

STREETS AND SIDEWALKS

CHAPTER 135 - STREET USE AND MAINTENANCE

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135.01 DEFINITIONS.

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

1. “Parking” means that part of the street, avenue or highway in the City not covered by sidewalk and lying between the lot line and the curb line; or, on unpaved streets or streets having no curb, that part of the street, avenue or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.
2. “Property owner” means a person owning private property in the City as shown on the County Auditor’s plats of the City.
3. “Public property” means any and all property located within the confines of the City and owned by the City or held in the name of the City by any of the departments, commissions or agencies within the City government.

135.02 REMOVAL OF WARNING DEVICES.

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

(Code of Iowa, Sec. 716.1)

135.03 OBSTRUCTING OR DEFACING.

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

(Code of Iowa, Sec. 716.1)

135.04 PLACING DEBRIS ON.

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

(Code of Iowa, Sec. 321.369)

135.05 PLAYING IN.

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

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

135.06 TRAVELING ON BARRICADED STREET OR ALLEY.

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

135.07 USE FOR BUSINESS PURPOSES.

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

135.08 WASHING VEHICLES.

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

135.09 BURNING PROHIBITED.

No person shall burn any trash, leaves, rubbish or other combustible material in any curb and gutter or on any paved or surfaced street, alley or recreational trail.

135.10 EXCAVATIONS.

No person shall dig, excavate or in any manner disturb any street, parking, alley or recreational trail except in accordance with the following:

1. Permit Required. No excavation shall be commenced without first obtaining a permit therefor. A written application for such permit shall be filed with the City and shall contain the following:
 - A. An exact description of the property, by lot and street number, in front of or along which it is desired to excavate;
 - B. A statement of the purpose, for whom and by whom the excavation is to be made;
 - C. The person responsible for the refilling of said excavation and restoration of the street, alley or recreational trail surface; and
 - D. Date of commencement of the work and estimated completion date.
2. Public Convenience. Streets, alleys and recreational trails shall be opened in the manner which will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.
3. Barricades, Fencing and Lighting. Adequate barricades, fencing and warning lights meeting standards specified by the City shall be so placed as to protect the public from hazard. Any costs incurred by the City in providing or maintaining adequate barricades, fencing or warning lights shall be paid to the City by the permit holder/property owner.
4. Bond Required. The applicant shall post with the City a penal bond in the minimum sum of one thousand dollars (\$1,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee's payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of administration of this section. In lieu of a surety bond, a cash deposit of one thousand dollars (\$1,000.00) may be filed with the City.
5. Insurance Required. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:
 - A. Bodily Injury - \$50,000.00 per person; \$100,000.00 per accident.
 - B. Property Damage - \$50,000.00 per accident.
6. Restoration of Public Property. Streets, sidewalks, alleys, recreational trails and other public property disturbed in the course of the work shall be restored to the condition of the property prior to the commencement of the work, or in a manner satisfactory to the City, at the expense of the permit holder/property owner.
7. Inspection. All work shall be subject to inspection by the City. Backfill shall not be deemed completed, nor resurfacing of any improved street, alley or recreational trail surface begun, until such backfill is inspected and approved by the City. The permit holder/property owner shall provide the City with notice at least twenty-four (24) hours prior to the time when inspection of backfill is desired.
8. Completion by the City. Should any excavation in any street, alley or recreational trail be discontinued or left open and unfinished for a period of twenty-four (24) hours after the approved

completion date, or in the event the work is improperly done, the City has the right to finish or correct the excavation work and charge any expenses therefor to the permit holder/property owner.

9. Responsibility for Costs. All costs and expenses incident to the excavation shall be borne by the permit holder and/or property owner. The permit holder and owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such excavation.
10. Notification. At least forty-eight (48) hours prior to the commencement of the excavation, excluding Saturdays, Sundays and legal holidays, the person performing the excavation shall contact the Statewide Notification Center and provide the center with the information required under Section 480.4 of the Code of Iowa.
11. Permit Fee. A permit fee of one hundred dollars (\$100.00) shall be payable at the time of filing the application with the City. A separate permit shall be required for each excavation.
12. Permit Issued. Upon approval of the application, filing of bond and insurance certificate, and payment of any required fees, a permit shall be issued.
13. Permit Exemption. Utility companies are exempt from the permit application requirement of this section. They shall, however, comply with all other pertinent provisions.

135.11 MAINTENANCE OF PARKING OR TERRACE.

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

The owner or agent of the abutting property shall keep the trees on or overhanging the street trimmed so that all branches will be at least thirteen (13) feet above the surface of the street and nine (9) feet above the sidewalks or parking area.

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

135.12 FAILURE TO MAINTAIN PARKING OR TERRACE.

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

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

135.13 DUMPING OF SNOW.

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

accumulations shall be made prior to moving the snow.

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

135.14 DRIVEWAY CULVERTS.

The property owner shall, at the owner's expense, install any culvert deemed necessary under any driveway or any other access to the owner's property, and before installing a culvert, permission must first be obtained from the City. In the event repairs are needed at any time with respect to culverts, it shall be the responsibility of the property owner to make such repairs, and, in the event the owner fails to do so, the City shall have the right to make the repairs. If the property owner fails to reimburse the City for the cost of said repairs, the cost shall be certified to the County Treasurer and specially assessed against the property as by law provided.

(Ch. 135 - Ord. 131 - Aug. 09 Supp.)

135.15 PRIVATE STRUCTURES IN PUBLIC RIGHT-OF-WAY. Private structures placed in public right-of-way, including, without limitation, mailboxes, landscaping features, trees, bushes, and irrigation system components, are subject to damage or destruction during snow removal, street maintenance, and street or water main construction or reconstruction activities. Placement of private structures in the public right of way may also create a safety hazard.

The city shall have no liability to the owner of private property in the event of damage or destruction of the adjoining property owner's private property which has been placed in the public right-of-way. The adjoining property owner assumes all risk of loss or damage resulting from the placement of private improvements in the public right-of-way.

By placing private structures in the public right of way, the adjoining property owner agrees to indemnify the City of Wahpeton, and its agents and employees as to all costs, expenses, damages and claims that may arise from the placement of the private structures in the public right of way.”

(Ord. 178 – March 2020 Supp.)