

## CHAPTER 1

### CODE OF ORDINANCES

1.01	Title	1.07	Amendments
1.02	Definitions	1.08	Catchlines
1.03	City Powers	1.09	Altering Code
1.04	Indemnity	1.10	Standard Penalty
1.06	Rules of Construction	1.11	Severability

1.01 TITLE. This code of ordinances shall be known and may be cited as the Code of ordinances of the City of West Burlington, Iowa, 1995.

1.02 DEFINITIONS. Where words and phrases used in this Code of ordinances are defined by State law, such definitions apply to their use in this Code of ordinances and are adopted by reference. Those definitions so adopted that need further definition or are reiterated, and other words and phrases used herein, have the following meanings, unless specifically defined otherwise in another portion of this Code of ordinances:

1. “Alley” means a public right-of-way, other than a street, affording secondary means of access to abutting property.
2. “City” means the City of West Burlington, Iowa.
3. “Clerk” means the city clerk of West Burlington, Iowa.
4. “Code” means the specific chapter of this Code of ordinances in which a specific subject is covered and bears a descriptive title word (such as the Building Code and/or a standard code adopted by reference).
5. “Code of Ordinances” means the Code of Ordinances of the City of West Burlington, Iowa, 1995.
6. “Council” means the city council of West Burlington, Iowa.
7. “County” means Des Moines County, Iowa.
8. “Measure” means an ordinance, amendment, resolution or motion.

9. "Month" means a calendar month.
10. "Oath" means an affirmation in all cases in which by law an affirmation may be substituted for an oath, and in such cases the words "affirm" and "affirmed" are equivalent to the words "swear" and "sworn".
11. "Occupant, Tenant", applied to a building or land, includes any person who occupies the whole or a part of such building or land, whether alone or with others.
12. "Ordinances" means the ordinances of the City of West Burlington, Iowa, as embodied in the Code of ordinances, ordinances not repealed by the ordinance adopting the Code of ordinances, and those enacted hereafter.
13. "Person" means an individual, firm, partnership, domestic or foreign corporation, company, association or joint stock association, trust, or other legal entity, and includes a trustee, receiver, assignee, or similar representative thereof, but does not include a governmental body.
14. "Preceding", "Following" means next before and next after, respectively.
15. "Property" includes real property, and tangible and intangible personal property unless clearly indicated otherwise.
16. "Property Owner" means a person owning private property in the City as shown by the County Auditor's plats of the City.
17. "Public Place" includes in its meaning, but is not restricted to, any City-owned open place, such as parks and squares.
18. "Public Property" means any and all property owned by the City or held in the name of the City by any of the departments, commissions or agencies within the City government.
19. "Public Way" includes any street, alley, boulevard, parkway, highway, sidewalk, or other public thoroughfare.
20. "Sidewalk" means that surfaced portion of the street between the edge of the traveled way, surfacing, or curb line and the adjacent property line, intended for the use of pedestrians.
21. "State" means the State of Iowa.
22. "Statutes, Laws" means the latest edition of the Code of Iowa, as amended.

23. “Street” or “Highway” means the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular traffic.
24. “Writing, Written” includes printing, typing, lithographing, or other mode of representing words and letters.
25. “Year” means a calendar year.

1.03 CITY POWERS. The City may, except as expressly limited by the Iowa Constitution, and if not inconsistent with the laws of the Iowa General Assembly, exercise any power and perform any function it deems appropriate to protect and preserve the rights, privileges and property of the City and of its residents, and preserve and improve the peace, safety, health, welfare, comfort and convenience of its residents and each and every provision of this Code of Ordinances shall be deemed to be in the exercise of the foregoing powers and the performance of the foregoing functions.

(Code of Iowa, Sec. 364.1)

1.04 INDEMNITY. The applicant for any permit or license under this Code of Ordinances, by making such application, assumes and agrees to pay for all injury to or death of any person or persons whomsoever, and all loss of or damage to property whatsoever, including all costs and expenses incident thereto, however arising from or related to, directly, indirectly or remotely, the issuance of the permit or license, 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 of Ordinances or the terms and conditions of such permit or license, and such applicant, by making such application, forever agrees to indemnify the City and its officers, agents and employees, and agrees to save them harmless from any and all claims, demands, lawsuits or liability whatsoever for any loss, damage, injury or death, including all costs and expenses incident thereto, by reason of the foregoing. The provisions of this section shall be deemed to be a part of any permit or license issued under this Code of Ordinances or any other ordinance of the City whether expressly recited therein or not.

1.05 PERSONAL INJURIES. When action is brought against the City for personal injuries alleged to have been caused by its negligence, the City may notify in writing any person by whose negligence it claims the injury was caused. The notice shall state the pendency of the action, the name of the plaintiff, the name and location of the court where the action is pending, a brief statement of the alleged facts from which the cause arose, that the City believes that the person notified is liable to it for any judgment rendered against the City, and asking the person to appear and defend. A judgment obtained in the suit is conclusive in any action by the City against any person so notified, as to the existence of the defect or other cause of the injury or damage, as to the liability of the City to the plaintiff in the first named action, and as to the amount of the damage or injury. The City may maintain an action against the person notified to recover the amount of the judgment together with all the expenses incurred by the City in the suit.

(Code of Iowa, Sec. 364.14)

1.06 RULES OF CONSTRUCTION. In the construction of the Code of Ordinances the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the Council or repugnant to the context of the provisions.

1. Tense. Words used in the present tense include the future.
2. May. The word “may” confers a power.
3. Must. The word 'must’ states a requirement.
4. Shall. The word “shall” imposes a duty.
5. Gender. The masculine gender shall include the feminine and neuter genders.
6. Interpretation. All general provisions, terms, phrases, and expressions contained in the Code of Ordinances shall be liberally construed in order that the true intent and meaning of the Council may be fully carried out.
7. Extension of Authority. Whenever an officer or employee is required or authorized to do an act by a provision of the Code of ordinances, the provision shall be construed as authorizing performance by a regular assistant, subordinate or a duly authorized designee of said officer or employee.

1.07 AMENDMENTS. All ordinances which amend, repeal or in any manner affect the Code of ordinances shall include proper reference to title, division, chapter, section and subsection to maintain an orderly codification of ordinances of the City.

(Code of Iowa, Sec. 380.2)

1.08 CATCHLINES AND NOTES. The catchlines of the several sections of the Code of ordinances, titles, headings (chapter, division, section and subsection), editor's notes, cross references and State law references, unless set out in the body of the section itself, contained in the Code of Ordinances, do not constitute any part of the law, and are intended merely to indicate, explain, supplement or clarify the contents of a section.

1.09 ALTERING CODE. It is unlawful for any unauthorized person to change or amend by additions or deletions, any part or portion of the Code of ordinances, or to insert or delete pages, or portions thereof, or to alter or tamper with the Code of ordinances in any manner whatsoever which will cause the law of the City to be misrepresented thereby.

(Code of Iowa, Sec. 718.5)

1.10 STANDARD PENALTY FOR SIMPLE MISDEMEANORS. Unless another penalty is expressly provided by the Code of Ordinances for any particular provision,

section or chapter, any person failing to perform a duty, or obtain a license required by, or violating any provision of the Code of Ordinances, or any rule or regulation adopted herein by reference shall be guilty of a simple misdemeanor and, upon conviction, be subject to a fine of not more than two hundred dollars (\$200.00), or imprisonment not to exceed thirty (30) days. The penalties imposed pursuant to this section shall not apply to municipal infractions as set forth in this Code of Ordinances. The foregoing shall constitute a maximum penalty in accordance with Iowa Code Section 364.3(2) (1999), regarding the limitation of powers of a city or municipality.

(Code of Iowa, Sec. 364.3[ 2 ])

1.11 SEVERABILITY. If any section, provision or part of the Code of ordinances is adjudged invalid or unconstitutional, such adjudication will not affect the validity of the Code of ordinances as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

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