, Sec. 321.236 [10])

215.102 TRAFFIC CODE APPLIES. Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by the laws of this state declaring rules of the road applicable to vehicles or by the traffic code of this city applicable to the driver of a vehicle, except as to those provisions which by their nature can have no application. Whenever such person dismounts from a bicycle he shall be subject to all regulations applicable to pedestrians.

(Code of Iowa, 2015, Sec. 321.234)

215.103 DOUBLE RIDING RESTRICTED. A person propelling a bicycle shall not ride other than astride a permanent and regular seat attached thereto. No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

(Code of Iowa, 2015, Sec. 321.234)

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

(Code of Iowa, 2015, Sec. 321.236 [10])

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

(Code of Iowa, 2015, Sec. 321.236 [10])

215.106 SPEED. No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing.

(Code of Iowa, 2015, Sec. 321.236 [10])

215.107 EMERGING FROM ALLEY OR DRIVEWAY. The operator of a bicycle emerging from an alley, driveway, or building shall, upon approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right-of-way to all pedestrians approaching on said sidewalk or sidewalk area, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on said roadway.

(Code of Iowa, 2015, Sec. 321.236 [10])

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

(Code of Iowa, 2015, Sec. 321.236 [10])

215.109 RIDING ON SIDEWALKS. No person shall ride a bicycle on a sidewalk except in accordance herewith:

1. Business District. No person shall ride a bicycle upon a sidewalk within a business district.

(Code of Iowa, 2015, Sec. 321.236 [10])

2. Other Locations. When signs are erected on any sidewalk or roadway prohibiting the riding of bicycles thereon by any person, no person shall disobey the signs.

(Code of Iowa, 2015, Sec. 321.236 [10])

3. Yield Right-of-Way. Whenever any person is riding a bicycle upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing.

(Code of Iowa, 2015, Sec. 321.236 [10])

215.110 TOWING. It shall be unlawful for any person riding a bicycle to be towed or to tow any other vehicle upon the streets of the city.

215.111 FOLLOWING FIRE TRUCK. No person riding a bicycle shall follow a fire truck or other fire equipment at any time.

215.112 IMPROPER RIDING. No person shall ride a bicycle in an irregular or reckless manner such as zigzagging, stunting, speeding or otherwise so as to disregard the safety of the operation or others.

215.113 PARKING. No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the bicycle or against a building or at the curb, in such a manner as to afford the least obstruction to pedestrian traffic.

(Code of Iowa, 2015, Sec. 321.236 [10])

215.114 EQUIPMENT REQUIREMENTS. Every person riding a bicycle shall be responsible for providing and using equipment as provided herein:

1. Nighttime Use. Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least three hundred (300) feet to the front and with a red lamp on the rear of a type which shall be visible from all distances from three hundred (300) feet to the except that a red reflector may be used in lieu of a rear light.

(Code of Iowa, 2015, Sec. 321.397)

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

(Code of Iowa, 2015, Sec. 321.236 [10])

215.115 RESERVED FOR FUTURE USE.

215.116 SPECIAL PENALTY. Any person violating the provisions of this article may, in lieu of the standard penalty provided for violations of the city code, suffer his bicycle to be impounded by the city for not less than seven (7) days for the first offense, fourteen (14) days for a second offense, and thirty (30) days for a third offense.

TITLE II - COMMUNITY PROTECTION**DIVISION 1 - LAW ENFORCEMENT****CHAPTER 5 - BICYCLES****ARTICLE 2
BICYCLE LICENSING**

215.201 BICYCLE LICENSES. A person who resides within this city may license his or her bicycle as hereafter listed.

(Code of Iowa, 2015, Sec. 321.236 [10])

1. License Application. Application for a bicycle license and license plate may be made upon a form provided by the city and shall be made to the Police Department. A license fee shall be paid to the city before each license is granted.

(Code of Iowa, 2015, Sec. 321.236 [10])

2. Issuance of License. The Police Department upon receiving proper application therefor is authorized to issue a bicycle license which shall be effective immediately.

(Code of Iowa, 2015, Sec. 372.13)

3. Transfer of License. Upon the sale or other transfer of ownership of a licensed bicycle the license shall be transferred to the new owner and the records of the city changed to reflect the new ownership upon request and the payment a fee.

(Code of Iowa, 2015, Sec. 321.236 [10])

215.202 LICENSE PLATES OR DECALS. License plates or decals are required as follows:

1. Issued. The Police Department upon issuing a bicycle license shall also issue a license plate or decal bearing the license number assigned to the bicycle and the name of the city.

(Code of Iowa, 2015, Sec. 372.13)

2. Attached to Bicycle. The Police Department shall cause such license plate or decal to be firmly attached to the bicycle for which issued in such position as to be plainly visible from the rear.

(Code of Iowa, 2015, Sec. 321.236 [10])

3. Removal. No person shall remove a license plate or decal from a bicycle during the period for which issued except upon a transfer of ownership or in the event the bicycle is dismantled and no longer operated upon any street in this city.

(Code of Iowa, 2015, Sec. 321.236 [10])

4. Lost License. In the event a license plate or decal shall be lost, destroyed or stolen, the owner shall report such to the Police Department immediately. A new license shall be issued upon payment of a replacement fee.

TITLE II - COMMUNITY PROTECTION**DIVISION 1 - LAW ENFORCEMENT****CHAPTER 6
SNOWMOBILES**

216.1 SNOWMOBILE DEFINED. For use in this chapter the term “snowmobile” shall mean a motorized vehicle weighing less than one thousand pounds which uses sled-type runners or skis, endless belt-type tread with a width of forty-eight inches or less, or any combination of runners, skis, or tread, and is designed for travel on snow or ice. “Snowmobile” does not include an all-terrain vehicle, as defined in section 321I.1, which has been altered or equipped with runners, skis, belt-type tracks, or treads.

(Code of Iowa, 2015, Sec. 321G.1 [27])

216.2 PLACE OF OPERATION. The operators of snowmobiles shall observe the following limitations as to where snowmobiles may be operated:

1. Unplowed Streets. Snowmobiles may be operated upon city streets/highways which have not been plowed during the snow season or such highways as designated by the city.

(Code of Iowa, 2015, Sec. 321G.9 [4a])

2. Prohibited Streets. Snowmobiles may not be operated on the following designated streets except when the same have not been plowed during the snow season and are impassable:

(Code of Iowa, 2015, Sec. 321G.9 [4a&c])

- A. Central Avenue (except along the south sidewalk from South 1st Street to West South 1st Street).
- B. 9th Street.
- C. 6th Street, from 8th Avenue North to 2nd Avenue South.

D. Upon any street within the area bounded by and including 2nd Avenue on the north; 7th Street on the east; 1st Avenue South on the south; and 4th Street on the west.

3. Other Streets. In adopting the rules, consideration shall be given to the need to protect the environment and the public health, safety, and welfare; to protect private property, public parks, and other public lands; to protect wildlife and wildlife habitat; and to promote uniformity of rules relating to the use, operation, and equipment of snowmobiles. The rules shall be in conformance with chapter 17A.

(Code of Iowa, 2015, 321G.2 [3])

4. Parks and Other Public Land. Snowmobiles shall not be operated in city parks, playgrounds, or upon any publicly-owned property except as authorized by this chapter or with the expressed permission of the governing body thereof.

5. Private Property. No snowmobile shall be operated upon private property without the express consent of the owner thereof.

6. Sidewalk or Parking. No snowmobiles shall be operated upon the public sidewalk, nor shall they be operated upon that portion of the street located between the curb line and the sidewalk or property line commonly referred to as the “parking” except for purposes of crossing the same to a public street upon which operation is authorized by this chapter.

7. Designated Snowmobile Routes. Snowmobiles may be operated on the following designated routes during time of sufficient snow cover, unless a publicized thaw ban has been declared, for purposes of ingress and egress to the city only on the following routes:

A. South 1st Street from the intersection of Highway 4, north (as posted) to Central Avenue.

- B. East side of Highway 4, north from 14th Avenue North to the city limits of the city of Estherville.
- C. Along a designated route from 7th Avenue South, north along the former railroad right-of-way to 2nd Avenue South.
- D. Along the south ditch of Highway 9 from South 28th Street west to the intersection of Central Avenue and 3rd Avenue South.
- E. Within 50 feet of the west bank of the West Fork of the Des Moines River through Joe Hoyer, Riverside, and Mickelson Parks. Snowmobiles may deviate from the 50-foot zone solely for the purpose of most direct route ingress/egress to parking or designated snowmobile routes.

216.3 MANNER OF OPERATION. No person shall operate a snowmobile in the city except as hereafter provided:

1. Registration. No snowmobile shall be operated in the city unless registered pursuant to state law and unless the identifying number set forth in the registration is displayed on each side of the snowmobile.

(Code of Iowa, 2015, Sec. 321G.5)

2. Equipment. All snowmobiles shall be equipped with the original equipment manufactured muffler and exhaust systems or their equivalent not to exceed manufacturer's original noise emissions specifications, lights, and other equipment may be required by law or ordinance.

(Code of Iowa, 2015, Sec. 321G.2, 321G.11[1], & 321G.12)

3. Traffic Code. Snowmobile operators shall observe all state and local traffic control regulations and devices.

(Code of Iowa, 2015, Sec. 321.256)

4. Speed. Snowmobiles shall not be operated on streets at a speed in excess of that posted nor at any time at a rate of speed greater than reasonable and proper under all existing circumstances.

(Code of Iowa, 2015, Sec. 321G.13 [1a])

5. Careless Operation. No person shall drive or operate a snowmobile in a careless, reckless, or negligent manner so as to endanger the person or property of another or to cause injury or damage thereto.

(Code of Iowa, 2015, Sec. 321G.13 [1b])

6. Intoxicated. No person shall operate a snowmobile while under the influence of intoxicating liquor or narcotics or habit-forming drugs.

(Code of Iowa, 2015, Sec. 321G.13 [1c])

7. Lights. No person shall operate a snowmobile without a lighted headlight and taillight from sunset to sunrise and at such other times when conditions provide insufficient lighting to render clearly discernible persons and vehicles at a distance of five hundred feet ahead.

(Code of Iowa, 2015, Sec. 321G.13 [1d])

8. Unattended. No operator or owner shall leave or allow a snowmobile to be or remain unattended on public property while the motor is running or with keys in the ignition switch.

9. RESERVED FOR FUTURE USE.

10. Direct Crossing. A snowmobile may make a direct crossing of a prohibited street or highway provided:

- A. The crossing is made at an angle of approximately ninety (90) degrees to the direction of the street or highway and at a place where no obstruction prevents a quick and safe crossing; and
- B. The snowmobile is brought to a complete stop before crossing the shoulder or main traveling way of the street or highway;
- C. The driver yields the right-of-way to all oncoming traffic which constitutes an immediate hazard.

(Code of Iowa, 2015, Sec. 321G.9 [2])

11. Minors. A person under sixteen years of age shall not operate a snowmobile on a designated snowmobile trail, public land, or public ice unless the operation is under the direct supervision of a parent, legal guardian, or another person of at least eighteen years of age authorized by the parent or guardian, who is experienced in snowmobile operation and who possesses a valid driver's license, as defined in section 321.1, or an education certificate issued under this chapter.

(Code of Iowa, 2015, Sec. 321G.20)

12. Hours of Operation. Snowmobiles shall not be operated anywhere within in the city limits of the city of Estherville, Sunday night through Thursday night between the hours of 11:30 P.M. and 5:00 A.M. nor during the overnight hours of 1:00 A.M. and 5:00 A.M. on Saturday and Sunday mornings. The only permitted operation during these hours will be to directly unload and load snowmobiles from a truck or trailer.

13. Thaw Ban. Snowmobiles shall not be operated during a publicized thaw ban in areas posted to prohibit such operation.

(Code of Iowa, 2015, Sec. 321G.3)

14. Single File. Snowmobiles shall be driven in a single file manner in the proper lane of traffic as close to the curb or edge of roadway as is possible under existing conditions.
15. Towing. No item shall be towed by a snowmobile unless coupled to said snowmobile by a rigid tow bar.
16. Dead Man Throttle. No snowmobile shall be operated within the city unless equipped with a “dead man” throttle which when pressure is removed from the accelerator or throttle causes the engine to be disengaged from the drive mechanism.
17. Financial Responsibility. The owner or driver of the snowmobile within the city limits of Estherville must maintain and provide current proof of financial responsibility in accordance with Iowa Code Section 321.20B of the Code of Iowa 2015.

TITLE II - COMMUNITY PROTECTION**DIVISION 1 - LAW ENFORCEMENT****CHAPTER 7
SUPPLEMENTAL ESTHERVILLE TRAFFIC CODE**

E-321 TITLE. This chapter shall be known and cited as the “Supplemental Estherville Traffic Code,” and this chapter shall in no manner repeal the existing traffic code of the City of Estherville, Iowa.

(Code of Iowa, 2015, Chapter 321 & 321I)

E-321.1 OFFENSES. All sections of the state statutory law, rules of the road, Chapter 321 of the Code of Iowa, the offense of which constitutes a simple misdemeanor, are hereby adopted and incorporated by this reference the same as if set forth in full herein into the Code of Ordinances of the City of Estherville, Iowa, and the violation of such applicable state statutory laws of the road shall be a violation of this chapter if the offense occurs within the territorial city limits of the City of Estherville.

(Code of Iowa, 2015, Sec. 321.236)

E-321.2 CITING OFFENSE. Citations issued under this chapter shall bear the prefix letter “E” and the applicable corresponding state statutory section of Chapter 321 of the Code of Iowa. The citing officer may at his discretion cite traffic offenses under either this chapter or Chapter 2, Title II, Division 1 of the Code of Ordinances of the City of Estherville, Iowa.

(Code of Iowa, 2015, Sec. 321.236)

E-321.3 SEVERABILITY. If any provision, clause, or section of this chapter or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision, clause or section, and to this and the provisions of this chapter are declared to be severable.

(Code of Iowa, 2015, Sec. 321.236)

TITLE II - COMMUNITY PROTECTION

DIVISION 1 - LAW ENFORCEMENT

**CHAPTER 8
RESERVE POLICE FORCE**

218.1 There is hereby created and established the Estherville Reserve Police Force.

218.2 Membership in said Reserve Police Force shall be as prescribed in the reserves bylaws, rules, and regulations and shall be subject to the approval of the mayor and chief of police.

Additionally, each applicant for said Reserve Police Force shall meet the following criteria:

1. A full check of the applicant's background personal history shall be conducted and approved by the chief of police.
- *2. Each applicant must pass a medical physical as dictated by the Iowa Law Enforcement Academy and a physical capacity test as used by the City of Estherville.
- *3. Each applicant must receive a psychological test as approved by the Iowa Law Enforcement Academy.
- *4. No member of the Estherville Reserve Police Force shall at any time be authorized to carry a firearm unless they have received certification by the Iowa Law Enforcement Academy including proper training for the use and carrying of a striking instrument and the use and carrying of pepper spray.
5. No member of the Estherville Reserve Police Force shall at any time be authorized to drive any vehicle owned, leased, or under the control of the City of Estherville, Iowa, until they have successfully completed a defensive driving course offered by the Iowa Law Enforcement Academy.

6. Each candidate shall be subject to a probationary period of not less than six (6) months. The above criteria 5 and 6 may be waived by the mayor or a member of the Estherville Police Department if they reasonably believe an emergency or dangerous condition exists and direct the police reservist to act. When the emergency or dangerous condition has ceased, the above criteria shall again apply.

218.3 The members of the Reserve Police Force shall be appointed by and shall serve at the discretion of the mayor and chief of police of the City of Estherville, Iowa, and may be removed by either of said officials at any time without cause. Membership in the Reserve Police Force shall be limited in size to no more than ten (10) reservists unless otherwise directed by the mayor and the chief of police in time of emergency.

218.4 Members of the Reserve Police Force shall only perform such duties and have such authority as may be delegated to them from time to time by a direct lawful order of a member of the Estherville Police Department or the mayor of the City of Estherville, Iowa and shall comply with rules established in Iowa Code Section 80D.

(Code of Iowa, 2015, Sec. 80D)

***218.5** Members of the Reserve Police Force shall be considered employees of the city during those periods when they are performing police duties as authorized and directed by the chief of police. The members shall be volunteers and receive a salary of one dollar (\$1) per year. Members shall also receive a payment for any duties authorized by the Chief of Police at hourly pay rate. However, said reserve members shall not be entitled to any benefits or obligations of police retirement benefits, labor agreement or civil service, except workmen's compensation insurance statute.

218.6 RESERVED FOR FUTURE USE.

218.7 RESERVED FOR FUTURE USE.

218.8 RESERVED FOR FUTURE USE.

TITLE II - COMMUNITY PROTECTION**DIVISION 1 - LAW ENFORCEMENT****CHAPTER 9
ALL-TERRAIN VEHICLES OR ATV
AND OFF ROAD UTILITY VEHICLES OR UTV**

219.1 ALL-TERRAIN VEHICLES (ATV) DEFINED. For use in this chapter the term “all-terrain vehicle” (hereinafter referred to as ATV) shall mean a motorized flotation-tire vehicle with not less than three (3) low pressure tires, with not more than six (6) low pressure tires, that is limited in engine displacement to less than one thousand (1,000) cubic centimeters and a total drive weight of less than one thousand (1,000) pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.

219.1A OFF ROAD UTILITY VEHICLES (UTV) DEFINED. For use in this chapter the term “off road utility vehicle” (hereinafter referred to as UTV) shall mean a motorized flotation-tire vehicle with not less than four and not more than eight low-pressure tires that is limited in engine displacement to less than one thousand five hundred cubic centimeters and in total dry weight to not more than one thousand eight hundred pounds and that has a seat that is of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control.

219.2 PLACE OF OPERATION. ATV/UTVs may be operated upon the streets of the City of Estherville, Iowa, except as prohibited in Subsection 1 of this section, by persons possessing a valid Iowa Driver’s License.

1. Prohibited Streets. ATV/UTVs shall not be operated upon any city street which is a primary road extension through the city, to wit: Iowa Highway No. 4 and Iowa Highway No. 9. However, ATV/UTVs may cross such primary road extensions.

2. Parks and Other Public Lands. ATV/UTVs shall not be operated off-road in city parks, playgrounds, or upon any publicly-owned property.
3. Private Property. ATV/UTVs may only be operated upon private property with express consent of the owner thereof or while engaged in snow removal, landscaping, or other maintenance activities.
4. Sidewalk or Parking. No ATV/UTV shall be operated upon sidewalks unless engaged in snow removal or maintenance activities (except along the south sidewalk from South First Street to West South First Street) nor shall they be operated upon that portion of the street located between the curb line and sidewalk or property line commonly referred to as the "parking" except for purposes of snow removal, maintenance, or landscaping activities.

219.3 MANNER OF OPERATION. No person shall operate an ATV/UTV in the City of Estherville except as hereinafter provided:

1. License. No person shall operate an ATV/UTV on the public streets of the City of Estherville, Iowa, without a valid motor vehicle operator's license.
2. Equipment. All ATV/UTVs shall be equipped with the original manufacturer's muffler and exhaust system or their equivalent, not to exceed the manufacturer's original emission specification, each vehicle additionally must be equipped with lights and safety equipment required of motor vehicles by law or ordinance. If the UTV is equipped with seatbelts by design, they must be worn by all occupants when the vehicle is in motion.
3. Traffic Code. All ATV/UTV operators must observe all state and local traffic control regulations and devices and shall not operate at a speed in excess of that posted nor at any time operate at a rate of speed greater than is reasonable and proper under the existing conditions.

4. Careless Operation. No person shall operate an ATV/UTV in a careless, reckless, or negligent manner so as to endanger the person or property of another or to cause injury or damage thereto.
5. Intoxicated. No person shall operate an ATV/UTV in the city limits of the City of Estherville, Iowa, while under the influence of intoxicating liquor, narcotics, or habit-forming drugs.
6. Lights. No person shall operate an ATV/UTV without a lighted headlamp and taillight when required for safety.
7. Unattended. No owner or operator of an ATV/UTV shall leave an unattended vehicle on public property while the motor is running or with keys in the ignition switch.
8. Parking. The operators must obey all parking regulations in the City of Estherville when parked on a public street or thoroughfare.
9. Hours of Operation. ATV/UTVs shall not be operated anywhere within the city limits of the City of Estherville, Iowa, Sunday night through Thursday night between the hours of 11:30 p.m. and 5:30 a.m. nor during the overnight hours of 1:00 a.m. through 5:00 a.m. on Saturday and Sunday mornings. The only permitted operation during these hours shall be for routine snow removal.
10. Financial Responsibility. The owner or driver of the ATV/UTV within the city limits of Estherville, Iowa, must maintain and provide current proof of financial responsibility in accordance with Iowa Code Section 321.20B of the Code of Iowa.
11. Registration. The owner or driver of an ATV/UTV within the city limits of the City of Estherville, Iowa, must maintain a current registration as provided by Iowa law.
12. Fines. Any person operating an ATV/UTV in violation of this Chapter of the Code of Ordinances may be charged with violation of State Motor Vehicle Laws or violation of this

local Ordinance. In the event that said violator is charged under this Ordinance, the first offense shall be a fine of not less than one hundred dollars (\$100); the second offense a fine of not less than two hundred dollars (\$200); and the third offense a fine of not less than five hundred dollars (\$500). For each additional offense after a third violation, the fine shall be not less than five hundred dollars (\$500).

13. In addition to this chapter, the operator of an ATV/UTV shall comply with all requirements of Iowa Code Section 321.234A.

TITLE II - COMMUNITY PROTECTION**DIVISION 2 - FIRE SAFETY****CHAPTER 1
FIRE DEPARTMENT**

221.1 ESTABLISHMENT AND PURPOSE. A volunteer Fire Department is hereby established to prevent and extinguish fires and to protect lives and property against fires, to promote fire prevention and fire safety, and to answer all emergency calls within the City of Estherville for which there is no other established agency.

221.2 ORGANIZATION. The department shall be under the control and supervision of the council and shall consist of the fire chief and such other officers and personnel as may be authorized by the council.

221.3 MEMBERSHIP QUALIFICATIONS. In no case shall any person be recruited, selected, or appointed as a member of the department unless such person:

- *1. Resident Citizen. Is a citizen of the United States and resides within a five (5) mile radius of the city.
- *2. Age. Is at least eighteen (18) years of age.
- 3. Driver's License. Has a current active Iowa driver's license.
- 4. Alcohol and Drugs. Is not a drug addict or an alcoholic.
- 5. Character. Is of good moral character as determined by a thorough investigation.

221.4 RESERVED FOR FUTURE USE.

221.5 TRAINING. All members of the department shall attend and actively participate in regular or special training drills or programs as directed by the chief.

221.6 COMPENSATION. Members of the department shall be designated by rank and receive such compensation as shall be determined by resolution of the council.

*Revised 2-7-2022; Ord. 792

(Code of Iowa, 2015, Sec. 372.13 [4])

221.7 FIRE CHIEF APPOINTED. The council shall appoint the fire chief for a term of two (2) years or to fill a vacancy. The council may remove the fire chief by written order setting out the reasons for removal which shall be filed with the city clerk.

(Code of Iowa, 2015, Sec. 372.13 [4])

221.8 FIRE CHIEF: DUTIES. The fire chief shall have the following powers and duties:

(Code of Iowa, 2015, Sec. 372.13 [4])

1. General. Perform all duties required of the fire chief by law or ordinance.
2. Fire Prevention. Promote fire safety, educational, and prevention programs.
3. Command. Be charged with the duty of maintaining the efficiency, discipline, and control of the Fire Department. The members of the Fire Department shall, at all times, be subject to the direction of the fire chief.
4. Property. Exercise and have full control over the disposition of all fire apparatus, tools, equipment, and other property used by or belonging to the Fire Department.
5. Investigations. Investigate the cause, origin, and circumstances of each fire by which property has been destroyed or damaged or which results in bodily injury to any person. Whenever he finds that bodily injury or property damage of fifty dollars (\$50) or more was caused by such fire, or if he suspects arson, he shall report his finding to the state fire marshal in writing within ten days following the end of the month after the fire. When death, serious bodily injury, or property damage in excess of two hundred thousand dollars (\$200,000) has occurred as a result of a fire, or if arson is suspected, he shall notify the state fire marshal's division immediately.

(Code of Iowa, 2015, Sec. 100.2 & 100.3)

6. Right of Entry. Have the right, during reasonable hours to enter any building or premises within his jurisdiction for the purpose of making such investigation or inspection which under law or ordinance he may consider necessary to be made and is reasonably necessary to protect the public health, safety, and welfare.

(Code of Iowa, 2015, Sec. 100.12)

7. Recommendation. Make such recommendations and orders to owners, occupants, caretakers, or managers of buildings necessary to eliminate fire hazards.

(Code of Iowa, 2015, Sec. 100.13)

8. Assist State Fire Marshal. At the request of the state fire marshal, and as provided by law, aid said marshal in the performance of his duties by investigating, preventing, and reporting data pertaining to fires.

(Code of Iowa, 2015, Sec. 100.4)

9. Records. Cause to be kept records of the Fire Department personnel, depreciation of all equipment and apparatus, the number of responses to alarms, their cause and location, and an analysis of losses by value, type, and location of buildings.

10. Reports. Compile and submit to the mayor and council an annual report of the status and activities of the department as well as such other reports as may be requested by the mayor or council.

11. Fire Zone. The fire chief may prescribe the limits, in the vicinity of the fire, within which no person, except those admitted by him or his subordinate, shall be permitted to come.

12. Removal of Structures or Trees. The fire chief shall have power, when in his judgment it becomes necessary to check or control any fire, to order any fence, building structure, or trees and bushes of any kind to be cut down and removed.

13. Interference with Work; Utilities. The fire chief or his representative, shall have the power to cause the disconnection and/or removal of any utility service whenever the same interferes with the work of the Fire Department.

14. Authority to Barricade. The fire chief or other authorized officer of the fire department in charge of a fire scene may place or erect ropes, guards, barricades, or other obstructions across a street, alley, right-of-way, or private property near the location of the fire or emergency so as to prevent accidents or interference with the fire fighting efforts of the fire department, to control the scene until any required investigation is complete, or to preserve evidence related to the fire or other emergency.

(Code of Iowa, 2015, Sec. 102.3)

221.9 DEPARTMENTAL RULES. The fire chief shall establish such rules, not in conflict with the city code and subject to the approval of the council, as may be necessary for the operation of the department including rules governing the following:

1. Rules of Conduct. The conduct and activity of members of the department during regular and off-duty hours.
2. Communication. The procedures, use, and care of the radio and other communication systems.
3. Training. The nature, time, and attendance requirements for in-service training of members of the department.
4. Emergencies. Temporary rules for the protection and functioning of the department as may be necessary in the event of an emergency until such rules may be considered by the council.
5. Other. Such other rules as may be deemed necessary and advisable in assuring efficient and proper performance of the duties of the department.

6. Penalties. The penalties which may be imposed for violation of established departmental rules by members.

7. Notice. The fire chief shall give written notice to any member charged with a violation of departmental rules specifying the rule violated, the nature of the violation, and the penalty to be imposed.

221.10 CONSTITUTION. The Company shall adopt a constitution and bylaws as they deem calculated to accomplish the object contemplated, and such constitution and bylaws and any change or amendment to such constitution and bylaws before being effective, must be approved by the council.

221.11 ACCIDENTAL INJURY INSURANCE. The council shall contract to insure the city against liability for workmen's compensation and against statutory liability for the costs of hospitalization, nursing, and medical attention for volunteer firemen injured in the performance of their duties as firemen whether within or outside the corporate limits of the city. All volunteer firemen shall be covered by the contract.

(Code of Iowa, 2015, Sec. 85.2, 85.61, and Sec. 410.18)

221.12 LIABILITY INSURANCE. The council shall contract to insure against liability of the city or members of the department for injuries, death, or property damage arising out of and resulting from the performance of departmental duties within or outside the corporate limits of the city.

(Code of Iowa, 2015, Sec. 670.2 & 517A.1)

221.13 CALLS OUTSIDE THE CITY. The department shall answer calls to fires and other emergencies outside the city limits if the fire chief determines that such emergency exists and that such action will not endanger persons and property within the city limits.

(Code of Iowa, 2015, Sec. 364.4 [2 & 3])

221.14 MUTUAL AID. Subject to approval by resolution of the council, the department may enter into mutual aid agreements with other legally constituted fire departments. Copies of any such agreements shall be filed with the clerk.

(Code of Iowa, 2015, Sec. 364.4 [2 & 3])

TITLE II - COMMUNITY PROTECTION**DIVISION 2 - FIRE SAFETY**

CHAPTER 2
FIRE SERVICE FEES AND CHARGES

222.1 FEE SCHEDULE. At the direction of the fire chief of the City of Estherville, Iowa, the City Clerk of the City of Estherville, Iowa, shall charge property owners and other responsible parties for whom services are rendered the following fees for the following services:

<u>Fee Schedule</u>	<u>Fee</u>
Nature of Incident or Call:	
1. Grass fires	\$ 500.00
2. Car fires/extrications	500.00
3. Residential fires	500.00
4. Commercial fires	1,000.00
5. Industrial fires	1,000.00
6. Smoke investigations, good will, false alarms, and other minor incidents	As set by the Fire Chief not to exceed \$1,000.00
7. Hazardous Materials response	As set by Iowa Fire Service

222.2 ADDITIONAL CHARGES. In the event that the fire department renders fire service or emergency services as a result of a violation of federal or state laws or county or local ordinances, then in such event the person or persons guilty of such a violation shall be charged the actual cost to the City of Estherville, Iowa, of responding to the said call or service or the charge set forth in Section 222.1 above, whichever shall be the greater amount.

222.3 FAILURE TO PAY. If the property owner or responsible party fails to pay the assessed charges, under this Chapter of the Code within thirty days after being billed by the City Clerk of the City of Estherville, Iowa, then in such event the City may assess the costs against the property owner for collection in the same manner as is provided by law for the collection of real property taxes.

TITLE II - COMMUNITY PROTECTION**DIVISION 3 - BUILDING AND PROPERTY REGULATIONS*****CHAPTER 1
FLOOD PLAIN REGULATIONS****231.1 STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSE.**

1. Statutory Authorization. The Legislature of the State of Iowa has in Chapter 414, Code of Iowa, delegated the responsibility to cities to enact zoning regulations to secure safety from flood and to promote health and the general welfare.

2. Findings of Fact.

A. The flood hazard areas of the City of Estherville, Iowa, are subject to periodic inundation which can result in loss of life and property and health; and, safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base; all of which adversely affect the health, safety, and general welfare of the community.

B. These losses, hazards, and related adverse effects are caused by (i) the occupancy of flood hazard areas by uses vulnerable to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flood and (ii) the cumulative effect of flood plain construction on flood flows, which causes increases in flood heights and flood water velocities.

C. This ordinance relies upon engineering methodology for analyzing flood hazards which is consistent with the standards established by the Department of Natural Resources.

3. Statement of Purpose. It is the purpose of this ordinance to promote the public health, safety, and general welfare by minimizing those flood losses described in Section 231.1(2)(A) with provisions designed to:

A. Reserve sufficient flood plain area for the conveyance of flood flows so that flood heights and velocities will not be increased substantially.

- B. Restrict or prohibit uses which are dangerous to health, safety, or property in times of flood or which cause excessive increases in flood heights or velocities.
- C. Require that uses vulnerable to floods, including public utilities which serve such uses, be protected against flood damage at the time of initial construction.
- D. Protect individuals from buying lands which are unsuited for intended purposes because of flood hazard.
- E. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

231.2 GENERAL PROVISIONS.

1. Lands to Which Ordinance Applies. This ordinance shall apply to all lands within the jurisdiction of the City of Estherville, Iowa, shown on the Official Flood Plain Zoning Map as being within the boundaries of the Floodway, Floodway Fringe, General Flood Plain, and Shallow Flooding Districts, as established in Section 231.2.
2. Establishment of Official Flood Plain Zoning Map. The Flood Insurance Rate Map (FIRM) for Emmet County and Incorporated areas, City of Estherville, Panels 19063C0161C, 0162C, 0163C, 0164C, 0166C and 0168C, dated September 24, 2021, which were prepared as part of the Flood Insurance Study for Emmet County, are hereby adopted by reference and declared to be the Official Flood Plain Zoning Map. The flood profiles and all explanatory material contained with the Flood Insurance Study are also declared a part of this ordinance.
3. Rules for Interpretation of District Boundaries. The boundaries of the zoning district shall be determined by scaling distances on the Official Flood Plain Zoning Map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the Official Zoning Map, the zoning administrative officer shall make the necessary interpretation. The Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the zoning administrative officer in the enforcement or administration of this ordinance.

4. Compliance. No structure or land shall hereafter be used and no structure shall be located, extended, converted, or structurally altered without full compliance with the terms of this ordinance and other applicable regulations which apply to uses within the jurisdiction of this ordinance.

5. Abrogation and Greater Restrictions. It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provision of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

6. Interpretation. In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

7. Warning and Disclaimer of Liability. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that areas outside the flood plain districts or land uses permitted within such districts will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Estherville or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

231.3 ESTABLISHMENT OF ZONING (OVERLAY) DISTRICTS. The flood plain areas within the jurisdiction of this ordinance are hereby divided into the following districts:

1. Floodway (Overlay) District (FW). The Floodway District shall be those areas identified as floodway on the Official Flood Plain Zoning Map.

2. Floodway Fringe (Overlay) District (FF). The Floodway Fringe District shall be those areas identified as Zone AE on the Official Flood Plain Zoning Map but excluding those areas identified as Floodway.
3. General Flood Plain (Overlay) District (GF). The General Flood Plain District shall be those areas identified as Zone A on the Official Flood Plain Zoning.

231.4 FLOODWAY (OVERLAY) DISTRICT (FW).

1. Permitted Uses. All development within the Floodway District shall be permitted to the extent they are not prohibited by any other ordinance (or underlying zoning district) and provided they meet applicable performance standards of the Floodway District.
 - A. Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming, and wild crop harvesting.
 - B. Industrial-commercial uses such as loading areas, parking areas, airport landing strips.
 - C. Private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails.
 - D. Residential uses such as lawns, gardens, parking areas, and play areas.
 - E. Such other open-space uses similar in nature to the above uses.
2. Conditional Uses. The following uses which involve structures (temporary or permanent), fill, storage of materials or equipment may be permitted only upon issuance of a Conditional Use Permit by the Board of Adjustment as provided for in Section 231.8(3). Such uses must also meet the applicable provisions of the Floodway District Performance Standards.
 - A. Uses or structures accessory to open-space uses.

- B. Circuses, carnivals, and similar transient amusement enterprises.
 - C. Drive-in theaters, new and used car lots, roadside stands, signs, and billboards.
 - D. Extraction of sands, gravel, and other materials.
 - E. Marinas, boat rentals, docks, piers, wharves.
 - F. Utility transmission lines, underground pipelines.
 - G. Other uses similar in nature to uses described in Section 231.4(1) or 231.4(2) which are consistent with the provisions of Sections 231.4(3) and the general spirit and purpose of this ordinance.
3. Performance Standards. All Floodway District uses allowed as a Permitted or Conditional Use shall meet the following standards.
- A. No development shall be permitted in the Floodway District that would result in any increase in the base flood elevation. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.
 - B. All development within the Floodway District shall:
 - (1) Be consistent with the need to minimize flood damage.
 - (2) Use construction methods and practices that will minimize flood damage.
 - (3) Use construction materials and utility equipment that are resistant to flood damage.
 - C. No development shall affect the capacity or conveyance of the channel or floodway or any tributary to the main stream, drainage ditch, or any other drainage facility or system.
 - D. Structures, buildings, recreational vehicles, and sanitary and utility systems, if permitted, shall meet the applicable performance standards of the Floodway Fringe District and shall be constructed or aligned to present the minimum possible resistance to flood flows.

E. Structures, if permitted, shall have a low flood damage potential and shall not be for human habitation.

F. Storage of materials or equipment that are buoyant, flammable, explosive or injurious to human, animal, or plant life is prohibited. Storage of other material may be allowed if readily removable from the Floodway District within the time available after flood warning.

G. Watercourse alterations or relocations (channel changes and modifications) must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.

H. Any fill allowed in the floodway must be shown to have some beneficial purpose and shall be limited to the minimum amount necessary.

I. Pipeline river or stream crossings shall be buried in the stream bed and banks or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering or due to the action of flood flows.

231.5 FLOODWAY FRINGE (OVERLAY) DISTRICT (FF).

1. Permitted Uses. All development within the Floodway Fringe District shall be permitted to the extent that they are not prohibited by any other ordinance (or underlying zoning district) and provided they meet applicable performance standards of the Floodway Fringe District.

2. Performance Standards. All development must be consistent with the need to minimize flood damage and shall meet the following applicable performance standards. Until a regulatory floodway is designated, no development may increase the Base Flood Elevation more than one (1) foot. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

A. Be designed and adequately anchored to prevent flotation, collapse or lateral movement of the structure, (ii) be constructed with materials and utility equipment resistant to flood damage, and (iii) be constructed by methods and practices that minimize flood damage.

B. Residential structures. All new or substantially improved residential structures shall have the lowest floor, including basements, elevated a minimum of one (1) foot above the base flood elevation. Construction shall be upon compacted fill which shall, at all points, be no lower than one (1) foot above the base flood elevation and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers or extended foundations) may be allowed, subject to favorable consideration by the Board of Adjustment and issuance of a Conditional Use Permit, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstanding the various forces and hazards associated with flooding. All new residential structures located in areas that would become isolated due to flooding of surrounding ground shall be provided with a means of access that will be passable by wheeled vehicles during the base flood. However, this criterion shall not apply where the Administrator determines there is sufficient flood warning time for the protection of life and property. When estimating flood warning time, consideration shall be given the the criteria listed in 567-75.2(3), Iowa Administrative Code.

C. Nonresidential structures. All new and substantially improved nonresidential structures shall have the first floor (including basement) elevated a minimum of one (1) foot above the base flood elevation, or together with attendant utility and sanitary systems, be flood-proofed to such a level. When flood-proofing is utilized, a professional engineer registered in the State of Iowa shall certify that the flood-proofing methods used are adequate to withstand the flood depths, pressures,

velocities, impact and uplift forces, and other factors associated with the base flood; and that the structure, below the base flood elevation, is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to National Geodetic Vertical Datum) to which any structures are flood-proofed shall be maintained by the zoning administrator.

D. All new and substantially improved structures:

(1) Fully enclosed areas below the “lowest floor” (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:

(a) A minimum of two openings, with positioning on at least two walls, having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

(b) The bottom of all openings shall be no higher than one foot above grade.

(c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters. Where the distance between the floor and ceiling of the fully enclosed area below the “lowest floor” is five feet or more, the applicant shall be required to sign and record with the Emmet County Recorder a Non-Conversion Agreement that ensures the lower enclosed area remains compliant with the criteria outlined in Section 231.5(2)(D)(1).

(2) New and substantially improved structures must be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

(3) New and substantially improved structures must be constructed with electric meter, electrical service panel box, hot water heater, heating, air conditioning ventilation equipment (including ductwork), and other similar machinery and equipment elevated (or in the case on nonresidential structures, optionally flood proofed to) a minimum of one foot above the base flood elevation.

(4) New and substantially improved structures shall be constructed with plumbing, gas lines, water/gas meters and other similar service utilities either elevated (or in the case of nonresidential structures, optionally flood proofed to) a minimum of one foot above the base flood elevation or designed to be watertight and withstand inundation to such a level.

E. Factory-built homes:

(1) All new and substantially improved factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one foot above the base flood elevation.

(2) All new and substantially improved factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be anchored to resist flotation collapse or lateral movement. Anchorage systems may include, but are not limited to use of over-the-top or frame ties to ground anchors as required by the State Building Code.

F. Utility and Sanitary Systems.

(1) All new and replacement sanitary sewage systems shall be designed to minimize and eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one (1) foot above the base flood elevation.

(2) On site wastewater disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.

(3) New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities (other than on-site systems) shall be provided with a level of protection equal to or greater than one (1) foot above the base flood elevation.

(4) Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.

(5) Pipeline river and stream crossings shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.

G. Storage of materials and equipment that are flammable, explosive, or injurious to human, animal, or plant life is prohibited unless elevated a minimum of one (1) foot above the base flood elevation. Other material and equipment must either be similarly elevated or (i) not be subject to major flood damage and be anchored to prevent movement due to flood waters or (ii) be readily removable from the area within the time available after flood warning.

H. Flood control structural works such as levees, flood walls, etc., shall provide, at a minimum, protection from a base flood with a minimum of 3 ft. of design freeboard and shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the Department of Natural Resources shall approve structural flood control works.

I. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, the Department of Natural Resources must approve such alterations or relocations.

J. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals (including the installation of public utilities) shall meet the applicable performance standards of this ordinance. Subdivision proposals intended for residential development shall provide all lots with a means of vehicular access that will remain dry during occurrence of the base flood. Proposals for subdivisions greater than five (5) acres or fifty (50) lots (whichever is less) shall include base flood elevation data for those areas located within the Floodplain (Overlay) District.

K. The exemption of detached garages, sheds, and similar structures from the base flood elevation requirements may result in increased premium rates for insurance coverage of the structure and contents, however, said detached garages, sheds, and similar accessory type structures are exempt from the base flood elevation requirements when:

- (1) The structure shall be used solely for low flood damage potential purposes such as vehicle parking and limited storage. The structure shall not be used for human habitation.
- (2) The structure shall be designed to have low flood damage potential. Its size shall not exceed 600 square feet in size. Those portions of the structure located less than one foot above the base flood elevation must be constructed of flood resistant materials.
- (3) The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.
- (4) Structures shall be firmly anchored to prevent flotation, collapse, and lateral movement which may result in damage to other structures.
- (5) The structure's service facilities such as electrical and heating equipment shall be elevated or flood-proofed to at least one (1) foot above the base flood elevation.

(6) The structure's walls shall include openings that satisfy the provisions of Section 231.5(2)(D)(1) of this ordinance.

L. Recreational vehicles are exempt from the requirements of Section 231.5(A) of this Chapter regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.

(1) Recreational vehicles shall be located on the site for less than 180 consecutive days and,

(2) Recreational vehicles must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

(3) Those recreational vehicles that are located on the site for more than 180 consecutive days or are not ready for highway use must satisfy requirements of Section 231.5(2)E of this Chapter regarding anchoring and elevation of factory-built homes.

M. Maximum Damage Potential Development - All new or substantially improved maximum damage potential development shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the elevation of the 500-year flood, or together with attendant utility and sanitary systems, be flood proofed to such a level. When flood proofing is utilized, a professional engineer registered in the State of Iowa shall certify that the flood proofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 0.2% annual chance flood; and that the structure, below the 0.2% annual chance flood elevation is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are flood

proofed shall be maintained by the Administrator. Where 0.2% chance flood elevation data has not been provided in the Flood Insurance Study, the Iowa Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determinations.

231.6 GENERAL FLOOD PLAIN (OVERLAY) DISTRICT (GF).

1. Permitted Uses. The following uses shall be permitted within the General Flood Plain District to the extent they are not prohibited by any other ordinance (or underlying zoning district) and provided they meet the applicable performance standards of the General Flood Plain District.

A. Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming, and wild crop harvesting.

B. Industrial-commercial uses such as loading areas, parking areas, airport landing strips.

C. Private and public recreation uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails.

D. Residential uses such as lawns, gardens, parking areas, and play areas.

2. Conditional Uses. Any uses which involves placement of structures, factory-built homes, fill or other obstructions; the storage of materials or equipment; excavation; or alteration of a watercourse may be allowed only upon issuance of a Conditional Use Permit by the Board of Adjustment as provided for in Section 231.8(2). All such uses shall be reviewed by the Department of Natural Resources to determine (i) whether the land involved in either wholly or partly within the floodway or floodway fringe and (ii) the base

flood elevation. The applicant shall be responsible for providing the Department of Natural Resources with sufficient technical information to make the determination.

3. Performance Standards.

A. All conditional uses, or portions thereof, to be located in the floodway as determined by the Department of Natural Resources shall meet the applicable provisions and standards of the Floodway (Overlay) District (Section 231.4).

B. All conditional uses, or portions thereof, to be located in the floodway fringe as determined by the Department of Natural Resources shall meet the applicable standards of the Floodway Fringe (Overlay) District (Section 231.5).

231.7 RESERVED FOR FUTURE USE

231.8 ADMINISTRATION.

1. Appointment, Duties, and Responsibilities of Zoning Administrator.

A. A zoning administrator designated by the Estherville City Council shall administer and enforce this ordinance and will herein be referred to as the administrator.

B. Duties and responsibilities of the administrator shall include, but not necessarily be limited to, the following:

(1) Review all flood plain development permit applications to insure that the provisions of this ordinance will be satisfied.

(2) Review all flood plain development permit applications to insure that all necessary permits have been obtained from federal, state, or local governmental agencies.

(3) Record and maintain a record of (i) the elevation (in relation to North American Vertical Datum 1988) of the lowest floor of all new or substantially improved buildings or (ii) the elevation to which new or substantially improved structures have been flood-proofed.

(4) Notify adjacent communities and/or counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Insurance Administrator.

- (5) Keep a record of all permits, appeals, variances, and such other transactions and correspondence pertaining to the administration of this ordinance.
- (6) Submit to the Federal Insurance Administrator an annual report concerning the community's participation, utilizing the annual report form supplied by the Federal Insurance Administrator.
- (7) Notify the Federal Insurance Administration of any annexations or modifications to the community's boundaries.
- (8) Review subdivision proposal to insure such proposals are consistent with the purpose of this ordinance and advise the City Council of potential conflicts.
- (9) Maintain the accuracy of the community's Flood Insurance Rate Maps when;
 - a. Development placed within the Floodway (Overlay) District results in any of the following:
 - (i) An increase in the Base Flood Elevations, or
 - (ii) Alteration to the floodway boundary
 - b. Development placed in Zones A, AE, AH, and A1-30 that does not include a designated floodway that will cause a rise of more than one foot in the base elevation; or
 - c. Development relocates or alters the channel.

Within six (6) months of the completion of the development, the applicant shall submit to FEMA all scientific and technical data necessary for a Letter of Map Revision.

- (10) Perform site inspections to ensure compliance with the standards of this ordinance.
- (11) Forward all requests for variances to the Board of Adjustment for consideration. Ensure all requests include the information ordinarily submitted with the applications as well as any additional information deemed necessary to the Board of Adjustment.

2. Flood Plain Development Permit.

A. Permit Required. A Flood Plain Development Permit issued by the administrator shall be secured prior to initiation of any flood plain development (any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, excavation, or drilling operations) including the placement of factory-built homes.

B. Application for Permit. Application for a Flood Plain Development Permit shall be made on forms supplied by the administrator and shall include the following information.

- (1) Description of the work to be covered by the permit for which application is to be made.
- (2) Description of the land on which the proposed work is to be done (i.e., lot, block, tract, street address, or similar description) that will readily identify and locate the work to be done.
- (3) Location and dimensions of all structures and additions.
- (4) Identification of the use or occupancy for which the proposed work is intended.
- (5) Elevation of the base flood.
- (6) Elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of structures or of the level to which a structure is to be flood-proofed.
- (7) For structures being improved or rebuilt, the estimated cost of improvements and market value of the structure prior to the improvements.
- (8) Such other information as the administrator deems reasonably necessary for the purpose of this ordinance.

C. Action for Permit Application. The administrator shall, within a reasonable time, make a determination as to whether the proposed flood plain development meets the applicable provisions and standards of this ordinance and shall approve or disapprove

the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefore. The administrator shall not issue permits for Conditional Uses or Variances except as directed by the Board of Adjustment.

D. Construction and Use to be as Provided in Application and Plans. Flood Plain Development Permits issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this ordinance. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State of Iowa, that the finished fill, structure floor elevations, flood-proofing, or other flood protection measures were accomplished in compliance with the provisions of this ordinance, prior to the use or occupancy of any structure.

3. Conditional Uses, Appeals, and Variances.

A. Appointment and Duties of Board of Adjustment. A Board of Adjustment is hereby established which shall hear and decide (i) applications for Conditional Uses upon which the board is authorized to pass under this ordinance; (ii) Appeals, and (iii) requests for Variances to the provisions of this ordinance; and shall take any other action which is required of the board.

B. Conditional Uses. Requests for Conditional Uses shall be submitted to the administrator, who shall forward such to the Board of Adjustment for consideration. Such requests shall include information ordinarily submitted with applications as well as any additional information deemed necessary to the Board of Adjustment.

C. Appeals. Where it is alleged there is any error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this ordinance, the aggrieved party may appeal such action. The notice of appeal shall be filed with the Board of Adjustment and with the official from whom the appeal is taken

and shall set forth the specific reason for the appeal. The official from whom the appeal is taken shall transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.

D. Variances. The Board of Adjustment may authorize upon request in specific cases such variances from the terms of this ordinance that will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this ordinance will result in unnecessary hardship. Variances granted must meet the following applicable standards.

(1) No variance shall be granted for any development within the Floodway District which would result in any increase in the 100-year level. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.

(2) Variances shall only be granted upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of the variance will result in increased flood heights, additional threats to public safety, or extraordinary public expense; create nuisances, or cause fraud on or victimization of the public or conflict with existing local codes or ordinances.

(3) Variances should not be issued within any designated floodway if any increase in flood levels during the base flood would result. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.

(3) Variance shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard to afford relief.

(4) In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this ordinance, the applicant shall be notified in writing over the signature of the zoning administrator that (i) the

issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as twenty-five dollars (\$25) for one hundred dollars (\$100) of insurance coverage and (ii) such construction increases risks to life and property.

(5) All variances granted shall have the concurrence or approval of the Department of Natural Resources.

E. Hearings and Decisions of the Board of Adjustment.

(1) Hearings. Upon the filing with the Board of Adjustment of an appeal, an application for a Conditional Use or a request for a Variance, the board shall hold a public hearing. The board shall fix a reasonable time for the hearing and give public notice thereof, as well as due notice to parties in interest. At the hearing, any party may appear in person or by agent or attorney and present written or oral evidence. The board may require the appellant or applicant to provide such information as is reasonably deemed necessary and may request the technical assistance and/or evaluation of a professional engineer or other expert person or agency, including the Department of Natural Resources.

(2) Decisions. The board shall arrive at a decision on an Appeal, Conditional Use, or Variance within a reasonable time. In passing upon an appeal, the board may, so long as such action is in conformity with the provisions of this ordinance, reverse or affirm, wholly or in part, or modify the order, requirement, decision, or determination appealed from, and it shall make its decision, in writing, setting forth the findings of fact and the reasons for its decision. In granting a Conditional Use or Variance, the board shall consider such factors as contained in this section and all other relevant sections of this ordinance and may prescribe such conditions as contained in Section 231.6(2).

(a) Factors Upon Which the Decision of the Board Shall be Based. In passing upon applications for Conditional Uses or requests for Variances, the

board shall consider all relevant factors specified in other sections of this ordinance and:

- 1) The danger to life and property due to increased flood heights or velocities caused by encroachments.
- 2) The danger that materials may be swept on to other lands or downstream to the injury of others.
- 3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- 4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- 5) The importance of the services provided by the proposed facility to the community.
- 6) The requirements of the facility for a flood plain location.
- 7) The availability of alternative locations not subject to flooding for the proposed use.
- 8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- 9) The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
- 10) The safety of access to the property in times of flood for ordinary and emergency vehicles.
- 11) The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.
- 12) The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical and water systems), facilities, streets and bridges.
- 13) Such other factors which are relevant to the purpose of this ordinance.

(b) Conditions attached to Conditional Uses or Variances. Upon consideration of the factors listed above, the board may attach such conditions to the granting of Conditional Uses or Variances as it deems necessary to further the purpose of this ordinance. Such conditions may include, but not necessarily be limited to:

- 1) Modification of waste disposal and water supply facilities.
- 2) Limitation on periods of use and operation.
- 3) Imposition of operational controls, sureties, and deed restrictions.
- 4) Requirements for construction of channel modification, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purposes of this ordinance.
- 5) Flood-proofing measures. Flood-proofing measures shall be designed consistent with the flood protection elevation for the particular area, flood velocities, durations, rate of rise, hydrostatic and hydrodynamic forces, and other factors associated with the regulatory flood. The Board of Adjustment shall require that the applicant submit a plan or document certified by a registered professional engineer that the flood-proofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

F. Appeals to the Court. Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the office of the board.

231.9 NONCONFORMING USES. A structure or the use of a structure on land which was lawful before the passage or amendment of the ordinance, but which is not in conformity with the provisions of this ordinance may be continued subject to the following conditions:

1. No structural alteration, addition, or repair to any nonconforming structure over the life of the structure shall exceed 50 percent of its value at the time of its becoming a nonconforming use, unless the structure is permanently changed to a conforming use.
2. If such is discontinued for six (6) consecutive months, any future use of the building premises shall conform to this ordinance.
3. If any nonconforming use or structure is destroyed by any means, including floods, to an extent of 50 percent or more of its value prior to destruction, it shall not be reconstructed except in conformity with the provisions of this ordinance. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.
4. Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue as nonconforming uses.
5. Except as provided in Section 231.9(4) any use which has been permitted as a Conditional Use or Variance shall be considered a conforming use.

231.10 PENALTIES FOR VIOLATION. Violations of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of Conditional Uses or Variances) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than one hundred dollars (\$100) or imprisoned for not more than 30 days. Each day such violation continues shall be considered a separate offense.

Nothing herein contained shall prevent the City of Estherville from taking such other lawful action as is necessary to prevent or remedy any violation.

231.11 AMENDMENTS. The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or repealed as provided in Sections 414.4, 414.5, and 414.21, Code of Iowa, 2015. No amendment, supplement, change, or modification to this ordinance shall be undertaken without prior approval from the Department of Natural Resources.

231.12 DEFINITIONS. Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

1. "Appurtenant Structure". A structure which is on the same parcel of the property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.
2. "Base Flood". The flood having one (1) percent chance of being equaled or exceeded in any given year. (Also commonly referred to as the "100-year flood").
3. "Base Flood Elevation (BFE)". The elevation floodwaters would reach at a particular site during the occurrence of base flood event.
4. "Basement": any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see "lowest floor."
5. "Development": any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations or storage of equipment or materials. "Development" does not include "minor projects" or "routine maintenance of existing buildings and facilities" as defined in this section. It also does not include gardening, plowing, and similar practices that do not involve filling, grading.
6. "Enclosed Area Below Lowest Floor". The floor of the lowest enclosed area in a building when all the following criteria are met:

A. The enclosed area is designed to flood to equalize hydrostatic pressure during flood events with walls or openings that satisfy the provisions of Section 231.5(2)(D)(1) of this ordinance, and

B. The enclosed area is unfinished (not carpeted, dry walled, etc.) and used solely for low damage potential uses such as building access, parking or storage, and

C. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one (1) foot above the base flood elevation, and

D. The enclosed area is not a “basement” as defined in this section.

7. “Existing Construction”: any structure for which the “start of construction” commenced before the effective date of the first floodplain management regulations adopted by the community.

8. “Existing Factory-Built Home Park or Subdivision”. A factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management regulations adopted by the community.

9. “Expansion of Existing Factory-Built Home Park or Subdivision”. The preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

10. “Factory-Built Home”: any structure, designed for residential use, which is wholly or insubstantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation, on a building site. For the purpose of this ordinance factory-built homes include mobile homes, manufactured homes, and modular homes, and also include park trailers, travel trailers, and other similar vehicles placed on a

site for greater than 180 consecutive days and not fully licensed for and ready for highway use.

11. “Factory-Built Home Park or Subdivision”: a parcel or contiguous parcels of land divided into two or more factory-built home lots for rent or sale.

12. “Five Hundred (500) Year Flood”. A flood, the magnitude of which has a two-tenths (0.2) percent chance of being equaled or exceeded in any given year or which, on average, will be equaled or exceeded at least once every five hundred (500) years.

13. “Flood”: a general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.

14. “Flood Elevation”: the elevation floodwaters would reach at a particular site during the occurrence of a specific flood. For instance, the 100-year flood elevation is the elevation of floodwaters related to the occurrence of the 100-year flood.

15. “Flood Insurance Rate Map (FIRM)”: the official map prepared as part of (but published separately from) the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.

16. “Flood Insurance Study (FIS)”: A report published by FEMA for a community issued along with the community’s Flood Insurance Rate Map(s). The study contains such background data as the base flood discharge and water surface elevations that were used to prepare the FIRM.

17. “Flood Plain”: any land area susceptible to being inundated by water as a result of a flood.

18. “Flood Plain Management”: an overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of flood plains, including but not limited to emergency preparedness plans, flood control works, flood-proofing, and flood plain management regulations.

19. “Flood-proofing”: any combination of structural and nonstructural additions, changes, or adjustments to structures, including

utility and sanitary facilities, which will reduce or eliminate flood damage to such structures.

20. "Floodway": the channel of a river or stream and those portions of the flood plains adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one (1) foot.

21. "Floodway Fringe": Those portions of the Special Flood Hazard Area outside the floodway.

22. "Highest Adjacent Grade". The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

23. "Historic Structure": any structure that is:

A. Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.

C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by either (i) and approved state program as determined by Secretary of the Interior or (ii) directly by the Secretary of Interior in states without approved programs.

24. "Lowest Floor": the floor of the lowest enclosed area in a building including a basement except when the criteria listed in the Enclosed Area below Lowest Floor are met.

25. "Maximum Damage Potential Development" Hospitals and like institutions; buildings or building complexes containing documents, data, or instruments of great public value; buildings or building complexes containing materials dangerous to the public or fuel storage facilities;
- power installations needed in emergency or other buildings or building complexes similar in nature or use.
26. "Minor Projects": Small development activities (except for filling, grading and excavating) valued at less than \$500.
27. "New Construction (new buildings, factory-built home parks)": those structures or development for which the start of construction commenced on or after the effective date of the first flood plain management regulations adopted by the community.
28. "New Factory-Built Home Park or Subdivision". - A factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the effective date of the first floodplain management regulations adopted by the community.
29. "Recreational Vehicle": a vehicle which is:
- A. Built on a single chassis;
 - B. Four hundred (400) square feet or less when measured at the largest horizontal projection;
 - C. Designed to be self-propelled or permanently towable by a light duty truck; and
 - D. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.
34. "Substantial Damage" Substantial damage also means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of such flood event, on the average, equals or exceeds 25

percent of the market value of the structure before the damage occurred. Volunteer labor and donated materials shall be included in the estimated cost of repair.)

35. “Substantial Improvement”: any improvement to a structure which satisfies either of the following criteria:

A. Any repair, reconstruction or improvement of a structure taking place during a 10-year period, the cumulative cost of which, equals or exceeds fifty (50) percent of the market value of the structure either (i) before the “start of construction” of the first improvement of the structure, or (ii) if the structure has been “substantially damaged” and is being restored, before the damage occurred.)

This option provides the community an opportunity to require that all reasonable measures are used to reduce the structure’s flood damage potential (e.g., by relocating utilities above the base flood elevation, using flood resistant materials where practicable, etc.), provided those measures do not preclude the structure’s designation as an “historic structure.”

B. Any addition which increases the original floor area of a building by 25 percent or more. All additions constructed after January 1, 1979, shall be added to any proposed addition in determining whether the total increase in original floor space would exceed 25 percent.

36. “Variance”: a grant of relief by a community from the terms of the floodplain management regulations.

37. “Violation”: the failure of a structure or other development to be fully compliant with the community’s floodplain management regulations.

30. “Routine Maintenance of Existing Buildings and Structures”: repairs necessary to keep a structure in a safe and habitable condition that do not trigger a building permit, provided they are not associated with a general improvement of the structure or repair of a damaged structure. Such repairs include:

A. Normal maintenance of structures such as re-roofing, replacing roofing tiles and replacing siding.

- B. Exterior and interior painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work;
- C. Basement sealing;
- D. Repairing or replacing damaged or broken window panes;
- E. Repairing plumbing systems, electrical systems, heating or air conditioning systems and repairing wells or septic systems.

31. "Special Flood Hazard Area (SFHA)" - The land within a community subject to the "base flood". This land is identified on the community's Flood Insurance Rate Map as Zone A, A1-30, AE, AH, AO, AR, and/or A99.

32. "Start of Construction": includes substantial improvement, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement, was within 180 days of the permit date. The actual start means either the first placement or permanent construction of a structure on a site, such as pouring of a slab or footings, the installation of pile, the construction of columns, or any work beyond the stage of excavation; or the placement of a factory-built home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

33. "Structure": anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factory-built homes, storage tanks, grain storage facilities and/or other similar uses.

RESERVED FOR FUTURE USE.

TITLE II - COMMUNITY PROTECTION**DIVISION 3 - BUILDING AND PROPERTY REGULATIONS****CHAPTER 2
MINIMUM HOUSING CODE**

232.1 PURPOSE. The purpose of this chapter is to establish minimum requirements (housing code) for residential structures to be fit for human habitation, occupancy, or use.

232.2 The Community Development Director shall be responsible for the enforcement of this chapter and shall be the “local housing officer” with respect to the Code of Iowa.

232.3 All structures originally constructed for human habitation, occupancy, or use shall meet all of the following minimum requirements:

1. Connection to an approved water, sanitary sewer, and electric system.
2. Connection to an approved source to operate a heating system.
3. Utility services must not be terminated (turned off) for a period in excess of six (6) consecutive months.
4. The interior of the structure shall not be exposed to the elements such that deterioration of the building is occurring.
5. All window and door openings shall be utilized as originally intended. Window and door openings shall not be “boarded up.”
6. There shall be no openings in the exterior walls or roof to allow birds, animals, etc., to enter the structure.
- *7. Roof shall be sound, tight and not have defects that admit rain. Roof shall not be covered by a tarp or similar material in excess of six (6) consecutive months.
8. The structure shall be maintained in good repair and structurally sound so as not to pose a threat to the public health, safety or welfare.

9. All exterior walls shall be free from holes, breaks, and loose or rotting materials and shall be maintained weatherproof.
10. All foundation walls shall be free from open cracks, breaks and holes and shall be kept in such condition as to prevent the entry of rodents and other pests.
11. All walkways, stairs and similar areas shall be kept in a proper state of repair and maintained free from hazardous conditions.
12. All accessory structures, including detached garages, sheds, fences and walls, shall be maintained structurally sound and in good repair.
13. Every exterior stairway, deck, porch, and balcony shall be maintained structurally sound and in good repair and provide the necessary railings.

232.4 Any residential structure that fails to meet any of the minimum requirements listed in Section 3 of this chapter shall be considered abandoned by the property owner. The Community Development Director shall declare the structure a public nuisance and initiate abatement proceedings under Title III, Chapter 1, Article 2 of the Estherville City Code or other applicable legislation.

TITLE II - COMMUNITY PROTECTION**DIVISION 3 - BUILDING AND PROPERTY REGULATIONS****CHAPTER 3
MINIMUM REQUIREMENTS FOR COMMERCIAL STRUCTURES**

233.1 STATEMENT OF INTENT. In the interest of promoting the general welfare of the community and to protect the value of buildings and property, the image and character of a community is considered important. It is recognized that the community should be visually attractive as well as financially prosperous and the manner in which a use is accomplished is as important as the use. The quality of architecture and building construction is important to the preservation and enhancement of building and property values, prevention of the physical deterioration of buildings and the promotion of the image of the community and the general welfare of its citizens. Architectural design and use of materials for the construction of any building shall be subject to the approval of the City Council.

***233.2 MINIMUM STANDARDS.** All commercial structures shall meet all of the following minimum requirements.

1. Connection to an approved water, sanitary sewer, and electric system.
2. Connection to an approved source to operate a heating system.
3. Utility services must not be terminated (turned off) for a period in excess of six (6) consecutive months.
4. The interior of the structure shall not be exposed to the elements such that deterioration of the building is occurring.
- **5.** All window and door openings shall be utilized as originally intended or covered with an approved exterior building material.
6. There shall be no openings in the exterior walls or roof to allow birds, animals, etc., to enter the structure.
7. Roof shall be sound, tight and not have defects that admit rain. Roof shall not be covered by a tarp or similar material in excess of six (6) consecutive months.

8. The structure shall be maintained in good repair and structurally sound so as not to pose a threat to the public health, safety or welfare.
9. All exterior walls shall be free from holes, breaks, and loose or rotting materials and shall be maintained weatherproof.
10. All foundation walls shall be free from open cracks, breaks and holes and shall be kept in such condition as to prevent the entry of rodents and other pests.
11. All walkways, stairs and similar areas shall be kept in a proper state of repair and maintained free from hazardous conditions.
12. All accessory structures, including detached garages, sheds, fences and walls, shall be maintained structurally sound and in good repair.
13. Every exterior stairway, deck, porch, and balcony shall be maintained structurally sound and in good repair and provide the necessary railings.

***233.3 GENERAL BUSINESS DISTRICT - EXISTING BUILDINGS.** In addition to the requirements in 233.2, all existing structures undergoing exterior remodeling within the General Business zoning district shall meet and satisfy the following minimum requirements:

1. Exterior Walls Facing a Public Street. The exterior walls facing a public street shall consist of brick or the original construction material if other than brick.
- **2.** Doors and Windows. Doors and windows shall fill the original opening and shall not be constructed of wood. This shall not apply to existing window coverings which are allowed to remain so long as they are maintained weather proof with an approved exterior material.

***233.4 CONSTRUCTION PLAN REQUIRED.** All structures, except residential use structures placed, erected, assembled, constructed, or undergoing exterior remodeling within the General Business or Highway Commercial zoning districts, shall submit a construction plan, which shall include exterior drawings and a list of materials proposed, for review and approval by the City Council. All commercial structures must also include the following minimum requirements:

1. Foundation. All structures shall have a continuous and complete frost-protected perimeter foundation. Foundation materials may be masonry, poured concrete and must extend below the normal frost line. The structure must be permanently attached to the foundation.
2. Front Wall or Façade. All building walls facing a public street within the General Business zoning district shall be rectangular or shall include a façade to give a rectangular appearance.
3. Loading, Container, Equipment Areas. Loading areas and solid waste or recycling container areas, outside storage areas and heating, ventilation and air conditioning mechanical equipment shall be located to the rear of the building, except that heating, ventilation and air conditioning mechanical equipment may be located on the roof of the building. If such area is adjacent to a public street or to the front of another building (separated only by a public right-of-way), the area shall be screened from view.
4. Storm Water Drainage. Storm water drainage from roof of the building shall be directed to the rear or side of the building and shall not be directed or discharged over any public sidewalk.

***233.5 EXEMPTIONS.** Accessory use buildings and structures and interior remodeling projects are exempt from this construction plan review by City Council. Although plans according to these provisions are not required for such accessory uses or interior remodeling projects, it does not imply that such uses are exempt from the zoning permit process and any site drawings or plans required of the zoning permit.

***233.6** Any person violating this chapter is subject to a municipal infraction set out in Section 110.108.

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*Revised 8-21-23; Ord. 808

**Revised 4-1-24; Ord. 816

TITLE II - COMMUNITY PROTECTION**DIVISION 3 - BUILDING AND PROPERTY REGULATIONS****CHAPTER 4
RENTAL HOUSING CODE**

234.1 PURPOSE. The purpose of this chapter is to establish minimum requirements for residential rental structures to be fit for human habitation, occupancy or use. To protect, preserve and promote the physical health and social well being of the people. To prevent and control the incidence of communicable diseases, to reduce environmental hazards to health, to regulate rental dwellings for the purpose of maintaining adequate sanitation and to protect the safety of the people.

234.2 RESPONSIBILITY. The owner of the residential rental housing unit(s) shall provide and maintain the structure and facilities in compliance with this chapter.

234.3 APPLICABILITY. The provisions of this chapter shall apply uniformly to all residential rental housing unit(s), irrespective of the date of initial construction. The provisions of this chapter shall apply to all residential rental units except 234.6 shall not apply to hospitals, licensed nursing homes, accredited colleges, licensed group homes for disabled persons, residential units within primary residence of the owner used by related parties of the owner; units occupied by related parties of the owner to be defined as parents, grandparents, siblings, children and grandchildren, units in a trust in which a trustee beneficiary lives in the unit, and vacant properties with no anticipated future rental use. This chapter does not apply to any lodging units subject to Chapter 423A of the Code of Iowa, which are subject to Iowa hotel and motel tax.

234.4 MINIMUM STANDARDS. All rental housing units and structures intended for human habitation, occupancy or use shall meet all of the following minimum requirements:

1. EXTERIOR

A. General. The structure shall be maintained in good repair and structurally sound so as not to pose a threat to the public health, safety or welfare.

- B. Walkways. All walkways, stairs and similar areas shall be kept in a proper state of repair and maintained free from hazardous conditions.
- C. Accessory structures. All accessory structures, including detached garages, sheds, fences and walls, shall be maintained structurally sound and in good repair.
- D. Foundation walls. All foundation walls shall be free from open cracks, breaks and holes and shall be kept in such condition as to prevent the entry of rodents and other pests.
- E. Exterior walls. All exterior walls shall be free from holes, breaks, and loose or rotting materials and shall be maintained weatherproof.
- F. Roofs and drainage. The roof shall be sound, tight and not have defects that admit rain. Roof water shall not be discharged in a manner that creates a public nuisance.
- *G. Stairways, decks, porches and balconies. Every exterior stairway, deck, porch, and balcony shall be maintained structurally sound and in good repair and provide the necessary railings.
- H. Windows, skylights and door frames. Every window, skylight, door and frame shall be kept in sound condition, in good repair, and shall not be boarded up. Glass shall be free from major cracks and holes.

2. INTERIOR

- A. General. The interior of a structure and equipment therein shall be maintained in good repair and structurally sound so as not to pose a threat to the health, safety or welfare of the occupants. Occupants shall keep that part of the structure which they occupy or control in an acceptable condition. Every owner of a structure containing two or more dwelling units shall maintain, in a clean manner, the shared or public areas of the structure and exterior property.
- *B. Stairs. Every stairway shall be maintained in sound condition and in good repair. No permanent obstructions permitted in hallways or stairways and provide the necessary railings.

- C. Doors. Each interior door shall be easily openable and in good repair. Each exterior door shall be of proper size to fit the frame and shall be equipped with a lock.
- D. Walls. Interior walls shall be free from holes, excluding nail holes, and shall cover the building structure.
- E. Ceilings. Ceilings shall be free from holes and cover the building structure.
- F. Mold. Every structure shall be free from obvious mold growth.
- G. Flooring. Flooring shall be free from tripping hazards.

3. ELECTRICAL SYSTEM

- A. Service. Every rental unit shall be connected to an approved electrical system.
- B. Fixtures. All fixtures and outlets shall be in a safe and functional condition or properly covered.

4. WATER SYSTEM

- A. Service. Every rental unit shall be connected to an approved water system.
- B. Fixtures. All plumbing fixtures and pipes shall be maintained in a safe and functional condition, free from leaks.
- C. Water Heater. Water heaters shall be able to provide an adequate supply of hot water to every sink, bathtub, shower and laundry facility. The property owner shall ensure proper installation and maintenance of water heater(s).

5. SEWER SYSTEM

- A. Service. Every rental unit shall be connected to an approved sanitary sewer system.
- B. Fixtures. All fixtures and pipes shall be maintained in a safe and functional condition, free from leaks.

6. HEATING FACILITIES

- A. Facilities required. Dwellings shall be provided with heating facilities capable of maintaining adequate heat in all living spaces, bedrooms and bathrooms. The use of cooking appliances or portable space heaters shall not be used to meet this requirement.

7. MEANS OF EGRESS

A. General. Every dwelling unit shall have at least two means of egress. If said means is a below grade window it shall have a net clear opening of at least 5.7 square feet. In addition, every bedroom shall have at least two means of egress. If said means is a below grade window it shall have a net clear opening of at least 5.7 square feet.

8. EXTERMINATION

A. Infestation. All structures shall be kept free from insect and rodent infestation. All structures in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken to prevent re-infestation.

B. Extermination – Single Family Dwellings.

1.) Owner: the owner of any structure shall be responsible for extermination within the structure prior to renting or leasing the structure.

2.) Occupant: the occupant of a single-family dwelling shall be responsible for the continued rodent and pest free condition of the premises.

C. Extermination – Multiple occupancy.

1.) Owner: the owner of a structure containing two or more dwelling units, a multiple occupancy, or a rooming house, shall be responsible for extermination in the public or shared areas of the structure and exterior property. If infestation is caused by failure of an occupant to prevent such infestation in the area occupied, the occupant shall be responsible for extermination of all affected areas of the property.

2.) Occupant: the occupant of any structure shall be responsible for the continued rodent and pest-free condition of that portion of the structure occupied. The owner shall be responsible to ensure that the units remain rodent and pest free and may assess the costs to the responsible tenant.

Exception: Where the infestations are caused by defects in the structure, the owner shall be responsible for extermination.

9. FIRE SAFETY REQUIREMENTS

A. Smoke Detectors. All new smoke detectors, and all existing smoke detectors that are replaced, shall be an approved dual sensor smoke alarm and shall be installed and maintained in each sleeping room and immediately outside of sleeping areas and on each story including the basement.

(Code of Iowa, 2016, Sec. 100.18)

10. CARBON MONOXIDE DETECTORS

A. General. Beginning July 1, 2018 approved carbon monoxide detectors are required to be installed and maintained in each dwelling unit immediately outside sleeping areas. Exception for dwelling units with no potential source of carbon monoxide.

(Code of Iowa, 2016, Sec. 100.18)

234.5 REGISTRATION. Every residential rental dwelling shall be registered with the City Code Official within 30 days of the effective date of this ordinance. Units placed in rental service after the adoption of this ordinance shall be registered within 30 days.

Failure to register shall constitute a violation of this chapter. Each day a unit fails to be registered constitutes a separate violation.

It shall be the property owner's responsibility to notify the City Code Official if the structure is sold or no longer used as rental property within 30 days of the event.

234.6 INSPECTIONS. Inspections shall be conducted by the City Code Official.

- *1. Required Inspections. Regular inspections of each rental property shall be conducted every three (3) years by the Code Official. Spot inspections may be conducted by the Code Official upon observation of units which are obviously and substantially out of compliance or upon receipt of a complaint. Any such inspections will be scheduled with the owner and/or operator of the units. The owner and/or operator shall have the responsibility

to notify the occupant. The occupant has the right to be present for the inspection. Upon satisfactory inspection, the owner shall be issued a certificate of housing compliance. The owner or operator shall be present during the inspection.

2. **Requested Inspections.** Upon the request of the owner or operator of a rental unit, the City shall inspect said rental unit to determine compliance with the Rental Housing Code. Upon a successful completion of such inspection, the unit shall be exempt from regular inspections for a period of three (3) years and receive a certificate of housing compliance.

3. **Failed Inspections.** If after a City inspection a rental unit is deemed to be out of compliance, a list of needed repairs will be provided to the owner and/or operator with a stated time in which to make the repairs. Upon completion of the repairs, or upon the passing of the stated time, the owner and/or operator shall schedule a re-inspection of the property.

4. **Minor Infractions.** Upon observation and notation of three (3) or fewer minor infractions, as determined by the Code Official, a re-inspection shall be conducted, however the re-inspection fee shall be waived if said minor infractions have been abated in the stated time.

234.7 COMPLIANCE SUSPENSION. Whenever it is found that conditions exist in a rental unit, which is in violation of any provisions of this chapter, the Code Official shall give notice in writing to the property owner of the rental unit that unless such conditions are corrected in a reasonable time, to be determined by the Code Official, the certificate of compliance shall be denied, revoked or suspended.

234.8 RIGHT OF ENTRY.

1. The Code Official is authorized and directed to enforce all of the provisions of this ordinance and to perform the duties of safeguarding the health, safety and welfare of the occupants of all rental dwellings and the general public.

2. The Code Official is authorized to enter and make inspection to enforce any of the provisions of this chapter, whenever there is reasonable cause to believe that there exists in

any building or upon any premises located within the City any condition or code violation which makes such building or premises unsafe, dangerous or hazardous.

3. The Code Official may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon them by this chapter, provided that said official shall first present proper credentials and request entry. Such official shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises to gain entry.

4. The Code Official may make inspections of all rental premises pursuant to the City's regular inspection program as frequently as may be necessary and may make an inspection at any reasonable time based upon the need for code enforcement.

5. If such entry is refused for regular request or complaint inspections, the Code Official shall have recourse to every remedy provided by law to secure entry. When the Code Official shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner, occupant or any other persons having charge, care or control of any building or premises, shall fail or neglect to promptly permit entry therein by the authorized personnel for the purpose of inspection and examination pursuant to this chapter.

234.9 CODE OFFICIAL The Code Enforcement Officer shall be the Code Official for purposes of this chapter.

234.10 COMPLAINTS. All persons making complaints concerning the compliance with the provisions of this chapter of any dwelling, dwelling unit, rooming house or rooming unit shall do so in the following manner:

1. Prior to an occupant filing a complaint with the City, occupant shall provide the owner or operator a written, dated notice providing sufficient detail to identify alleged violations.
- *2. The complaints shall be in writing and signed by the complainant on a form provided by the City to include the address of the premises, the name of the owner, landlord or operator, and shall state the nature of the alleged violation with specificity.

*3. It is a violation of the provisions of this chapter for an owner or operator to take reprisals against any tenant making a complaint under the provisions of this chapter. Any such reprisals shall constitute a municipal infraction.

234.11 INJUNCTIVE PROCEDURES. The city administrator or designee is hereby authorized to seek injunctive relief from the Iowa District Court to prohibit the renting of any dwelling unit for which no application for certificate of rental housing compliance has been made or requested or for which the certificate of housing compliance has been denied, suspended or revoked. The city administrator or designee further is authorized to seek sequestration of rent pursuant to Iowa Code Section 364.17(3) (e) (g) (h) for any unit for which the certificate of rental housing compliance has been suspended under the provisions of this chapter.

234.12 UNRECORDED CONTRACTS OR PURCHASE AGREEMENTS. For purposes of this chapter, any residential property which is the subject of a contract or purchase agreement which has not been properly recorded with the Emmet County Recorder shall be treated the same as rental property. The contract seller shall have the duties and responsibilities and shall be subject to the same penalties as the owner of rental property.

234.13 CHAPTER DOES NOT IMPAIR AUTHORITY TO ACT ON NUISANCES. Nothing in this chapter shall be construed or interpreted to impair or limit in any way the authority of the City to define and declare nuisances, or of the City Administrator, the Police Chief or other City officials to cause the removal or abatement of nuisances by summary proceedings or other appropriate proceedings.

234.14 CHAPTER DOES NOT ABROGATE PROVISIONS OF OTHER CODES AND ORDINANCES. The provisions of this chapter shall not abrogate the responsibility of any person to comply with any provision of the any other ordinances of the City.

234.15 FAILURE TO COMPLY. Failure to comply with any provision in this chapter shall constitute a municipal infraction. Each day a violation persists constitutes a separate offense.

234.16 FEES. Fees shall be set by ordinance of the Council, non-payment of which will constitute a municipal infraction:

1. Annual registration: \$0.
- *2. Initial Inspection and 1st re-inspection: \$0.
- *3. 2nd Re-inspection \$150 for the 1st unit, \$50 for each additional unit in the same structure. 3rd & Subsequent re-inspections increase fee \$50 per unit per inspection beyond the 2nd re-inspection.
4. Late registration: \$25.

234.17 MEANS OF APPEAL. Any person directly affected by a decision of the Code Official or a notice or order issued under this code shall have the right to appeal.

1. **Application for Appeal.** Appeals shall be heard by the Property Maintenance Appeals Board. An appeal request must be made in writing and be filed no later than 30 days from the date of the decision, notice or order. An application for appeal shall be based on the claim that:
 1. the true intent of this Code or the rules legally adopted hereunder have been incorrectly interpreted; or
 2. the provisions of this code do not fully apply; or
 3. the requirements of this code are adequately satisfied by other means, and the specific proposed alternative action will provide an equivalent degree of code compliance; or

4. there are specific fixed conditions that make strict compliance with this Code impracticable; or
5. required actions cannot be completed within the time limit specified by the Code Official.

2. **Appointment and Membership of Board.**

- *1. The Property Maintenance Appeals Board shall consist of three members and an alternate who are appointed by the Mayor with the approval of the City Council. The Code Official shall be an ex-officio member but shall have no vote on any matter before the Board. Members shall serve staggered three year terms and the alternate shall be appointed to a three year term.
- *2. Membership shall consist of one landlord, one general contractor and one citizen at large. The alternate may be any citizen at large. Employees of the City of Estherville shall not be members of the Board.
- *3. The Board shall select one of its members to serve as chairperson.
4. The City Administrator shall designate a qualified person to serve as the secretary to the Board. The secretary shall file a detailed record of all proceedings with the City Clerk.
5. Members shall receive no compensation.
6. The Board shall meet upon notice from the Code Official within 20 days of the filing of an appeal.
7. The Board has the authority to affirm, modify or reverse the decision of the Code Official.

- *8. A member shall not hear an appeal in which that member or an immediate family member has a personal, professional or financial interest. The alternate will serve in place of the conflicted member.
3. **Repealer**. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.
4. **Severability Clause**. If any section, provision or part of this ordinance shall be judged invalid or unconstitutional such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.
- *5. **When effective**. This ordinance shall be in effect after final passage, approval and publication as provided by law or on January 1, 2020, whichever comes later,

TITLE II - COMMUNITY PROTECTION**DIVISION 3 - BUILDING AND PROPERTY REGULATIONS****CHAPTER 5
DANGEROUS BUILDINGS**

235.1 GENERAL DEFINITION OF BUILDING. For purposes of this Chapter a building shall be a structure designed for habitation, shelter, storage, trade, manufacture, religion, business, education and the like. A structure or edifice enclosing or covering a space within its walls or supports and usually but not necessarily covered with a roof.

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

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

235.3 UNSAFE BUILDING. "Unsafe building" means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of (a) dilapidation, deterioration, or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause, is likely to partially or completely collapse.
2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.

3. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.

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

235.4 NOTICE TO OWNER. The enforcement officer shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the enforcement officer shall give to the owner of such building or structure written notice stating the defects thereof. This notice shall direct the owner or person in charge of the building or premises to commence either required repairs or improvements or demolition or removal of the building or structure or portions thereof. Said notice shall direct that all such improvements must be commenced within not less than forty-eight (48) hours and not more than 90 days of the date of the Notice unless otherwise stipulated by the enforcement officer and in the event that the enforcement officer and public health and safety officials agree that conditions pose an imminent danger to public health or safety, the enforcement officer may arrange to have said structure demolished or removed with the costs assessed pursuant to Section 235.5 of this Ordinance.

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

1. Notice Served. Such notice shall be served by sending by certified mail to the owner of record, according to Section 364.12 [3h] of the Code of Iowa. The designated period within which said owner or person in charge is required to comply with the order of the enforcement officer shall begin as of the date the owner receives such notice.

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

235.5 CONDUCT OF HEARING. If requested, the Council shall conduct a hearing in accordance with the following:

1. Notice. The owner shall be served with written notice specifying the date, time and place of hearing.
2. Owner's Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.
3. Determination. The Council shall make and record findings of fact and may issue such order as it deems appropriate.

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

235.7 COSTS. Costs incurred under Section 235.4 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes.

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

235.8 ENFORCEMENT OFFICER. The Community Development Director is responsible for the enforcement of this chapter.