

**TITLE 8
HEALTH AND SAFETY**

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Chapter 8.04

FLOODPLAIN MANAGEMENT

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8.04.010 - 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 a 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, 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 or 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 [8.04.050 \(1\)\(D\)\(1\)](#) of this Ordinance, and
 - B. The enclosed area is unfinished (not carpeted, drywalled, 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 in substantial 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 "recreational vehicles" which are 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 sale or lease.
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 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.
15. 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.
16. FLOODPLAIN - Any land area susceptible to being inundated by water as a result of a flood.
17. FLOODPLAIN MANAGEMENT - An overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of floodplains, including but not limited to emergency preparedness plans, flood control works, floodproofing and floodplain management regulations.
18. FLOODPROOFING - 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.
19. FLOODWAY - The channel of a river or stream and those portions of the floodplains 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.
20. FLOODWAY FRINGE - Those portions of the Special Flood Hazard Area outside the floodway.
21. HIGHEST ADJACENT GRADE – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
22. 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 of 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) an approved state program as determined by the Secretary of the Interior or ii) directly by the Secretary of the Interior in states without approved programs.
23. **LOWEST FLOOR** - The floor of the lowest enclosed area in a building including a basement except when the criteria listed in the definition of Enclosed Area below Lowest Floor are met.
24. **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.
25. **MINOR PROJECTS** - Small development activities (except for filling, grading and excavating) valued at less than \$500.
26. **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 floodplain management regulations adopted by the community.
27. **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 first floodplain management regulations adopted by the community.
28. **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.

29. **ROUTINE MAINTENANCE OF EXISTING BUILDINGS AND FACILITIES** – 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.
30. **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.
31. **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.
32. **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.
33. **SUBSTANTIAL DAMAGE** - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty (50) 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.
34. **SUBSTANTIAL IMPROVEMENT** - Any improvement to a structure which satisfies either of the following criteria:

- A. Any repair, reconstruction, or improvement of a structure, the 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 improvement , or (ii) if the structure has been "substantially damaged" and is being restored, before the damage occurred.

The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions. The term also does not include any alteration of an "historic structure", provided the alteration will 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 the effective date of the first floodplain management regulations adopted by the community shall be added to any proposed addition in determining whether the total increase in original floor space would exceed 25 percent.

35. VARIANCE - A grant of relief by a community from the terms of the floodplain management regulations.

36. VIOLATION - The failure of a structure or other development to be fully compliant with the community's floodplain management regulations.

8.04.020 - Statutory Authority, Findings of Fact and Purpose

1. The Legislature of the State of Iowa has in Chapter 364, Code of Iowa, as amended, delegated the power to cities to exercise any power and perform any function it deems appropriate to protect and preserve the rights, privileges and property of the City or of its residents, and to preserve and improve the peace, safety, health, welfare, comfort and convenience of its residents.

2. Findings of Fact

A. The flood hazard areas of the City of Epworth are subject to periodic inundation which can result in loss of life and property, 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 public health, safety and general welfare of the community.

B. These flood 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 flooding and (ii) the cumulative effect of obstructions on the floodplain causing increases in flood heights and 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 protect and preserve the rights, privileges and property of the City of Epworth and its residents and to preserve and improve the peace, safety, health, welfare, and comfort and convenience of its residents by minimizing those flood losses described in 8.04.020 (2)(A) of this Ordinance with provisions designed to:

- A. Reserve sufficient floodplain 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 facilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.
- D. Protect individuals from buying lands which may not be suited 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.

8.04.030 - General Provisions

1. Lands to Which Ordinance Apply

The provisions of this Ordinance shall apply to all lands and development which have significant flood hazards. The Flood Insurance Rate Map (FIRM) for Dubuque County and Incorporated Areas, City of Epworth, Panel 19061C0325F, dated August 10th, 2021, which were prepared as part of the Dubuque County Flood Insurance Study, shall be used to identify such flood hazard areas and all areas shown thereon to be within the boundaries of the base flood shall be considered as having significant flood hazards. The Flood Insurance Study for the Dubuque County is hereby adopted by reference and is made a part of this ordinance for the purpose of administering floodplain management regulations.

2. Rules for Interpretation of Flood Hazard Boundaries

The boundaries of the Special Flood Hazard areas shall be determined by scaling distances on the official Flood Insurance Rate Map. When an interpretation is needed as to the exact location of a boundary, the Zoning Administrator 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 Administrator in the enforcement or administration of this Ordinance.

3. 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.

4. 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.

5. 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.

6. Warning and Disclaimer of Liability

The standards required by this Ordinance are considered reasonable for regulatory purposes. This Ordinance does not imply that areas outside the designated special flood hazard areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of Epworth or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

7. Severability

If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

8.04.040 - Administration

1. Appointment, Duties and Responsibilities of Local Official

A. The Zoning Administrator is hereby appointed to implement and administer the provisions of 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 floodplain development permit applications to assure that the provisions of this Ordinance will be satisfied.
- 2) Review floodplain development applications to assure that all necessary permits have been obtained from federal, state and local governmental agencies including

approval when required from the Department of Natural Resources for floodplain construction.

- 3) Record and maintain a record of (i) the elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of all new or substantially improved structures or (ii) the elevation to which new or substantially improved structures have been floodproofed.
- 4) Notify adjacent communities/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 Emergency Management Agency.
- 5) Keep a record of all permits, appeals 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 Administrator of any annexations or modifications to the community's boundaries.
- 8) Review subdivision proposals to insure such proposals are consistent with the purpose of this ordinance and advise the Board of Adjustment of potential conflict.
- 9) Maintain the accuracy of the community's Flood Insurance Rate Maps when;
 - a. Development placed within the floodway 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 flood elevation; or
 - c. Development relocates or alters the channel.

Within 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 applications

as well as any additional information deemed necessary to the Board of Adjustment.

2. Floodplain Development Permit

- A. Permit Required - A Floodplain Development Permit issued by the Administrator shall be secured prior to any floodplain development (any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, storage of materials and equipment, excavation or drilling operations), including the placement of factory-built homes.
- B. Application for Permit - Application shall be made on forms furnished by the Administrator and shall include the following:
- 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, track, 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) Indication 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 floodproofed.
 - 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 (e.g., drawings or a site plan) for the purpose of this Ordinance.
- C. Action on Permit Application - The Administrator shall, within a reasonable time, make a determination as to whether the proposed floodplain development meets the applicable 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 variances except as directed by the Board of Adjustment

- D. Construction and Use to be as Provided in Application and Plans - Floodplain Development Permits based 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, floodproofing, or other flood protection measures were accomplished in compliance with the provisions of this Ordinance, prior to the use or occupancy of any structure.

8.04.050 - Floodplain Management Standards

1. General Floodplain Standards

All development must be consistent with the need to minimize flood damage and meet the following applicable performance standards. Where base flood elevations have not been provided in the Flood Insurance Study, the Iowa Department of Natural Resources shall be contacted to determine (i) whether the land involved is either wholly or partly within the floodway or floodway fringe and (ii) the base flood elevation. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

Review by the Iowa Department of Natural Resources is not required for the proposed construction of new or replacement bridges or culverts where (i) the bridge or culvert is located on a stream that drains less than two (2) square miles, and (ii) the bridge or culvert is not associated with a channel modification that constitutes a channel change as specified in 567-71.2(2), Iowa Administrative Code.

A. All development within the special flood hazard areas shall:

- 1) Be designed and adequately anchored to prevent flotation, collapse or lateral movement.
- 2) Use construction methods and practices that will minimize flood damage.
- 3) Use construction materials and utility equipment that are resistant to flood damage.

B. Residential structures - All new or substantially improved residential structures shall have the lowest floor, including basement, 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 1.0 ft. 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, 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 withstand 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 to the criteria listed in 567-75.2(3), Iowa Administrative Code.

- C. Non-residential structures - All new or substantially improved non-residential structures shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the base flood elevation, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing 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 North American Vertical Datum 1988) to which any structures are floodproofed shall be maintained by the 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 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 they permit the automatic entry and exit of floodwaters.

Such areas shall be used solely for parking of vehicles, building access and low damage potential storage.
 - 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 shall 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 non-residential structures, optionally floodproofed to) a minimum of one (1) 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 non-residential structures, optionally floodproofed to) a minimum of one (1) 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 (1) 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. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. 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) On-site waste disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.
- 2) All new and replacement sanitary sewage systems shall be designed to minimize or 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.
- 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.

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 the base flood with a minimum of 3 ft. of design freeboard and shall provide for adequate interior drainage. In addition, 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 use shall provide all lots with a means of access which will be passable by wheeled vehicles during 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 Special Flood Hazard Area.
- K. Accessory Structures to Residential Uses
 - 1) Detached garages, sheds, and similar structures that are incidental to a residential use are exempt from the base flood elevation requirements where the following criteria are satisfied.
 - a. The structure shall be designed to have low flood damage potential. Its size shall not exceed 600 sq. ft. in size. Those portions of the structure located less than 1 foot above the base flood elevation must be constructed of flood-resistant materials.
 - b. 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.
 - c. The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.
 - d. The structure shall be firmly anchored to resist flotation, collapse and lateral movement.
 - e. The structure's service facilities such as electrical and heating equipment shall be elevated or floodproofed to at least one foot above the base flood elevation.
 - f. The structure's walls shall include openings that satisfy the provisions of [8.04.050\(1\)\(D\)\(1\)](#) of this Ordinance.

- 2) Exemption from the base flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.

L. Recreational Vehicles

- 1) Recreational vehicles are exempt from the requirements of 8.04.050(1)(E) of this Ordinance regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.
 - a. The recreational vehicle shall be located on the site for less than 180 consecutive days, and,
 - b. The recreational vehicle 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.
- 2) 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 8.04.050(1)(E) of this Ordinance regarding anchoring and elevation of factory-built homes.

M. 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.

N. 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 floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing 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 floodproofed 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.

8.04.060 – Variance Procedures

1. 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.

- A. 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 not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.
 - B. Variances shall 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.
 - C. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - D. In cases where the variance involves a lower level of flood protection for structures than what is ordinarily required by this Ordinance, the applicant shall be notified in writing over the signature of the Administrator that: (i) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction increases risks to life and property.
 - E. All variances granted shall have the concurrence or approval of the Department of Natural Resources.
2. Factors Upon Which the Decision of the Board of Adjustment Shall be Based - In passing upon applications for Variances, the Council shall consider all relevant factors specified in other sections of this Ordinance and:
- A. The danger to life and property due to increased flood heights or velocities caused by encroachments.
 - B. The danger that materials may be swept on to other land or downstream to the injury of others.
 - C. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
 - D. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

- E. The importance of the services provided by the proposed facility to the City.
 - F. The requirements of the facility for a floodplain location.
 - G. The availability of alternative locations not subject to flooding for the proposed use.
 - H. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
 - I. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
 - J. The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - K. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.
 - L. 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.
 - M. Such other factors which are relevant to the purpose of this Ordinance.
3. Conditions Attached to Variances - Upon consideration of the factors listed above, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purpose of this Ordinance. Such conditions may include, but not necessarily be limited to:
- A. Modification of waste disposal and water supply facilities.
 - B. Limitation of periods of use and operation.
 - C. Imposition of operational controls, sureties, and deed restrictions.
 - D. Requirements for construction of channel modifications, 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 purpose of this Ordinance.
 - E. Floodproofing measures shall be designed consistent with the flood protection elevation for the particular area, flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, and other factors associated with the regulatory flood. The Council shall require that the applicant submit a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with

the regulatory flood protection elevation and associated flood factors for the particular area.

8.04.070 - Nonconforming Uses

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this Ordinance, but which is not in conformity with the provisions of this Ordinance, may be continued subject to the following conditions:
 - A. If such use is discontinued for six (6) consecutive months, any future use of the building premises shall conform to this Ordinance.
 - B. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.
 - C. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (50) percent of the market value of the structure before the damage occurred, unless it is reconstructed 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.
2. Except as provided in 8.04.070(1)(B), any use which has been permitted as a Variance shall be considered a conforming use.

8.04.080 - Penalties for Violation

Violations of the provisions of this Ordinance or failure to comply with any of the requirements 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 \$(500.00 (FIVE HUNDRED DOLLARS)) or imprisoned for not more than (30 (THIRTY)) days. Nothing herein contained prevent the City of Epworth from taking such other lawful action as is necessary to prevent or remedy violation.

8.04.090 - Amendments

The regulations and standards set forth in this Ordinance may from time to time be amended, supplemented, changed, or repealed. No amendment, supplement, change, or modification shall be undertaken without prior approval of the Department of Natural Resources.

Chapter 8.08 Property Maintenance Code

Sections:

- 8.08.010 Title.
- 8.08.020 Purpose.
- 8.08.030 Interpretation.
- 8.08.040 Abrogation and Greater Restrictions.
- 8.08.050 Definitions.
- 8.08.060 Maintenance Standards.
- 8.08.070 Violations.

8.08.010 Title. This ordinance may be referred to as the “Property Maintenance Code,” and is herein referred to as “this Code”.

8.08.020 Purpose. The purpose of this Code is to protect the public health, safety, and welfare, esthetics and property values, by establishing minimum standards for maintenance, appearance, condition, and occupancy, and for essential utilities, facilities, and other physical components and conditions to make residential premises fit for human habitation, and to make nonresidential premises fit for use according to the purpose for which they were developed; by fixing certain responsibilities and duties upon the owners and managers, and distinct and separate responsibilities and duties upon the occupants; by authorizing and establishing penalties for violations; and providing for proper repair, demolition, or vacation of premises which do not comply with this Code.

8.08.030 Interpretation. This provision of this Code shall be interpreted and applied as minimum requirements, and shall not be deemed a limitation or repeal for any other power granted by the Code of Iowa.

Nothing in this Code shall be construed to abrogate the Federal or State Constitutions, nor to grant power to the City that are otherwise reserved by or for Federal and State government.

8.08.040 Abrogation and Greater Restrictions. It is not the intent of this Code to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations, or permits previously adopted or issued pursuant to law. Where two or more provisions apply the higher standard shall prevail.

8.08.050 Definitions. Words used in the Code shall have the same meaning as that defined by the Zoning Ordinance, unless otherwise defined by this Code.

1. Abandoned Building. Any building or portion of a building under construction which has stood with an incomplete exterior shell for more than one year, or any

completed building or portion thereof which has stood unoccupied for longer than six (6) months, and which is unsecured or has Housing Code or Building Code violations.

2. Deterioration. A state of conditions caused by lack of maintenance or excessive use, characterized by holes, breaks, rot, crumbling, peeling paint, rusting, or other evidence of physical decay or neglect.

3. Enforcement Officer. The Mayor, Mayor Pro-Tem, Police Chief, City Clerk, Public Works Director or other City staff as directed by the Mayor or City Council may be assigned. The principal enforcement officer shall be the Mayor.

4. Exposed to Public View. Any premises or any part thereof which may be lawfully viewed by the public or from adjoining premises.

5. Exterior. Yards and other open outdoor spaces on premises, and the external surfaces of any structure.

6. Extermination. The control and elimination of insects, rodents and vermin.

7. Infestation. The presence of insects, rodents, vermin, or other pests on the premise to the extent that they constitute a health hazard, are deemed by an Enforcement Officer to be in threat of spreading to adjoining premises, or are exposed to public view.

8. Junk. All old or scrap copper, brass, lead, or any other non-ferrous metal; old or discarded rope, rages, batteries, paper, trash, rubber, debris, waste or used lumber, or salvaged wood; dismantled vehicles, machinery and appliances or parts of such vehicles, machinery or appliances, iron, steel or other old or scrap ferrous materials; old or discarded glass, tinware, plastic or old or discarded household goods or hardware. Neatly stacked firewood located on a side yard or rear yard is not considered junk.

9. Nuisance. Physical conditions that are dangerous or detrimental to the health or safety of persons on or near the premises where the conditions exist, or anything that is injurious to the senses or interferes with the comfortable enjoyment of life or property.

10. Owner. Any person who alone, jointly, or severally with others, holds legal or equitable title to any premises, with or without accompanying actual possession thereof.

11. Premises. A lot, parcel, tract or plot of land, contiguous and under common ownership or control, together with the buildings and structures thereon.

12. Public Authority. Any officer or any department or branch of the City, County, or State charged with regulating health, fire, zoning, building regulations, public safety or other activities concerning property in the City.

13. Refuse. Any material that has lost its value for the original purpose for which it was created or manufactured, or for its resigned use, whether putrescible or non-putrescible, combustible or non-combustible, which is not securely stored in a building or legal outdoor storage yard for prompt disposal or resale, including, but not limited to junk; paper or cardboard; plastic, metals; glass; yard clippings, leaves, woody vegetative trimmings, and other plant wastes which have not been properly composted; vegetable or animal waste resulting from handling, processing, storage, preparation, serving or consumption of food crockery; bedding, furniture, or appliances; offal; rubbish; ashes or incinerator residue; construction debris; accumulation of animal feces; dead animals; or wastes from commercial or industrial processes.

14. Responsible party. Any person having possession, charge, care, or control of real or personal property, whether with or without the knowledge and consent of the owner, including without limitation any one or more of the following: owner, agent, property manager, contract purchaser, mortgagee or vendee in possession, receiver, executor, trustee, lessee or tenant, or any other person, firm or corporation exercising apparent control over a property.

15. Weeds and Noxious Growths. Weeds of all varieties and especially quack grass, Canadian Thistle, bull thistle, European morning glory and field bindweed, horsenettle, leafy spurge, Russian knapweed, cocklebur, wild mustard, sour and curried dock, smooth or buttonweed, burdock, shoofly, wild carrot, dandelions, and brush.

8.08.060 Maintenance Standards.

1. General. The exterior of every premises and structure shall be maintained in good repair, to the end that the premises and each structure thereon will be preserved; adjoining properties protected from blighting influences; and safety and fire hazards eliminated.

2. Maintenance of premises. Each and every premise shall be kept free of all nuisances, health, safety, and fire hazards, unsanitary conditions, and infestation. It shall be the duty of the responsible party to keep the premises free of all said

conditions and to promptly remove and abate same, which include but are not limited to the following declared nuisances:

- A. Weeds or grasses allowed to grow to a height greater than eight (8) inches on the average, or any accumulation of dead weeds or grass that are exposed to public view, on any non-farm property. This provision shall not apply to prairies, wetlands, or similar area of naturalized perennial vegetation which are certified by an Enforcement Officer to not constitute a nuisance.
 - B. No person shall permit garbage or recyclable materials to accumulate longer than a garbage collection cycle or recyclable cycle upon premises owned or occupied by him or her if such accumulation would violate the purpose of this Chapter; nor shall any person deposit any garbage or recyclable materials upon any other premises except the County Transfer Station or the County Recyclable Trailer unless such person has been authorized by the owner of the premises to deposit such materials there.
 - C. Any structure, which is in such a dilapidated condition that it is unfit for human habitation or the use for which it was constructed; kept in such an unsanitary condition that it is a menace to the health of people residing therein or in the vicinity thereof; or any structure defined as that is defined as abandoned or a public nuisance by Chapter 657A, Code of Iowa.
 - D. Any nuisance as defined herein or described as such by Chapter 657 of the Code of Iowa.
 - E. Any alteration, modification, or obstruction which prevents, obstructs or impedes the normal flow of runoff from adjacent lands, or any alteration or modification which substantially concentrates or increases the flow of water onto an adjoining premises to the extent of damaging or saturating such premises.
 - F. Conditions which are conducive to the accumulation of weeds, vegetation, junk, dead organic matter, debris, garbage, offal, rodent harborages, stagnant water, combustible materials and similar materials or conditions on a premise which constitutes a fire, health or safety hazard.
 - G. Fences or retaining walls that are not structurally sound or which are deteriorating, as may be evidenced by leaning or loose elements.
3. Building maintenance. All buildings shall be maintained to be weather and water tight. Broken windows, holes in roofs, and missing siding shall be replaced with similar materials to maintain the weather and water tight properties of the structure.

All wood including floor boards, decking, subfloors, joists, rafters, roof sheathing, and siding shall be replaced when missing, rotted or damaged. Materials and practices used in reconstruction and residing shall be of standard quality and appearance commensurate with the character of house or building. Their appearance, as judged under prevailing appraisal practices and standards. Owners or responsible parties shall not use materials which would depreciate the value of adjoining premises or the neighborhood. Painted surfaces shall be maintained or repainted so that an individual wall surface does not have peeling or missing paint in areas in excess of fifty percent (50%) of that individual surface area.

8.08.070 Violations.

1. **Inspection Report.** Whenever the Mayor or other authorized City officer is informed that a nuisance or other condition exists which is listed in this chapter, the Mayor or other authorized City officer shall provide that an inspection report be prepared within a reasonable time and given to the principal enforcement officer. The report shall contain, but not be limited to:

- A. A legal description of the property and a site map, if applicable.
- B. A description of the nuisance and conditions that exist that caused the nuisance designation to be applied.
- C. A statement of the acts necessary to abate the nuisance or condition.
- D. A reasonable time within which to complete the abatement.
- E. An estimate of the cost to abate the nuisance. If the abatement notice is regarding a dilapidated or junk building, the inspection report shall compare the cost of abatement with a project cost of reconstruction of the structure.

2. **Abatement of Nuisance or Condition**

- A. **Voluntary Abatement.** The objective of this Code being the abatement of violations, person violating this Code shall, except in emergency situations, be given notice of the violation and allowed a reasonable amount of time to voluntarily remedy the violation before action to assess costs or penalties for committing a municipal infraction are undertaken. Consideration will be given to evidence of a good faith effort to correct the violation; whether an imminent health or safety hazard exists; whether the person has previously been notified of or charged with violations of a similar nature; and other factors.
- B. **Emergency Condition.** If the Enforcement Officer judges that an emergency exists which creates a dangerous and imminent health or safety hazard to person, property or the general public which requires immediate action, the City may order such action as may be necessary

to meet the emergency. Any orders issued pursuant to this paragraph shall be effective immediately or in the time and manner prescribed in the order itself. (Code of Iowa, Sec. 364.12[3h])

- C. Procedure. Whenever Enforcement Officer finds that a nuisance or other condition that is listed in this chapter exists, the Enforcement Officer has the authority to determine on a case-by-case basis whether to utilize the nuisance abatement procedure described in Chapter 9.52 of this Code or the municipal infraction procedure referred to in Chapter 1.20 of this code.

3. Abatement of nuisance by written notice. Any nuisance, public or private, may be abated in the manner provided for in this section:

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

A. Contents of Notice to Property Owner. The notice to abate shall contain:

- (1) A legal description of the property and a site map, if applicable.
- (2) A description of the nuisance and conditions that exist that caused the nuisance designation to be applied.
- (3) A statement of the acts necessary to abate the nuisance or condition.
- (4) A reasonable time within which to complete the abatement.
- (5) An estimate of the cost to abate the nuisance. If the abatement notice is regarding a dilapidated or junk building, the notice shall compare the cost of abatement with a project cost of reconstruction of the structure.
- (6) A statement that if the nuisance or condition is not abated as directed and no request for hearing is made within the time prescribed, the City will abate it and assess the costs against the property owner.

B. Method of Service. When service of a notice to abate is required, the following methods of service shall be deemed adequate:

- (1) By personal service upon the person or persons in possession of the property in violation or the owner of the property upon which the nuisance exists.
- (2) If, after reasonable effort, personal service cannot be made, service shall be made by sending the notice by certified mail,

return receipt requested to the last known address of person or persons in possession of the property.

- C. Request for Hearing. Any person ordered to abate a nuisance may have a hearing with the Council as to whether a nuisance exists. A request for a hearing must be made in writing and delivered to the Clerk within the time stated in the notice, or it will be conclusively presumed that a nuisance exists and it must be abated as ordered. The hearing will be before the Council at a time and place fixed by the Council. The findings of the Council shall be conclusive and, if a nuisance is found to exist, it shall be ordered abated within a reasonable time under the circumstances.
 - D. Abatement by City. If the person notified to abate a nuisance or condition neglects or fails to abate as directed, the City may perform the required action to abate, keeping an accurate account of the expense incurred. The itemized expense account shall be filed with the Clerk, who shall pay such expenses on behalf of the City. (Code of Iowa, Sec. 364.12[3h])
 - E. Collection of Costs. The Clerk shall send a statement of the total expense incurred by certified mail or by service in the manner of an original notice to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one month, the Clerk shall certify the costs to the County Treasurer, and such costs shall then be collected with, and in the same manner as, general property taxes. (Code of Iowa, Sec. 364.12[3h])
 - F. Installment Payment of Cost of Abatement. If the amount expended to abate the nuisance or condition exceeds one hundred dollars (\$100.00), the City may permit the assessment to be paid in up to ten (10) annual installments, to be paid in the same manner and with the same interest rates provided for assessments against benefited property under State law. (Code of Iowa, Sec. 364.13)
 - G. Failure to Abate. Any person causing or maintaining a nuisance who shall fail or refuse to abate or remove the same within the reasonable time required and specified in the notice to abate is in violation of this Code of Ordinances.
4. Municipal infraction abatement procedure. In lieu of the abatement procedures set forth in Section 50.07, the requirements of this chapter may be enforced under the procedures applicable to municipal infractions as set forth in Chapter 3 of this Code of Ordinances. (Ord. 26-15)

Chapter 8.12 Trees

Sections:

- 8.12.010 Short Title
- 8.12.020 City Forester--Appointment--Authority
- 8.12.030 City Forester--Powers and Duties
- 8.12.040 Duties of Private Owners--Planting of Certain Discouraged.
- 8.12.050 Trees Infected with Dutch Elm Disease--Removal--Hearing--City to do work when
- 8.12.060 Trees infected with Dutch Elm Disease--Removal from Parkway.
- 8.12.080 Abuse of Trees Prohibited--Trimming Restrictions.

* For statutory provisions on Dutch Elm Disease, see Code of Iowa Sec. 364.12 and 657.2(13). For provisions on cotton-bearing poplar trees, see Code of Iowa Sec.657.2(8).

8.12.010 Short Title. This chapter shall be known and may be cited as the "Epworth Tree Ordinance". (Ord. 357 Sec.1, 1973)

8.12.010 City Forester--Appointment--Authority.

1. The Council shall designate the Supervisor of Public Works to act as City Forester.
2. The City Forester shall have jurisdiction over all trees and other plantings on the streets within the City in order to provide orderly tree planting, to protect the health of all trees from disease, and to require trees and plantings to be maintained in a manner not dangerous to public safety. (Ord. 357 Sec.2, 1973, amended 1988 codification)

8.12.030 City Forester--Powers and Duties. The City Forester shall have the authority and it shall be their duty to prevent the indiscriminate trimming or removal of trees or plants within streets. They shall have the authority to regulate new planting of trees or other plantings in streets in accordance with street tree planting regulations approved by the Council and on file in the office of the Clerk. The City Forester shall have the authority to order private persons to comply with duties placed upon them by this chapter. The City Forester shall have supervision of all work by City employees or contractors in the trimming, preservation, planting, or removal of trees or other plantings in the streets. (Ord. 357 Sec.3, 1973)

8.12.040 Duties of Private Owners--Planting of Certain Trees Discouraged. It shall be the duty of any person growing a tree or other plantings on private property abutting on streets or public places:

1. To trim their trees or plantings so that they shall not cause a hazard to the public or block public walks or ways or interfere with proper lighting of public

streets or places. The minimum clearance of any overhanging portion shall be eight feet over walks and fourteen feet above the surface of the traveled portion of the street;

2. To not plant any tree or other planting on private property which would cause a public danger or nuisance;
3. To not plant any tree nearer than four feet to the sidewalk line or alley right-of-way line;
4. To treat in an accepted manner or remove any tree or plant so diseased or insect-ridden as to constitute a hazard to other trees and especially those dangerous to trees or plants in public streets or places;
5. To not plant any of the following species: cottonwood (unless cottonless), cotton-bearing poplar, or box-elder. (Ord. 357 Sec. 4, 1973)

8.12.050 Trees Infected with Dutch Elm Disease--Removal--Hearing--City to do work when. The owner, occupant or person in charge of any private property shall remove at their own expense any tree, brush, wood, or debris infected with Dutch elm disease found thereon when so notified by the City Forester. The City Forester shall cause to be mailed such owner, occupant or person written notice that they may appear before the City Council at an appointed time not less than fourteen days from the date of mailing to show cause why said tree, brush, wood or debris should not be declared a public nuisance. At said meeting the City Council may resolve and declare the same to be a public nuisance and may order its removal by said owner, occupant or person.

In the event said owner, occupant, or person fails to comply with the resolution and order of the City Council to so remove said public nuisance, the City Forester shall cause said public nuisance to be removed and shall submit the costs incident to said service and removal to the City Council, which shall certify the same to the County Auditor for collection with and in the same manner as general property taxes. (Ord. 357 Sec.5, 1973)

8.12.060 Trees Infected with Dutch Elm Disease--Removal from parkway. If such infected or diseased trees are located in the parkway of any private property between the street or curb line and property line, then in that event, the Council shall immediately cause such infected or diseased trees to be removed and burned at its own cost in such a manner as to prevent as fully as possible the spread of such disease.(Ord. 357 Sec.6,'73)

8.12.080 Abuse of Trees Prohibited--Trimming Restrictions. No person shall willfully damage, cut, carve, pick the seed of, or injure the bark of any tree or plant on the streets or public places of the City. Tree trimming shall be done in accordance with good practice and the regulations of the City. (Ord. 357 Sec.8, 1973)

**Chapter 8.16
Garbage and Solid Waste**

Sections:

- 8.16.000 Purpose
- 8.16.010 Definitions
- 8.16.020 County Solid Waste Management Plan Accepted
- 8.16.030 Dubuque Metropolitan Area Solid Waste Agency Services Accepted—
Official Disposal Site Designated.
- 8.16.040 Nonmember Solid Waste Service Agreement Approved.
- 8.16.042 Agreement Established--Maintenance--Revision of Rates and Charges
- 8.16.050 Collection Requirements and Charges--Authority
- 8.16.052 Recyclable Materials
- 8.16.070 Refusal of Collection Service
- 8.16.080 Placement of Containers for Collection
- 8.16.082 Container Specification
- 8.16.090 Billing--Delinquency
- 8.16.100 Failure to Pay Service Charge--Lien Against Property
- 8.16.120 Storage of Waste Animal and Vegetable Matter
- 8.16.122 Disposal of Landscape Wastes
- 8.16.130 Accumulation of Garbage Prohibited
- 8.16.140 Accumulation Near Buildings Prohibited--Exception
- 8.16.150 Dumping Permitted in Approved Areas Only
- 8.16.160 Dumping on Streets Prohibited
- 8.16.170 Littering Prohibited

* For provisions regarding Open Burning and Incinerators Chapter 8.24

* For provisions regarding Hazardous Materials see also Chapter 8.32

8.16.000 Purpose: The Purpose of this Chapter is to provide for the sanitary storage, collection, and disposal of solid wastes in order to protect the health, safety, and welfare of the citizens of this City from hazards which may result from the uncontrolled disposal of solid wastes. (Added 1988 Codification)

8.16.010 Definitions:

1. "Solid Waste" shall mean garbage, refuse, rubbish, and other similar discarded or semi-solid materials.

A. Garbage shall mean all solid and semi-solid, putrescible animal and vegetable wastes resulting from the handling, preparing, cooking, storing, serving, and consuming of food or of material intended for use as food, and all offal, excluding useful industrial byproducts, and shall include all such substances from all public and private establishments and from all residences.

B. Refuse shall mean putrescible and nonputrescible wastes, including but not limited to garbage, rubbish, ashes, incinerator ash, incinerator residues, street cleanings, market and industrial solid wastes and sewage treatment wastes in dry or semisolid forms.

C. Rubbish shall mean nonputrescible solid wastes consisting of combustible and noncombustible wastes, such as ashes, paper, cardboard, tin cans, yard clippings, wood, grass, bedding, crockery or litter of any kind.

2. "Landscape Waste" shall mean any vegetable or plant wastes except garbage. The term includes tree trimmings, branches, brush, weeds, leaves, grass, shrubbery, and yard trimmings.

3. "Toxic and Hazardous Wastes" shall mean wastes materials including, but not limited to poisons, pesticides, herbicides, acids, caustics, pathological wastes, flammable or explosive materials, similar harmful wastes, which require special handling and careful disposal to conserve the environment and protect the public and safety.

4. "Litter" shall mean any garbage, rubbish, trash, refuse, waste materials, or debris.

5. "Open Dumping" shall mean the depositing of solid wastes on the surface of the ground or into a body or stream of water.

6. "Owner" shall mean in additions to the record titleholder and person residing in, renting, leasing, occupying, operating, or transacting business in any premises, and as between such parties the duties, responsibilities, liabilities, and obligations hereinafter imposed shall be joint and several.

7. "Residential Premises" means single--family dwellings and any family dwelling that consists of separate family quarters. Each manufactured and/or mobile home situated within a court occupied as a separate family dwelling shall be considered "residential premises" regardless of the total number of units which may be included in the court. (Ord. 332, 1971, Ord 11-99, amended 1999)

8.16.020 County Solid Waste Management Plan Accepted. The Dubuque County and Communities Solid Waste Management Plan is approved and accepted as the solid waste management plan for the City. (Ord. 348, 1972)

8.16.030 Dubuque Metropolitan Area Solid Waste Agency Services Accepted--Official Disposal Site Designated. The City accepts the services of the Dubuque Metropolitan Area Solid Waste Agency at the Dubuque Sanitary Landfill, and designates that site as the official metropolitan area solid waste agency of the City. (Res. 16A-76 Sec.2, 1976)

8.16.040 Nonmember Solid Waste Service Agreement Approved. The City approves of the nonmember solid waste service agreement between the Dubuque Metropolitan Area Solid Waste Agency and the City. (Res. 16A-76.)

8.16.042 Agreement Established--Maintenance--Revision of Rates and Charges. The City will fix, establish and maintain and revise the solid waste service agreement from time to time whenever necessary, such rates or other charges for the use and services of the disposal facilities operated by the Dubuque Metropolitan Area Solid Waste Agency and charged upon entering the facilities, as more fully described in the solid waste service agreement. (Ord 17A Sec.1, 1975, reassigned section 1988)

8.16.050 Collection Requirements and Charges--Authority. The City Council shall employ or contract for the necessary operating personnel to collect garbage and refuse and to collect fees or charges and administer the program as provided for in this chapter upon the following terms and conditions:

1. Collections of residential garbage and refuse shall be made once weekly at such time as shall be set out in schedules as authorized and published by the City Council. Each household shall be limited to one container weekly. Additional charges may be collected for additional containers.
2. Collection from residential premises as defined in Section 8.16.010 shall be mandatory. Except as qualified in Section 8.16.060 a fee of \$9.60 per month shall be charged by the City and collected from each owner of a residential premises for such service. Said charge or fee shall be in payment for collection and disposal of garbage as defined in Section 8.16.010.
3. Commercial collection shall be mandatory unless contracted with a commercial hauler. Proof of contract must be filed with City Clerk. The rate for commercial service shall be based on volume and service. The commercial rate may be adjusted by City Council based upon the amount of solid waste handled by the City.
4. Residential fees shall increase annually .10 cents per month, and commercial service fees shall increase 1% annually with each April-June billing cycle. (Ord. 6-16, Ord. 17-2021)

8.16.052 Recyclable Materials-- The City shall contract to provide service for the collection of recyclable materials to all residential premises. Fees for this service shall be included in the fee set for refuse collection. (Added 1994 codification)

8.16.070 Refusal of Collection Service. The City reserves the right to refuse garbage and refuse collection service because of quantities or characteristics beyond the capacity or capability to be handled efficiently. (Ord. 332, Sec.2, 1971, amended 1994)

8.16.080 Placement of Containers for Collection. Where collections are made from the street, garbage and refuse containers shall be placed in the street on the property side of the curb on the day designated in the schedule. However, such containers shall be placed so as not to interfere with vehicular and pedestrian traffic and when emptied shall be promptly removed by the occupants of the premises. (Ord. 332 Sec.2, 1971)

8.16.082 Container Specification. Residential waste containers shall be made of galvanized metal, rubber, fiberglass, or of plastic, which does not become brittle in cold weather. Disposable bag containers or those approved by the City may be used. They shall have a capacity of not more than thirty-three (33) gallons. They shall be of lightweight and sturdy construction, with the total weight of any individual container, fully loaded, not to exceed forty (40) pounds. They shall be of the type manufactured for storage or residential wastes with tapered sides for emptying and suitable lifting devices such as handles. They shall be water proof and leakproof. They shall be fitted with a fly-tight lid, which shall remain in place except for the deposit or removal of wastes. Recyclable materials may be in plastic containers, bins, boxes, or clear bags.

Every person owning, managing, operating, leasing, or renting any commercial premise where excessive amounts of refuse accumulates and where its storage in portable containers as required above is impractical, shall maintain metal bulk storage containers approved by the City. (Ord. 8-13)

8.16.090 Billing-Delinquency. The City Clerk shall bill for collection service from a list developed from the water and sewer departments customer's list. The City Clerk shall include such charges for the collection of garbage and refuse in the billing statement of municipal water and sewer rent to customers. All accounts shall be considered delinquent if not paid by due date of billing notice with the same penalties and requirements as with the collection of water and sewer charges. (Ord. 13-13)

8.16.100 Failure to Pay Service Charge--Lien Against Property. The collection of garbage and refuse as provided in this chapter from residential or commercial premises, and maintenance of the availability of such service, whether or not such service is used regularly or not at all by the owner of such residential or commercial premises, is declared a benefit to the said premises at least equal to the charges specified in this chapter and in case of failure to pay the charge shall become a lien against the property benefited or served and shall be collected in the same manner as general property taxes. (Ord. 13-13)

8.16.120 Storage of Waste Animal and Vegetable Matter. Within the corporate limits of the City all garbage or refuse, consisting of waste animal and vegetable matter, which may attract flies, dogs, or rodents, shall be drained of all excess liquid, wrapped in paper or disposable containers, and placed or stored, until collected, in covered suitable

containers as described in Section 8.16.082. (Ord. 332 Sec.6, 1971, amended reference section 1988)

8.16.122 Disposal of Landscape Wastes. All yard wastes shall be bagged so as to prevent dispersal of wastes placed therein or tied in bundles not larger than forty-eight (48) inches long and eighteen (18) inches in diameter when not placed in storage containers. The weight of any individual bundle or container shall not exceed fifty (50) pounds. The City shall provide for the collection of yardwaste and establish yardwaste removal fees. (Added 1988, amended 1994, amended Ord 11-99)

8.16.130 Accumulation of Garbage Prohibited. It is unlawful for any person to permit to accumulate on any premises, improved or vacant, or on any public place in the City, such quantities of garbage, either in containers or not, that shall in the opinion of the health officer, constitute a health or sanitation hazard. (Ord. 332 Sec.7, 1971)

8.16.140 Accumulation Near Buildings Prohibited--Exception. It is unlawful for any person to accumulate quantities of refuse, papers, trash, ashes, or other waste materials within or close to any building in the City, unless the same is stored in containers in such manner as not to create a health or fire hazard. (Ord. 332 Sec.8, 1971)

8.16.150 Dumping Permitted in Approved Areas Only. No person, firm, or corporation shall haul or cause to be hauled any garbage, refuse, or other waste material of any kind, to any dumping place, or site or area, within the corporate limits of the City or within any distance of the corporate limits of the City over which the City has legal jurisdiction, unless such place, site, or area is first approved by the City Council. No person shall dump or deposit, or permit the dumping or depositing of toxic or hazardous wastes except in accordance with the Code of Iowa. (Ord. 332 Sec.9, 1971, amended 1988 codification)

8.16.160 Dumping on Streets Prohibited. No person, firm, or corporation shall throw, rake, deposit, dump, drop, or spill litter, waste animal or foreign material upon streets, sidewalks, right-of-way of any public or private property within the City. (Ord. 332 1971, amended 1988)

8.16.170 Littering Prohibited. No person shall discard any litter on or in any water or land, except when and where authorized. When litter is discarded from a motor vehicle, the driver of the motor vehicle shall be responsible for the act in any case where doubt exists as to which occupant of the motor vehicle actually discarded the litter. (Added 1988 Codification)

Chapter 8.20
Abandoned Motor Vehicles
Junk Motor Vehicles and Junk Machinery

Sections:

- 8.20.010 Definitions.
- 8.20.020 Purpose.
- 8.20.030 Impoundment--Removal--Storage Locations.
- 8.20.040 Impoundment--Notice--Time Limit for Claim--Extension
- 8.20.050 Impoundment--Fees Designated--Establishment by Council Required.
- 8.20.051 Hearing Procedures--Abandoned Vehicles
- 8.20.060 Sale of Operable Vehicles--Disposition of Proceeds--Reimbursement from State.
- 8.20.070 Sale of Inoperable Vehicles--Notice not Required.
- 8.20.080 Certificate to Demolish--Application--Contents-- Cancellation.
- 8.20.090 Storage on Property--Declared Nuisance.
- 8.20.100 Storage on Property--Abatement Notice--Contents.
- 8.20.101 Hearing Procedures--Junk Vehicles and Junk Machinery.
- 8.20.110 Repair or Movement Required When--Owner Responsibility.
- 8.20.120 Abatement by City when--Costs.
- 8.20.130 Exceptions.

For statutory provisions on abandoned motor vehicles see Code of Iowa Sec. 321.89 et seq.
For provisions on nuisances see Code Sec. 657.1.

8.20.010 Definitions. For use in this chapter, the following terms are defined:

1. "Abandoned vehicle" means any of the following:
 - A. A motor vehicle that has been left unattended on public property (streets and public grounds) for more than twenty-four hours or lacks current registration plates or two or more wheels or other structural parts which renders the vehicle totally inoperable; or
 - B. A motor vehicle that has remained illegally on public property for more than twenty-four hours; or
 - C. A motor vehicle that has been unlawfully parked on private property or has been placed on private property without the consent of the owner or person in control of the property for more than twenty-four hours; or
 - D. A motor vehicle that has been legally impounded by order of the police officer and has not been reclaimed for a period of ten days.

A vehicle shall not be considered abandoned for a period of five days if its owner or operator is unable to move the vehicle and notifies the police department of the City and requests assistance in the removal of the vehicle.

2. "Junk motor vehicle" means any vehicle stored within the city with any one of the following characteristics:
 - A. unlicensed
 - B. broken or cracked windshield, window, headlight or taillight, or any other cracked or broken glass;
 - C. broken or loose fender, door, or bumper or hood or door handle or window handle or steering wheel, trunk top, or trunk handle or tailpipe.
 - D. has become the habitat of rats, mice, or snakes, or any other vermin or insects;
 - E. contains gasoline or any other flammable fuel;
 - F. lacks an engine or two or more wheels or other structural parts which render said motor vehicle totally inoperable;
 - G. Any other vehicle which, because of its defective or obsolete condition, in any other way constitutes a threat to the public health and safety. (amended 1999 codification)

3. "Junk Machinery" means any parts of a motor vehicle or machinery not stored in an enclosed structural building and placed on private or public property, which is declared a nuisance and constitutes a threat to the public health and safety. (Ord 370, Sec. 2, 1974, amended 1988 codification)

8.20.020 Purpose. The purpose of this chapter is to protect the health safety and welfare of the citizens and safety of property of this City by providing for removal of abandoned motor vehicles and the elimination of the open storage of abandoned and junk motor vehicles and machinery except in authorized places. (Ord 370 Sec.3, 1974)

8.20.030 Impoundment--Removal--Storage Locations. The City Police may remove and impound any abandoned motor vehicle whether in operable or totally inoperable condition as defined by section 8.20.010. Impoundment shall be in any city-owned garage or area, or in any privately-owned public garage or area designated by the City Council. The police officer may hire other personnel, equipment, and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles or junk machinery (Ord. 370-1974, amended 1988 codification)

8.20.040 Impoundment--Notice--Time Limit for Claim--Extension.

1. The City Police shall notify by certified mail within three days of having taken possession of the abandoned operable motor vehicle the last known registered owner of the motor vehicle, and all lienholder of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to their last known address or record that the abandoned motor vehicle has been taken into custody. Notice shall be deemed given when mailed. Notice shall describe the year, make,

model and serial number of the motor vehicle, describe the personal property found in the vehicle, set forth the location of the facility where it is being held, inform the owner and any lienholder of their right to reclaim the motor vehicle and personal property within twenty-one days after the effective date of the notice upon payment of all towing, notice, preservation and storage charges resulting from placing the vehicle in custody. The notice shall also state that the failure of the owner or lienholder to exercise their right to reclaim the motor vehicle within the time provided shall be deemed a waiver by the owner and all lienholder of all right, title, claim and interest in the motor vehicle and that such failure to reclaim is deemed consent to the sale of the motor vehicle at a public auction or disposal of the motor vehicle to a demolisher. If the owner and lienholder do not exercise their right, they shall have no further right, title claim, or interest in or to such motor vehicle, as provided by law. The notice shall also state that any person claiming rightful possession of the vehicle or personal property by the police or the assessment of fees and charges provided by this chapter may request a hearing to contest these matters in accordance with the provisions of Section 8.20.051. The notice shall state a hearing request must be in writing and received by the police prior to the expiration of the twenty-one day reclaiming period and that in the event a hearing is requested, immediate release of the vehicle can be obtained by posting a cash bond as required by Section 8.20.050.

2. If the identity of the last registered owner of an abandoned but operable vehicle cannot be determined, or if the registration contains no address for the owner, or if it is impossible to determine with reasonable certainty the identity and addresses of all lienholder, notice by one publication in one newspaper of general circulation in the City shall be made by the City Police and multiple listings may be included in said notice if they are subject to the same time limits, and the same information as prescribed for mailed notice shall be included.

3. The owner of any lienholder may, by written request delivered to the police officer prior to the expiration of the twenty-one day reclaiming period, obtain an additional fourteen days within which the motor vehicle may be reclaimed.

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

(Amended 1999, 1988, 1977 codification; Ord. 370 Sec.4, 1974)

8.20.050 Impoundment-Fees Designated--Establishment by Council Required. The owner of lienholder shall present to the police evidence of identity and the right to possession of the vehicle, and shall pay ten dollars if claimed within five days of impounding, plus one dollar for each additional day within the reclaiming period plus towing charges if stored by the City, or upon payments of the towing and storage fees, if stored in a public garage, as well as notification fees, whereupon said vehicle shall be released. The amount of towing charges, and the rate of storage charges by privately owned garages shall be established, by resolution

of Council, before the provisions of this chapter are carried out by the police. If a hearing is requested the owner or person lawfully entitled to possession of the vehicle shall be permitted to secure the immediate release of the vehicle upon posting a cash bond in an amount equal to the aforementioned fees and the amounts of any outstanding or unsettled traffic violation notice or warrant. (Ord. 370, Sec.5, 974, amended 1988 codification)

8.20.051 Hearing Procedures.

1. The registered owner, lienholder of record, or duly authorized agents thereof, may object to the legality of the impoundment or the assessment of fees and request a hearing thereon. Request for a hearing after an impoundment shall be made in writing and received by the police prior to the expiration of the twenty-one day reclaiming period. No person shall be entitled to more than one hearing on each impoundment. The objector shall be informed of the reason for the impoundment and a hearing shall be held, without unnecessary delay, before a hearing officer who shall be the MAYOR. Upon request of the objector, the hearing may be set for a later time and date.

2. At the hearing, the hearing officer shall consider the objection, make a decision as to the legality of the impoundment and immediately notify the objector in writing of the decision. The decision shall state either of the following:

- A. That impoundment is authorized by law, an explanation of the charges assessed pursuant to Section 8.20.050 shall be applied to the satisfaction of the charges itemized by the hearing officer.
- B. That impoundment is not authorized by the law, and if the vehicle has been impounded, that the vehicle will be released to the objector and that all costs of removal, preservation, storage and notification accruing through the fourth day after the hearing officer's decision are waived and will be paid by the City. All cost accruing thereafter shall be paid prior to the recovery of the vehicle. Any bond posted shall be refunded, less any amounts for outstanding or unsettled traffic violations.
- C. The decision of the hearing officer shall be final.
- D. Failure of the objector to appear at the scheduled hearing shall constitute a waiver of the right to hearing and the bond shall be forfeited.
- E. The only issue to be considered at the hearing shall be the validity of the determination that the vehicle is an abandoned vehicle. the hearing will not be a determinative of or adjudicate any outstanding or unsettled traffic violation notice or warrant. (added 1988 codification)

8.20.060 Sale of Operable Vehicles--Disposition of Proceeds--Reimbursement from State. The police shall follow the procedures in State law for the auction or disposal of abandoned vehicles. Proceeds from any sales shall apply to the cost of towing, preserving, storing, and notification required, in accordance with State law. Where the sale of any vehicle fails to realize the amount necessary to meet costs the police shall apply for

reimbursement from the State as provided by law. (Ord. 370 Sec.6, 1974 Amended 1988 codification)

8.20.070 Sale of Inoperable Vehicles--Notice not Required. Any totally inoperable abandoned vehicle as defined in Section 8.20.010 or any such inoperable vehicle left on private property shall be disposed of by the City Police to a demolisher unless he or she deems it practicable to sell as provided in Section 8.20.060. A sale to a demolisher shall not require the notification procedures or public auction, but the police shall endeavor to obtain as much compensation as possible to defray any costs to the City. A person, firm, corporation, or the City, or other unit of government upon whose property or in whose possession is found any abandoned motor vehicle whose title certificate is faulty, lost or destroyed may, without notification procedures, dispose of such motor vehicle if it lacks an engine, or two or more wheels, or other structural part which renders the vehicle totally inoperable, to a demolisher for junk without the title. (Ord. 370 Sec.7, 1974)

8.20.080 Certificate to Demolish--Application--Contents--Cancellation. Any demolisher who purchases or otherwise acquires an abandoned motor vehicle for junk shall junk, scrap, wreck, dismantle or otherwise demolish such a motor vehicle. When a demolisher acquires a motor vehicle under Section 8.20.060 or 8.20.070, the demolisher shall apply to the city police for a certificate to demolish the vehicle. The application shall include the name and address of the applicant, the year, make, model and serial number of the motor vehicle. After the motor vehicle has been demolished, processed or changed so that it physically is no longer a motor vehicle, the demolisher shall surrender the auction sales receipt or certificate of authority to dispose of or demolish a motor vehicle to the State Department of Public Safety for cancellation. (Ord. 370 Sec.8, 1974)

8.20.090 Storage on Property --Declared a Nuisance. It is declared that parking, leaving, or storage of a junk vehicle or junk machinery upon either public or private property within the corporate limits of the City constitutes a threat to the health and safety of the citizens and is a nuisance within the meaning of Section 657.1 of the Code of Iowa. If any junk vehicle or machinery is stored in violation thereof, the owner of the property shall be prima facie liable for said violation. (Ord. 370 Sec.9, 1974, amended 1988 codification)

8.20.100 Storage on Property--Abatement Notice--Contents. Upon discovery of any junk motor vehicle or junk machinery stored upon property within the corporate limits of the City in violation of Section 8.20.090, the police shall within ten days notify by certified mail the registered owner of said motor vehicle, all lienholder of record, and the owner and occupant of the property that:

1. The motor vehicle or machinery constitutes a nuisance under the provisions of this chapter;
2. Describe, to the extent possible, the year, make, model, color, and location of the vehicle.

3. That the owner must remove or repair the motor vehicle or machinery within twenty-one days in accordance with the terms of Section 8.20.100;
4. State that any person ordered to abate a nuisance or condition may request, in writing, within the twenty-one day limit, a hearing to determine whether a nuisance or prohibited condition exists;
5. State that if the nuisance or condition is not abated as directed or if no request for a hearing is made within twenty-one days, the City will abate the nuisance and assess the costs against the property owner. Notice shall be deemed given when mailed. (Ord. 370 Sec.10, 1974, amended 1988 codification)

8.20.101 Hearing Procedures--Junk Vehicle and Junk Machinery.

1. Any person ordered to abate a nuisance or condition may request a hearing before the City Council, or an official designated by the Council, to determine whether a nuisance or a prohibited condition exists.
2. A request for a hearing shall be made in writing and filed with the City Clerk within the twenty-one day limit or
 - A. The right to a hearing shall be considered waived;
 - B. It will be conclusively presumed that the nuisance or prohibited condition exists and it must be abated as ordered.
3. The Council shall within fifteen days after the filing of the request for a hearing, fix the time and place of the hearing, which shall be within thirty days of the request.
4. At the conclusion of the hearing, the City Council, or its designee, shall render a written decision as to whether a nuisance exists. If a nuisance is found to exist, it shall be ordered abated within a reasonable time.
5. The decision shall be final. (added 1988 codification)

8.20.110 Repair or Movement Required when--Owner Responsibility. The owner of the property upon which a junk motor vehicle or junk machinery is stored in violation of the provisions of Section 8.20.090 shall within twenty-one days after receipt of notice to abate from the police remove the motor vehicle or machinery to an auto salvage yard or junkyard duly licensed by this City, or to a lawful place of storage without the City limits, or repair the defects which cause such motor vehicle or machinery to violate the provisions of this chapter, including licensing of a motor vehicle not currently licensed. If a hearing is requested under Section 8.20.101, the duty of the owner to remove or repair the junk vehicle shall be suspended pending the decision. (Ord. 370 Sec.11, 1974, amended 1988 codification)

8.20.120 Abatement by City when--Costs. If the person notified to abate a nuisance or condition neglects or fails to abate as directed, the City may perform the required action to abate, keeping an accurate account of the expense incurred. The Clerk shall mail a statement of the total expense incurred to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one month, the

Clerk shall certify the costs to the county auditor and the cost shall then be collected with, and in the same manner, as general property taxes. (Ord. 370 Sec.12, 1974, amended 1988 codification)

8.20.130 Exceptions. The provisions of this chapter shall not apply to a junk vehicle or junk machinery stored within the following:

1. A garage or similar complete enclosed structure; or garage-like structure.
2. An auto salvage yard or junkyard duly licensed by the City. (Ord 370 Sec.13, 1974, amended during 1988 codification)

Chapter 8.24
Burning Restrictions *

Sections:

- 8.24.010 Definitions.
- 8.24.020 Fires on Pavement Prohibited.
- 8.24.040 Open Burning Restricted.

* For statutory provisions on setting out fires, see Code of Iowa Sec.707.7.

8.24.010 Definitions.

1. "Backyard burning" means the burning of rubbish originating on the premises by individuals domiciled on the premises.
2. "Chimney or stack" means any flue, conduit, or duct permitting the discharge of passage of air contaminants into the open air, or constructed or arranged for this purpose.
3. "Garbage" means all solid and semisolid putrescible and nonputrescible animal and vegetable wastes resulting from the handling, preparing, cooking, storing, and serving of food or of materials intended for use as food, but excluding recognized industrial byproducts.
4. "Open burning" means any burning of combustible materials wherein the products of combustion are emitted into the open air without passing through a chimney or stack.
5. "Refuse" means garbage, rubbish, and all other putrescible and nonputrescible wastes, except sewage and water-carried trade wastes.
6. "Rubbish" means all waste materials of nonputrescible nature.
7. "Salvage operations" means any business, industry, or trade engaged wholly or in part in salvaging or reclaiming any product or material, including, but not limited to, chemicals, drums, metals, motor vehicles, or shipping containers.
8. "Trade waste" means all solid or liquid material or rubbish resulting from building operations, construction, or the conduct of any business, industry, or trade, including, but not limited to, chemicals, cinders, grease, paint, plastic products, and other forms of liquid or solid waste materials. (Ord. 320 Sec.1, 1970)

8.24.020 Fires on Pavement Prohibited. If any person, firm or corporation, builds or causes to be built any fire or burns or causes to be burned any rubbish of any kind or nature upon any street within the corporate limits of the City which is paved with asphalt, such person, firm or corporation is guilty of a misdemeanor. (Ord. 267 Sec.1, 1967)

8.24.040 Open Burning Restricted. No person shall allow, cause, or permit open burning of combustible materials where the products of combustion are emitted into the open air without passing through a chimney or stack, except that open burning is permitted in the following circumstances:

1. Recreational Fires. Open fires for cooking, heating, recreation and ceremonies, provided they comply with the limits for emission of visible air contaminants established by the State Department of Natural Resources. Such fires shall not be used for refuse or waste disposal or tires. Recreational fires shall comply with the following requirements:
 - A. No recreational fire shall be in an area larger than 4 feet by 4 feet.
 - B. All recreational fires shall be surrounded on the outside, above ground, by a non-combustible material such as, but not limited to, concrete block or rock.
 - C. All recreational fires shall be attended at all times.
 - D. Such recreational fires shall use only seasoned firewood or clean untreated lumber and shall not extend outside the fire ring. All recreational fires shall be either extinguished completely or covered to achieve extinguishment when not attended. Flames of the recreational fire shall not exceed 4 feet in height.
 - E. Penalty
 - (1) First violation – Warning
 - (2) Second Violation within a 12 month period - \$50.00
 - (3) Third Violation within a 12 month period - \$100.00
2. Yardwaste. The open burning of yard waste originating on the premises during daylight hours from April 1 to May 15 and October 1 to November 15. Burn site must be attended and reported to the County non-emergency dispatch 583-1711.
3. Trees and tree trimmings. The open burning of trees and tree trimmings at a city operated burning site, provided such burning is conducted in compliance with the rules established by the State Department of Natural Resources.
4. Disaster Rubbish. The open burning of rubbish produced during community disasters in cases where an officially declared emergency condition exists;

5. Training Fires. Fires set for the purpose of bona fide instruction and training of public or industrial employees in the methods of fighting fires;
6. Clearing of Grubbing Rubbish. The open burning of combustible materials produced in clearing, grubbing, and construction operations, provided that such burning shall be limited to areas located at least one-fourth mile from any inhabited building with prior authorization from the City Council. (Ord 320 1970, Ord 339 1972, Ord 2-07, Ord. 13-08, Ord 11-2010)

Chapter 8.26 Outdoor Furnaces

Sections:

8.26.010 Purpose

8.26.020 Definitions

8.26.030 Enforcement

8.26.010 Purpose. The Council finds that odors and emissions resulting from the use of outdoor furnaces can be detrimental to public health and deprive neighboring residents of the enjoyment of their property. The purpose of this chapter is to ban the installation, construction and operation of outdoor furnaces within the City in order to secure and promote public health, comfort, convenience, safety, and welfare.

8.26.020 Definitions. “Outdoor furnace” means any equipment, device or apparatus which is installed, affixed or situated outdoors or within another structure for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat or hot water to any other structure.

8.26.030 Enforcement. Any person who violates, disobeys, neglects, or fails to comply with, or who resists the enforcement of any of the provisions of this chapter shall be guilty of a simple misdemeanor and a municipal infraction.

(Ord 22-08)

Chapter 8.28
Fireworks *

For statutory provisions relating to the possession, sale, transfer, and purchase of fireworks, see Code of Iowa 727.2

Use of Fireworks within Epworth City limits:

- a. Fireworks that are classified as Novelties, such as handheld sparklers, snakes, smoke bombs and party snappers are allowed on private property with the consent of the owner. All other fireworks are prohibited within city limits.
 - b. The City Council may grant a permit for the display of display fireworks when the display fireworks will be handled by a competent operator.
- (Ordinance #20-17, #19-18, replaced Ord. 18-2023))

Chapter 8.32 Hazardous Substances

Sections:

- 8.32.010 Purpose
- 8.32.020 Definitions
- 8.32.030 Cleanup Required
- 8.32.040 Notifications
- 8.32.050 Police Authority
- 8.32.060 City Liability

8.32.010 Purpose. In order to reduce the danger to public health, safety, and welfare from hazardous conditions and/or substances, these regulations are promulgated to establish responsibility for the containment, removal and cleanup of spills, leakage, or release of a hazardous substance which creates an immediate or potential danger to the public health or safety with the City limits.

8.32.020 Definitions. For the purpose of this Chapter these words have the following meanings:

1. "Hazardous waste" means those wastes which are included by definition in Section 455B.411 2(a) Code of Iowa.
2. "Hazardous substance" means any substance as defined in Section 455B.381, Subsection 1, Code of Iowa.
3. "Hazardous condition" means any situation as defined in Section 455B.381, Subsection 2, Code of Iowa.
4. "Responsible person" means the party, whether the owner, agent, lessor, or tenant, in charge of the hazardous substance or hazardous wastes being stored, processed, or handled, or the owner or bailee transporting hazardous wastes or substances whether on public ways or grounds or on private property where the spillage, leakage, or release of a hazardous substance would cause an immediate or potential danger to the public or to any person or to the environment.
5. "Containment" means to restrict the spread or flow of the hazardous substance.
6. "Cleanup" means the removal of the hazardous wastes or substances to a place where such substances would not cause any danger to persons or the environment, in accordance with state rules thereof of the treatment of the material as defined herein to eliminate the hazardous condition, including the restoration of the area to a general good appearance without noticeable odor as far as practicable.
7. "Treatment" means a method , technique or process, including but not limited to neutralization which is designed to change the physical, chemical, or biological character, or composition of a hazardous substance so as to neutralize or render it non-hazardous, safer for transport, amenable for recovery, amenable for storage or a reduction in volume. Treatment includes any activity or processing which is designed

to change the physical form or chemical composition of a hazardous waste or substance so as to render it non-hazardous.

8. "Authorized person" means the Fire Chief of the Fire Department, of the Epworth Fire Department, or his duly appointed designee.

8.32.030 Cleanup Required.

1. Whenever a hazardous condition is created by the deposit, injection, dumping, spilling, leaking, or placing of a hazardous waste or substance, so that the hazardous substance or waste or a constituent of the hazardous waste or substance has entered the environment or has been emitted into the air or discharged into any waters, including ground waters, the responsible person shall cause the condition to be remedied by containment and cleanup, as defined in the preceding section, as rapidly as is feasible to an acceptable and safe condition. The costs of the containment and cleanup shall be borne by the responsible person.

2. In the event the responsible person cannot be located within a reasonable period of time, or if the responsible person does not cause the containment and cleanup to begin within a reasonable period of time in relation to the hazard and circumstances of the incident, the City may, by the authorized person, give reasonable notice, based on the character of the hazardous condition, which shall set a deadline for accomplishing the containment and cleanup or that the City will proceed to procure containment and cleanup services. Said notice shall set forth a reasonable estimate of the costs of containment and cleanup and the responsible person shall be billed for all costs associated with the containment and cleanup, including but not limited to equipment rendered unserviceable, personnel costs, including overtime, disposal costs, and any other costs associated therewith.

3. If the bill for these services is not paid within thirty (30) days, the City of Epworth may proceed after service of notice, wither by certified mail or one publication in the local newspaper and hearing before the City Council, to obtain payment by all legal means.

4. If the cost of the containment and cleanup is beyond the capacity of the City to finance it, the authorized person shall proceed pursuant to Section 455B.387, Subsection 2, Code of Iowa, and immediately seek any state or federal funds available for said containment and cleanup.

8.32.040 Notifications. The first City officer or employee who arrives at the scene of the incident involving hazardous substances, shall notify the Fire Department who then shall notify the proper state office in the manner established by state law. The Fire Department shall notify the City of Epworth Office of Disaster Services.

8.32.050 Police Authority. If the circumstances so require, the police officer of the Epworth Police Department or his representative, and the Epworth Fire Department, may

execute the following under the direction of the Fire Chief and/or the City of Epworth Office of Disaster Services.

1. Evacuate persons from the site of the hazardous condition, and
2. Establish perimeters, or other boundaries at or near the site of the hazardous condition. Said perimeters or boundaries shall be erected for the purpose of barring all persons except those who are responsible for the containment and cleanup of the hazardous condition.

No person shall disobey an order of the Chief of Fire, the police officer, or the City of Epworth Office of Disaster Services, or any other peace officer issued under this section.

8.32.060 City Liability. The City of Epworth shall not be liable for any losses claimed by any person, firm, or corporation which are alleged to have occurred due to any hazardous condition.

(All Ord. 10-86, 1986)