

## CHAPTER 135

### STREET USE AND MAINTENANCE

135.01 Removal of Warning Devices

135.02 Obstructing or Defacing

135.03 Placing Debris On

135.04 Playing In

135.05 Traveling on Barricaded Street or Alley

135.06 Use for Business Purposes

135.07 Washing Vehicles

135.08 Burning Prohibited

135.09 Excavations

135.10 Maintenance of Parking or Terrace

135.11 Failure to Maintain Parking or Terrace

135.12 Dumping of Snow Waste

135.13 Driveway Culverts

134.14 Mailboxes

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

*(Code of Iowa, Sec. 716.1)*

**135.02 OBSTRUCTING OR DEFACING.** It is unlawful for any person to obstruct, deface, or injure any street or alley in any manner.

*(Code of Iowa, Sec. 716.1)*

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

*(Code of Iowa, Sec. 321.369)*

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

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

**135.05 TRAVELING ON BARRICADED STREET OR ALLEY.** It is unlawful for any person to travel or operate any vehicle on any street or alley temporarily closed by barricades, lights, signs, or flares placed thereon by the authority or permission of any City official, police officer or member of the fire department.

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

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

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

**135.09 EXCAVATIONS.** No person shall dig, excavate or in any manner disturb any street, parking or alley except in accordance with the following:

1. Permit Required. No excavation shall be commenced without first obtaining a permit therefor. A written application for such permit shall be filed with the City and shall contain the following:
  - A. An exact description of the property, by lot and street number, in front of or along which it is desired to excavate;
  - B. A statement of the purpose, for whom and by whom the excavation is to be made;
  - C. The person responsible for the refilling of said excavation and restoration of the street or alley surface; and
  - D. Date of commencement of the work and estimated completion date.
2. Public Convenience. Streets and alleys shall be opened in the manner which will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.
3. Barricades, Fencing and Lighting. Adequate barricades, fencing and warning lights meeting standards specified by the City shall be so placed as to protect the public from hazard. Any costs incurred by the City in providing or maintaining adequate barricades, fencing or warning lights shall be paid to the City by the permit holder/property owner.
4. Bond Required. The applicant shall post with the City a penal bond in the minimum sum of one thousand dollars (\$1,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee's payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of administration of this section. In lieu of a surety bond, a cash deposit of one thousand dollars (\$1,000.00) may be filed with the City.
5. Insurance Required. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying Worker's Compensation insurance and public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:
  - A. Bodily Injury - \$50,000.00 per person; \$100,000.00 per accident.
  - B. Property Damage - \$50,000.00 per accident.
6. Restoration of Public Property. Streets, sidewalks, alleys and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City, at the expense of the permit holder/property owner.
7. Maintenance. The permit holder/property owner shall maintain the affected area in good repair to the satisfaction of the Council for one year after refilling.
8. Notice to Abutting Property Owners. Abutting property owners are to be notified of excavations to be made in easements or in the parking area, by other than

themselves. When abutting properties are disturbed in the course of the work, it will be the responsibility of the excavator to restore the property within thirty (30) days unless weather prohibits.

9. Specifications for Patching Streets. All patches will be sawed, square corners, dug out eighteen (18) inches deep, tamped, with ten (10) inches of ¾-inch road stone, tamped and remaining materials to replace the missing street will be eight (8) inches of 4500 pound 3M concrete mix or asphalt. Contractor will cover all concrete until cured with proper insulating materials if frost is imminent.

10. Inspection. All work shall be subject to inspection by the City. Backfill shall not be deemed completed, nor resurfacing of any improved street or alley surface begun, until such backfill is inspected and approved by the City. The permit holder/property owner shall provide the City with notice at least twenty-four (24) hours prior to the time when inspection of backfill is desired.

11. Completion by the City. Should any excavation in any street or alley be discontinued or left open and unfinished for a period of twenty-four (24) hours after the approved completion date, or in the event the work is improperly done, the City has the right to finish or correct the excavation work and charge any expenses therefor to the permit holder/property owner.

12. Responsibility for Costs. All costs and expenses incident to the excavation shall be borne by the permit holder and/or property owner. The permit holder and owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such excavation.

13. Notification. At least forty-eight (48) hours prior to the commencement of the excavation, excluding Saturdays, Sundays and legal holidays, the person performing the excavation shall contact the Statewide Notification Center and provide the center with the information required under Section 480.4 of the *Code of Iowa*.

14. Permit Fee. A permit fee in an amount set by resolution of the Council shall be payable at the time of filing the application with the City. A separate permit shall be required for each excavation.

15. Permit Issued. Upon approval of the application, filing of bond and insurance certificate, and payment of any required fees, a permit shall be issued.

16. Permit Exemption. The Municipal Utility company is exempt from the permit application requirement of this section. The Utility shall, however, comply with all other pertinent provisions.

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

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

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

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

**135.12 DUMPING OF SNOW WASTE.** It is unlawful for any person to throw, push or place or cause to be thrown, pushed or placed, any ice or snow from private property, sidewalks, or driveways onto the traveled way of a street or alley so as to obstruct gutters, or impede the passage of vehicles upon the street or alley or to create a hazardous condition. It also is unlawful for any person to push snow or ice on or across any portion of a street in a residential area:

1. Penalty: A violation of this section shall be a simple misdemeanor.
2. If the snow is temporarily placed upon a public sidewalk in violation of this section, the owner of the abutting property is responsible for the prompt removal of such snow. If the abutting property owner fails to remove the snow, the City may perform the snow removal and assess the costs against the property for collection in the same manner as property tax pursuant to the provisions of Section 364.12(2)(e) of the *Code of Iowa*.
3. Exception: The foregoing provisions of this section notwithstanding, property owners in the downtown business commercial district which shall mean properties abutting the following streets:

Highway 71 from 11<sup>th</sup> Street to 8<sup>th</sup> Street; 10<sup>th</sup> Street from N Avenue to P Avenue; and 9<sup>th</sup> Street from N Avenue to P Avenue;

May place snow from these sidewalks into the street provided:

- A. All snow shall be placed not less than eighteen inches (18") or more than thirty six inches (36") into the street, measured from the face of the curb; and
- B. All snow placed in the street under the provisions of this subsection shall be placed within twelve (12) hours of the time of declaration of a snow emergency by the Public Works Supervisor.

*(Ord. 10-10-17 – Oct. 17 Supp.)*

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

**135.14 MAILBOXES.** The City shall reimburse a property owner for the property owner's mail box damaged or destroyed by the City if the damage occurs while the City is winging or blowing snow beyond the curb of the street onto property not then being used as a part of the street or ditch of the street, if the following is established:

1. The mailbox was damaged by City employees in the above described manner while the City was in the process of snow removal; and
2. The mailbox was, before the damage, situated so that no part of it extended over the curb and into the street, and was legally so situated just prior to the damage; and
3. The mailbox belonged to the property owner making the claim; and

4. The property owner did not in any way contribute to such damage; and
5. At the mailbox owner's request, the City will replace the mailbox with a comparable mailbox and replace the support post as necessary with a 4-inch x 4-inch, decay-resistant wood support post, both installed by the City with a maximum cost of \$60.00. Alternatively, the City will reimburse the mailbox owner \$60.00 for the replacement of the mailbox and post by others.
6. The alleged damage to the mailbox occurred within six months of making the claim.
7. All mailboxes must be located with the front of the mailbox a minimum of six inches behind the back edge of the curb.

The property owner who claims the above described damage to his or her mailbox shall file with the Clerk a written claim setting forth the description and address of the property where the mailbox was located at the time of the damage, the date of the alleged damage to the mailbox, the manner in which said damage occurred, the cost of repair or replacement actually expended along with a receipt showing his or her payment therefor and a verified statement substantiating the required elements set forth in this section. The head of the City street department shall investigate the claim and make a report to the Council. The Council shall make a determination based thereupon whether or not the damage claim is an appropriate claim to be reimbursed or not reimbursed and the amount to be paid, if any.

*(Ord. 3-12-18 – May 18 Supp.)*

[The next page is 693]