

**TITLE VIII - TRANSPORTATION****CHAPTER 1 - STREETS AND ALLEYS****ARTICLE 1  
STREET REGULATIONS**

**810.101 REMOVAL OF WARNING DEVICES.** It shall be unlawful for a person to willfully remove, throw down, destroy, or carry away from any highway, street, alley, avenue, or bridge any lamp, obstruction, guard, or other article or things, or extinguish any lamp or other light, erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said highway, street, alley, avenue, or bridge without the consent of the person in control thereof.

**810.102 OBSTRUCTING OR DEFACING STREETS.** It shall be unlawful for any person to obstruct, deface, or injure any public road in any manner.

**810.103 PLACING DEBRIS ON STREETS.** A person shall not throw or deposit on any street any glass, glass bottle, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any other substance likely to injure any person, animal, or vehicle. A person who violates this section commits a simple misdemeanor.

(Code of Iowa, 2015, Sec. 321.369)

**810.104 INJURING NEW PAVEMENT.** It shall be unlawful for any person to willfully 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.

**810.105 PLAYING IN STREETS.** It shall be unlawful for any person to coast, sled, or play games on streets or highways, except in the areas blocked off by the council for such purposes.

**810.106 TRAVELING ON BARRICADED STREET PROHIBITED.** It shall be unlawful for any person to travel or operate any vehicle on any street or public way temporarily closed by barricades, lights, signs, or flares placed thereon by the authority or permission of any city official, police officer, or member of the Fire Department.

**810.107 USE OF PARKINGS.** It shall be unlawful to temporarily or permanently park, store, or place any car, truck, vehicle, junk, or any other goods, wares, and merchandise of any kind upon any street parking without permission of the council.

**810.108 USE OF STREETS FOR BUSINESS PURPOSES.** It shall be unlawful to park, store, or place any machinery, or any other goods, wares, and merchandise of any kind upon any street for the purpose of storage, exhibition, sale, or offering same for sale, without permission of the council.

**810.109 WASHING VEHICLE ON STREETS PROHIBITED.** It shall be unlawful for any person to use any public sidewalk or street for the purpose of washing or cleaning any automobile, truck equipment, or any vehicle of any kind when such work is done for hire or as a business. This shall not be construed to prevent any person from washing or cleaning his own vehicle or equipment when it is lawfully parked in the street.

**810.110 BURNING PROHIBITED.** No person shall burn any trash, leaves, rubbish, or other combustible material in any curb and gutter or on any paved or surfaced street.

**810.111 UNDERGROUND CONNECTIONS REQUIRED.** Before the permanent improvement of any street, highway, avenue, alley, public ground, or place where any gas, water, or steam heating pipes or sewer or underground electric conduit is located, connections to the curb line of adjacent property shall be made. All such connections shall be made according to specifications of the engineer and under the direction of the administrative or supervisory person to whom such duties are assigned pursuant to Title I, Chapter 4, Article 4 of this code.

**810.112 EXCAVATION OR LOCATION PERMIT.** The purpose of requiring the issuance of a permit before anyone shall use a public easement or right-of-way is to promote the efficient use of designated easements and right-of-ways, and to protect the health and safety of the employees of the city and other utility service providers.

1. Definitions. Words and phrases for purposes of this ordinance shall be construed as follows:

A. “Person”: shall be intended to mean any grantee, franchise, utility provider, or any other individuals or organizations who use the public ways, grounds, or easements within the City of Estherville.

B. “Cables and Conduits”: shall be intended to include wires, cable, conduits, pipes, located on, above, or below the ground and shall include any poles, towers, or other structures erected or buried for their containment, support, or maintenance.

C. “Utility Zone”: shall be intended to include any easement, right-of-way, street, alley, or public area designated for the placement of cables and conduits for the purpose of providing gas, water, electricity, telecommunications, drainage, television signal, or any other such service to any location within the City of Estherville.

D. “Excavation”: shall be intended to include any disturbing of the pavement or soil for the purposes of installation or relocation of cables and conduits within the utility zone.

2. Excavation or Location Permit Required. No person shall dig, excavate, occupy, or in any manner disturb any street, alley, easement, or any other public place unless such person shall obtain a permit therefore as hereinafter provided.

A. Exceptions. No permit shall be required for excavations of less than twelve (12) inches in depth unless such excavation is in the traveled portion of a street or alley.

B. Written request for an Excavation or Location Permit shall be filed with the office of the city administrator at least ten (10) days prior to the commencement of any

excavation within or construction within right-of-way, easement, or public place except under emergency conditions.

C. Such request shall include projected date of commencement, projected timetable for the project, true and accurate plans of any plant or system to be constructed, maps of the proposed installation or relocation cable and conduit as well as posted evidence of insurance in force at the time of filing.

D. Within a reasonable time from the date of filing the city administrator of Estherville or his agent shall consult with the applicant or his representative as to the approval of the application or any alterations required by the City of Estherville. No excavation or installation shall commence without an approved permit.

E. Prior to any excavation or installation, the city shall designate the approved location of the placement of cable, conduit, pole, or structure within the utility zone.

F. At any time during the installation or relocation process the city reserves the right to inspect to insure compliance with the previously approved plans.

G. Within 30 days of the completion date for the permitted work, the permittee shall file with the City of Estherville true and accurate "As Built" plans or drawings of its facilities as constructed or installed within the utility zone.

H. Insurance. No permit shall be approved unless the person performing the excavation shall have posted evidence of insurance in force satisfactory to the city.

I. Public Convenience. Streets and alleys shall be opened in the manner which will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street. No excavation shall be commenced except at such time as may be specified by the city.

J. Barricades and Lighting. Adequate barricades and warning lights shall be so placed as to protect the public from hazard.

K. Notice to Utilities. All utilities shall be notified in advance of any proposed excavation work.

L. Backfill. Backfilling shall be only with gravel or other material approved by the city and in accordance with methods established by the city.

M. Excess Material. All excess material shall be promptly removed from the area by the excavator.

N. Restoration. The excavator shall be responsible for the restoration of all public property to the satisfaction of the city except that street or alley surfacing shall be replaced by the city at the excavator's expense in accordance with the schedule of such charges approved by the council.

O. Failure to comply with this section is a simple misdemeanor and violators may be subject to a fine not to exceed one hundred dollars (\$100) or 30 days in jail, each day of noncompliance may be deemed a separate offense.

**810.113 MAINTENANCE BY PROPERTY OWNER.** An abutting property owner shall maintain and keep in good repair all property outside the lot and property lines and inside the curb lines (or edge of traveled way where no curb exists) upon the public streets within the City of Estherville, Iowa, except that the property owner shall not be required to remove diseased trees or dead wood on the publicly-owned property or right-of-way.

1. Failure to Maintain. If the abutting property owner does not perform any action required under this ordinance within a reasonable time after notice from the city, the city may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

2. Notice. The city may give notice of any action required under this section by sending a written notice by ordinary mail to the abutting property owner as shown by the records of the county auditor. Said notice shall state the time within which action is required.

3. Emergency Action By City. In an emergency the city may perform any action which may be required under this section without prior notice, and assess the costs to the abutting property owner after notice to the property owner and hearing.

**\*810.114 SNOW WASTE.** It shall be unlawful to remove snow from private property, including, without limitation, private parking areas, private sidewalks, and private drive onto any public property, including, but not limited to, sidewalks, streets, and other public right of ways.

**1. EXCEPTIONS.**

A. The forgoing provisions of this section notwithstanding, commercial property owners in the Central Business District Snow Removal Area, which is hereby declared to encompass the following streets and the platted lots fronting thereon:

1. 2<sup>nd</sup> Avenue North from the westerly line of North 4<sup>th</sup> Street to the easterly line on North 7<sup>th</sup> Street.
2. 1<sup>st</sup> Avenue North from the westerly line of North 4<sup>th</sup> Street to the westerly line on North 9<sup>th</sup> Street.
3. Central Avenue from the easterly line of North 4<sup>th</sup> Street to the westerly line of 9<sup>th</sup> Street.
4. 1<sup>st</sup> Avenue South from the westerly line of South 5<sup>th</sup> Street to the westerly line of South 9<sup>th</sup> Street.
5. 2<sup>nd</sup> Avenue South from the westerly line of south 6<sup>th</sup> Street to the easterly line of South 7<sup>th</sup> Street.
6. 4<sup>th</sup> Street from the southerly line of Central Avenue to the northerly line of 2<sup>nd</sup> Avenue North.
7. 5<sup>th</sup> Street from the southerly line of 1<sup>st</sup> Avenue South to the northerly line of 2<sup>nd</sup> Avenue North.
8. 6<sup>th</sup> Street from a point 145' south of the southerly line of 2<sup>nd</sup> Avenue South to the southerly line of 5<sup>th</sup> Avenue North.

9. 7<sup>th</sup> Street from the southerly line of 2<sup>nd</sup> Avenue South to the northerly line of 2<sup>nd</sup> Avenue North.
10. 8<sup>th</sup> Street from the southerly line of 1<sup>st</sup> Avenue South to the northerly line of 1<sup>st</sup> Avenue North.

Whose sidewalks and parking areas abut the street curb may place snow from these areas into the street provided it is completed within a reasonable time and prior to the city crews removing snow from the street.

- B. On private property that portion of the right of way that abuts the adjacent driveway and sidewalk may be used for placement of snow.

**\*810.115 RESPONSIBILITY FOR SNOW REMOVAL.** If the snow is placed upon a public sidewalk in violation of this section, the owner of the abutting property is responsible for the prompt removal of such snow. If the abutting property owner fails to remove the snow, the city may perform the snow removal and assess the costs against the property for collection in the same manner as property tax pursuant to the provisions of Section 364.12(2)(H) of the Iowa Code.

**TITLE VIII - TRANSPORTATION****CHAPTER 1 - STREETS AND ALLEYS****ARTICLE 2  
CONTROLLED ACCESS FACILITIES**

**810.201 EXERCISE OF POLICE POWER.** This article shall be deemed an exercise of the police power of the city under Chapter 306A, Code of Iowa, 2015, for the preservation of the public peace, health, safety, and for the promotion of the general welfare.

(Code of Iowa, 2015, Sec. 306A.1)

**810.202 DEFINITION.** The term “controlled access facility” shall mean a highway or street especially designed for through traffic, and over, from, or to which owners or occupants of abutting land or other persons have no right or easement or only a controlled right or easement of access, light, air, or view by reason of the fact that their property abuts upon such controlled access facility or for any other reason.

(Code of Iowa, 2015, Sec. 306A.2)

**810.203 RIGHT OF ACCESS LIMITED.** No person shall have any right of ingress or egress to, from, or across any controlled-access facility except at such points as may be permitted by the Iowa Department of Transportation and designated by ordinance.

**810.204 ACCESS CONTROLS IMPOSED ON IOWA NO. 9 AND IOWA NO. 4.** There are hereby fixed and established controlled-access facilities on Iowa No. 4 (Ninth Street) from the south corporation line to the north corporation line; and on Highway No. 9 (Central Avenue) from the west corporation line to the east corporation line.



**TITLE VIII - TRANSPORTATION****CHAPTER 1 - STREETS AND ALLEYS****ARTICLE 3  
BUILDING NUMBERING**

**810.301 LOTS NUMBERED.** All lots, parts of lots, or other property abutting on any street or avenue shall be numbered. The plan of numbering, as far as practical shall be that known as the Philadelphia Plan.

**810.302 BASE LINES.** Central Avenue and W. Central Avenue shall constitute the base line for all numbering on the streets running north and south and the Des Moines River shall constitute the base line for all numbering on the streets running east and west.

**810.303 BUSINESS DISTRICT.** In the business district, from the corner of each block nearest its respective base line, each twenty-two (22) feet of frontage shall be given a number. Where two (2) buildings or rooms are located on the same twenty-two (22) feet of frontage, the second building or room shall be designated with the same number given the first building or room with the number one-half (1/2) added. Addresses shall increase by two, per twenty-two (22) feet frontage, in the business district.

**810.304 RESIDENCE DISTRICT.** In the residence district, comprising all the city outside of the business district, from the corner of each block next to its respective base line, each sixty-six feet of frontage shall be given a number, except where lots vary from sixty-six (66) feet in width, such lots shall be numbered to conform to the size of the lot. Where two (2) dwellings are located on the same lot, each dwelling shall have the number of the sixty-six (66) feet on which it is located. Addresses shall increase by six (per lot) in the residential district.

**810.305 PLAN OF NUMBERING.** The numbering of the north and south streets shall commence with number two and run in consecutive order, north and south from the Central Avenue and W. Central Avenue base line, alternating from side to side. On north and south streets, the odd numbers shall be placed on the west side of the street and the even numbers on the east side of the street. The numbering of the east and west streets shall commence with the number two and run, in consecutive order, east and west from the base line, alternating from side to side. On east and west streets the odd numbers shall be placed on the north side of the street and the even numbers on the south side of the street.

**810.306 NUMBERING SEQUENCE.** The numbers on all streets shall run one hundred (100) to each block or distance thereof between street intersections on the same street. The respective blocks located upon the streets which do not intersect the base lines shall bear the hundred number of the corresponding block nearest the same location on the nearest street, extending in the same directions, which does intersect the base lines.

**810.307 CITY OFFICIAL SHALL FIX NUMBERS.** In case of doubt or where a question arises as to the proper number to be assigned to any lot or building, the administrative or supervisory person to whom such duties are assigned pursuant to Title I, Chapter 4, Article 4, of this code shall decide the question and fix the number of such lot or building.

**810.308 NUMBERS REQUIRED.** All buildings now or hereafter erected or fronting on any street shall have conspicuously placed on such buildings, the numbers provided by this chapter.

**810.309 STYLE OF NUMBER.** The number plate placed upon any building shall be metal or wood or the number may be painted, and all numbers shall be placed on the front of the building door post, transom, or other place, and said numbers shall be at least three (3) inches in height and so as to be easily seen from the street.

**810.310 FAILURE TO NUMBER; COST ASSESSED.** If the owner or lessee of any building shall fail, refuse, or neglect to place the number when necessary, the council may cause a notice to be personally served on the owner or lessee or mailed by certified mail to his last known address ordering him to place or replace the number. In case of failure to comply with such notice within ten (10) days from the date of service, the council shall cause the same to be done and assess the cost thereof against the property or premises numbered. The clerk shall immediately certify to the county auditor the amounts so assessed, as a special tax against the property, to be collected as other special taxes.

(Code of Iowa, 2015, Sec. 364.12 [3h])

**TITLE VIII - TRANSPORTATION****CHAPTER 1 - STREETS AND ALLEYS****ARTICLE 4  
NAMING OF STREETS**

**810.401 NAMING NEW STREETS.** New streets shall be assigned names in accordance with the following procedure:

1. Ordinance. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by ordinance.
2. Planning Commission. Proposed street names shall be referred to the Planning Commission for review and recommendation.

**810.402 CHANGING NAME OF STREET.** The council may, by ordinance, change the name of a street.

(Code of Iowa, 2015, Sec. 364.12)

**810.403 RECORDING STREET NAMES.** Following adoption of an ordinance naming or changing the name of a street, the mayor and clerk shall certify and file a copy thereof with the county recorder and county auditor.

(Code of Iowa, 2015, Sec. 364.12)

**810.404 GENERAL PLAN.** The general plan for the names and designations of the streets and avenues shall be as follows:

1. Avenues. All public highways except alleys running east and west shall be known as avenues.
2. Streets. All public highways except alleys running north and south shall be known as streets.

3. Numbering. Avenues and streets shall be numbered consecutively from the central points hereinafter specified outward to the city limits.
4. Base Line Avenues. Lincoln Street shall be known as Central Avenue on the east side of the Des Moines River and W. Central Avenue on the west side of the Des Moines River and shall be the base line for numbering avenues.
5. Base Line Streets. The Des Moines River shall be the base line for numbering streets.

**810.405 EXTENSIONS.** Whenever, in the following sections of this chapter, a street or avenue is mentioned by name or designation, the terms of the section so mentioning the same shall be construed to mean extension of the street or avenue now in existence or that may hereafter be laid out and established.

**810.406 WRITING ADDRESSES.** All streets lying north of Central Avenue on the east side of the Des Moines River shall be designated in writing addresses with the prefix "North" or "N" thus: 214 North (or N.) First Street; that part of all streets lying south of said avenue with the prefix "South" or "S" thus: 214 South (or S.) First Street; that part of all streets lying west of the Des Moines River and north of W. Central Avenue shall be designated in writing addresses with the letter W. after the house or lot number which in turn shall be followed by the directional word "North" or the letter N., and the street name, thus: 214 W. North (or N.) First Street; that part of all streets, lying west of the Des Moines River and south of W. Central Avenue shall be designated in writing addresses with the letter W. after the house or lot number which in turn shall be followed by the directional word "South" or letter "S", and the street name, thus: 214 W. South (or S.) First Street; and that part of all Avenues lying on the west side of the Des Moines River shall be designated in writing addresses with the letter W. after the house or lot number which in turn shall be followed by the avenue name, thus: 214 West Second Avenue South.

**TITLE VIII - TRANSPORTATION****CHAPTER 1 - STREETS AND ALLEYS****ARTICLE 5  
VACATION AND DISPOSAL**

**810.501 POWER TO VACATE.** When, in the judgment of the council, it would be in the best interest of the city to vacate a street or alley or portion thereof, they may do so in accordance with the provisions of this article.

(Code of Iowa, 2015, Sec. 364.12 [2a])

**810.502 PLAN COMMISSION.** Any proposal to vacate a street or alley shall be referred by the council to the Planning Commission for its study and recommendation prior to further consideration by the council. The Planning Commission shall submit a written report including recommendations to the council within thirty (30) days of the date of the proposed vacation was referred to it.

(Code of Iowa, 2015, Sec. 392.1 & 364.12 [2a])

**810.503 NOTICE OF VACATION HEARING.** The council shall cause to be published a notice of public hearing at which time the proposal to vacate shall be considered.

**810.504 FINDINGS REQUIRED.** No street or alley, or portion thereof, shall be vacated unless the council finds that:

1. Public Use. The street or alley proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.
2. Abutting Property. The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

**810.505 DISPOSAL OF STREETS OR ALLEYS.** When in the judgment of the council it would be in the best interest of the city to dispose of a vacated street or alley, or portion thereof, they may do so by resolution following notice and hearing.

(Code of Iowa, 2015, Sec. 364.7)

**810.506 DISPOSAL BY GIFT LIMITED.** The city may not dispose of a vacated street or alley, or portion thereof, by gift except to a governmental body for a public purpose.

(Code of Iowa, 2015, Sec. 364.7 [3])

**810.507** The following ordinances vacating certain street or alley right-of-ways have been adopted and are in full force and effect but not codified herein:

<u>Ordinance No.</u>	<u>Date Adopted</u>
243	May 3, 1971
244	July 1, 1971
475	Dec. 6, 1982
481	May 21, 1984
503	Dec. 7, 1987
527	July 2, 1990
545	Apr. 20, 1992
548	Aug. 17, 1992
551	Jan. 18, 1993
557	Nov. 15, 1993
607	Sept. 20, 1999
622	Dec. 3, 2001
624	May 6, 2002
*751	Oct. 16, 2017

**810.508 ALTERNATIVE METHOD FOR DISPOSAL OF STREETS AND ALLEYS.** As an alternative to the foregoing provisions of this Code of Ordinances relative to the disposal of public lands, the City Council may, in appropriate instances, utilize procedures set forth in Section 354.23 of the Code of Iowa, 2015.

Future ordinances vacating street or alley right-of-ways may be editorially listed under this section without amendment to this ordinance providing that all ordinances have been properly adopted.

<u>Ordinance No.</u>	<u>Date Adopted</u>
505	Dec. 21, 1987
601	Oct. 19, 1998
611	June 19, 2000

## TITLE VIII - TRANSPORTATION

## CHAPTER 1 - STREETS AND ALLEYS

ARTICLE 6  
STREET AND SIDEWALK GRADES

**810.601 ESTABLISHED GRADES.** The grades of all streets, alleys, and sidewalks, which have been heretofore established by ordinance are hereby confirmed, ratified, and established as official grades.

**810.602 RECORD MAINTAINED.** The clerk shall maintain a record of all established grades and furnish information concerning such grades upon request.

EDITOR'S NOTE

The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing street and/or sidewalk grades and remain in full force and effect.

Ordinance No.Adopted

Title 3, Chapter 11, 1966

City Code of Estherville, Iowa



**TITLE VIII - TRANSPORTATION****CHAPTER 2  
SIDEWALK REGULATIONS**

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

1. "Sidewalk": shall mean the paved surface designated as a pedestrian walkway located within the city right-of-way.
2. "Established Grade": shall mean that grade established by this city for the particular area in which a sidewalk is to be constructed.

**820.2 RESPONSIBILITY FOR MAINTENANCE.** It shall be the responsibility of the abutting property owners to maintain in a safe and hazard-free condition any sidewalk outside the lot and property lines and inside the curb lines or traveled portion of the public street.

(Code of Iowa, 2015, Sec. 364.12 [2b])

**820.3 FAILURE TO MAINTAIN - PERSONAL INJURIES.** If the abutting property owner does not maintain sidewalks as required and action is brought against the city for personal injuries alleged to have been caused by its negligence, the city may notify in writing any person by whose negligence it claims the injury was caused. The notice shall state the pendency of the action, the name of the plaintiff, the name and location of the court where the action is pending, a brief statement of the alleged facts from which the cause arose, that the city believes that the person notified is liable to it for any judgment rendered against the city, and asking the person to appear and defend. A judgment obtained in the suit is conclusive in any action by the city against any person so notified, as to the existence of the defect or other cause of the injury or damage, as to the liability of the city to the plaintiff in the first named action, and as to the amount of the damage or injury. The city may maintain an action against the person notified to recover the amount of the judgment together with all the expenses incurred by the city in the suit.

(Code of Iowa, 2015, Sec. 364.14)

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

(Code of Iowa, 2015, Sec. 364.12 [2d & e])

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

1. Plans and Specifications. Plans and specifications governing the materials and methods of construction, approved by the council and on file with the city shall be followed.
2. Sidewalk Bed. The sidewalk bed shall be graded to the established grade.
3. Width and Depth. Width and depth requirements are as follows:
  - A. Residential sidewalks shall be at least four (4) feet wide.
  - B. Business district sidewalks shall extend from the property line to the curb.
4. Location. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) two (2) feet from the property line, except all sidewalks on fifty (50) foot streets the inner edge shall be on the lot line. The council may establish a different distance due to circumstances.
5. Grade. All walks shall be constructed to the established grade.
6. Ramps for Handicapped. There shall be not less than two (2) curb cuts or ramps per lineal block which shall be located on or near the crosswalks at intersections. Each curb cut or ramp shall be at least thirty (30) inches wide, shall be sloped at not greater than one inch of rise per twelve (12) inches lineal distance, except that a slope no greater than one inch of rise per eight (8) inches lineal distance may be used where necessary, shall

have a nonskid surface, and shall otherwise be so constructed as to allow reasonable access to the crosswalk for physically handicapped persons using the sidewalk.

(Code of Iowa, 2015, Sec. 216C.3)

**820.6 REMOVAL OF SNOW, ICE, AND ACCUMULATIONS.** It shall be the responsibility of the abutting property owners to remove snow, ice, and accumulations promptly from sidewalks. If a property owner does not remove snow, ice, or accumulations within a reasonable time, the city may do so and assess the costs against the property owner for collection in the same manner as a property tax.

(Code of Iowa, 2015, Sec. 364.12 [2b & e])

**820.7 AWNING AND CANOPY STANDARDS.** It shall be unlawful for a person to erect or maintain any awning over any sidewalk unless all parts of the awning are elevated at least eight (8) feet above the surface of the ground or sidewalk and supported by iron frames or brackets securely fastened to the building, without any posts or other device that will obstruct the sidewalk or hinder or interfere with the free passage of pedestrians. Any awning to extend four (4) or more feet over a sidewalk shall be constructed only with the prior approval of the City Council of the City of Estherville, Iowa, as to materials and design.

Any awning extending less than four (4) feet over any sidewalk shall be constructed with exterior material consisting of canvas or vinyl fabric, unless the use of other materials is approved by the City Council of the City of Estherville, Iowa.

No canopy (roof over sidewalk supported by posts on city right-of-way) shall be constructed without the prior approval of the City Council of the City of Estherville, Iowa.

No awning shall be constructed without first obtaining a permit from the City of Estherville, Iowa, and payment of a twenty-five dollar (\$25) fee.

**820.8 ENCROACHING STEPS.** A person commits a simple misdemeanor if the person erects or maintains any stairs or steps to any building upon any part of any sidewalk without permission of the council.

**820.9 OPENINGS AND ENCLOSURES.** A person commits a simple misdemeanor if the person does any of the following:

1. Stairs and Railings. Construct or build a stairway or passageway to any cellar or basement by occupying any part of the sidewalk, or to enclose any portion of a sidewalk with a railing without permission of the council.
2. Openings. Keep open any cellar door, grating, or cover to any vault on any sidewalk except while in actual use with adequate guards to protect the public.
3. Protect Openings. Neglect to properly protect or barricade all openings on or within six (6) feet of any sidewalk.

**820.10 FIRES ON SIDEWALKS.** A person commits a simple misdemeanor if a person makes a fire of any kind on any sidewalk.

**820.11 FUEL ON SIDEWALK.** A person commits a simple misdemeanor if a person places or allows any fuel to remain upon any sidewalk.

**820.12 DEFACING.** A person commits a simple misdemeanor if a person scatters or places any paste, paint, or writing on any sidewalk.

(Code of Iowa, 2015, Sec. 716.1)

**820.13 DEBRIS ON SIDEWALKS.** A person commits a simple misdemeanor if a person throws or deposits on any sidewalk any glass, nails, glass bottle, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any other substance likely to injure any person, animal, or vehicle.

(Code of Iowa, 2015, Sec. 364.12 [2])

**820.14 MERCHANDISE DISPLAY.** A person commits a simple misdemeanor if a person places upon or above any sidewalk, any goods or merchandise for sale or for display in such a manner as to interfere with the free and uninterrupted passage of pedestrians on the sidewalk; in no case shall more than three (3) feet of the sidewalk next to the building be occupied for such purposes.

**\*820.15A SALES STANDS.** A person commits a simple misdemeanor if a person erects or keeps any stand for the sale of fruit, vegetables, or other substances or commodities on any sidewalk without first obtaining approval from the council.

**\*820.15B SIDEWALK CAFÉ LICENSE.** No person or entity shall operate a restaurant which provides outdoor seating on public property for the purpose of serving food or beverages, without a valid sidewalk café license.

1. Application for License. A sidewalk café license shall be granted only to the operator of a restaurant which is in conformance with the City of Estherville Zoning Ordinance. An application for a sidewalk café license shall be on a form provided by the City Clerk and request the following information:

A. Applicant Contact Information. The name, mailing address, phone number and e-mail address of the applicant.

B. Drawing. A detailed drawing of the proposed site indicating the following: The building façade, the points of ingress and egress, the proposed location of the tables, chairs, fencing, serving equipment, planters, borders, awnings, umbrellas, or other facilities to be included in the outdoor seating area. The drawings must also include the location of existing improvements and features on the public property, including but not limited to fire hydrants, valves, manholes, street signs, street lights, traffic signals, trees, benches, fire escapes or other overhead obstructions and the proposed clear width of the public walking area that will remain after the establishment of the outdoor seating area. In no case may the open portion of the public sidewalk be reduced to less than five feet (5') clear of all obstructions.

Exceptions: Passable portion of the sidewalk may be reduced to 4 feet if:

- i. The total sidewalk width is less than 10 feet or
- ii. The overall length of the reduced sidewalk shall not exceed 25 feet in any 50 foot distance.

C. Indemnification. Licensee shall sign an agreement to indemnify, defend and hold harmless the City for any and all claims for liability or damages arising from the operation of the sidewalk café.

D. Insurance. A certificate of general liability insurance, workers' compensation insurance and if applicable, dram shop insurance. The amount of required coverage must be approved by the City's insurance carrier, but in no event shall liability coverage be in an amount less than \$1,000,000 per occurrence. The City shall be named as an additional insured on the face of the certificate.

2. Administrative Review. When the city staff determines that the application is complete, the application shall be forwarded to the City Council for review. Upon approval of the Council, the City shall issue the license.

3. License Requirements. Issuance and continued enjoyment of the license shall be conditioned on the following:

A. The licensee shall comply with all applicable health and sanitation laws and regulations, and operation of the area shall not be detrimental to the health, safety or welfare of persons residing or working in the vicinity.

B. No outdoor keeping or storage of food or beverages to be served shall be permitted. No open keeping or storage of used dishes, utensils or food scraps shall be permitted. All disposal of trash must occur in the adjacent business premises and not in the outdoor area.

C. Operation of sidewalk cafés shall be permitted only:

- i. Between March 1 and October 31; and

- ii. At such times as the main place of business is open for business; and
  - iii. Between 6 a.m. and 10 p.m.
- D. No animals, except those assisting the disabled, shall be allowed in the sidewalk café area.
- E. Smoking is prohibited in or within 10 feet of an area governed by this license, and licensee shall place a no-smoking sign that complies with Iowa Code 142D.6 at the front entrance to the sidewalk café area.
- F. Use of amplified sound equipment shall not be permitted in the sidewalk café area.
- G. The sale and consumption of alcoholic beverages in the outdoor seating area shall be restricted by the liquor license governing the restaurant. No alcoholic beverages may be removed from the outdoor seating area, except to the interior of the restaurant.
- H. For all sidewalk café areas with seating for more than four (4) persons, fencing is required. Fencing must be a minimum height of 30" and no more than 40".  
Fencing design shall be approved by the City. Any permanent anchoring locations installed must be made weather-tight by the licensee at the end of each license season. If fencing encloses a building exit, a gate must be installed.
- I. The outdoor seating area shall not obstruct any fire exit or other required ingress or egress.
- J. The use of public sidewalks or right-of-way for a sidewalk shall be permitted only when incidental to the operation of a restaurant on private contiguous property and only along the frontage of said restaurant.
- K. In no event shall the placement of furnishings or the operation of the sidewalk café obstruct access to any crosswalk, curb cut, fire hydrant, fire escape or fire door, manhole, valve or obstruct the clear view of any traffic signal, regulatory sign or street sign.

- L. The licensee shall be responsible for the maintenance and upkeep of the public right-of-way used for the sidewalk café and the replacement of damaged public property.
  - M. When notified by the City to do so, the licensee shall promptly remove all furnishings and obstructions from the public right-of-way to accommodate special events permitted by the City or to accommodate City repair of maintenance as needed.
  - N. No electrical appliance or conductors, open flame devices, petroleum products or other flammable liquids shall be placed or kept in the outdoor seating area.
  - O. No special sales on alcoholic beverages specific only to the outdoor seating area are allowed in the sidewalk café.
  - P. All licensed features of the sidewalk cafe must be removed by October 31 each year through and including March 1 of the succeeding year.
  - Q. No licensed sidewalk café may be operated until the execution of a lease agreement with the City. Said lease agreement will allow use of the public right-of-way for the exclusive purposes of the license, and no property right is to be conferred by this agreement.
4. License Renewal. Each sidewalk café license shall be valid for a term not to exceed one (1) year, and may be renewed annually thereafter. A renewal application shall provide all the same information as an original application, but copies of the previous year's site plan may be used if there are no changes from the last submission.
5. License Revocation. Sidewalk café licenses may be suspended or revoked by the City Council for any violation of license requirements as described herein.

All other sub-sections of Volume 1, Title VIII, Chapter 1, Article 1 remain unchanged by this amendment.



**820.16 DISCHARGE OF WATER FROM ROOFS.** A person commits a simple misdemeanor if the person causes or permits any water spout, trough, gutter, or balcony extending from any building owned or leased, to discharge or conduct water upon the surface of any sidewalk, but all such water shall be conducted under the sidewalk in accordance with plans and specifications approved by the city administrator or his designated representative.

**820.17 WHEELED DEVICES PROHIBITED.** A person commits a simple misdemeanor if the person operates any wheeled device on the sidewalks within the Central Business District of the City of Estherville, except the following:

1. Wheelchairs, motorized assistance devices, walkers, or any other device used for the assistance of the handicapped.
2. Wheeled devices used for snow removal or construction.
3. Strollers, wagons, or other devices used by a caregiver to assist in the transportation of infants or small children.

For purposes of this section, wheeled devices shall include any object with one or more wheels used for transportation or recreation including, but not limited to, bicycles, skates, scooters, skateboards, toys, or any other wheeled object.

## TITLE VIII - TRANSPORTATION

CHAPTER 3  
RAILROAD REGULATIONS

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

1. "Railroad Train": means an engine or locomotive with or without cars coupled thereto, operated upon rails.

(Code of Iowa, 2015, Sec. 321.1 [58])

2. "Operator": shall mean any individual, partnership, corporation, or other association which owns, operates, drives, or controls a railroad train.

**830.2 WARNING SIGNALS.** A bell and a horn shall be placed on each locomotive engine operated on any railway, which horn shall be sounded at least one thousand feet before a road crossing is reached, and after the sounding of the horn the bell shall be rung continuously until the crossing is passed; but at street crossings within the limits of cities the sounding of the horn may be omitted, unless required by ordinance or resolution of the council thereof; and the company shall be liable for all damages which shall be sustained by any person by reason of such neglect.

(Code of Iowa, 2015, Sec. 327G.13)

**830.3 OBSTRUCTING STREETS.** A railroad corporation or its employees shall not operate any train in such a manner as to prevent vehicular use of any highway, street, or alley for a period of time in excess of ten (10) minutes except:

(Code of Iowa, 2015, Sec. 327G.32 [1])

1. Comply with Signals. When necessary to comply with signals affecting the safety of the movement of trains.
2. Avoid Striking. When necessary to avoid striking any object or person on the track.
3. Disabled. When the train is disabled.

4. Safety Regulations. When necessary to comply with governmental safety regulations including, but not limited to, speed ordinances and speed regulations.

(Code of Iowa, 2015, Sec. 327G.32[2])

Any officer or employee of a railroad corporation violating any provision of this section shall be guilty of a misdemeanor. An employee shall not be guilty of such violation if his action was necessary to comply with the direct order or instructions of a railroad corporation or its supervisors. Such guilt shall then be with the railroad corporation.

**830.4 CROSSING MAINTENANCE.** Operators shall construct and maintain good, sufficient, and safe crossings over any street traversed by their rails.

(Bourett vs. Chicago & N.W. Ry. 152 Iowa 579, 132 N.W. 973 [1943],

(Code of Iowa, 2015, Sec. 364.11)

**830.5 FLYING SWITCHES.** No operator shall cause any railroad car or cars, unattached to any engine, to be propelled across any intersection of the tracks and a street, alley, sidewalk, or similar public crossing, for the purpose of making a flying switch unless some employee of the railroad shall be stationed at the intersection to give warning of such car or cars' approach.

**830.6 SPEED.** It shall be unlawful to operate any railroad train through any street crossing within the platted areas of the city at a speed greater than fifteen (15) miles per hour.

(Girl vs. United States R. Admin., 194 Iowa 1382, 189 N.W. 834, [1923])

**TITLE VIII - TRANSPORTATION****CHAPTER 4  
DRIVEWAY REGULATIONS**

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

1. "Driveway": shall mean that part of any approach for motor vehicles to private property that lies between the property line and the roadway of the public street.
2. "Paving": shall include any kind of hard surfacing including, but not limited to, Portland cement concrete, asphaltic concrete, brick, or combinations of such materials, with the necessary base. "Paving" shall not include surfacing with oil, gravel, oil and gravel, or chloride.

**840.2 PERMIT.** Before any person shall construct or repair a driveway, he shall obtain a written permit from the administrative or supervisory person to whom such duties are assigned pursuant to Title I, Chapter 4, Article 4 of this code. A written application for the permit shall be filed with the designated city official. The application shall include a legal description of the property, the name of the property owner, the name and address of the person who will do the work, and the proposed plan of construction or repair which shall include the depth, width, and type of surfacing material to be used. No other plan shall be followed except by permission of the designated city official who may allow amendments to the application or permit that do not conflict with this chapter. The designated city official shall issue the permit, bearing his signature and the date of issuance, if the proposed plan meets all of the requirements of this chapter, if the fee required under this chapter has been paid, and if the construction or repair as planned will not create any substantial hazard in the use of the street or sidewalk for public travel or drainage, ore create any defect. Each permit shall expire six (6) months from the date of issuance, if not constructed within that time.

**840.3 FEE FOR PERMIT.** Before any permit is issued, the person who makes the application shall pay ten dollars (\$10) to the City of Estherville. The city shall give the applicant a written receipt showing the sum received and the date.

**840.4 DRIVEWAY REQUIREMENTS.** All driveways shall be of paving of a depth of not less than six (6) inches. The driveway may be placed directly on compact and well-drained soil. Where soil is not well-drained, a six (6) inch sub-base of compact, clean coarse gravel, sand, or cinders shall be laid. The driveway shall slope not more than two (2) inches per foot toward the roadway.

1. Residential Driveway Widths (only one driveway entrance per street frontage):

Twenty-four (24) feet maximum at curb, or the width of the garage, whichever is greater.

An additional two (2) feet per side is permitted to provide an entry flare or radius.

2. Commercial or Industrial Driveway Widths (not more than two driveway entrances

per street frontage): Maximum width at curb per driveway - seventy-five (75) feet. Not more than sixty percent (60%) of the street frontage shall be used for driveway and there shall be a minimum of thirty (30) feet between driveway entrances. Existing vertical curb and gutter section must be replaced with drive-over curb and gutter section to city specifications on new driveway construction.

3. No driveway shall be constructed within thirty (30) feet of an intersecting street curb line or within one (1) foot of the adjacent property line at the curb.

4. The City Council has authority to grant variances from the above standards in situations where the variances will not create any substantial hazard in the use of the street or sidewalk for public travel or drainage, or create any defect.

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

**840.6 REVOCATION OF PERMIT.** The administrative or supervisory person to whom such duties are assigned pursuant to Title I, Chapter 4, Article 4 of this code may at any time revoke the permit for any violation of this chapter and may require that the work be stopped.

**840.7 INSPECTION AND APPROVAL.** The driveway must be inspected and approved by the administrative or supervisory person to whom such duties are assigned pursuant to Title I, Chapter 4, Article 4 of this code within thirty (30) days after completion of the work. The designated city official shall keep a record of such approvals in his office. If he refuses to approve the work, it must be corrected immediately so that it will meet with his approval. If the work has been done improperly, the designated city official shall have the right to finish or correct the work, and the council shall assess the costs to the property owner. Such assessment shall be collected with the general property taxes and in the same manner.

**840.8 DRIVEWAY CULVERTS.** The property owner shall, at his own expense, install any culvert deemed necessary under any driveway or any other access to his property, and before installing a culvert, permission must be first obtained from the administrative or supervisory person to whom such duties are assigned pursuant to Title I, Chapter 4, Article 4 of this code. In the event repairs are needed at any time with respect to culverts, it shall be the responsibility of the property owner to make such repairs, and, in the event he fails to do so, the city shall have the right to make the repairs. If the property owner fails to reimburse the city for the cost of said repairs, the cost shall be certified to the county auditor and specially assessed against the property as by law provided.

**TITLE VIII - TRANSPORTATION****CHAPTER 5 - AIRPORT****ARTICLE 1  
AIRPORT COMMISSION**

**850.1 AIRPORT COMMISSION.** There shall be an Airport Commission consisting of five (5) resident voters of the city.

(Code of Iowa, 2015, Sec. 330.20)

**850.2 APPOINTMENT AND TERM.** Commissioners shall be appointed by the mayor for staggered terms of six (6) years.

(Code of Iowa, 2015, Sec. 330.20)

**850.3 VACANCIES.** Vacancies shall be filled by appointment of the council to fill out the unexpired term for which the appointment was made.

(Code of Iowa, 2015, Sec. 330.20)

**850.4 COMPENSATION.** Members of the commission shall serve without compensation.

**850.5 BOND.** Each commissioner shall execute and furnish a bond in the amount of five hundred dollars (\$500) which bond shall be filed with the city clerk.

(Code of Iowa, 2015, Sec. 330.20)

**850.6 OFFICERS.** The commission shall elect from its own members a chairman and a secretary who shall serve for such term as the commission shall determine.

(Code of Iowa, 2015, Sec. 330.20)

**850.7 POWERS AND DUTIES.** The commission shall have and exercise the following powers and duties.

1. General. The commission has all of the powers granted to cities under Chapter 330 of the Code of Iowa, 2015, except powers to sell the airport.

(Code of Iowa, 2015, Sec. 330.21)

2. Budget. The commission shall annually certify the amount of tax to be levied for airport purposes, and upon such certification the council may include all or a portion of said amount in its budget. The entire budget for the Airport Commission shall be approved by the council annually.

(Code of Iowa, 2015, Sec. 330.21)

3. Funds. All funds derived from taxation or otherwise for airport purposes shall be under the full and absolute control of the commission for the purposes prescribed by law, and shall be deposited with the treasurer or city clerk to the credit of the Airport Commission, and shall be disbursed only on the written orders of the Airport Commission, including the payment of all indebtedness arising from the acquisition and construction of airports and the maintenance, operation, and extension thereof.

(Code of Iowa, 2015, Sec. 330.21)

4. Fees and Charges. The commission may establish and collect charges for the use of airport property, which charges shall be used in connection with the maintenance and operation of the airport.

**850.8 ANNUAL REPORT.** The Airport Commission shall immediately after the close of each municipal fiscal year, file with the city clerk a detailed and audited written report of all money received and disbursed by the commission during said fiscal year, and shall publish a summary thereof in an official newspaper.

(Code of Iowa, 2015, Sec. 330.22)

**850.9 RULES AND REGULATIONS.** The commission shall have power to make rules and regulations for the use of the airport, the space above the airport, or the space above the lands and waters included within the limits of the city, provided, however, that no such rule shall be in conflict with any state or federal law or regulation. A copy of such rules shall be filed in the Office of the Clerk.

(Code of Iowa, 2015, Sec. 330.23)



**850.10 INSURANCE ON BUILDINGS AND CROPS.** The commission shall include in its annual budget an amount necessary to cover adequate insurance on all buildings and crops under the control of the Airport Commission.