

CHAPTER 150

BUILDING NUMBERING

150.01 Definitions

150.02 Owner Requirements

150.03 Building Numbering Plan

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

1. “Owner” means the owner of the principal building.
2. “Principal building” means the main building on any lot or subdivision thereof.

150.02 OWNER REQUIREMENTS. Every owner shall comply with the following numbering requirements:

1. Obtain Building Number. The owner shall obtain the assigned number to the principal building from the Clerk.
(Code of Iowa, Sec. 364.12[3d])
2. Display Building Number. The owner shall place or cause to be installed and maintained on the principal building the assigned number in a conspicuous place to the street in figures not less than two and one-half (2½) inches in height and of a contrasting color with their background.
(Code of Iowa, Sec. 364.12[3d])
3. Failure to Comply. If an owner refuses to number a building as herein provided, or fails to do so for a period of thirty (30) days after being notified in writing by the City to do so, the City may proceed to place the assigned number on the principal building and assess the costs against the property for collection in the same manner as a property tax.
(Code of Iowa, Sec. 364.12[3h])

150.03 BUILDING NUMBERING PLAN. Building numbers shall be assigned in accordance with the building numbering plan on file in the office of the Clerk.

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CHAPTER 151

TREES AND VEGETATION

151.01 Definitions	151.12 Obstruction of Enforcement
151.02 Planting Restrictions	151.13 Permit to Plant in Streets
151.03 Vision Clearance at Street Intersections	151.14 Assessment for Planting or Care of Trees
151.04 Assessment	151.15 Planting New Trees; Assessment
151.05 Unauthorized Interference with Trees or Shrubs	151.16 Schedule of Assessments
151.06 Hitching or Anchoring Articles to Trees	151.17 Filing Assessment Schedule for Public Inspection
151.07 Permission for Permanent Anchorage	151.18 Objections to Assessment Schedule
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151.09 Permit to Remove Trees for Construction Purposes	151.20 Certifying Assessment Schedule for Collection
151.10 Protection During Excavation or Construction	151.21 Dead and Diseased Trees
151.11 Tree Trim Specifications	

151.01 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, 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. “Superintendent” means the Superintendent of Public Works or such other person as may be designated by the Council.
3. “Tree” means any woody perennial plant having a single, elongate main stem with few or no branches on its lower part and shrubs of arborescent form but does not include any shrub that is less than fifteen (15) feet in height.

151.02 PLANTING RESTRICTIONS. No tree shall be planted in any street or parking unless a permit is issued pursuant to Section 151.13 of this chapter.

151.03 VISION CLEARANCE AT STREET INTERSECTIONS. On a corner lot where setback or side yard exists, no fence, wall, shrubbery, ground, sign, billboard, marquee, or other obstruction to vision between a height of 2 feet and 10 feet above the centerline grade of intersecting streets shall be erected, placed, planted, allowed to grow, or maintained within the triangular yard space formed by the intersecting street lines and a line joining points on such street lines 25 feet from the point of intersection of the streets. Public utility poles and existing trees trimmed from the ground level to a height of 10 feet shall not be considered obstructions to vision.

151.04 ASSESSMENT. If the abutting property owner fails to trim the trees as required in this chapter, the City may serve notice on such property owner requiring said property owner to do so within five (5) days. If said owner fails to trim the trees within that time, the City may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

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

151.05 UNAUTHORIZED INTERFERENCE WITH TREES OR SHRUBS. No person shall remove, prune, cut, molest, break, deface, destroy, spray, repair, or do surgery work upon any tree or part thereof, or in any manner interfere with, disturb, or injure any tree, shrub, or plant, upon parking or the public property of the City. No person shall permit any chemical,

either solids or fluids, to seep, drain, or be emptied on or about any tree, shrub, or plant that is now or may hereafter be growing upon any public property of the City, without first obtaining a permit from the City Administrator.

151.06 HITCHING OR ANCHORING ARTICLES TO TREES. No person shall hitch or fasten any animal to any tree or shrub, or fasten to the same, for the purpose of anchorage, any wire, rope, chain or cable, nor shall any person nail, tie, or in any manner fasten any card, sign, poster, board, or any other article to any tree, shrub or plant that is now or may hereafter be growing upon any parking or public property of the City.

151.07 PERMISSION FOR PERMANENT ANCHORAGE. Permission may be granted by the City Administrator for permanent anchorage to trees if good practice in line construction indicates the desirability and the elimination of stubs or poles will result by so doing.

151.08 GUYING POLES TO TREES IN CASE OF EMERGENCY. In the event of storms or other emergencies, poles may be guyed temporarily to trees.

151.09 PERMIT TO REMOVE TREES FOR CONSTRUCTION PURPOSES. Any person desiring to remove a live tree standing on a street or parking thereof for construction of walks, drives, buildings, or any other structures for his or her own gain or purposes shall first obtain a permit from the City Administrator. If a permit is issued, the permittee must pay the cost of removal of such trees and shrubs, or the permittee may remove the same at permittee's own expense.

151.10 PROTECTION DURING EXCAVATION OR CONSTRUCTION. All trees, shrubs, or plants within the limits of any street, parking, or other property of the City near any excavation or construction of any building or structure shall be guarded with a good substantial frame or box not less than four feet square and six feet high. All building material or other debris shall be kept at least three feet from any tree, shrub, or plant.

151.11 TREE TRIM SPECIFICATIONS.

1. Any person trimming trees or causing trees, bushes, and other plants to be trimmed under the authority of this section or sections of this Code pertaining to utility franchises, if the entity wishing to trim is not itself the owner, shall:

A. Cause written notice to be given to the owner, occupant, or person in control of the property at least 15 days prior to any trimming; provided, however, notice shall not be required if trimming is necessary to restore electrical service or relieve a public emergency resulting from storm, accident, similar casualty, or other cause which immediately threatens electrical service or public safety. The notice shall state the nature of the trimming to be performed, the person's right to trim the tree, shrubbery, bush, or other plants, the date when such trimming must be completed if the owner desires to do the trimming, and whether an assessment or charge will be imposed by such person for trimming the tree, bush, or other plant.

B. Trim trees, bushes, and plants to the extent necessary to remove obstruction to protect lives and property.

C. Employ persons skilled in tree trimming so that the life and general aesthetic qualities of the tree are preserved.

2. The owner of any tree, shrub, or plant protruding into or overhanging a street or sidewalk shall trim the branches thereof to remove any obstruction of the view of any street lamp, street sign, traffic control device, or street intersection. A clear space of ten feet above the surface of a street or sidewalk must be maintained. All trimming shall conform to the specifications in subsection 1 of this section and to those required pursuant to the City's Traffic Code.

3. The City Administrator may order the removal of any tree, shrub, or plant or any part thereof which does not conform to the specification of subsection 2 of this section. Notice shall be given to the owner of the property as set forth in subsection 1 of this section. If the owner, occupant, or person in control fails to comply with the notice, the City Administrator shall cause the obstructing branches or foliage to be removed and shall submit the costs incident to the service of notice 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. Provided, however, in the event the City Administrator determines that a hazardous condition exists which constitutes an immediate danger to public safety because of the extensive nature or location of an obstruction caused by any tree, shrub, plant, or any part thereof, the City Administrator may cause the removal thereof forthwith without notice; and in such event, costs may be assessed in the same manner as provided above, after notice to the property owner and opportunity for hearing before the City Council is given.

4. Except as provided by subsection 3 of this section, no tree, bush, or shrub shall be removed without the written consent of the owner of the property upon which the tree, bush, or shrub is located.

5. Nothing in this section shall be construed to affect the rights of a landowner as against a neighboring landowner.

151.12 OBSTRUCTION OF ENFORCEMENT. No person shall hinder, obstruct, or otherwise interfere with the Superintendent or his/her representatives while engaged in carrying out the provisions of this chapter.

151.13 PERMIT TO PLANT IN STREETS.

1. No person shall plant or set out any tree, shrub, or plant in or on any parking, public highway, or street or other City property without first obtaining a permit from the City Administrator, which permit shall designate where such plantings may be done.

2. The permit shall be denied if such planting is likely to create a public danger or nuisance and shall not provide the permittee with any guarantee or assurance that the tree, shrub, or plant will be protected from subsequent trimming or destruction if such is required for health, welfare, or safety of the City's residents.

151.14 ASSESSMENT FOR PLANTING OR CARE OF TREES. The cost of planting, pruning, caring for, removing, or maintaining trees and shrubs, in whole or in part, upon the parking or public streets of the City may be assessed against the lots and parcels of land in front of which such trees or shrubs are planted and maintained.

151.15 PLANTING NEW TREES; ASSESSMENT. No plantings of new trees or shrubs shall be made and assessed against the abutting property owners except by action of the City Council. Notice of a proposal to plant new trees or shrubs must be made by publication in two newspapers of general circulation in the City 15 days prior to final action thereon.

151.16 SCHEDULE OF ASSESSMENTS. The cost of planting new trees and shrubs and the maintenance thereof, including removals and partial removal of trees and shrubs, shall be certified to the City Council by the Superintendent in a scheduled form setting forth the nature of the work done, the amount of the special assessment, the lots of specific portions thereof against which assessed, and the names of the owners thereof as far as practicable.

151.17 FILING ASSESSMENT SCHEDULE FOR PUBLIC INSPECTION. A schedule of assessments for planting of new trees and shrubs and maintenance, including removals and partial removal of trees and shrubs, shall be filed with the Clerk for public inspection.

151.18 OBJECTIONS TO ASSESSMENT SCHEDULE. Before final adoption of the schedule of assessments provided for in this chapter, the City Council shall give notice by two publications in each of two newspapers published in the City, stating that the schedule is on file in the office of the City Clerk and that within 20 days after the first publication all objections thereto or to the prior proceedings, on account of errors, irregularities or inequalities, must be made in writing and filed with the Clerk.

151.19 ADOPTION OF ASSESSMENT SCHEDULE. After the expiration of the 20-day period mentioned in Section 151.18 of this chapter, the City Council shall consider objections to the schedule of assessments, make the necessary corrections, and make, approve, and adopt the special assessments as shown in the schedule.

151.20 CERTIFYING ASSESSMENT SCHEDULE FOR COLLECTION. Upon final adoption of special assessments as shown in the schedule of assessments, the City Council shall cause the same to be certified to the County Treasurer with directions that the cost of the improvements or services as scheduled shall be assessed against the parcels of property designated therein, in the amounts set forth thereby, and that such amounts shall be collected as other special assessments.

151.21 DEAD AND DISEASED TREES.

1. Right to Enter, Test, and Inspect. The Superintendent of Public Works shall enforce the provisions of this section. To secure enforcement hereof, the Superintendent shall have the right and is hereby empowered to enter upon the property of any person within the City for the purpose of testing, inspecting, and obtaining samples of any trees, brush, wood, or debris thereon.
2. Permitting Dead or Diseased Trees or Plants to Stand.
 - A. No property owner shall maintain or permit to stand upon his or her property any tree, shrub, plant or part thereof which is dead, diseased, or so damaged as to be a menace to public safety.
 - B. When the Superintendent determines that any tree, shrub, plant or part thereof is dead, diseased, or so damaged as to be a menace to public safety, the Superintendent may request the City Council to direct the property owner to remove the same within thirty (30) days, or to appear before the City Council for hearing on the matter during said period to show cause why the tree, shrub, plant or the appropriate part thereof should not be removed by the City with the cost of removal assessed against the property owner. Such notice to show cause and notice of the proposed City Council action shall be by certified mail to the property owner of record.

- C. If, after hearing, the City Council approves removal, the Clerk shall send a copy of the resolution by certified mail to the property owner directing such removal within 30 days or the City shall remove and assess the cost of removal against the property owner.
3. Removal of Trees, Shrubs, and Plants. The Superintendent may remove or cause to be removed all trees, shrubs, plants or parts thereof upon the public streets or highways or other City property within the City when removal shall be beneficial to the public peace, health, and safety, or for public improvements or if such trees, shrubs, or plants constitute a public nuisance or are dead or diseased, or detrimental to the growth of adjacent trees, plants, or shrubs growing in the public streets or other City property.
4. Removal of Trees Infected with Dutch Elm Disease or Oak Wilt.
- A. In accordance with Section 364.12 of the *Code of Iowa*, any owner, occupant, or person in control of any property shall remove from such property, at his or her own expense, any tree, brush, wood, or debris infected with Dutch elm disease or oak wilt or any dead oak or elm which retains bark, when so notified by the Superintendent. The Superintendent shall cause to be mailed to such owner, occupant, or person in control written notice that said person may appear before the City Council at an appointed time not less than fourteen (14) days from the date of mailing to show cause why the infected tree, brush, wood, or debris should not be declared a public nuisance. At that meeting the City Council may resolve and declare the same to be a public nuisance and may order its removal by the owner, occupant, or person in control within thirty (30) days from the date of service of a copy of the resolution and order on the owner, occupant, or person in control; provided however, upon timely receipt of a request in writing from the property owner showing inability to perform, hardship, or other good cause, the City Administrator may grant an extension of time to a maximum of an additional thirty (30) days for said removal by the owner, occupant or other person. No extension of time exceeding sixty (60) days may be granted without prior approval by the City Council.
- B. If the owner, occupant, or person in control fails to comply with the resolution and order of the City Council to so remove previously specified public nuisance, the Superintendent shall cause that public nuisance to be removed and shall submit the costs incident to the service and removal to the City Council, which shall certify the same to the County Treasurer for collection with and in the same manner as general property taxes.
5. Diseased Tree Inspection Fees.
- A. Fees for the City inspection of a tree or trees shall be paid to the City Treasurer in an amount set by resolution of the City Council, provided fees for inspections not requested by the owner or the owner's representative shall be assessed only against those trees showing evidence of disease which requires removal of the tree.
- B. For the purpose of this section, "private property" is defined as property not owned by the City.

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CHAPTER 152

TEMPORARY STRUCTURES

152.01 Definition

152.02 Compliance with Chapter Provisions

152.03 Permit Required

152.04 Permit Application

152.05 Permit Fees

152.06 Compliance with Codes

152.07 Removal

152.01 DEFINITION. “Temporary structure” means any shed, structure, building, trailer, tent or enclosure of any kind used for storage, commercial or business or residential purposes which any person or business intends to place on the same lot with or on any lot immediately adjacent to, any permanent structure used for business or commercial or residential purposes. This term includes “temporary portable storage container,” which is defined as a large container designed and rented or leased for the temporary storage of commercial, industrial, or residential household goods and that does not contain a foundation or wheels for movement. All other words or phrases shall have the same meaning assigned to them in Chapter 166 of this Code of Ordinances.

152.02 COMPLIANCE WITH CHAPTER PROVISIONS. No temporary structure or accessory structure shall be erected, constructed, or placed except as hereinafter provided.

152.03 PERMIT REQUIRED. No temporary structure or accessory structure shall be erected, constructed, or placed upon any commercial or business or residential property without first obtaining a permit from the Clerk. All permits are subject to approval by the Zoning Administrator. Further, the Zoning Administrator may impose certain reasonable requirements as may be required to keep the temporary structure from becoming unsightly to the surrounding properties.

152.04 PERMIT APPLICATION. Prior to seeking approval, an applicant shall file a permit application with the Clerk stating:

1. The name and address of the person or business seeking the permit;
2. A particular description of where the proposed temporary structure or accessory structure will be erected, constructed or placed;
3. The need for such structure;
4. The period of time the proposed structure will be present on the property; and
5. A particular description, including the dimensions, of the temporary structure or accessory structure to be erected, constructed, or placed upon the property.

152.05 PERMIT FEES. Upon approval by the Clerk and payment of a permit fee, the Clerk shall issue a permit to the applicant. The permit for a business or commercial class permit shall be for a period of thirty (30) days and shall authorize the erection, construction, or placement of a temporary structure on the property described in the application. The cost of the business or commercial permit is \$50.00 per month. Residential class permit fee is waived for the first 180 days with the start of a new building, plumbing, mechanical, or electrical permit. After 180 days, the fee schedule set out below is imposed.

1. First 30 days container is on site\$ 0.00
2. Second 30 days container is on site.....\$20.00
3. Third 30 days container is on site\$40.00
4. Thereafter, cost will increase by \$20.00 per 30-day extension.

152.06 COMPLIANCE WITH CODES. Any such temporary structure erected, constructed, or placed upon property shall comply with all applicable provisions of this Code of Ordinances, including the fire, electrical, and building codes. Containers must be placed on a hard-surfaced area and shall be located on the owner’s lot, and no part of any container shall be located on any public property or in the right-of-way.

152.07 REMOVAL. All such temporary structure or accessory use or structure shall be removed from the property at the expiration of the time period defined in the permit.

CHAPTER 153

TEMPORARY SIGNS

153.01 Definition

153.02 Compliance with Chapter Provisions

153.03 Permit Required

153.04 Permit Application

153.05 Maximum Duration of Permit

153.06 Permit Issuance

153.07 Renewal

153.01 DEFINITION. “Temporary sign” means any banner, pennant, valance, or advertising display constructed by cloth, canvas, light fabric, cardboard, wallboard, plastic, or other material, with or without frames, intended to be displayed for a short period of time advertising any sale, grand opening, or product. This term also includes any portable sign or portable sign display and any sign or sign display on a truck or motor vehicle that has not moved upon a street in the City within the preceding twelve (12) hours. This term does not include signs advertising real property for sale or rent.

153.02 COMPLIANCE WITH CHAPTER PROVISIONS. No temporary sign shall be erected, placed, or displayed upon the exterior of any commercial or business property except as hereinafter provided.

153.03 PERMIT REQUIRED. No temporary sign shall be erected, placed, or displayed without first obtaining a permit from the Clerk.

153.04 PERMIT APPLICATION. An applicant shall file a permit application with the Clerk stating:

1. The name and address of the person or business seeking the permit;
2. A description of the proposed temporary sign, including the location where the temporary sign will be placed and the manner of its placement; and
3. The period of time such temporary sign will be displayed.

153.05 MAXIMUM DURATION OF PERMIT. A permit issued under the provisions of this chapter shall be issued for a period of thirty (30) days.

153.06 PERMIT ISSUANCE. Upon approval by the Clerk and payment of a permit fee, the Clerk shall issue a permit to the applicant. The permit shall be for a definite period of time and shall authorize the erection, placement, or display of a temporary sign. All permit fees under this chapter shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such permit fee may, from time to time, be amended by the Council by resolution. A copy of the resolution setting forth the currently effective permit fee shall be kept on file in the office of the City Administrator, and be open to inspection during regular business hours.

153.07 RENEWAL. Once approved, a permit for the erection, construction, or placement of a temporary sign may be renewed for an additional period of thirty (30) days. Only two such renewals are authorized. All renewal fees under this chapter shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such renewal fee may, from time to time, be amended by the Council by resolution. A copy of the resolution

setting forth the current renewal fee shall be kept on file in the office of the City Administrator, and be open to inspection during regular business hours.

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CHAPTER 155

BUILDING CODE

155.01 Adoption of Building Code
 155.02 Administrative Provisions
 155.03 Adoption of Building Codes
 155.04 Permit Fees

155.05 Completion Time
 155.06 Specific Provisions Dealing with Swimming Pools
 155.07 Specific Provisions Dealing with Property
 Maintenance
 155.08 Specific Provisions Dealing with Fences.
 155.09 Pertaining to the Conversion of Existing Structures
 to a Horizontal Property Regime
 155.10 Specific Provisions Dealing with Installment Sale
 Transactions.

155.01 ADOPTION OF BUILDING CODE. The *Iowa State Building Code* promulgated by the Iowa State Building Code Advisory Council and the Iowa State Building Code Commissioner pursuant to *Code of Iowa* Chapter 103A is hereby adopted as and shall constitute the “Building Code of the City of Windsor Heights, Iowa,” to regulate the erection, construction, enlargement, alteration, repair, moving, removal, conversion, demolition, occupancy, equipment, use, height, area, and maintenance of buildings or structures in the City, and the same is, by this reference, incorporated herein as fully and completely as if set forth in full.

155.02 ADMINISTRATIVE PROVISIONS. Administration of this chapter shall be as provided in this section and in the following sections of the several codes named, which are hereby adopted by reference, to provide procedures for local enforcement of the codes, constituting the Windsor Heights, Iowa, Building Codes. The Building Official is responsible for the enforcement of the Building, Electrical, Plumbing, Mechanical, Fire, Housing, and Dangerous Building Codes, and such other ordinances as shall be assigned to such official, and the Building Official shall perform such other duties as may be required by the City Administrator. The Building Official shall be accountable for the issuance of all applicable permits under this chapter and shall have the power to render interpretations of this code and to adopt and enforce rules and regulations supplemental to this code, subject to approval of the Council, as he or she may deem necessary in order to clarify the application of the provisions of this code. Such rules, regulations, and interpretations shall be in conformity with the intent and purpose of this code.

155.03 ADOPTION OF BUILDING CODES. The following codes are hereby adopted and also constitute a part of the Building Code of the City, and the same are, by this reference, incorporated herein as fully and completely as if set forth in full herein.

1. The *International Building Code*, 2006 Edition, and Appendix Chapters, as published by the International Code Council.
 - A. Sec.101.01 Title. Insert Windsor Heights.
 - B. Sec. 101.4.1 Electrical. After *ICC Electrical Code*, insert “and the *National Electrical Code*, 2005 Edition, as Published by the National Fire Protection Association.
 - C. Sec. 101.4.2 Gas. After *ICC Fuel Gas Code*, insert “2006 Edition.”

- D. Sec. 101.4.3 Mechanical. After *ICC Mechanical Code*, insert “2006 Edition.”
 - E. Sec. 101.4.4 Plumbing. After *ICC Plumbing Code*, insert “2006 Edition.”
 - F. Sec. 101.4.5 Property Maintenance. After *ICC Property Maintenance Code*, insert “2006 Edition.”
 - G. Sec. 101.4.6 Fire Prevention. After *ICC Fire Code*, insert “2006 Edition.”
 - H. Sec. 101.4.7 Energy. After *ICC Energy Conservation Code*, insert “2006 Edition.”
 - I. Sec. 104.11 Alternative methods. After paragraph, insert “the Iowa Administrative Code 661, Chapter 16, Div. VI, Part 2 Manufactured Home Construction is hereby adopted for installation of mobile (manufactured) homes.”
 - J. Sec. 108.2 Fees. After “in accordance with the,” insert “attached schedules as established by Section 155.04 of the Code of Ordinances of Windsor Heights, Iowa.”
 - K. Sec. 108.3 Valuations. At the end of the last sentence, delete period and insert “using the latest Building Valuation Data Sheet.”
 - L. Sec. 1612.3. Insert “Windsor Heights.”
 - M. Sec. 1612.3. Insert “October 16, 1992.”
 - N. Sec. 3109.3 Swimming pools. Delete 4 feet and insert “5 feet.”
 - O. Sec. 3109.4.1 Barrier height. Delete 4 feet and insert “5 feet.”
2. The *International Mechanical Code* and Appendix Chapters, 2006 Edition, as published by the International Code Council.
- A. Sec. 101.1 Title. Insert Windsor Heights.
 - B. Sec. 106.6.2 Fee Schedule. Insert “Windsor Heights fee schedule.”
 - C. Sec. 108.4 Penalties. Insert “the maximum amount allowed by State Law. Each day a violation continues constitutes a separate violation.”
3. The *International Plumbing Code* and Appendix Chapters, 2006 Edition, as published by the International Code Council, subject to the following:
- A. Section 101.1. Insert “Windsor Heights, Iowa.”
 - B. Section 106.6.2 Fee Schedule. Insert “Windsor Heights, Iowa, plumbing permit fees.”
 - C. Sec. 108.4. Insert “\$500.00 for first offense and \$750.00 for each additional offense. Each day a violation continues constitutes a separate violation.”
 - D. Sec. 305.6.1. Insert “42 inches” in 2 places.
 - E. Sec. 904.1. Insert “12 inches.”
4. The *National Electrical Code* and Appendix Chapters, 2005 Edition, as published by the National Fire Protection Association, subject to the following:

- A. Permit fees for electrical work shall be according to the attached Windsor Heights electrical fee schedule located in Section 155.04 of the Windsor Heights Code of Ordinances.
5. The *International Fire Code* and Appendix Chapters, 2006 Edition, as published by the National Fire Protection Association.
- A. Sec. 101.1. Insert “Windsor Heights.”
- B. Sec. 109.3 Penalties. Insert “the maximum amount allowed by State Law. Each day a violation continues constitutes a separate violation.”
6. The *Life Safety Code* and Annex A & B, 2006 Edition, as published by the National Fire Protection Association.
7. The *International Property Maintenance Code*, 2006 Edition, as published by the International Code Council.
- A. Sec. 101.1. Insert “Windsor Heights.”
- B. Sec. 103.6 Fee Schedule. Insert “Windsor Heights” and Rental Housing Compliance Inspection Fee Schedule.
- C. Sec. 303.14 Screens. Insert “April 15” and “September 15.”
- D. Sec. 602.3 Heat. Delete “during the period from date to date.”
- E. Sec. 602.4 Work spaces. Delete “during the period from date to date.”
8. The *International Residential Code for One- and Two-Family Dwellings* and Appendix Chapters, 2006 Edition, as published by the International Code Council.
- A. Sec. R101.1. Insert “Windsor Heights.”
- B. Sec. R104.1 Alternative methods. After paragraph insert “The Iowa Administrative Code 661, Chapter 16, Div. VI, Part 2, Manufactured Home Construction, is hereby adopted for installation of manufactured (mobile) homes.”
- C. Sec. R208.2 Permit fees. After “in accordance with the,” insert “attached schedule as established by Windsor Heights for the regular Building Permit Fee Schedule.”
9. The *International Energy Conservation Code* and Appendix Chapters, 2006 Edition, as published by the International Code Council.
- A. Sec. 101.1 Insert “Windsor Heights.”
10. The *International Fuel Gas Code* and Appendix Chapters, 2006 Edition, as published by the International Code Council.
- A. Sec. 101.1. Insert “Windsor Heights.”
- B. Sec. 105.5.2 Fee Schedule. Insert “Windsor Heights fee schedule as attached for the Mechanical and Plumbing permit fees.”

- C. Sec. 108.4 Penalties. Insert “the maximum amount allowed by State Law. Each day a violation continues constitutes a separate violation.”
- 11. The *International Existing Building Code* and Appendix Chapters, 2006 Edition, as published by the International Code Council.
 - A. Sec. 101.1. Insert “Windsor Heights.”
 - B. Sec. 108.2 Permit fees. Delete after “established” and insert “for the various disciplines herein adopted.”

155.04 PERMIT FEES. The various permit fees under the Building, Electrical, Mechanical, and Plumbing Codes shall be as detailed in Exhibit A of this chapter, dated March 3, 2008. All permit fees for the above disciplines shall be adjusted on January 1 of each year based on the Consumer Price Index (CPI) for the previous year. If any construction requiring a permit by provision of the Building Code or City Code is undertaken without first obtaining a building permit, the permit fee shall be double the amount it would have been if granted prior to the commencement of construction. Further, if any additional professional services (for example engineering or architectural services) are required by the City in the review of the building permit request, those fees will be passed through and paid by the applicant.

Chapter 155 Exhibit A
Adopted March 3, 2008
CITY BUILDING PERMIT FEE SCHEDULE

Utilizing the Consumer Price Index (CPI) of 4.3% Increase for the year ending December 31, 2007

Project Valuation	Permit Fee	Project Valuation	Permit Fee	Project Valuation	Permit Fee
1-500	26.00	41,001-42,000	586.00	96,001-97,000	1,014.00
501-600	29.00	42,001-43,000	597.00	97,001-98,000	1,021.00
601-700	31.00	43,001-44,000	608.00	98,001-99,000	1,026.00
701-800	35.00	44,001-45,000	618.00	99,001-100,000	1,036.00
801-900	38.00	45,001-46,000	629.00	100,001-101,000	1,042.00
901-1,000	41.00	46,001-47,000	639.00	101,001-102,000	1,047.00
1,001-1,100	44.00	47,001-48,000	650.00	102,001-103,000	1,054.00
1,101-1,200	47.00	48,001-49,000	660.00	103,001-104,000	1,060.00
1,201-1,300	50.00	49,001-50,000	670.00	104,001-105,000	1,065.00
1,301-1,400	53.00	50,001-51,000	678.00	105,001-106,000	1,071.00
1,401-1,500	56.00	51,001-52,000	686.00	106,001-107,000	1,076.00
1,501-1,600	59.00	52,001-53,000	695.00	107,001-108,000	1,083.00
1,601-1,700	62.00	53,001-54,000	701.00	108,001-109,000	1,089.00
1,701-1,800	65.00	54,001-55,000	708.00	109,001-110,000	1,095.00
1,801-1,900	69.00	55,001-56,000	714.00	110,001-111,000	1,101.00
1,901-2,000	72.00	56,001-57,000	725.00	111,001-112,000	1,105.00
2,001-3,000	87.00	57,001-58,000	730.00	112,001-113,000	1,112.00
3,001-4,000	101.00	58,001-59,000	736.00	113,001-114,000	1,118.00
4,001-5,000	116.00	59,001-60,000	743.00	114,001-115,000	1,126.00
5,001-6,000	131.00	60,001-61,000	751.00	115,001-116,000	1,130.00
6,001-7,000	145.00	61,001-62,000	758.00	116,001-117,000	1,136.00
7,001-8,000	160.00	62,001-63,000	767.00	117,001-118,000	1,141.00
8,001-9,000	174.00	63,001-64,000	774.00	118,001-119,000	1,147.00
9,001-10,000	189.00	64,001-65,000	780.00	119,001-120,000	1,153.00
10,001-11,000	203.00	65,001-66,000	786.00	120,001-121,000	1,159.00
11,001-12,000	218.00	66,001-67,000	796.00	121,001-122,000	1,164.00
12,001-13,000	233.00	67,001-68,000	803.00	122,001-123,000	1,170.00
13,001-14,000	247.00	68,001-69,000	810.00	123,001-124,000	1,176.00
14,001-15,000	262.00	69,001-70,000	816.00	124,001-125,000	1,182.00
15,001-16,000	277.00	70,001-71,000	824.00	125,001-126,000	1,188.00
16,001-17,000	291.00	71,001-72,000	831.00	126,001-127,000	1,193.00
17,001-18,000	306.00	72,001-73,000	839.00	127,001-128,000	1,200.00
18,001-19,000	320.00	73,001-74,000	846.00	128,001-129,000	1,206.00
19,001-20,000	335.00	74,001-75,000	853.00	129,001-130,000	1,211.00
20,001-21,000	349.00	75,001-76,000	860.00	130,001-131,000	1,217.00
21,001-22,000	364.00	76,001-77,000	868.00	131,001-132,000	1,223.00
22,001-23,000	378.00	77,001-78,000	876.00	132,001-133,000	1,229.00
23,001-24,000	393.00	78,001-79,000	883.00	133,001-134,000	1,235.00
24,001-25,000	408.00	79,001-80,000	889.00	134,001-135,000	1,241.00
25,001-26,000	418.00	80,001-81,000	897.00	135,001-136,000	1,247.00
26,001-27,000	428.00	81,001-82,000	905.00	136,001-137,000	1,253.00
27,001-28,000	439.00	82,001-83,000	913.00	137,001-138,000	1,258.00
28,001-29,000	449.00	83,001-84,000	920.00	138,001-139,000	1,264.00
29,001-30,000	460.00	84,001-85,000	926.00	139,001-140,000	1,270.00
30,001-31,000	470.00	85,001-86,000	933.00	140,001-141,000	1,276.00
31,001-32,000	481.00	86,001-87,000	941.00	141,001-142,000	1,282.00
32,001-33,000	492.00	87,001-88,000	948.00	142,001-143,000	1,287.00
33,001-34,000	503.00	88,001-89,000	956.00	143,001-144,000	1,293.00
34,001-35,000	513.00	89,001-90,000	964.00	144,001-145,000	1,299.00
35,001-36,000	523.00	90,001-91,000	970.00	145,001-146,000	1,305.00
36,001-37,000	534.00	91,001-92,000	977.00	146,001-147,000	1,311.00
37,001-38,000	544.00	92,001-93,000	985.00	147,001-148,000	1,317.00

38,001-39,000	555.00	93,001-94,000	992.00	148,001-149,000	1,323.00
39,001-40,000	565.00	94,001-95,000	999.00	149,001-150,000	1,328.00
40,001-41,000	577.00	95,001-96,000	1007.00		
From \$150,000 to \$175,000 valuation, add \$6.25 for each additional \$1,000.					
CITY BUILDING PERMIT FEE SCHEDULE					
(continued)					
Project Valuation			Permit Fee		
175,000			1,484.00		
From \$175,000 to \$500,000 valuation, add \$5.50 for each additional \$1,000.00					
Project Valuation			Permit Fee		
200,000			1,621.00		
225,000			1,759.00		
250,000			1,896.00		
275,000			2,033.00		
300,000			2,170.00		
400,000			2,720.00		
500,000			3,270.00		
From \$500,001 to \$1,000,000 valuation, add \$5.00 for each additional \$1,000.00					
For \$1,000,001 valuation and up, add \$3.50 for each additional \$1,000.00					
Inspections for which no fee is specifically indicated, or for re-inspections, \$42.00 per hour, minimum charge of 1 hour					
<p>Note: When plans, engineering calculations, or specifications are necessary, a plan check fee is required equal to 65% of the permit fee. Generally, this plan check fee is waived for conventional one- and two-family residential projects.</p>					

155.05 COMPLETION TIME.

1. Any single-family residence and/or accessory structure for which a building permit has been issued shall be completed and ready for occupancy according to the approved plans and specifications within one year following the issuance of the building permit, and if not so completed, the building permit shall automatically cancel. All work must be pursued in a reasonable and timely manner to its ultimate completion. A building permit shall automatically cancel if for any reason work is not commenced within 120 days of the date of issuing the building permit or if work is substantially stopped for a period of 120 days, prior to said cancellation, unless a written extension is granted by the Building Inspector upon good cause shown by the applicant for such extension. If the Building Inspector believes that work is not being pursued in a reasonable and timely manner, said official shall notify the applicant of the deficiency and establish a reasonable period during which all construction must be completed. If work is not commenced within 15 days after receipt of the notice or construction is not completed by the time so established, the Building Inspector may cancel the building permit and so notify the applicant. Thereafter, no work may be commenced until a new building permit is applied for and granted conditioned upon an approved timetable for completion.

2. The term “completed,” as used in subsection 1 above, means and includes:

- A. Completion of all visible exterior construction;
- B. Painting, staining, or other exterior finishing;
- C. Finishing of driveways and sidewalks;
- D. Removal of construction materials, equipment, debris, and excess earth;
- E. Placement of top soil, finish grading, and sodding or seeding of all lawns;
- F. Finish grading of any swales within established drainage easements necessary to accommodate natural drainage of adjacent properties.

3. Stop Orders. Whenever any work is being done contrary to the provisions of the City Code or any other valid regulation, the Building Inspector, Zoning Administrator, or City Administrator may order the work stopped by notice in writing served on any persons engaged in doing or causing such work to be done, and any such persons shall forthwith stop such work until authorized by the Building Inspector to proceed with the work.

4. Occupancy Violations. Whenever any portion of a building or structure, or equipment therein, or land regulated by this Code is being used contrary to the provisions of the City Code, the Building Inspector, Zoning Administrator, or City Administrator may order such use discontinued and the structure, or portion thereof, vacated by notice served on any person causing such use to be continued. Such person shall discontinue the use within the time prescribed by the City after receipt of such notice. Prior to reuse of said building or structure, or equipment thereon, or land, the use must comply with the requirements of this Code of Ordinances.

155.06 SPECIFIC PROVISIONS DEALING WITH SWIMMING POOLS.

1. Definitions. The following terms are defined for use in this section:

A. “Swimming pool” means any body of water which has a minimum depth of eighteen (18) inches or more or contains one hundred (100) gallons or more of water in an artificial or semi-artificial receptacle of permanent construction and which is not emptied every night.

B. “Spa” means a bathing facility such as a hot tub or whirlpool designed for recreational or therapeutic use. However, “spa” does not include a facility used under direct supervision of qualified medical personnel.

(Code of Iowa, Sec. 135I.1)

C. “Small child” means any child twelve (12) years of age or younger.

2. Purpose. It is the purpose of this section to require architects, builders, contractors, pool suppliers, property owners, their agents, and others to meet their responsibilities with respect to proper construction, construction techniques, and premises safety and to provide for inspection as a means of compelling compliance therewith. It is not the purpose of this section to create any duty on the part of the City, its officers, agents, or employees, owing to any individual member of the public or to protect any particular or circumscribed class of persons. Specifically, it is not the intent of this section to create any duty or liability by the City, its officers, agents, or employees, to occupants of any premises, owners, tenants, or any other person.

3. Warning. No person shall place reliance upon this chapter, any inspections performed, or certificates issued pursuant to this chapter, as indicating the safety of or quality of construction of any particular premises. Neither this chapter nor inspections made pursuant thereto nor certificates issued are intended to assume the duty of any person to adequately construct and maintain a premises or provide a safe premises or to, in any way, indicate a decrease in the risk associated with the use or occupancy of any premises. A certification that a premises has been inspected pursuant to this chapter shall not in any way constitute a warranty or guarantee of the safety or quality of that premises.

4. Interpretation. The foregoing statements of legislative intent shall govern and take precedence over any other language contained in this chapter.

5. Swimming Pool Permit; Fee. No person shall construct, enlarge, alter, or otherwise improve a swimming pool without first obtaining a permit for the same from the City’s Building Official. Application for such a permit shall comply with the Administrative Code. A fee in an amount as established by the Building Code for valuation shall be paid. Issuance of such a permit shall be in accordance with the Administrative Code and all applicable Building Codes.

6. Design Requirements. The materials used for lining swimming pools shall be light in color, shall be impervious, and shall provide a tight tank with smooth, easily cleaned surfaces. No sand or dirt bottoms shall be allowed.

7. Enclosure for In-Ground Pool. Every outdoor in-ground swimming pool shall be completely surrounded by a fence or wall at least six (6) feet in height and located at least six (6) feet from the side of the pool, unless the enclosure is a part of a pre-manufactured assembly, in which case it shall be no closer than four (4) feet from the side of the pool. Such fence or wall shall be reasonably non-climbable and shall be so constructed and maintained as to make such pool as inaccessible as possible to small children. There shall not be a distance greater than ten

(10) feet between posts. The bottom of said fence or wall shall be at grade with no clearance between the bottom and the ground along the entire perimeter of the fence or wall. The six-foot height will be determined based upon the ground elevation on both sides of the wall or fence.

8. Enclosure for Above-Ground Pools. In lieu of the above, swimming pools manufactured and approved for installation above ground shall be installed in accordance with the following criteria:

A. When not in conflict with the provisions of this subsection, above-ground pools shall be installed in accordance with the manufacturer's recommendations.

B. Enclosure of an above-ground swimming pool shall be accomplished in an approved manner that will reasonably secure the pool and any deck or platform attached thereto from unauthorized access to small children and shall provide a degree of security at least the equivalent of that required for in-ground swimming pools. For the purpose of this requirement, a fence or wall, at least six feet above any adjoining grade located within six feet of the pool enclosure, shall be used in combination with the vertical water enclosing wall of the swimming pool to provide the required degree of security, unless the enclosure or fence is part of a pre-manufactured assembly, in which case it shall be no closer than four (4) feet from the side of the pool.

C. Steps, ladders, ramps, or any other device affording access to the pool shall be constructed in a manner that will afford the same degree of security against unauthorized access as that prescribed for the pool enclosure.

D. For the purpose of this subsection, no part of a swimming pool enclosure shall be constructed within ten feet of a property line, other wall, fence, or other structure, which can be readily climbed by children under the age of twelve years of age.

9. Gates and Doors. All gates and doors providing access to the pool shall be equipped with self-closing and self-locking devices and said gates and doors shall be securely closed when the pool is not in use. The self-closing and self-locking device on such gates and doors shall be equipped either with a manual latch which can only be operated at a point five (5) feet above the ground or with a lock and key.

10. Float Line. All swimming pools shall be equipped with a rope or line not less than one-half (1/2) inch in diameter and supported by floats wherever the depth of the pool increases from less than four (4) feet to more than four (4) feet.

11. Periodic Inspections. Persons maintaining an outdoor swimming pool shall be deemed to consent to periodic inspections of the pool and surrounding property at reasonable times by City employees, to assure compliance with this chapter. All pools built after the effective date of the ordinance codified herein shall comply with the terms of this chapter.

12. Enclosure for Spas. The enclosure requirements contained in subsections 7 and 8 above may be satisfied in the case of outdoor swimming pools with a water surface area of less than sixty (60) square feet by equipping same with a rigid cover capable of supporting two hundred (200) pounds which, when securely locked in place, will render the water contained therein inaccessible to a person not having a key.

13. Locking of Covers. It is unlawful for the owner of any outdoor swimming pool enclosed pursuant to subsection 8 hereof to leave said pool unattended without a cover of the type described in subsection 12 hereof securely locked in place. As used herein, "unattended" shall mean the absence of an adult person in the outdoor swimming pool or within constant eyesight of said pool and no more than twenty (20) feet therefrom.

14. Wastewater. Swimming pool wastewater shall be disposed of by extending the filtered discharge pipe to the City right-of-way except in the months of October through April.

15. Wiring. The construction and installation of electric wiring for and equipment in or adjacent to all swimming pools shall comply with the *National Electrical Code*.

16. Indemnity. The applicant for any permit for a swimming pool by making such application, assumes and agrees to pay for all loss or damage to property whatsoever, and injury to or death of any person or persons whomsoever, including all costs and expenses incident thereto, arising from or in connection with or related to the issuance of such permit or the doing of anything thereunder, or the failure of such applicant or the agents, employees, or servants of such applicant, to abide by or comply with any of the provisions of this code or any other ordinance of the City; and such applicant, by making such application, forever indemnifies the City, its officers and employees, and agrees to save it and them harmless from any and all claims, demands, lawsuits, or liability whatsoever for any loss, damage, injury or death, costs and expenses, by reason of the foregoing even though acts or omissions of the City, its officers or employees, may have caused or contributed thereto. The foregoing provisions shall be deemed to be a part of any permit whether expressly recited therein or not and shall apply to all assigns, assignees, subsequent owners, renters, or occupants of said property.

155.07 SPECIFIC PROVISIONS DEALING WITH PROPERTY MAINTENANCE.

1. Roof and Exterior Surface Building Maintenance. Every building shall be maintained to be weather-tight and watertight, and free from excessively peeling paint or other conditions suggestive of deterioration or inadequate maintenance. Exterior surfaces shall not have any holes or broken glass; loose, cracked, or damaged shingles or siding; or other defects in the exterior finish, which admit rain, cold air, dampness, rodents, insects, or vermin.

2. Basement and Cellar Maintenance. Basements, cellars, and crawl spaces shall be free of standing water and hazards.

3. Interior and Exterior Maintenance. All wood, including floorboards, subfloors, joists, bridging, roof rafters, and sheathing, and all other wood or other materials in any interior or exterior floor, wall, roof, or other part of the structure shall be maintained to be free of cracks affecting structural integrity, termite damage, infestation, or rot. All roof surfaces must be completely covered with approved roofing industry standard finish materials for either residential or commercial grade applications, depending on property usage and zoning, which provide for a watertight surface. Any and all damaged or deteriorating materials shall be replaced. If infestation exists in any basement, cellar, or crawl space, such infestation shall be remedied in accordance with industry standards.

4. Exterior Brick/Masonry Maintenance. All brick/masonry work/material on an exterior wall or other part of the structure shall be maintained to be free of cracks or other deterioration

affecting structural integrity. Any and all damaged or deteriorating materials shall be replaced or remedied in accordance with industry standards.

5. Exterior Concrete/Asphalt Maintenance. All concrete/asphalt material on the property shall be maintained to be free of cracks or other deterioration affecting structural integrity. It is not permitted to have parking lots and/or driveways in a state of disrepair, which may be evidenced by cracks, holes, potholes, or grass or weeds growing through the surface, etc. Any and all damaged or deteriorating materials shall be replaced or remedied in accordance with industry standards. If it is determined that the areas in a state of disrepair constitute 51% or more of the entire concrete/asphalt area, the City may compel the replacement of the entire concrete/asphalt area.

155.08 Specific Provisions Dealing with Fences.

1. Before any person shall construct, repair, reconstruct, or replace a fence, said person shall obtain a written permit from the City Administrator. A written application for the permit shall be filed with the City Administrator. The application shall include the street address or legal description of the property, the name of the owner, the name and address of the person performing the work, and the proposed plan of construction or repair. The plan of construction or repair must include the depth, width, and type of material used. The City Administrator shall issue the permit if the proposed plan meets all the requirements of this chapter, and the fence regulations set forth in Chapter 172, including any specifications contained herein, if the fee is paid, and if the construction or repair as planned will not create any substantial hazard. A permit shall expire six (6) months after the date of issuance, if not constructed at that time.

2. The applicant for a fence construction or repair permit shall pay a permit fee to the Clerk to cover the cost of issuing the permit and supervising, regulating, and inspecting the work. All permit fees under this chapter shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such permit fees may, from time to time, be amended by the Council by resolution. A copy of the resolution setting forth the currently effective permit fees shall be kept on file in the office of the City Administrator and shall be open to inspection during regular business hours.

155.09 Pertaining to the Conversion of Existing Structures to a Horizontal Property Regime

1. It is the intent of the City Council by this Ordinance to provide for the health, welfare and safety of citizens and the orderly development of the City by establishing standards for property which is to be subjected to residential horizontal property regimes (condominiums). It is the Council's intent to assure that all property to be used for residential purposes must at the time a horizontal property regime is established meet currently adopted building code standards. It is the intent of the City Council in regard to the conversion of apartments to horizontal property regimes (condominiums) that such change in form of ownership should not result in the residents of such units living in buildings which do not meet current health, welfare and safety standards and this Ordinance is in part enacted to assure residents that standards herein provided will be maintained. This Ordinance is to be liberally construed to meet the purposes and intent of the City Council as herein stated.

2. Any person or other entity seeking to establish a horizontal property regime (condominiums) for residential purposes, including a person or other entity seeking to convert an existing structure to condominiums by establishing a horizontal property regime pursuant to Iowa Code section 499B shall establish and document compliance with all Building Code requirements of the City applicable upon the date the city receives the declaration of the horizontal property regime. Such compliance shall include documentation of the following.

- A. That all materials, manner and means of construction in the building proposed meet currently adopted building codes for new residential construction including current fire, building, plumbing, electrical and mechanical codes.
- B. That all plumbing in the building meets current standards for water conservation including low flow toilets and similar devices.
- C. That the building(s) have fire sprinklers, required separation (1 or 2 hour wall separation) and all other life safety systems required for new construction.
- D. That the building(s) meet all state and federal requirements for handicapped accessibility that would be required of new construction.
- E. That the building(s) meet all state energy efficiency standards that are required for new construction.

3. Any person or other entity seeking to convert an existing structure to condominiums by establishing a horizontal property regime pursuant to Iowa Code section 499B shall comply with all current provision for on site parking, storm water detention and retention that apply to new construction.

4. Any person or other entity seeking to convert an existing structure to condominiums by establishing a horizontal property regime pursuant to Iowa Code section 499B shall comply with all requirements of the Des Moines Water Works concerning condominiums and each unit should have a separate water meter.

5. Any person or other entity seeking to convert an existing structure to condominiums by establishing a horizontal property regime pursuant to Iowa Code section 499B.3 shall at least 30 days before filing any declaration file with the City Clerk, the Public Works Director and the City Inspector a written analysis by a licensed professional engineer(s) or other appropriate licensed professional, based upon personal inspection of the building sought to be converted. The written analysis shall certify that the building meets all current city building codes that would apply to new construction. The certification will separately itemize and describe in a manner sufficient to show the factual basis of any certification that the fire, energy, life safety, structural, plumbing, electrical and mechanical systems meet current standards. The certification shall further certify compliance with current onsite parking, storm water detention and retention requirements and separately certify the building meets current standards for materials and that acceptable means and methods of construction were used that meet current standards for new construction. Appropriate city staff will review the certification and report to the City Building Official whether said certification is sufficient to meet the requirements of this Ordinance.

6. Any person or other entity seeking to convert an existing structure to condominiums

shall comply with all requirements of Zoning Code of the Windsor Height City Code prior to conversion in the same manner as an applicant for new construction including, but not limited to, filing a site plan for review which shall show compliance with all set back, parking, signage, open space and all other requirements which would apply to new construction.

7. No conversion of property to horizontal property regime under Iowa Code section 499B.3 shall be completed nor shall a declaration be filed until there has been full compliance with this Ordinance. Upon showing of full compliance with this Ordinance, the City Building Official shall by written notice so inform the County Recorder of the County in which any property subject to this Ordinance is located and state in said written notice that the property meets the requirements of Iowa Code section 499B.20.

8. If any section, provision, sentence, clause, phrase or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any provision, section, subsection, sentence, clause, phrase or part hereof not adjudged invalid or unconstitutional.

9. This Ordinance shall be in full force and effect after its passage, approval and publication as provided by law.

155.10 Specific Provisions Dealing With Installment Sale Transactions.

1. **Definitions.** For the purpose of this section, the following definitions shall apply:

City shall mean the City of Windsor Heights, Polk County, Iowa.

Contract shall mean a real estate installment purchase agreement for the intended transfer of residential real estate between a buyer and seller. A real estate installment purchase agreement is one which is payable in more than four (4) installments, not including the down payment, ***in which the Contract Buyer takes possession of the property immediately but does not receive the deed and title until all installment payments have been made.*** This division does not apply to contracts for commercial property or vacant lots.

Contract Buyer shall mean the person or entity purchasing or acquiring the real property.

Contract Seller shall mean the person or entity offering or transferring the real property for sale, or anyone acting on behalf of the contract seller.

Director shall mean the building enforcement director of the City or his/her designee.

Inspection shall mean a physical examination of the real estate, which shall include, but not be limited to, a review of the structural components, exterior, roofing, plumbing, heating, cooling, electrical, insulation and ventilation, interior, fireplace and solid fuel burning appliances of the real estate.

Inspection Report shall mean a report in a form approved by the city and prepared by an inspector to describe an inspection.

Inspector shall mean the individual who performs the examination of the real estate.

Person shall mean an individual, a corporation, a limited liability company, a government or governmental subdivision or agency, a business trust, an estate, a trust, a partnership or an association, or any other legal entity.

Transfer shall mean the conveyance by sale, exchange, contract or by any other method by which real property is purchased. For the purpose of this ordinance, transfer shall not mean the conveyance of real estate interests as detailed under Iowa Code Chapter 558A.

2. **Inspector certification and disqualification.**

(a) All Inspectors who perform the Inspections of real estate pursuant to a Contract shall be a member in good standing of an eligible professional association for home inspectors. An eligible professional association must have the following attributes:

- i. Not-for-profit status;
- ii. Standards for Practice for its members;
- iii. Code of Ethics for its members;
- iv. Requires examinations for membership; and
- v. Requires annual continuing education.

No Inspector shall be employed by an entity that is owned by a Contract Seller or an affiliate. The term affiliate means a parent, brother or sister entity (meaning its parent entity has an ownership interest in each entity or shares a common manager), or a subsidiary entity or any other entity in which the Contract Seller, its parent, brother, sister or subsidiary entity owns five percent (5%) or more of such entity.

(b) Members of professional associations who are otherwise eligible to perform Inspections shall obtain prior approval from the City to perform said Inspections. The City shall have the discretion to approve or deny any Inspector and shall maintain a current list of all Inspectors who are eligible to perform Inspections under this Ordinance.

(c) The City shall have sole discretion to grant, suspend or revoke an Inspector's certification based upon any of the following:

- i. Malfeasance;
- ii. Neglect of duty;
- iii. Incapacity;
- iv. Disqualification, suspension, or debarment from any activity related to the construction or real estate industry by an agency of any government;
- v. Offering or giving gifts or gratuities to employees of the city in violation of state law; and/or
- vi. Failure to comply with any other requirements of this Ordinance.

(d) If the Director determines that cause exists to disqualify an Inspector from performing Inspections for any of the reasons set forth above, the Director shall notify said Inspector. The notice shall set forth the reason(s) for disqualification and shall be sent to the Inspector by certified mail.

(e) Upon written request of the Inspector filed within ten (10) days of the mailing of the above-referenced notice, the Director shall schedule a hearing at which the Inspector may present

evidence why he or she should not be disqualified. The Director's recommendation shall be issued within thirty (30) days of the conclusion of the hearing and shall be mailed to the Inspector via certified mail. The Director's recommendation shall be forwarded to the City Council.

3. **Procedures and Fees.**

(a) A person seeking to transfer real property by Contract, or a broker, salesperson or agent acting on behalf of such person, shall obtain or update an inspection of the subject real estate not more than sixty (60) days prior to the execution of the Contract.

(b) The Inspector shall prepare an inspection report of the physical examination of the real estate. The Inspection Report shall also include written certification that the Inspector is a member of good standing in an eligible professional association, as detailed above.

(c) The Inspection Report shall be delivered to the Contract Buyer and the City at least fourteen (14) days prior to the execution of the Contract. The Inspection Report may be delivered to the Contract Buyer via personal delivery and/or certified or registered mail. Proof of delivery of the Inspection Report along with a filing fee of \$75.00 shall be filed with the City at least fourteen (14) days prior to the execution of the Contract. Subsequent inspection reports and updates for the same property involving the same Contract Buyer may be filed by the same Contract Seller without requiring an additional filing fee.

(d) Within seven (7) days following execution of the Contract, the Contract Seller shall file with the City copies of all instruments transferring the real estate.

(e) The City shall have the right to annually—or on an “as needed basis”—inspect any property for which an Inspection is allowed under this Ordinance. All persons with ownership or management interests in the property shall allow Inspection upon reasonable notice provided by the City.

(f) Any person who fails to perform an act required by this division or who commits an act prohibited by this Ordinance shall be guilty of a municipal infraction.

4. **Ordinance not Limiting.**

The responsibilities imposed under this Ordinance shall not limit or abridge any duty, requirement, obligation or liability for disclosure created by another provision of law, or under contract between parties.

5. **Alternate Procedures.**

In the alternative to proceeding with the provisions in (1) through (4) above, Contract Sellers may elect to be bound by and comply with the City's Rental Housing Code, as outlined in Chapter 156 of the Windsor Heights Code of Ordinances. If a Contract Seller elects to proceed under the governance of Chapter 156, they must promptly notify the City and comply with all rental housing provisions prior to executing a Contract.

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CHAPTER 156

RENTAL HOUSING CODE

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156.10	Entrance and Survey of Buildings	156.25	Rent Collections
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156.12	Notice on Sale of Dwelling Unit	156.27	Civil Liability
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156.15	Designation of Unfit Dwelling Unit and Procedures of Condemnation		

156.01 DEFINITIONS. For use in this chapter the following items are defined:

1. “Apartment house or building” means any building or portion thereof which is designed, rented, leased, or hired out to be occupied, or which is occupied as the home or residence of two (2) or more families living independently of each other and doing their own cooking in the said building, and includes flats and apartments.
2. “Dwelling” means any house or building or portion thereof which is occupied in whole or part as a home or residence of one or more tenants, on a rental basis, or when, in return for housing, a tenant agrees to occupy and maintain the premises and pay utilities. No part of a building hereafter constructed or altered into a dwelling as described may be occupied in whole or in part for human habitation until the issuance of a rental certificate by the Building Inspector that such part of the dwelling conforms to code requirements. A dwelling unit that is being rented for a period of 90 days or less in a single calendar year or a portion of such dwelling unit shall be exempt from this chapter.
3. “Dwelling unit” means one or more habitable rooms in a dwelling, apartment house, or building which are occupied or which are intended or designed to be occupied by one family with facilities for living, sleeping, cooking, and eating.
4. “Rental certificate” means a certificate that is issued within fourteen (14) days after written application if the dwelling unit, at the date of such application, is entitled thereto. Such a certificate shall thereafter be known as a rental certificate.
5. “Tenant” means: (i) a person occupying a dwelling unit who pays (or has payments made on his or her behalf) a stated payment at fixed intervals for the use of the dwelling unit; or (ii) a person occupying a dwelling unit owned by another individual, who, in return for housing, agrees to occupy and maintain the premises and pay utilities.
6. “Rooming house” means a building offered or occupied for lodging, with or without meals, and not occupied as a one- or two-family dwelling.

156.02 TITLE. This chapter shall be known as the Windsor Heights, Iowa, Rental Housing Code, and may be cited as such, and will be referred to herein as “this code.”

156.03 PURPOSE. The purpose of this code is to ensure that rental housing facilities and conditions are of sufficient quality to protect and promote the health, safety, and welfare of those persons utilizing such housing and also the general public.

156.04 SCOPE. The provisions of this chapter shall be deemed to apply to all dwellings as defined in this code or portions thereof used or designed or intended to be used for human habitation. All occupancies in existing buildings may be continued except in such structures as are found to be substandard as defined in this code. Where any building or portion thereof is used or intended to be used as a combination apartment house-hotel, the provisions of this code shall apply to the separate portions as if they are separate buildings. Every rooming house or lodging house shall comply with all of the requirements of this code applicable to dwellings. However, this chapter does not apply to single-family dwellings occupied by the owner, as defined in Section 167.04 of this Code of Ordinances, unless the owner is operating a rooming house. Further, the maximum occupancy of a dwelling unit under this chapter shall be either: (i) one family; or (ii) no more than one person per bedroom, plus one, but not to exceed three unrelated persons.

156.05 ADOPTION OF HOUSING CODE. In accordance with the requirements of Section 364.17 of the *Code of Iowa*, the City hereby adopts the *Uniform Housing Code*, 1997 Edition, published by the International Conference of Building Officials and the *Recommended Minimum Housing Standards*, 1986 Edition, as published by the American Public Health Association. In instances where there is conflict between the *Uniform Housing Code*, 1997 Edition, and the *Recommended Minimum Housing Standards*, 1986 Edition, as adopted herein, the least restrictive provision will apply.

156.06 REGULAR INSPECTIONS. Regular inspections of one- and two-family rental dwelling units shall be required every eighteen months. Regular inspections of multi-family rental dwelling units shall be required every twelve months.

156.06.01 SIGNAGE - Upon approval and passage of the inspection, if the property is in search of renters and if the owner chooses to notify potential renters by a sign, owners must use a sign provided by the City, which can be collected at City Hall. Any sign used to advertise a rental property must be the official sign available from the city. A deposit fee of \$65.00 will be charged to the property owner that reflects the cost of the sign and will be refunded to the property owner upon return of the sign.

If it is discovered that the property owner is using a sign that does not conform to this code, it will be replaced with a code-compliant sign. The non-compliant signage will be left by the front door of the property.

The property owner shall remit the \$65.00 deposit to the city for the compliant sign within 10 days of receipt of this notice. If the property owner refuses to pay the sign deposit of \$65.00, it will be added to the cost of the next rental registration and will be non-refundable.

If a non-compliant sign is replaced by the City, the property owner will be notified by City personnel by placing a notice on the front door of the rental property. A notice will also be mailed to the property owner’s address of record with the city.

156.07 APPLICATIONS FOR RENTAL CERTIFICATE. Every person that offers for rent a dwelling unit in the City shall submit to the City Building Department, on forms provided, an application requesting a rental certificate. Such application shall be accompanied by an inspection fee in the amount established in this section. Upon receipt of such application, the City shall conduct an inspection of the premises and, if the same complies with the provisions of this chapter, issue a rental certificate. If the premises fails to comply, the inspector shall notify the applicant in writing, stating the reasons for such noncompliance.

1. **Applicable Fees and Fines.** The fee schedule for rental conversion, registration, and rental inspection is as follows:

Rental Conversion: New rental property that has not previously been registered as a rental property in the City is subject to this fee, which is set by Council resolution.

Rental Registration: \$75.00 for the first unit and \$15.00 for each additional unit thereafter.

Rental Housing Compliance Inspection Rates:

Number of Units	Fee	Number of Units	Fee
1	\$75.00	6	\$150.00
2	\$90.00	7	\$165.00
3	\$105.00	8	\$180.00
4	\$120.00	9	\$195.00
5	\$135.00	10	\$210.00

Each additional unit in same building: \$15.00

A charge of \$30.00 will be assessed to the property owner for failing to attend a scheduled inspection visit. The rental inspection program is performed by the Fire Department. If a rental inspection is missed because the Fire Department is performing fire or EMS related duties, the property owner will not be charged a penalty. Every effort will be made to reschedule with the property owner to perform the inspection.

Re-inspections within 30 days of the previous inspection:

- First re-inspection\$50.00 per trip + \$10.00 per unit
- Second re-inspection.....\$70.00 per trip + \$10.00 per unit
- Third re-inspection.....\$120.00 per trip + \$10.00 per unit
- Fourth re-inspectionConstitutes a municipal infraction, subject to the penalties and alternative relief authorized by this Code of Ordinances and by Section 364.22 of the *Code of Iowa* for failure to comply with the Rental Housing Code; civil penalty is \$500.00 or the maximum amount allowed by State law, whichever is greater

2. Assessment of Costs.

A. The City may charge the owner of real property a late payment fee of \$25.00 and may add interest up to 1.5 percent per month if costs imposed under subsection 1 of this section are not paid within 30 days of the date due.

B. The City shall send a notice of the late payment costs to such owner by first class mail to the owner’s personal or business mailing address. The late payment fee and interest shall not accrue if such owner files an appeal with the City.

C. Any owner objecting to the collection of costs by assessment may file a written request for a hearing before the Housing Code Appeals Board. The appeal shall be filed within ten days from the date of the notice of late payment. An untimely appeal shall not be accepted unless, in the discretion of the City Administrator, good cause is shown for the untimely filing.

D. The City Administrator shall notify the appellant and all board members of the date, time, and location of the hearing.

E. Any unpaid costs and interest shall constitute a lien on the real property and may be collected in the same manner as a property tax. Before a lien is filed, the City shall send a notice of intent to file a lien to the owner of the real property by first class mail to such owner’s personal or business mailing address.

156.08 ADDITIONAL INSPECTIONS. In addition to the inspections required under Section 156.07, the City inspectors are also empowered to make similar inspections of all rental dwelling units as frequently as may be necessary and may make inspection at any reasonable time on a written complaint submitted by the owner, tenant, or other person concerned.

156.09 INSPECTION FEES FOR ADDITIONAL INSPECTIONS.

1. When an inspection is made at the request of the owner, an inspection fee as provided in Section 156.07 shall be charged. If an inspection is made at the written request of a tenant and the dwelling unit is found to be in noncompliance due to an omission of the owner, such owner shall be responsible for the re-inspection fee. No inspection shall be conducted at the request of a tenant unless the tenant has first submitted the complaint in writing to the landlord no less than seven (7) days before making such complaint to the City. If, after a written complaint by the tenant, the dwelling is found to comply or if such noncompliance is due to conduct on the part of the tenant, the tenant shall be liable for the cost of such inspection. If such costs are not paid by the tenant within thirty (30) days after the date of billing, the City may initiate an action at law or in equity to recover the same in which event the tenant shall be liable for reasonable attorney fees. No fee shall be charged to the owner for such inspection.

2. In the event an inspection is initiated by the City or at the written request of a person other than the owner or tenant, and if the dwelling unit is found to be in noncompliance, the owner shall be liable for such inspection fees. No inspection shall be conducted at the request of a person other than the owner or tenant unless that person has first submitted the complaint in writing to the landlord no less than seven (7) days before making such complaint to the City. In the event that, on the date of the inspection, the dwelling unit complies with the provisions of the housing code, no fee shall be charged. In the event that, on the date of inspection, a dwelling unit fails to comply with the provisions of the housing code which necessitates additional inspections, the owner shall be liable for the cost of such re-inspection.

All fees required under this code shall be paid prior to the issuance or renewal of the rental certificate.

156.10 ENTRANCE AND SURVEY OF BUILDINGS. The building inspector and any such other persons as may be authorized by the City Administrator may, without fee except as provided in Section 156.07, enter, examine, make necessary records, and survey all dwelling units within the City. If entry into the interior portion of a dwelling unit is required, seventy-two (72) hours' notice shall be given by the City to the owner and tenant. The owner, owner's agent or representative, and the lessee and occupant of every dwelling unit and every person having the care and management of the same shall, at all reasonable times when required by such officers or persons, give them free access to such dwelling unit and premises. The owner of a dwelling unit and said owner's agents and employees shall have right of access to such dwelling units at reasonable times for the purpose of bringing about compliance with the provisions of this code or any order issued hereunder.

156.11 RENTAL CERTIFICATES.

1. Rental Certificate Required. All owners of dwelling units shall register such dwelling units with the Building Inspector. No person shall rent, lease, operate, or

otherwise allow the occupancy of any dwelling unit unless such person holds a valid rental certificate as is required by this code.

2. Issuance; Duration; Validation. If a dwelling unit fails to comply under Section 156.07, and if the dwelling unit and premises are found later to comply with the requirements of this code upon re-inspection, the Building Inspector shall issue a temporary rental certificate. This rental certificate shall be valid for a period of thirty (30) days from the date of inspection. Upon payment of the appropriate fees, the Building Inspector shall validate it.
3. Display. Rental certificates shall be displayed by the owner for the tenant to examine before the dwelling unit may be rented, leased, or otherwise occupied.
4. Transfer. Rental certificates shall not be transferable to succeeding owners. Rental certificates shall automatically terminate and become null and void, without further action of the City, upon transfer of property ownership or upon execution of an agreement to purchase property on contract.
5. Termination. Rental certificates shall automatically terminate and become null and void upon issuance of a nuisance abatement by the City that is related, in any way, to the property to which the rental certificate applies.

156.12 NOTICE ON SALE OF DWELLING UNIT. Every person holding a rental certificate under this code shall give notice in writing to the Building Inspector within ninety-six (96) hours after having sold, transferred, conveyed, or otherwise disposed of the ownership, interest in or control of any dwelling unit. This notice shall include the name and address of the person succeeding to the ownership or control thereof.

156.13 NAME AND ADDRESS OF AGENT FILED. Every owner, agent, or lessee of a dwelling unit shall file with the city clerk a notice containing the name and address of an agent of such dwelling unit for the purpose of receiving service of all notices required by this code.

156.14 EMERGENCY ORDERS. Whenever the Building Inspector finds that an emergency exists which threatens immediately the public health, safety or welfare, the Building Inspector may issue an order reciting the existence of such an emergency and requiring that such action be taken which the Building Inspector deems necessary to meet the emergency. Notwithstanding the other provisions of this code, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately.

156.15 DESIGNATION OF UNFIT DWELLING UNIT AND PROCEDURES OF CONDEMNATION. No person shall let to another for occupancy any dwelling unit for the purpose of living, inhabiting, sleeping, cooking, and eating therein which does not comply with the following requirements: Any dwelling unit which is found to have any of the following defects shall be condemned as unfit for human habitation and shall be so designated and placarded by the Building Inspector.

1. One which is so damaged, decayed, dilapidated, unsanitary, unsafe, or vermin infested that it creates a serious hazard to the health, safety or welfare of the occupants or the public.
2. One which lacks illumination, ventilation, or sanitation facilities adequate to protect the health, safety, or welfare of the occupants or of the public.
3. One which, because of its general condition or location is unsanitary or otherwise dangerous to the health, safety, or welfare of the occupants or of the public.

156.16 VACATED IMMEDIATELY. Any dwelling unit or any portion thereof condemned as unfit for human habitation and so designated and placarded by the Building Inspector shall be vacated immediately as ordered by the Building Inspector. The Building Inspector shall notify the City of such action prior to placarding the dwelling unit.

156.17 ELIMINATION OF DEFECTS. No dwelling unit or a portion thereof which has been condemned and placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from, and such placard is removed by the Building Inspector. The Building Inspector shall remove such placard whenever the defect or defects upon which the condemnation and placarding were based have been eliminated.

156.18 DEFACE OR REMOVE PLACARD. No person shall deface or remove the placard from any dwelling unit which has been condemned as unfit for human habitation and placarded as such, except as provided in this code.

156.19 AUTHORITY TO EXECUTE. In case any notice or order issued by the Building Inspector or City is not complied with, the Building Inspector may recommend that the City apply to the district court for an order authorizing the City to execute and carry out the provisions of the notice or order to correct any violation specified in the notice or order to abate any nuisance in or about the dwelling unit.

156.20 ACTION TO ENJOIN. In case any dwelling unit, building or structure is constructed, altered, converted, or maintained in violation of any provisions of this code or of any order or notice of the Building Inspector, or in case a nuisance exists in any such dwelling unit, building or structure or upon the lot on which it is situated, the City may cause the institution of any appropriate action or proceeding to prevent such unlawful construction, alteration, conversion, or maintenance, to restrain, correct or abate such violation, or nuisance, or to prevent the occupation of the dwelling unit, building or structure, or to prevent any illegal act, conduct business in or about such dwelling unit or lot.

156.21 INJUNCTION. In any such action or proceeding, the Building Inspector may, by a statement duly verified setting forth the facts, request that the City apply to the district court for an order granting the relief for which the action or proceeding is brought or for an order enjoining any persons from doing or permitting to be done any work in or upon such dwelling unit, building, structure or lot, or from occupying or using the same for any purpose until the entry of final judgment or order.

156.22 EVICTION; LEASE TERMINATION. If the occupant of a dwelling fails to comply with the provisions of this code after due and proper notice from the Building Inspector or from the owner, such failure to comply shall be deemed sufficient cause for the eviction of such occupant by the owner and for cancellation of said occupant's lease.

156.23 DUTIES OF OCCUPANT. It is unlawful for any tenant to deliberately or recklessly destroy, deface, damage, or remove a part of the premises or to knowingly permit any other person to do so, or to remove without permission of the landlord any furniture or other items of personal property belonging to the landlord or owner or to cause damage resulting in noncompliance with the housing code.

156.24 NOTICE OF ACTIONS. In any action brought by the City in relation to a dwelling unit or injunction, vacation of the premises, or abatement of nuisance or to establish

a lien thereon, or to recover a civil penalty, service of notice shall be in the manner provided by law for the service of an original notice.

156.25 RENT COLLECTIONS. Rent shall not be recoverable by the owner or lessee of any dwelling unit which does not comply with the provisions of this code. Rent shall not thereupon be recoverable by the owner of such dwelling unit until the City gives written notice to the owner and occupant that such dwelling unit has been issued a valid rental certificate as required by this code.

156.26 CITY LIABILITY. The City or any employee is not liable for damages to a person or property as a result of any act or failure to act in the enforcement of this code. This code shall not be construed to relieve from or lessen the responsibility of any person owning, operating, or controlling any equipment or structure regulated herein for damages to a person or property caused by its defects, nor shall the City or any City employee be held as assuming any such liability by reason of the inspections authorized by this code or any approvals issued under this code.

156.27 CIVIL LIABILITY. The owner of any dwelling unit or of any building or structure upon the same lot with a dwelling unit, or of the lot, in violation of this code or where a nuisance as defined in this Code of Ordinances exists, who has been guilty of such violation or of creating or knowingly permitting the existence of such violation, or any occupant who violates or assists in violating any provisions of this code, shall also jointly and severally for each such violation and each such nuisance be subject to a civil penalty as outlined in Section 156.07, in a civil action brought in the name of the City. Such person or persons and also the premises shall be liable in such case for all costs, expenses, and disbursements paid or incurred by the Building Department, including attorneys' fees, paid or incurred by the City, by any of the officers, agents, or employees thereof, in the removal of any such nuisance or violation.

156.28 ADDITIONAL LIABILITY. Any person who, having been served with a notice or order to remove any such nuisance or violation, fails to proceed in good faith to comply with the notice or order within five (5) days after such service or who continues to violate any provisions or requirements of this Code of Ordinances, shall also be subject to a civil penalty as outlined in Section 156.07. For the recovery of such penalties, costs, expenses, or disbursements, an action may be brought in a court of competent civil jurisdiction.

156.29 RENTAL HOUSING CODE APPEALS.

1. There is hereby created a Housing Code Appeals Board consisting of five (5) members. The Housing Code Appeals Board shall designate its Chairperson and Secretary.
2. The Housing Code Appeals Board shall adopt reasonable rules and regulations for the conduct of its meetings and investigations and shall render all decisions and findings in writing to the Building Inspector and City Administrator. All decisions and findings shall be made part of the public record.
3. Any person aggrieved by a notice or order of the Building Inspector in connection with any alleged violation of this Rental Housing Code, of any applicable rule or regulation issued pursuant thereto, or by any order requiring repair or demolition, may apply to the Building Inspector for an administrative conference for reconsideration of such notice or order if such application is made within fourteen (14) days after the date the notice or order was served. If the Building Inspector holds

an administrative conference for reconsideration of the notice or order, the Building Inspector shall prepare a written summary of the conference including a written statement of the decision reached. Such summary and statement shall become part of the public record.

4. Any person aggrieved by a decision of the Building Inspector issued under subsection 3 of this section may apply to the Housing Code Appeals Board for a reconsideration of such decision provided such application is made within twenty-one (21) days after the date the decision was served.

5. Upon receipt of an appeal, the Housing Code Appeals Board shall set a time and place for the hearing within ten (10) days of the receipt of such application, and shall advise the applicant in writing of such time and place at least seven (7) days prior to the date of the hearing.

6. At the hearing, the applicant shall be given an opportunity to be heard and to show cause why such decision of the Building Inspector should be modified, extended, withdrawn, or a variance granted.

7. The Housing Code Appeals Board, by a majority vote, may sustain, modify, or withdraw the decision of the Building Inspector. In granting an extension or variance of any decision, the Appeals Board shall observe the following conditions:

A. The Housing Code Appeals Board may grant an extension of time for the compliance with any order, notice, or decision, for not more than six (6) months, subject to appropriate conditions and provided that the Appeals Board makes specific findings of fact based on evidence relating to the following:

- (1) There are practical difficulties or unnecessary hardships in carrying out the strict letter of any notice, order, or decision; and
- (2) Such an extension is in harmony with the general purpose and intent of this chapter in securing the public health, safety, and general welfare.

B. The Housing Code Appeals Board may grant a variance in a specific case and from a specific provision of this Rental Housing Code subject to appropriate conditions and provided the Appeals Board makes specific findings of fact based on evidence related to the following:

- (1) The property in question cannot yield a reasonable return or be used for a conforming purpose if used only for a purpose allowed in that zone or as allowed by the Rental Housing Code; and
- (2) The plight of the property owner is due to unique circumstances of the specific property owner and not to the general conditions of other properties in the City; and
- (3) The use to be authorized by the variance will not alter the essential character of the locality or the general purposes underlying the Rental Housing Code in securing the public health, safety, and general welfare; and
- (4) The hardship must be substantial, serious, real, and of compelling force, as distinguished from reasons of convenience, profit or caprice; and

(5) The application of a particular Rental Housing Code provision to a particular property greatly decreases or practically destroys its value for any permitted use, or where such application bears so little relationship to the purposes of health, safety, and welfare of the public that, as to the property in question, the provision is in effect confiscatory, arbitrary, or capricious, or constitutes an unnecessary, unwarranted, or unjust invasion of, or interference with, a fundamental right or property; and

(6) The unnecessary hardship of practical difficulties along with their arbitrary effect cannot be remedied by the grant of an extension.

Such grant of variance shall not go into effect until twenty-one (21) days after the date the variance is granted.

8. In any instance in which the Housing Code Appeals Board has granted a variance to any provision of the Rental Housing Code, within seven (7) days of the date on which the variance is granted, the Building Inspector, the Fire Chief, the City Administrator or the City Attorney shall have the right to request, in writing, that the City Council review the action of the Housing Code Appeals Board. If such a request is received and filed by the City Clerk within the time period allowed, the variance granted by the Housing Code Appeals Board shall be stayed and suspended until such time as the City Council can review such matter. Within ten (10) days of receipt of such a request, the City Clerk shall set a date for the review hearing and shall notify, in writing, the affected property owners of the date, time, and place set for the review hearing, and shall further notify such owners that the grant of the variance is stayed and suspended pending further review by the City Council. On the date set for the review hearing, the City Council shall receive and review all facts and information relied on by the Housing Code Appeals Board and, in addition, shall receive any additional information that may be submitted to it by any party. After such review hearing, the City Council shall decide to affirm, reverse, or modify such grant of variance.

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CHAPTER 157

STANDARD CONSTRUCTION SPECIFICATIONS

157.01 Purpose

157.02 Adoption of Specifications

157.03 Amendments

157.04 Violation

157.01 PURPOSE. In order to ensure the consistent high quality of materials and workmanship in all public construction projects, the City deems it in the public interest to establish and publish Standard Construction Specifications which shall apply to and govern the construction of all public improvements in public rights-of-way within the City.

157.02 ADOPTION OF SPECIFICATIONS. The City adopts, by reference, the following minimum standards for public improvements constructed within the City's jurisdictional area: The *Iowa Statewide Urban Design and Specifications* – current edition – (SUDAS) manuals shall be the adopted City Standard for Public Improvements. SUDAS shall be the minimum standards; due to unusual or extenuating circumstances, the City may require that projects conform to additional standards or to greater than minimum standards. A copy of the specifications shall remain on file at the office of the Clerk and shall be available for inspection and copying. All contractors and suppliers shall be charged with knowledge of its contents.

157.03 AMENDMENTS. The City may, from time to time, make additions or changes to the specifications in the form of amendments adopted by resolution. Following adoption by resolution, the amendments shall be placed in the publication on file with the City Clerk and shall have the full force and effect of law as of the date the amendments are filed.

157.04 VIOLATION. Any person violating any provisions of the Standard Construction Specifications shall be guilty of a simple misdemeanor.

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CHAPTER 158

ELECTRICAL AND MECHANICAL LICENSES

158.01 Scope	158.10 License Fees
158.02 Electrical License Required	158.11 Bond
158.03 Electrical Contractor's License	158.12 License Revocation or Suspension
158.04 Journeyman Electrician	158.13 Revocation and Suspension Procedures
158.05 Apprentice Electricians	158.14 Summary Suspension
158.06 Homeowners	158.15 Appeal
158.07 License Fees	158.16 Transfer of License
158.08 Mechanical Contractor's License	158.17 Expiration of License
158.09 Mechanic's Qualifications	

158.01 SCOPE. The provisions of this chapter regarding electrical and mechanical licenses do not apply to any of the following: regular employees of a public utility who do electrical or mechanical work for such public utility only; the electrical or mechanical work of a telephone or telegraph company; or the persons performing electrical or mechanical work for such a company, where such electrical work is an integral part of the plant used by such telephone or telegraph company in rendering its duly authorized service to the public; and regular employees of any railroad who do electrical work only as a part of that employment.

158.02 ELECTRICAL LICENSE REQUIRED. No person shall install, alter, add to, repair, relocate, replace, and/or maintain any electrical system within the City unless such person is licensed as provided in this chapter and has obtained a permit for the electrical work from the appropriate City official.

158.03 ELECTRICAL CONTRACTOR'S LICENSE. An electrical contractor's license shall be issued by the City to a person who holds a valid master electrician license with the State of Iowa pursuant to the administrative rules of the Iowa Department of Public Safety. The contractor's license shall be subject to all conditions applied to the master electrician license issued by the State.

1. The owner (if a sole proprietorship) or one active manager of electrical operations (if any other form of business organization) shall hold a master electrician's certificate of competency before such person may be granted an electrical contractor's license. The license issued shall recite the name of the person holding the master electrician's certificate of competency and the name of the firm or corporation.
2. The electrical contractor's license shall be automatically revoked if the person therein ceases to hold a master electrician's license with the State of Iowa or ceases to actively manage the electrical operations conducted under the electrical contractor's license. If a firm's or corporation's master electrician ceases to be the active manager of the electrical operations of the firm or corporation, such firm or corporation shall not be permitted to do any further electrical work, except that work authorized by previously issued permits may, at the discretion of the appropriate City official, be continued and finished.
3. A master electrician who terminates his or her association with a business entity or who is terminated by the business entity shall notify the appropriate City official of such termination in writing. No person holding a master electrician's

license may be named as the responsible master electrician for the licensing of more than one firm or corporation or other such business entity.

158.04 JOURNEYMAN ELECTRICIAN. An individual licensed as a journeyman electrician by the State of Iowa pursuant to the administrative rules of the Iowa Department of Public Safety shall be permitted to perform electrical services as permitted under such license provided such journeyman electrician is employed by the person or entity holding the City's electrical contractor's license.

158.05 APPRENTICE ELECTRICIANS.

1. The term "apprentice" includes any person who is involved or assisting in the installation of electrical systems or equipment, including individuals serving as trainees, helpers, or individuals that are participating in an established apprentice training program. Apprentice electricians shall work under the direct on-site supervision and control of an individual holding a master or journeyman electrician's license from the State of Iowa pursuant to the administrative rules of the Iowa Department of Public Safety.
2. Every apprentice shall register with the office of the appropriate City official before the first day of January in any licensing year.
3. No electrical contractor shall employ any apprentice for work within the City who is not registered as required by subsection 2 of this section, and no electrical contractor shall employ more than two apprentices for each individual permanently employed as a journeyman or master electrician.

158.06 HOMEOWNERS. The owner or owners of a single-family dwelling (or mobile home), including the usual accessory buildings and quarters used exclusively for living purposes, may do electrical work without a license if the owner demonstrates the capability to do such work to the satisfaction of the City's electrical inspector, provided that the dwelling (or mobile home) will be occupied by the owner or owners and that a permit is issued as provided in this Code of Ordinances.

158.07 LICENSE FEES. Any person desiring a license under this chapter shall make a written, signed application to the Clerk on forms provided by the Clerk. All annual fees for licenses under this chapter shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such license fees may, from time to time, be amended by the Council by resolution. A copy of the resolution setting forth the currently effective license fees shall be kept on file in the office of the City Administrator, and be open to inspection during regular business hours.

158.08 MECHANICAL CONTRACTOR'S LICENSE. No person shall engage in the activity or business of installing, altering, or repairing any of the mechanical equipment or systems for which permits are required by this Code of Ordinances unless said person first obtains from the Clerk a mechanical contractor's license. In the case of a partnership, firm, corporation, or association, the issuance of a mechanical contractor's license to one of the active partners, associates, officers, or managers shall be sufficient compliance with this section.

158.09 MECHANIC'S QUALIFICATIONS. Before issuing a mechanical contractor's license, the Clerk shall require reasonable proof that the applicant has sufficient knowledge of the Mechanical Code and is possessed of mechanical skill, as evidenced by a record of

experience and training and such standard tests as deemed necessary, sufficient to assure that the health and safety of the citizens will be protected by the quality of the installations, alterations, and repairs made by said licensee. Evidence of qualifications from another municipality with the same or higher requirements shall be accepted.

158.10 LICENSE FEES. Any person desiring a license under this chapter shall make a written, signed application to the Clerk on forms provided by the Clerk. All annual fees for licenses under this chapter shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such license fees may, from time to time, be amended by the Council by resolution. A copy of the resolution setting forth the currently effective license fees shall be kept on file in the office of the City Administrator and be open to inspection during regular business hours.

158.11 BOND. Any person who has been issued a license as an electrical contractor or mechanical contractor shall execute and deposit with the Clerk a bond, with sureties in the sum of five thousand dollars (\$5,000.00) approved by the Clerk and Mayor. This bond is to be held as surety that the licensee will fulfill these conditions:

1. All work performed by the licensee or under the licensee's supervision shall be performed in accordance with the provisions of this Code of Ordinances.
2. The licensee will pay all fines and penalties properly imposed on the licensee for violation of this Code of Ordinances.

158.12 LICENSE REVOCATION OR SUSPENSION. In addition to penalties otherwise provided, the Clerk may order, in accordance with the provisions of this section or Section 158.13, revocation or suspension of any license issued under this chapter.

158.13 REVOCATION AND SUSPENSION PROCEDURES. No order of license revocation or suspension shall be lawful unless the following requirements have been satisfied:

1. The licensee shall be served with written notice containing assertions of fact or conduct which warrant the intended action, reference to ordinance provisions allegedly violated, and specifications of the time, place, and nature of the hearing.
2. The Clerk shall conduct a hearing for the purpose of resolving those issues of law and fact arising out of the individual case. Should the licensee or the licensee's authorized representative fail to appear without good cause, the Clerk may proceed, in the licensee's absence, to a determination of the issues.
3. The licensee shall have the right to be represented by counsel, to testify and present witnesses in his or her own behalf, and to cross-examine adverse witnesses.
4. The Clerk shall make and record findings of fact and conclusions of law and shall issue an order of suspension or revocation only when, upon review of the entire record, it finds clear and convincing evidence of a substantial violation of this Code of Ordinances.

158.14 SUMMARY SUSPENSION. If the Clerk finds that the public health or safety requires emergency action, and incorporates a finding to that effect in the Clerk's order, summary suspension of a license may be ordered pending Section 158.13 suspension or revocation proceedings. Immediately upon issuance of an order of summary suspension, the Clerk shall institute proceedings pursuant to the requirements of Section 158.13.

158.15 APPEAL. In the event any person feels aggrieved by any action of the Clerk, the person may appeal from such action to the Council by filing written notice of the appeal within ten (10) days from the date of action. The Council shall give the appealing party and the examining board five (5) days' written notice by certified mail of the date, time, and place of hearing. All interested persons shall be given opportunity to be heard at such hearing and the Council may affirm, modify, or overrule the action of the Clerk. Action taken by the Clerk shall be affirmed by the Council if such action is supported by substantial evidence upon the whole record.

158.16 TRANSFER OF LICENSE. It is unlawful for any license holder to transfer his or her license or to allow it to be used, directly or indirectly, by any other person.

158.17 EXPIRATION OF LICENSE. All licenses issued by the Clerk under this chapter shall expire on December 31 of the year of issue but may be renewed upon payment to the Clerk of the annual fees in the amount provided in Section 158.10 of this chapter. All licenses must be renewed prior to the expiration date.

CHAPTER 159

PLUMBER'S LICENSES

159.01 Definitions

159.02 Master Plumber's License

159.03 Plumbing Contractor's License

159.04 Apprentices and Helpers

159.05 Plumber's Qualifications

159.06 License Fees

159.07 Expiration of License

159.08 Plumber's Bond

159.09 License Revocation or Suspension

159.10 Revocation and Suspension Procedures

159.11 Summary Suspension

159.12 Appeal

159.13 Transfer of License

159.01 DEFINITIONS. For use in this Chapter, the following terms are defined:

1. "Apprentice" means any person who, while learning the trade of plumbing, is assisting in the installation, alteration, or repair of plumbing and is actually with and in the presence of a licensed journeyman plumber.
2. "Journeyman plumber" means any person who installs, alters, or repairs plumbing, and who has a valid license as a journeyman plumber.
3. "Master plumber" means any person engaged in planning, supervising, and contracting for the installation of plumbing and who is licensed as a master plumber.
4. "Plumbing contractor" means any person engaged in planning, supervising, and contracting for the installation of plumbing.

159.02 MASTER PLUMBER'S LICENSE. No plumbing contractor shall engage in the business of plumbing unless licensed as a master plumber. In the case of a partnership, firm, corporation, or any other association organized to engage in the business of plumbing, the issuance of a valid master plumber's license to one of the active partners, associates, officers, or managers shall be sufficient compliance with this section. This section shall not be construed to allow any person to engage in the practice of installing, repairing, or altering plumbing work unless that person is licensed as a master or journeyman plumber in accordance with the provisions of this chapter.

159.03 PLUMBING CONTRACTOR'S LICENSE. In addition to Section 159.02, no plumbing contractor shall engage in the business of plumbing unless said person has first obtained a plumbing contractor's license.

159.04 APPRENTICES AND HELPERS. Apprentices and helpers employed to assist a licensed plumber in the practice of installing, repairing, or altering plumbing work need not be licensed; provided, however, such apprentices and helpers perform their work under the direct supervision of a licensed plumber.

159.05 PLUMBER'S QUALIFICATIONS. Before issuing a license, the Clerk shall require reasonable proof that the applicant has sufficient knowledge of the Plumbing Code and is possessed of plumbing skill, as evidenced by a record of experience and training and such standard tests as deemed necessary, sufficient to assure that the health and safety of the citizens will be protected by the quality of the installations, alterations, and repairs made by said licensee. Evidence of qualifications from another municipality with the same or higher requirements shall be accepted.

159.06 LICENSE FEES. Any plumbing contractor or person who desires to be licensed as a plumbing contractor, master plumber or as a journeyman plumber shall make a written, signed application to the Clerk on forms provided by the Clerk. All annual fees for licenses under this chapter shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such license fees may, from time to time, be amended by the Council by resolution. A copy of the resolution setting forth the currently effective license fees shall be kept on file in the office of the City Administrator and be open to inspection during regular business hours.

159.07 EXPIRATION OF LICENSE. All licenses issued by the Clerk under this chapter shall expire on December 31 of the year of issue but may be renewed upon payment to the Clerk of the annual fees in the amount provided in Section 159.06 of this chapter. All licenses must be renewed prior to the expiration date.

159.08 PLUMBER'S BOND. Any person who has been issued a license as a plumbing contractor shall execute and deposit with the Clerk a bond, with sureties in the sum of five thousand dollars (\$5,000.00) approved by the Clerk and Mayor. This bond is to be held as surety that the licensee will fulfill these conditions:

1. All plumbing work performed by the licensee or under the licensee's supervision shall be performed in accordance with the Plumbing Code.
2. The licensee will pay all fines and penalties properly imposed upon the licensee for violation of this chapter and the Plumbing Code.

159.09 LICENSE REVOCATION OR SUSPENSION. In addition to penalties otherwise provided, the Clerk may order, in accordance with the provisions of this section or Section 159.10, revocation or suspension of any license issued under this chapter.

159.10 REVOCATION AND SUSPENSION PROCEDURES. No order of license revocation or suspension shall be lawful unless the following requirements have been satisfied.

1. The licensee shall be served with written notice containing assertions of fact or conduct which warrant the intended action, reference to ordinance provisions allegedly violated, and specifications of the time, place, and nature of the hearing.
2. The Clerk shall conduct a hearing for the purpose of resolving those issues of law and fact arising out of the individual case. Should the licensee or the licensee's authorized representative fail to appear without good cause, the Clerk may proceed, in the licensee's absence, to a determination of the issues.
3. The licensee shall have the right to be represented by counsel, to testify and present witnesses in his or her own behalf, and to cross-examine adverse witnesses.
4. The Clerk shall make and record findings of fact and conclusions of law and shall issue an order of suspension or revocation only when, upon review of the entire record, there is found to be clear and convincing evidence of a substantial violation of this Code of Ordinances.

159.11 SUMMARY SUSPENSION. If the Clerk finds that the public health or safety requires emergency action, and incorporates a finding to that effect in the Clerk's order, summary suspension of a license may be ordered pending Section 159.10 suspension or

revocation proceedings. Immediately, upon issuance of an order of summary suspension, the Clerk shall institute proceedings pursuant to the requirements of Section 159.10.

159.12 APPEAL. In the event any person feels aggrieved by any action of the Clerk, the person may appeal from such action to the Council by filing written notice of the appeal within ten (10) days from the date of action. The Council shall give the appealing party and the examining board five (5) days' written notice by certified mail of the date, time, and place of hearing. All interested persons shall be given opportunity to be heard at such hearing and the Council may affirm, modify, or overrule the action of the Clerk. Action taken by the Clerk shall be affirmed by the Council if such action is supported by substantial evidence upon the whole record.

159.13 TRANSFER OF LICENSE. It is unlawful for any license holder to transfer his or her license or to allow it to be used, directly or indirectly, by any other person.

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CHAPTER 160

CONSTRUCTION SITE EROSION AND SEDIMENT CONTROL

160.01 Findings

160.02 Application Procedure

160.03 Inspection Procedures

160.04 Monitoring Procedures

160.05 Enforcement

160.06 Failure to Comply

160.07 Appeal

160.01 FINDINGS.

1. The U.S. EPA's National Pollutant Discharge Elimination System ("NPDES") permit program ("Program") administered by the Iowa Department of Natural Resources ("IDNR") requires that cities meeting certain demographic and environmental impact criteria obtain from the IDNR an NPDES permit for the discharge of storm water from a Municipal Separate Storm Sewer System ("MS4") ("MS4 Permit"). The City of Windsor Heights is subject to the Program and is required to obtain, and has obtained, an MS4 Permit; the City's MS4 Permit is on file at the office of the City Clerk and is available for public inspection during regular office hours.

2. The Program requires certain individuals engaged in construction activities ("applicants") to submit an application to the IDNR for a State NPDES General Permit #2. Notwithstanding any provision of this chapter, every applicant bears final and complete responsibility for compliance with a State NPDES General Permit #2 and a City COSESCO Permit and any other requirement of State or Federal law or administrative rule.

3. As a condition of the City's MS4 Permit, the City is obliged to undertake responsibility for administration and enforcement of the Program by adopting a CONSTRUCTION SITE EROSION AND SEDIMENT CONTROL ("COSESCO") ordinance designed to achieve the following objectives:

A. Any applicant required by law or administrative rule to apply to the IDNR for a State NPDES General Permit #2 shall also be required to obtain from the City a COSESCO permit ("City COSESCO Permit") in addition to and not in lieu of the State NPDES General Permit #2; and

B. The City shall have responsibility for inspection, monitoring and enforcement procedures to promote applicants' compliance with State NPDES General Permits #2 and City COSESCO Permits.

4. No State or Federal funds have been made available to assist the City in administering and enforcing the Program. Accordingly, the City shall fund its application, inspection, monitoring and enforcement responsibilities entirely by fees imposed on the owners of properties which are made subject to the Program by virtue of State and Federal law, and/or other sources of funding established by a separate ordinance.

5. Terms used in this chapter shall have the meanings specified in the Program.

160.02 APPLICATION PROCEDURE.

1. All persons required by law or administrative rule to obtain a State NPDES General Permit #2 from the IDNR are required to obtain a City COSESCO Permit.
2. Applications for City COSESCO Permits shall be made on forms approved by the City which may be obtained from the office of the City Clerk.
3. An applicant for a City COSESCO Permit shall pay fees as follows:
 - A. An application fee at the time of application in the amount of \$50.00.
 - B. For each inspection required by this chapter, the applicant shall pay an inspection fee in the amount of \$30.00.
 - C. Failure of the applicant to pay an inspection fee within thirty (30) days of billing shall constitute a violation of this chapter.
 - D. The applicant will also be responsible for any outside consultant fees incurred by the City in enforcing this chapter.
4. An applicant in possession of a State NPDES General Permit #2 issued by the IDNR shall immediately submit to the City full copies of the materials described below as a basis for the City to determine whether to issue a City COSESCO Permit:
 - A. Applicant's plans, specifications, and supporting materials previously submitted to the IDNR in support of applicant's application for the State NPDES General Permit #2;
 - B. Applicant's authorizations issued pursuant to applicant's State NPDES General Permit #2; and
 - C. A Storm Water Pollution Prevention Plan ("SWPPP") prepared in accordance with this chapter.
5. Every SWPPP submitted to the City in support of an application for a City COSESCO Permit shall:
 - A. Comply with all current minimum mandatory requirements for SWPPPs promulgated by the IDNR in connection with issuance of a State NPDES General Permit #2;
 - B. If the applicant is required by law to file a Joint Application Form, PROTECTING IOWA WATERS, IOWA DEPARTMENT OF NATURAL RESOURCES AND U.S. ARMY CORPS OF ENGINEERS, comply with all mandatory minimum requirements pertaining to such applications;
 - C. Comply with all other applicable State or Federal permit requirements in existence at the time of application;
 - D. Be prepared by a licensed professional engineer or landscape architect or a professional in erosion and sediment control or a representative of the local Soil and Water Conservation District, credentialed in a manner acceptable to the City; and
 - E. Include within the SWPPP a signed and dated certification by the NPDES General Permit #2 permit holder that the SWPPP complies with all requirements of this chapter and the applicant's NPDES General Permit #2.

6. In addition to the SWPPP requirements stated in subsection 5 of this section, which constitute minimum mandatory requirements imposed by the Program, every SWPPP submitted to the City in support of an application for a City COSESCO Permit shall comply with SUDAS standard design criteria, including but not limited to design, location, and phased implementation of effective, practicable storm water pollution prevention measures, and shall also:
- A. Limit total off-site annual aggregate sediment yield for exposed areas to an equivalent amount resulting from sheet and rill erosion equal to an annual, cumulative soil loss rate not to exceed the standard established from time to time by Soil and Water Conservation Districts; erosion rates can exceed soil loss limits as long as sediment yield does not exceed that expected from allowable erosion rates.
 - B. Identify the nature of the construction activity and the potential for sediment and other pollutant discharges from the site.
 - C. Calculate the predicted erosion and estimated sediment yield for the construction site using the USDA Revised Universal Soil Loss Equation.
 - D. Assure that stockpiles of soil or other materials subject to erosion by wind or water are covered, vegetated, or otherwise effectively protected from erosion and sedimentation in accordance with the amount of time the material will be on site and the manner of its proposed use; no stockpiling is allowed in the street.
 - E. Identify measures and procedures to reasonably minimize site soil compaction and provide soil quality restoration as specified.
 - F. Assure that all temporary erosion and sediment controls shall not be removed until the City has determined that the site has been permanently stabilized.
 - G. Assure that all disturbed sites be permanently stabilized with 70% perennial cover as measured by the USDA line transect method.
 - H. Identify methods to prevent sediment damage to adjacent properties and sensitive environmental areas such as water bodies, plant communities, rare, threatened, and/or endangered species habitats, wildlife corridors, greenways, etc.
 - I. Provide for design and construction methods to stabilize steep or long continuous slopes.
 - J. Include measures to control the quantity and quality of storm water leaving a site before, during, and after construction.
 - K. Provide for stabilization of all waterways and outlets.
 - L. Protect storm sewer infrastructure from sediment loading/plugging.
 - M. Specify precautions to be taken to contain sediment when working in or crossing water bodies.
 - N. Assure stabilization of disturbed areas, including utility construction areas, as soon as possible.

- O. Protect outlying roads from sediment and mud from construction site activities, including tracking.
- P. Provide for disposal of collected sediment and floating debris.
- Q. Assure that, when working near sensitive waters, the specific practices itemized immediately below are utilized:
- (1) During Construction.
 - (a) All exposed soil areas with a slope of 3:1 or steeper, which have a continuous positive slope to a sensitive water, should have temporary erosion protection or permanent cover within three days after the area is no longer actively being worked; all other slopes that have a continuous positive slope to a sensitive water should have temporary erosion protection or permanent cover within seven days after the area is no longer actively being worked.
 - (b) Temporary sediment basin requirements should be used for common drainage locations that serve an area with five or more acres disturbed at one time.
 - (2) Buffer Zone. Provide for the maintenance at all times of an undisturbed buffer zone consisting of not less than 100 linear feet from the special water (not including tributaries); exceptions from this for areas such as water crossings or limited water access are allowed if the applicant fully documents in the SWPPP the circumstances and reasons that the buffer encroachment is necessary; all potential water quality, scenic and other environmental impacts of these exceptions should be minimized and documented in the SWPPP for the project.
 - (3) Enhanced Temperature Controls. Design the permanent storm water management system such that the discharge from the project will minimize any increase in the temperature.
 - (a) Minimize new impervious surfaces; and/or
 - (b) Other methods that will minimize any increase in the temperature of the sensitive waters.
7. Issuance by the City of a City COSESCO Permit shall be a condition precedent for the issuance of a City building permit or site plan approval.
8. For so long as a construction site is subject to a State NPDES General Permit #2 or a City COSESCO Permit, the applicant shall provide the City with current information, as follows:
- A. The name, address, and telephone number of the person on site designated by the owner who is knowledgeable and experienced in erosion and sediment control and who will oversee compliance with the State NPDES General Permit #2 and the City COSESCO Permit;
 - B. The names, addresses, and telephone numbers of the contractors and/or subcontractors that will implement each erosion and sediment control measure identified in the SWPPP.

Applicant's failure to provide current information shall constitute a violation of this chapter.

9. Developers can transfer State NPDES General Permit #2 and the City COSESCO Permit responsibility to homebuilders, new lot owners, contractors, and subcontractors. Transferees must agree to the transfer in writing, must agree to fulfill all obligations of the SWPPP, the State NPDES General Permit #2, and the City COSESCO Permit. Absent such written confirmation of transfer of obligations, the developer remains responsible for compliance on any lot that has been sold. A developer shall notify the City of any application to the DNR for release of any property from a General Permit #2 pursuant to Iowa Administrative Code 567, 64.6(6) or any similar successor provision.

10. Upon receipt of an application for a City COSESCO Permit, the City shall either find that the application complies with this chapter and issue a City COSESCO Permit in accordance with this chapter, or that the application fails to comply with this chapter; in which case, the City shall provide a bill of particulars identifying non-compliant elements of the application. The City will use a consulting engineer to accomplish this review.

11. Application for termination of a City COSESCO Permit shall be made by contacting the City Inspector.

160.03 INSPECTION PROCEDURES.

1. All inspections required under this chapter shall be conducted by the Public Works Director, City Engineer, Building Inspector, a subcontractor credentialed in a manner satisfactory to the City, or other appropriate designee, hereinafter referred to as the "enforcement officer."

2. Applicant shall notify the City when all measures required by applicant's SWPPP have been accomplished on-site, whereupon the City shall conduct an initial inspection for the purpose of determining compliance with this chapter, and shall within a reasonable time thereafter report to the applicant either that compliance appears to have been achieved, or that compliance has not been achieved, in which case the City shall provide a bill of particulars identifying the conditions of noncompliance. The applicant shall immediately commence corrective action and shall complete such corrective action within twenty-four (24) hours of receiving the City's bill of particulars. For good cause shown, the City may extend the deadline for taking corrective action. Failure to take corrective action in a timely manner shall constitute a violation of this chapter.

3. Construction shall not occur on the site at any time when the City has identified conditions of noncompliance.

4. Construction activities undertaken by an applicant prior to resolution of all discrepancies specified in the bill of particulars shall constitute a violation of this chapter.

5. The City shall not be responsible for the direct or indirect consequences to the applicant or to third parties for noncompliant conditions undetected by inspection.

160.04 MONITORING PROCEDURES.

1. Upon issuance of a City COSESCO Permit, an applicant has an absolute duty to monitor site conditions and to report to the enforcement officer any change of circumstances or site conditions which the applicant knows or should know pose a risk of storm water discharge in a manner inconsistent with applicant's SWPPP, State NPDES General Permit #2 and/or City COSESCO Permit.

A. Such report shall be made by the applicant to the enforcement officer immediately but in any event within twenty-four (24) hours of the change of circumstances or site conditions.

B. Failure to make a timely report shall constitute a violation of this chapter.

2. Any third party may also report to the City site conditions which the third party reasonably believes pose a risk of storm water discharge in a manner inconsistent with applicant's SWPPP, State NPDES General Permit #2, and/or City COSESCO Permit.

3. Upon receiving a report pursuant to the previous subsections, the enforcement officer shall conduct an inspection of the site as soon as reasonably possible and thereafter shall provide the applicant with a bill of particulars identifying the conditions of noncompliance. The applicant shall immediately commence corrective action and shall complete such corrective action within 24 hours of receiving the City's bill of particulars. For good cause shown, the City may extend the deadline for completing corrective action. Failure to take corrective action in a timely manner shall constitute a violation of this chapter, whereupon the enforcement officer shall immediately commence enforcement actions specified in Section 160.05 below.

4. Unless a report is made to the enforcement officer pursuant to the previous subsections, the enforcement officer shall conduct at least one unannounced inspection during the course of construction to monitor compliance with the State NPDES General Permit #2 and the City COSESCO Permit. If the inspection discloses any significant noncompliance, the enforcement officer shall provide the applicant with a bill of particulars identifying the conditions of noncompliance. The applicant shall immediately commence corrective action and shall complete such corrective action within 24 hours of receiving the City's bill of particulars. For good cause shown, the City may extend the deadline for completing corrective action. Failure to take corrective action in a timely manner shall constitute a violation of this chapter, whereupon the enforcement officer shall immediately commence enforcement actions specified in Section 160.05 below.

5. The City shall not be responsible for the direct or indirect consequences to the applicant or to third parties for noncompliant conditions undetected by inspection.

160.05 ENFORCEMENT.

1. Violation of any provision of this chapter may be enforced by civil action including an action for injunctive relief. In any civil enforcement action, administrative or judicial, the City shall be entitled to recover its attorneys' fees and costs from a person who is determined by a court of competent jurisdiction to have violated this chapter.

2. Violation of any provision of this chapter may also be enforced as a municipal infraction within the meaning of Section 364.22 of the *Code of Iowa*, pursuant to Chapter 4 of this Code of Ordinances.
3. Enforcement pursuant to this section shall be undertaken by the enforcement officer upon the advice and consent of the City Attorney.

160.06 FAILURE TO COMPLY. Failure to comply with this chapter constitutes a municipal infraction. The property owner is responsible to ensure that this chapter is observed.

160.07 APPEAL. Administrative decisions by City staff and enforcement actions of the enforcement officer may be appealed by the applicant to the City Council pursuant to the following rules:

1. The appeal must be filed in writing with the City Clerk within five (5) business days of the decision or enforcement action.
2. The written appeal shall specify in detail the action appealed from, the errors allegedly made by the enforcement officer giving rise to the appeal, a written summary of all oral and written testimony the applicant intends to introduce at the hearing, including the names and addresses of all witnesses the applicant intends to call, copies of all documents the applicant intends to introduce at the hearing, and the relief requested.
3. The enforcement officer shall specify in writing the reasons for the enforcement action, a written summary of all oral and written testimony the enforcement officer intends to introduce at the hearing, including the names and addresses of all witnesses the enforcement officer intends to call, and copies of all documents the enforcement officer intends to introduce at the hearing.
4. The City Clerk shall notify the applicant and the enforcement officer by ordinary mail, and shall give public notice, in accordance with Chapter 21 of the *Code of Iowa*, of the date, time, and place for the regular or special meeting of the City Council at which the hearing on the appeal shall occur. The hearing shall be scheduled for a date not less than four (4) or more than twenty (20) days after the filing of the appeal. The rules of evidence and procedure, and the standard of proof to be applied, shall be the same as provided by Chapter 17A, *Code of Iowa*. The applicant may be represented by counsel at the applicant's expense. The enforcement officer may be represented by the City Attorney or by an attorney designated by the City Council at City expense.

The decision of the City Council shall be rendered in writing and may be appealed to the Iowa District Court.

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CHAPTER 161

POST-CONSTRUCTION STORM WATER CONTROL

161.01 Findings of Fact	161.09 Approval of Storm Water Management Concept Plan
161.02 Purpose	161.10 Approval of Storm Water Management Final Plan
161.03 Applicability	161.11 Performance Security or Bond
161.04 Compatibility with Other Permit and Ordinance Requirements	161.12 Maintenance Performance Security or Bond
161.05 Definitions	161.13 Construction Inspection
161.06 Permit Procedures and Requirements	161.14 Maintenance and Repair of Storm Water BMPs
161.07 Waivers	161.15 Enforcement and Penalties
161.08 Storm Water Standards	161.16 Appeal

161.01 FINDINGS OF FACT.

1. The U.S. EPA's National Pollutant Discharge Elimination System ("NPDES") permit program ("Program") administered by the Iowa Department of Natural Resources ("IDNR") requires that cities meeting certain demographic and environmental impact criteria obtain from the IDNR an NPDES permit for the discharge of storm water from a Municipal Separate Storm Sewer System ("MS4") ("MS4 Permit"). The City of Windsor Heights is subject to the Program and is required to obtain, and has obtained, an MS4 Permit; the City's MS4 Permit is on file at the office of the City Clerk and is available for public inspection during regular office hours.
2. As a condition of the City's MS4 Permit, the City is obliged to adopt and enforce a POST-CONSTRUCTION STORM WATER CONTROL ordinance.
3. No State or Federal funds have been made available to assist the City in administering and enforcing the Program. Accordingly, the City shall fund its operations under this chapter entirely by charges imposed on the owners or developers of properties which are made subject to the Program by virtue of State and Federal law, and/or other sources of funding established by a separate ordinance.
4. Land development and associated increases in impervious cover alter the hydrologic response of local watersheds and increase storm water runoff rates and volumes, flooding, stream channel erosion, and sediment transport and deposition; this storm water runoff contributes to increased quantities of water-borne pollutants; and storm water runoff, soil erosion, and non-point source pollution can be controlled and minimized through the regulation of storm water runoff from development sites.
5. Therefore, City establishes this set of City storm water requirements applicable to all surface waters to provide reasonable guidance for the regulation of storm water runoff for the purpose of protecting local water resources from degradation. It is determined that the regulation of storm water runoff discharges from land development and other construction activities in order to control and minimize increases in storm water runoff rates and volumes, soil erosion, stream channel erosion, and non-point source pollution associated with storm water runoff is in the public interest and will prevent threats to public health and safety.
6. The determination of appropriate minimum storm water management standards ("standards") and the development of effective best management practices

(“BMPs”) to achieve those standards require technical expertise that may not always be readily available within City’s own staff. Moreover, it is important that such standards and BMPs are reasonably consistent across the State so that property owners and developers are not confronted with myriad variations depending upon the location of development. SUDAS publishes a SUDAS Design Manual which proposes what the City finds to be reasonable Minimum Storm Water Management Guidelines (“Guidelines”) along with Unified Sizing Criteria (“Sizing Criteria”) and BMPs to effectively address the Guidelines. As technology evolves and prompts changes in law, it is reasonable to expect that SUDAS will continue to be in the best position to monitor and adjust its Guidelines and revise designs of BMPs in response to changes. The City’s storm water management oversight obligations imposed by State and Federal law can best be achieved by adopting as the City’s standards and sizing criteria and BMPs to address said standards the Guidelines, Sizing Criteria, and BMPs proposed by SUDAS as reflected from time to time in the current SUDAS Design Manual and in future editions, with the understanding that any BMP installation that complies with the SUDAS Design Manual in effect at the time of installation shall be deemed to have been installed in accordance with this chapter.

161.02 PURPOSE. The purpose of this chapter is to adopt as the City’s standards and sizing criteria and BMPs to address said standards the Guidelines, Sizing Criteria, and BMPs proposed by SUDAS and as specifically identified above (hereinafter collectively “City storm water requirements”) in order to protect and safeguard the general health, safety, and welfare of the public within this jurisdiction. This chapter seeks to meet that purpose through the following objectives:

1. Minimize increases in storm water runoff from development within the City limits and fringe area in order to reduce flooding, siltation, increases in stream temperature, and stream bank erosion and maintain the integrity of stream channels;
2. Minimize increases in non-point source pollution caused by storm water runoff from development which would otherwise degrade local water quality;
3. Minimize the total annual volume of surface water runoff which flows from any specific development project site after completion to not exceed the pre-development hydrologic regime to the maximum extent practicable; and
4. Reduce storm water runoff rates and volumes, soil erosion, and non-point source pollution, wherever possible, through establishment of appropriate minimum storm water management standards and BMPs and to ensure that BMPs are properly maintained and pose no threat to public safety.

161.03 APPLICABILITY.

1. This chapter is applicable to all subdivision or site plan applications meeting the minimum square foot applicability criteria of subsection 2 of this section, unless eligible for an exemption or granted a waiver by the City under Section 161.07 of this chapter. This chapter also applies to land disturbance activities that are smaller than the minimum square foot applicability criteria specified in subsection 2 if such activities are part of a larger common plan of development that meets the minimum square foot applicability criteria specified in subsection 2, even though multiple separate and distinct land development activities may take place at different times on different schedules. In addition, all plans must also be reviewed by local environmental protection officials to ensure that established water quality standards

will be maintained during and after development of the site and that post-construction runoff levels are consistent with any local and regional watershed plans.

2. City storm water requirements must be met for development to be approved. City storm water requirements apply to any development disturbing 43,560 or more square feet of land, and to any development disturbing less than said number of square feet of land if the amount of impervious cover created exceeds 5,000 square feet. The following activities are exempt from this chapter:

A. Any logging and agricultural activity which is consistent with an approved soil conservation plan or a timber management plan prepared or approved by the appropriate agency, as applicable.

B. Additions or modifications to existing single-family structures.

C. Developments that do not disturb more than 43,560 square feet of land provided they are not part of a larger common development plan.

D. Repairs to any storm water BMPs deemed necessary by City.

3. When a site development plan is submitted that qualifies as a development, as defined in this chapter, decisions on permitting any appropriate on-site BMPs shall be guided by the SUDAS Design Manual. Final authorization of all development and redevelopment projects will be determined after a review by City.

161.04 COMPATIBILITY WITH OTHER REQUIREMENTS.

1. It is intended that this chapter be construed to be consistent with Chapter 160, Construction Site Erosion and Sediment Control, and Chapter 102, Illicit Discharge to Storm Sewer System, of this Code of Ordinances.

2. The requirements of this chapter should be considered minimum requirements, and where any provision of this chapter imposes restrictions different from those imposed by any other chapter, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

161.05 DEFINITIONS. Terms in this chapter, other than those defined below, shall have the meanings set out in the SUDAS Design Manual.

1. “Applicant” means a property owner or agent of a property owner who has filed an application for a storm water management permit.

2. “Building” means any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area.

3. “City storm water requirements” means the standards, sizing criteria, BMPs and other requirements established in this chapter.

4. “Dedication” means the deliberate appropriation of property by its owner for general public use.

5. “Developer” means a person who undertakes land disturbance activities.

6. “Development” means either:

- A. Land disturbance activity exceeding 43,560 square feet on land previously vacant of buildings or largely free of previous land disturbance activity other than traditional agricultural activities; or
 - B. Land disturbance activity exceeding 43,560 square feet in areas where existing land use is high density commercial, industrial, institutional or multi-family residential (a.k.a. “redevelopment”).
7. “Drainage easement” means a legal right granted by a landowner to a grantee allowing the use of private land for storm water management purposes.
 8. “Enforcement officer” means that person designated by the City having responsibility for administration and enforcement of this chapter.
 9. “Fee in lieu” means a payment of money in place of achieving or exceeding all or part of City storm water requirements.
 10. “Land disturbance activity” means any activity which changes the volume or peak flow discharge rate of rainfall runoff from the land surface. This may include the grading, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving, construction, substantial removal of vegetation, or any activity which bares soil or rock or involves the diversion or piping of any natural or man-made watercourse.
 11. “Landowner” means the legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.
 12. “Maintenance agreement” means a legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of storm water BMPs.
 13. “Storm water management” means the use of BMPs that are designed in accordance with City storm water requirements to reduce storm water runoff pollutant loads, discharge volumes, peak flow discharge rates, and detrimental changes in stream temperature that affect water quality and habitat.
 14. “Storm Water Pollution Prevention Plan” (SWPPP) means a plan that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.
 15. “SUDAS Design Manual” means the current SUDAS publication, by whatever name, as amended from time to time by SUDAS, that recommends Storm Water Management Guidelines and Uniform Sizing Criteria and BMPs designed to address said Guidelines.

161.06 PERMIT PROCEDURES AND REQUIREMENTS.

1. Permit Required. No landowner or developer shall receive any of the building, grading, or other land development permits required for land disturbance activities without first meeting the requirements of this chapter prior to commencing the proposed activity.
2. Application Requirements.
 - A. Unless specifically exempted by this chapter, any landowner or developer desiring a permit for a land disturbance activity shall submit to the City a permit application on a form provided for that purpose.

B. Unless otherwise exempted by this chapter, a permit application must be accompanied by the following in order that the permit application be considered:

- (1) A storm water management concept plan;
- (2) A maintenance agreement; and
- (3) A non-refundable permit review fee.

C. The storm water management concept plan and maintenance agreement shall be prepared to meet the requirements of this chapter, and fees shall be those established by the City annually or more often by separate ordinance or resolution.

3. Application Review Fees. The fee for review of any land development application shall be based on the amount of land to be disturbed at the site; the fee structure shall be established by City, and said fees shall be paid prior to the issuance of any applicable City permits. All such revenue shall be credited to a City budgetary category to support the administration of this chapter.

4. Application Procedure.

A. Applications for land disturbance activity permits must be filed for review with the office of the City Clerk on any regular business day.

B. Permit applications shall include the following:

- (1) Two copies of the storm water management concept plan;
- (2) Two copies of the maintenance agreement, and
- (3) Any required review fees.

C. Within 15 business days of the receipt of a complete permit application, including all documents as required by this chapter, City shall inform the applicant whether the application, plan, and maintenance agreement are approved or disapproved by the enforcement officer.

D. If the permit application, storm water management concept plan, or maintenance agreement are disapproved, the applicant may revise the storm water management concept plan or agreement. If additional information is submitted, the City shall have 15 business days from the date the additional information is received to inform the applicant that the storm water management concept plan and maintenance agreement are either approved or disapproved.

E. If the permit application, storm water management final plan, and maintenance agreement are approved by City, all appropriate land disturbance activity permits shall be issued.

5. Permit Duration. Permits issued under this section shall be valid from the date of issuance through the date City notifies the permit holder that all storm water BMPs have passed the final inspection required under permit conditions.

161.07 WAIVERS. Every applicant shall provide for storm water management as required by this chapter, unless a written request is filed to waive implementation of BMPs, in whole or in part, and such waiver is granted. Requests to waive implementation of BMPs in whole or in part shall be submitted to City for approval.

1. Partial Waivers. A partial waiver of BMPs required by this chapter may be granted provided that at least one of the following conditions is established by applicant based on authoritative written evidence satisfactory to City:

A. The proposed development is not likely to impair attainment of the objectives of this chapter.

B. Alternative minimum requirements for on-site management of storm water have been established in a storm water management final plan that has been approved by City and fully implemented.

C. Provisions are made to manage storm water by an off-site facility. The off-site facility is required to be in place, to be designed and adequately sized to provide a level of storm water control that is equal to or greater than that which would be afforded by on-site practices, and there is, in the City's sole judgment, a responsible entity legally obligated to monitor the performance of and maintain the efficiency of storm water BMPs in accordance with a written and recorded maintenance agreement.

D. In instances where one of the above conditions is established, the applicant must further establish by authoritative written evidence satisfactory to City that the partial waiver will not result in any of the following impacts to downstream waterways:

- (1) Deterioration of existing culverts, bridges, dams, and other structures; or
- (2) Degradation of biological functions or habitat; or
- (3) Accelerated stream bank or streambed erosion or siltation; or
- (4) Increased threat of flood damage to public health, life, property.

2. General Waivers. If the City finds that a general waiver is appropriate because implementation of no on-site storm water BMPs is feasible due to the natural or existing physical characteristics of a site, or that one of the conditions specified in subsection 1 above cannot be established to a certainty, or that any one or more of the impacts to downstream waterways specified above cannot be entirely averted, the applicant shall execute a binding written agreement to accomplish one or more of the following mitigation measures selected by City:

A. The purchase and donation of privately owned lands, or the grant of an easement to be dedicated for preservation and/or reconstruction of native ecosystems of lands strategically located in the watershed consistent with the purposes of this chapter, of a sufficient quantity to enable City or others to achieve City storm water requirements with respect to a number of cubic feet of annual storm water equivalent to the estimated number of cubic feet of annual storm water that will not achieve City storm water requirements as a consequence of the waiver.

B. The creation of one or more storm water BMPs on previously developed properties, public or private, that currently lack storm water BMPs, having a capacity to achieve City storm water requirements with respect to a number of cubic feet of annual storm water equivalent to the estimated number of cubic feet of annual storm water that will not achieve City storm water requirements as a consequence of the waiver.

C. Monetary contributions (fee in lieu) to fund storm water management activities such as research and studies (e.g., regional wetland delineation studies, stream monitoring studies for water quality and macroinvertebrates, stream flow monitoring, threatened and endangered species studies, hydrologic studies, monitoring of storm water BMPs, and stream corridor stabilization practices). The monetary contribution required shall be in accordance with a fee schedule (unless the developer and the storm water authority agree on a greater alternate contribution) established by City, based on the estimated cost savings to the developer resulting from the waiver and the estimated future costs to City to achieve City storm water requirements with respect to a number of cubic feet of annual storm water equivalent to the estimated number of cubic feet of annual storm water that will not achieve City storm water requirements as a consequence of the waiver. All of the monetary contributions shall be credited to an appropriate capital improvements program project, and shall be made by the developer prior to the issuance of any building permit for the development.

D. Dedication of land or granting of an easement by the applicant of a value equivalent to the cost to City of the construction of an off-site storm water management facility sufficient to achieve City storm water requirements with respect to a number of cubic feet of annual storm water equivalent to the estimated number of cubic feet of annual storm water that will not achieve City storm water requirements as a consequence of the waiver. The agreement shall be entered into by the applicant and City prior to the recording of plats or, if no record plat is required, prior to the issuance of the building permit.

161.08 STORM WATER STANDARDS. Unless granted a waiver by the City, applicants shall meet the storm water standards established in this chapter.

161.09 APPROVAL OF STORM WATER MANAGEMENT CONCEPT PLAN. No application for development will be accepted unless it includes a storm water management concept plan detailing in concept how runoff and associated water quality impacts resulting from the development will be controlled or managed. The storm water management concept plan shall:

1. Be prepared by a licensed professional engineer or landscape architect or individual credentialed in a manner satisfactory to the City.
2. Indicate whether storm water will be managed on site or off site and, if on site, the general location and type of practices, with clear citations to the SUDAS Design Manual.
3. Include a signed and dated certification under penalty of perjury by the preparer of the storm water management concept plan that it complies with all requirements of this chapter and the SUDAS Design Manual, meets the submittal requirements outlined in the SUDAS Design Manual, is designed to achieve City storm water requirements, and that the City is entitled to rely upon the certification as due diligence on the part of City.
4. Include sufficient information (e.g., maps, hydrologic calculations, etc.) to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources,

and the effectiveness and acceptability of the storm water BMPs proposed for managing storm water generated at the project site. The intent of this conceptual planning process is to determine the type of storm water BMPs necessary for the proposed project, and ensure adequate planning for management of storm water runoff from future development. To accomplish this goal, the following information shall also be included in the storm water management concept plan:

- A. A map (or maps) indicating the location of existing and proposed buildings, roads, parking areas, utilities, structural storm water management and sediment and erosion BMPs. The map(s) will also clearly show proposed land use with tabulation of the percentage of surface area to be adapted to various uses; drainage patterns; locations of utilities, roads, and easements; and the limits of clearing and grading. A written description of the site plan and justification of proposed changes in natural conditions may also be required. A copy of the current SWPPP may satisfy this requirement.
- B. Sufficient engineering analysis to show that the proposed BMPs are capable of achieving City storm water requirements for the site in compliance with this chapter.
- C. A written or graphic inventory of the natural resources at the site and surrounding area as it exists prior to the commencement of the project and a description of the watershed and its relation to the project site. This description should include a discussion of soil conditions, forest cover, topography, wetlands, and other native vegetative areas on the site. Particular attention should be paid to environmentally sensitive BMPs that provide particular opportunities or constraints for development.
- D. A written description of the required maintenance burden for any proposed BMPs.
- E. The City may also require a concept plan to consider the maximum development potential of a site under existing zoning, regardless of whether the applicant presently intends to develop the site to its maximum potential.
- F. For development occurring on a previously developed site, an applicant shall be required to include within the storm water management concept plan BMPs for controlling existing storm water runoff discharges from the site in accordance with this chapter to the maximum extent practicable.

The storm water management concept plan shall be referred for comment to all other interested agencies, and any comments must be addressed in a storm water management final plan.

161.10 APPROVAL OF STORM WATER MANAGEMENT FINAL PLAN. No building, grading, or sediment control permit shall be issued until a satisfactory storm water management final plan (or a waiver thereof) shall have undergone a review and been approved by the City after determining that the plan or waiver is consistent with the requirements of this chapter. After review of the storm water management concept plan, and modifications to that plan as deemed necessary by City, a storm water management final plan must be submitted to the City for approval. The storm water management final plan, in addition to the information included in the storm water management concept plan, shall:

1. Be prepared by a licensed professional engineer or landscape architect or individual credentialed in a manner satisfactory to the City.
2. Indicate whether storm water will be managed on site or off site and, if on site, the general location and type of practices, with clear citations to the SUDAS Design Manual.
3. Include a signed and dated certification under penalty of perjury by the preparer of the storm water management final plan that it complies with all requirements of this chapter and the SUDAS Design Manual, meets the submittal requirements outlined in the SUDAS Design Manual, is designed to achieve City storm water requirements, and that City is entitled to rely upon the certification as due diligence on the part of City.
4. The storm water management final plan shall also include:
 - A. A detailed summary of how and why the storm water management final plan differs, if at all, from the storm water management concept plan previously submitted.
 - B. Contact information, including but not limited to the name, address, and telephone number of all persons having a legal interest in the property and the tax reference number and parcel number of the property or properties affected.
 - C. Topographic base map, consisting of a 1" = 200' topographic base map, of the site which extends a minimum of 300 feet beyond the limits of the proposed development and indicates existing surface water drainage including streams, ponds, culverts, ditches, and wetlands; current land use including all existing structures; locations of utilities, roads, and easements; and significant natural and manmade features not otherwise shown.
 - D. Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in the SUDAS Design Manual. Such calculations shall include: (i) description of the design storm frequency, intensity and duration; (ii) time of concentration; (iii) soil curve numbers or runoff coefficients; (iv) peak runoff rates and total runoff volumes for each watershed area; (v) infiltration rates, where applicable; (vi) culvert capacities; (vii) flow velocities; (viii) data on the increase in rate and volume of runoff for the design storms referenced in the Storm Water Design Manual; and (ix) documentation of sources for all computation methods and field test results.
 - E. If a storm water BMP depends on the hydrologic properties of soils (e.g., infiltration basins), then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles. The number and location of required soil borings or soil sites shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the BMP.
 - F. A maintenance and repair plan for all storm water BMPs including detailed maintenance and repair procedures to ensure their continued efficient function. These plans will identify the parts or components of a storm water BMP that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the

effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.

G. A detailed landscaping plan for management of vegetation at the site after construction is finished, including who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved. This plan must be prepared by a registered landscape architect, landscape designer, or by the soil and water conservation district.

H. Proof of permanent recorded maintenance easements that will ensure access to all storm water BMPs at the site for the purpose of inspection and repair. These easements will be recorded with the storm water management final plan and will remain in effect even with transfer of title to the property.

I. Proof of a recorded maintenance agreement binding on all subsequent owners of land served by storm water BMPs to ensure maintenance and repair in accordance with the specifications of this chapter.

J. Copies of all existing SWPPS (as required by the City's COSESCO ordinance) current as of the date of submission of the storm water management final plan for all construction activities related to implementing any on-site storm water BMPs.

K. Proof that the applicant has acquired all other applicable environmental permits for the site, or that no other such permits are required, prior to submission of the storm water management final plan to the City.

161.11 PERFORMANCE SECURITY OR BOND.

1. The City shall require the submittal of an installation performance security or bond prior to issuance of a permit in order to ensure that the storm water BMPs are installed by the permit holder as required by the approved storm water management final plan.

2. The amount of the installation performance security or bond shall be the total estimated construction cost of the storm water BMPs approved under the permit, plus 25%. The installation performance security or bond shall contain forfeiture provisions for failure to complete work specified in the storm water management final plan.

3. The installation performance security or bond shall be released in full only upon submission of "as-built plans" of all storm water BMPs specified in the storm water management final plan and written certification by a professional engineer that the storm water BMPs have been installed in accordance with the approved storm water management final plan and other applicable provisions of this chapter. The City will make a final inspection of storm water BMPs to ensure compliance with the approved storm water management final plan and the provisions of this chapter. Provisions for a partial pro rata release of the installation performance security or bond based on the completion of various development stages can be made at the discretion of City.

4. The installation performance security or bond shall inure only to the benefit of the City for purposes of completing, modifying, or correcting the storm water BMPs to comply with this chapter.

161.12 MAINTENANCE PERFORMANCE SECURITY OR BOND.

1. The City shall also require the submittal of a maintenance performance security or bond prior to issuance of a permit in order to insure that the storm water BMPs are maintained in an effective state for a minimum of 10 years.
2. This maintenance performance security or bond may be released by the City upon a showing satisfactory to the City that:
 - A. The permit holder has assigned to another bona fide, financially responsible legal entity, such as a homeowners' or similar organization organized under Iowa law, responsibility for maintenance of the storm water BMPs in an effective state for the balance of the 10-year period after assignment; and
 - B. Said assignee has fully accepted such responsibility in a written document that qualifies for recording and has been recorded in the County Recorder's office under Iowa law; and
 - C. Said assignee posts a substitute maintenance performance security or bond subject to release at the end of the initial 10-year period upon a further showing by the assignee that the storm water BMPs are, in the City's sole judgment, still reasonably effective.
3. This maintenance performance security or bond shall inure only to the benefit of the City to ensure the proper maintenance of the storm water BMPs.
4. This maintenance and performance security or bond may be issued on an annual basis, provided that there is no lapse in coverage.

161.13 CONSTRUCTION INSPECTION.

1. The applicant must notify the City in advance before the commencement of construction. Regular inspections of construction of the storm water BMPs shall be conducted by City or City's designated representative. All inspections shall be documented and written reports prepared that contain the following information:
 - A. The date and location of the inspection; and
 - B. Whether construction is in compliance with the approved storm water management concept plan; and
 - C. Variations, if any, from the approved storm water management concept plan.
2. If any violations are found, the applicant shall be notified in writing of the nature of the violation and the required corrective actions. No additional work shall proceed until any violations are corrected and all work previously completed has received approval by City.
3. After construction is completed, applicants are required to submit actual "as-built" drawings satisfactory to City for any storm water BMPs located on site. The drawings must show the final design specifications for all storm water BMPs and must be certified by a professional engineer. A final inspection by City is required before the release of the installation performance security or bond can occur.
4. Landscaping and stabilization shall be accomplished to prevent violation of City storm water requirements or impairment of BMPs. In addition, a landscaping

plan must be submitted with the final as-built drawings describing the vegetative stabilization and management techniques to be used at a site after construction is completed. This plan will explain not only how the site will be stabilized after construction, but who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved. This plan must be prepared by a registered landscape architect, landscape designer, or by the local soil and water conservation district, and must be approved prior to receiving a permit. This is by reference incorporated into the site plan review process.

161.14 MAINTENANCE AND REPAIR OF STORM WATER BMPS. The applicant or owner of every site or an assignee qualified pursuant to Section 161.12 shall be responsible for maintaining as-built storm water BMPs in an effective state as determined in the sole judgment of City for 10 years from and after completion of construction.

1. Maintenance and Repair Easement. Prior to the issuance of any permit for development involving any storm water BMP, the applicant or owner of the site must execute a maintenance and repair easement agreement that shall be binding on all subsequent owners of land served by the storm water BMP. The agreement shall provide for access to the BMP and the land it serves at reasonable times for periodic inspection by City or City's designee and for regular or special assessments of property owners to ensure that the BMP is maintained in proper working condition to meet City storm water requirements. The easement agreement shall be recorded by City at the expense of the permit holder or property owners.

2. Maintenance Covenants.

A. Maintenance of all storm water BMPs shall be ensured through the creation of a formal maintenance covenant that must be approved by the City and recorded prior to the storm water management final plan approval. As part of the covenant, a schedule shall be developed for when and how often maintenance will occur to ensure proper function of the storm water BMPs. The covenant shall also include plans for periodic inspections to ensure proper performance of the BMPs between scheduled cleanouts.

B. The City, in lieu of a maintenance covenant, may (but is not required to) accept dedication of any existing or future storm water BMP to include City responsibility for maintenance and repair, provided that: the maintenance and repair of such element will not impose an undue burden on other City taxpayers who enjoy little if any benefit from the BMP; the BMP meets all the requirements of this chapter; and the dedication includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

3. Requirements for Maintenance Covenants. All storm water BMPs must undergo, at the minimum, an annual inspection to document maintenance and repair needs and ensure compliance with the requirements of this chapter and accomplishment of its purposes. These needs may include (but are not limited to) removal of silt, litter, and other debris from all catch basins, inlets, and drainage pipes, grass cutting and vegetation removal, and necessary replacement of landscape vegetation. Any maintenance or repair needs detected must be corrected by the developer or entity responsible under a written maintenance agreement in a timely manner, as determined by City, and the inspection and maintenance requirement may

be increased as deemed necessary to ensure proper functioning of the storm water BMPs.

4. Inspection of Storm Water BMPs. Inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of State or Federal water or sediment quality standards or the NPDES storm water permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in storm water BMPs, and evaluating the condition of storm water BMPs.

5. Right of Entry for Inspection. When any new storm water BMP is installed on private property, or when any new connection is made between private property and a public storm water management facility, sanitary sewer or combined sewer, the property owner shall grant to City the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when City has a reasonable basis to believe that a violation of this chapter is occurring or has occurred, and to enter when necessary for abatement of a public nuisance or correction of a violation of this chapter.

6. Records of Installation and Maintenance and Repair Activities. Parties responsible for the operation and maintenance of storm water BMPs shall make records of the installation and of all maintenance and repairs, and shall retain the records for at least five (5) years or longer if the City Inspector deems it necessary. These records shall be made available to City during inspection of the facility and at other reasonable times upon request.

7. Failure to Maintain Storm Water BMPs. If a responsible party fails or refuses to meet the requirements of the maintenance covenant or any provision of this chapter, the City, after reasonable notice, may correct a violation by performing all necessary work to place the BMP in proper working condition. In the event that the storm water BMP becomes a danger to public safety or public health, the City shall notify the party responsible for maintenance of the storm water BMP in writing. Upon receipt of that notice, the responsible person shall have thirty (30) days to effect maintenance and repair of the storm water BMP in an approved manner. After proper notice, the City may assess, jointly and severally, the owners of the storm water BMP or the property owners or the parties responsible for maintenance under any applicable written agreement for the cost of repair work and any penalties; and the cost of the work shall be a lien on the property, or prorated against the beneficial users of the property, and may be placed on the tax bill and collected as ordinary taxes.

161.15 ENFORCEMENT AND PENALTIES.

1. Violation of any provision of this chapter may be enforced by civil action including an action for injunctive relief. In any civil enforcement action, administrative or judicial, the City shall be entitled to recover its attorneys' fees and

costs from a person who is determined by a court of competent jurisdiction to have violated this chapter.

2. Violation of any provision of this chapter may also be enforced as a municipal infraction within the meaning of Section 364.22 of the *Code of Iowa*, pursuant to Chapter 4 of this Code of Ordinances.

3. Enforcement pursuant to this section shall be undertaken by City upon the advice and consent of the City Attorney or other counsel employed by City.

4. Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the City may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

5. Occupancy permits shall not be granted until all storm water BMPs have been inspected and approved by City.

161.16 APPEAL. Administrative decisions by City staff and enforcement actions may be appealed by the developer or property owner to the City Council pursuant to the following rules:

1. The appeal must be filed in writing with the City Clerk within five (5) business days of the decision or enforcement action.

2. The written appeal shall specify in detail the action appealed from, the errors allegedly made by the enforcement officer giving rise to the appeal, a written summary of all oral and written testimony the applicant intends to introduce at the hearing, including the names and addresses of all witnesses the applicant intends to call, copies of all documents the applicant intends to introduce at the hearing, and the relief requested.

3. The enforcement officer shall specify in writing the reasons for the enforcement action, a written summary of all oral and written testimony the enforcement officer intends to introduce at the hearing, including the names and addresses of all witnesses the enforcement officer intends to call, and copies of all documents the enforcement officer intends to introduce at the hearing.

4. The City Clerk shall notify the applicant and the enforcement officer by ordinary mail and shall give public notice, in accordance with Chapter 21 of the *Code of Iowa*, of the date, time, and place for the regular or special meeting of the City Council at which the hearing on the appeal shall occur. The hearing shall be scheduled for a date not less than four (4) or more than twenty (20) days after the filing of the appeal. The rules of evidence and procedure and the standard of proof to be applied shall be the same as provided by Chapter 17A, *Code of Iowa*. The applicant may be represented by counsel at the applicant's expense. The enforcement officer may be represented by the City Attorney or by an attorney designated by the City Council at City expense.

5. The decision of the City Council shall be rendered in writing and may be appealed to the Iowa District Court.

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