

**TITLE III - MENTAL AND PHYSICAL HEALTH****CHAPTER 1 - NUISANCES****ARTICLE 1  
GENERAL PROVISIONS**

**310-101 DEFINITIONS.** For use in this chapter, the following terms are defined:

1. "Nuisance": shall mean whatever is injurious to health, indecent or offensive to the senses or an obstacle to the free use of property so as essentially to interfere with the comfortable enjoyment of life or property. The following are declared to be nuisances:

(Code of Iowa, 1999, Sec. 657.1)

A. Offensive Smells. The erecting, continuing or using of any building or other place for the exercise of any trade, employment or manufacture, which, by occasioning noxious exhalations, offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort or property of individuals or the public.

(Code of Iowa, 1999, Sec. 657.2 [1])

B. Filth or Noisome Substance. The causing or suffering any offal, filth or noisome substance to be collected or to remain in any place to the prejudice of others.

(Code of Iowa, 1999, Sec. 657.2 [2])

C. Impeding Passage of Navigable River. The obstructing or impeding without legal authority the passage of any navigable river, harbor or collection of water.

(Code of Iowa, 1999, Sec. 657.2 [3])

D. Water Pollution. The corrupting or rendering unwholesome or impure the water of any river, stream or pond, or unlawfully diverting the same from its natural course or state, to the injury or prejudice of others.

(Code of Iowa, 1999, Sec. 657.2 [4])

E. Blocking Public and Private Ways. The obstructing or encumbering by fences, buildings or otherwise the public roads, private ways, streets, alleys, commons, landing places or burying grounds.

(Code of Iowa, 1999, Sec. 657.2 [5])

F. Billboards. Billboards, signboards and advertising signs, whether erected and constructed on public or private property, which so obstruct and impair the view of any portion or part of a public street, avenue, highway, boulevard or alley or of a railroad or street railway track as to render dangerous the use thereof.

(Code of Iowa, 1999, Sec. 657.2 [7])

\*G. Exterior Use and Storage of Household Furniture and Appliances. It is unlawful for any person to store or use furniture or appliances upon an unenclosed porch, balcony, patio, roof, yard, walkway or driveway when such furniture or appliance is not designed or manufactured for outdoor use. The application of a weatherproofing substance shall not be construed as an acceptable alternative to meeting compliance with provisions of this code when said item is manufactured for interior use only. Unenclosed porches shall not include any porch completely covered by a roof and completely enclosed by glass and/or screens.

H. Abandoned Appliances. Abandoning or otherwise leaving unattended any refrigerator, ice box, or similar container, with doors that may become locked, outside of buildings and accessible to children, or allowing any such refrigerator, ice box, or similar container, to remain outside of buildings on premises in the person's possession or control, abandoned or unattended and so accessible to children.

(Code of Iowa, 1999, Sec. 727.3)

I. Storing of Inflammable Junk. The depositing or storing of inflammable junk, such as old rags, rope, cordage, rubber, bones and paper, by dealers in such

articles within the fire limits of the city, unless it be in a building of fireproof construction.

(Code of Iowa, 1999, Sec. 657.2 [10])

J. Air Pollution. The emission of dense smoke, noxious fumes or fly ash.

(Code of Iowa, 1999, Sec. 657.2 [11])

K. Weeds, Brush. Dense growth of all weeds, vines, brush or other vegetation in the city so as to constitute a health, safety or fire hazard.

(Code of Iowa, 1999, Sec. 657.2 [12])

L. Dutch Elm Disease. Trees infected with Dutch elm disease.

(Code of Iowa, 1999, Sec. 657.2 [13])

M. Airport Air Space. Any object or structure hereafter erected within one thousand (1,000) feet of the limits of any municipal or regularly established airport or landing place, which may endanger or obstruct aerial navigation including take-off and landing, unless such object or structure constitutes a proper use or enjoyment of the land on which the same is located.

(Code of Iowa, 1999, Sec. 657.2 [9])

N. Houses of Ill Fame. Houses of ill fame, kept for the purpose of prostitution and lewdness, gambling houses, or houses resorted to for the use of opium or hashish or houses where drunkenness, quarreling, fighting or breaches of the peace are carried on or permitted to the disturbance of others.

(Code of Iowa, 1999, Sec. 657.2 [6])

O. Obstructing View at Intersections. All trees, hedges, billboards or other obstructions which prevent persons from having a clear view of traffic approaching an intersection from cross streets in sufficient time to bring a motor vehicle driven at a reasonable speed to a full stop before the intersection is reached.

(Code of Iowa, 1999, Sec. 657.2 [12])

P. Buildings and other structures rendered structurally unsafe due to fire, casualty, or which are considered unsafe or dangerous as defined in Section 364.12 (3) (c) of the Code of Iowa.

Q. All grass 10 inches or taller on lawns within the corporate city limits of the City of Estherville as defined in Section 690-2.

(Code of Iowa, 1999, Sec. 657.1)

**310-102 NUISANCES PROHIBITED.** The creation or maintenance of a nuisance is prohibited, and a nuisance, public or private, may be abated in the manner provided for in this chapter or state law.

(Code of Iowa, 1999, Sec. 657.3)

**TITLE III - MENTAL AND PHYSICAL HEALTH****CHAPTER 1 - NUISANCES****ARTICLE 2  
ADMINISTRATIVE ABATEMENT PROCEDURE**

**310-201 NUISANCE ABATEMENT.** Whenever the mayor, chief of police or the administrative or supervisory person to whom such duty is assigned pursuant to Title I, Chapter 4, Article 4 of this code finds that a nuisance exists, he shall cause to be served upon the property owner a written notice to abate the nuisance within a reasonable time after notice.

(Code of Iowa, 1999, Sec. 364.12 [3h])

**310-202 NOTICE TO ABATE: CONTENTS.** The notice to abate shall contain:

(Code of Iowa, 1999, Sec. 364.12 [3h])

1. Description of Nuisance. A description of what constitutes the nuisance or other condition.
2. Location of Nuisance. The location of the nuisance or condition.
3. Acts Necessary to Abate. A statement of the act or acts necessary to abate the nuisance or condition.
4. Reasonable Time. A reasonable time within which to complete the abatement.
5. Assessment of City Costs. A statement that if the nuisance or condition is not abated as directed and no request for hearing is made within the time prescribed, the city will abate it and assess the costs against such person.

**310-203 METHOD OF SERVICE.** The notice may be in form of a letter and sent by certified mail to the property owner.

(Code of Iowa, 1999, Sec. 364.12 [3h])

**310-204 REQUEST FOR HEARING.** Any person ordered to abate a nuisance may have a hearing with the council as to whether a nuisance exists. A request for a hearing must be made in writing and delivered to the clerk within the time stated in the notice, or it will be conclusively presumed that a nuisance exists and it must be abated as ordered. The hearing will be before the council at a time and place fixed by the council. The findings of the council shall be conclusive and, if a nuisance is found to exist, it shall be ordered abated within a reasonable time under the circumstances.

**310-205 ABATEMENT IN EMERGENCY.** If the mayor determines that an emergency exists by reason of the continuing maintenance of the nuisance or condition, the city may perform any action which may be required under this chapter without prior notice. The city shall assess the costs as provided in Section 310-207 after notice to the property owner under the applicable provisions of Sections 310-201, 310-202, and 310-203 and hearing as provided in Section 310-204.

(Code of Iowa, 1999, Sec. 364.12 [3h])

**310-206 ABATEMENT BY CITY.** If the person notified to abate a nuisance or condition neglects or fails to abate as directed, the city may perform the required action to abate, keeping an accurate account of the expense incurred. The itemized expense account shall be filed with the clerk who shall pay such expenses on behalf of the city.

(Code of Iowa, 1999, Sec. 364.12 [3h])

**310-207 COLLECTION OF COSTS.** The clerk shall send a statement of the total expense incurred by certified mail to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one month, the clerk shall certify the costs to the county auditor and it shall then be collected with, and in the same manner, as general property taxes.

(Code of Iowa, 1999, Sec. 364.12 [3h])

**310-208 INSTALLMENT PAYMENT OF COST OF ABATEMENT.** If the amount expended to abate the nuisance or condition exceeds one hundred dollars (\$100), the city clerk may permit the assessment to be paid in up to ten (10) annual installments, to be paid in the same manner and with the same interest as benefited property.

(Code of Iowa, 1999, Sec. 364.13)

**310-209 FAILURE TO ABATE.** Any person causing or maintaining a nuisance who shall fail or refuse to abate or remove the same within the reasonable time required and specified in the notice to abate shall be in violation of the city code.

EDITOR'S NOTE

A suggested form of notice for the abatement of nuisances is included in the appendix of this code.

**TITLE III - MENTAL AND PHYSICAL HEALTH****CHAPTER 2 - ANIMAL PROTECTION AND CONTROL****ARTICLE 1  
GENERAL PROVISIONS**

**320-1 PURPOSE.** In order to protect the health, safety, and welfare of the residents and citizens of the City of Estherville, Iowa, and their pets, the City Council of the City of Estherville, Iowa, does hereby enact the following provisions:

**320-2 DEFINITIONS.** Terms referred to in this chapter of the City Code of the City of Estherville, Iowa, shall be defined as follows:

1. "Animal": shall be intended to mean any wild, tame, or domestic creature, other than a human being, including, but not limited to, dogs, cats, cattle, horses, mules, sheep, goats, swine, chickens, ducks, and geese.
2. "Dangerous Animal": means (a) any animal which is not naturally tame or gentle, and which is of a wild nature or disposition, and which is capable of killing, inflicting serious injury upon, or causing disease among, human beings or domestic animals and having known tendencies as a species to do so; (b) any animals declared to be dangerous by the chief of police of the City of Estherville, Iowa, or by the City Council of the City of Estherville, Iowa, or its designee; (c) the following animals which are deemed to be dangerous animals per se:
  - A. Wolves and coyotes
  - B. Badgers, wolverines, weasels, mink, and other Mustelids (except ferrets)
  - C. Bears
  - D. All apes (including chimpanzees), baboons, and macaques

- E. Monkeys, except the squirrel monkey
  - F. Elephants
  - G. Wild boar
  - H. Black widow spiders and scorpions
  - I. Snakes which are naturally venomous or poisonous, or constrictors
  - J. All cats, except domestic cats (Carnivora of the family Felidae including but not limited to lions, cougars, tigers, jaguars, leopards, lynx, bobcats, etc.)
  - K. Raccoons, opossums, and skunks
  - L. Alligators and crocodiles
  - M. Pit Bull Dogs
3. "Dog": shall mean and include members of the canine species, male or female, whether neutered or not.
4. "Pit Bull Dog": is defined to mean:
- A. The bull terrier breed of dog
  - B. The Staffordshire bull terrier breed of dog
  - C. The American pit bull terrier breed of dog
  - D. The American Staffordshire terrier breed of dog
  - E. Dogs of mixed breed or other breeds than above listed which breed of mixed breed is known as pit bulls, pit bull dogs, or pit bull terriers.
  - F. Any dog which has the appearance and characteristics of being predominantly of the breeds of bull terrier, Staffordshire bull terrier, American pit bull terrier, American Staffordshire terrier, any other breed commonly known as pit bulls, pit bull dogs or pit bull terriers, or a combination of any of these breeds.

5. "At Large": shall be intended to mean off the premises of the owner, and not under control of the owner or a member of his immediate family or an agent of the owner, either by leash, cord, chain, or similar device.
6. "Owner" or "Owner of an Animal": shall be intended to mean any person or persons, firm association or corporation, owning, keeping, sheltering, or harboring an animal.
7. "Person": means any individual, association, partnership or corporation, and includes any officer, employee, or agency thereof.
8. "Abandon": shall be intended to mean the voluntary relinquishment of possession, by the owner, with the intention of terminating his ownership but without vesting it in any other person.
9. "Animal Warden": shall be intended to mean the person or persons designated by the administrative or supervisory person to whom such duty is assigned pursuant to Title I, Chapter 4, Article 4 to assist in the enforcement of this chapter.
10. "Vicious Animal": shall be intended to mean any animal that has exhibited vicious propensities, (a) by biting a person or persons so as to puncture the skin on two (2) separate occasions within any twelve (12) month period; or (b) which has been found to possess such propensity by the chief of police of the City of Estherville, Iowa, or in the event of appeal, by the City Council of the City of Estherville, Iowa, after hearing.

**320-3 CRUELTY TO ANIMALS.** No person shall impound or confine or cause to be impounded or confined, in any place, any animal, or fowl, or any dog or cat, and fail to supply food and water, or shall torture, torment, deprive of necessary sustenance, mutilate, overdrive, overload, drive when overloaded, beat, or kill any such animal by any means which shall cause unjustified pain, distress or suffering, whether intentionally or negligently.

**320-4 EXHIBITIONS AND FIGHTS.** No person shall arrange, promote, or stage an exhibition at which any animal is tormented, or any fight between animals or between a person and an animal, or shall keep a place where such exhibitions and fights are staged for the entertainment of spectators.

**320-5 CONTROL OF ANIMALS.** An owner shall keep his animal under control at all times. It shall be deemed that an owner does not have his animal under control if he permits said animal to commit any of the following acts:

1. Damage or defile public property or the premises or property of another, including but not limited to the failure of such animal owner to immediately pick up and remove deposited feces of such animal from the said property or premises.
2. Bark, howl unduly, or otherwise disturb the quiet of the neighborhood or any persons or person
3. Bite or attempt to bite, attack, or belligerently pursue any person or persons off the premises of the owner
4. Run at large

**320-6 KEEPING OF DANGEROUS OR VICIOUS ANIMALS PROHIBITED.** No person shall keep, shelter, or harbor any dangerous or vicious animal as a pet, or act as custodian temporary or otherwise for such animal, or keep such animal for any other purposes or in any other capacity within the City of Estherville, Iowa, except as provided in Section 320-7 of this code.

**320-7 DANGEROUS ANIMAL EXCEPTIONS.** The prohibition contained in Section 320-6 of this code shall not apply to the keeping of dangerous animals in the following circumstances:

1. The keeping of dangerous animals in a public zoo, bona fide educational or medical institution or museum where they are kept as live specimens for the public to view, or for the purpose of instruction, research, or study.

2. The keeping of dangerous animals for exhibition to the public by a circus, carnival, exhibit, or show where such circus carnival exhibit or show is of a traveling nature, is displayed before large assemblages of people, and maintains any and all required federal or state licenses.
3. The keeping of dangerous animals in a bona fide, licensed veterinary hospital for treatment.
4. Dangerous animals owned prior to the effective date of this ordinance and registered with the city clerk of the City of Estherville, Iowa, within ten (10) days from and after legal publication of this ordinance. All dangerous animals falling within the provisions of this section shall be at all times secured, confined upon the premises of the owner or kept on a chain, rope, or other type of leash, in the physical control of the owner. All dangerous animals not so registered shall be conclusively presumed to have been brought into the City of Estherville subsequent to the effective date of this ordinance. The keeping of pit bull dogs, however, shall also be subject to the following standards:
  - A. Leash and Muzzle. No person shall permit a pit bull dog registered with the city clerk to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than four (4) feet in length. No person shall permit a pit bull dog to be kept on a chain, rope, or other type or leash outside its kennel or pen unless a person is in physical control of the leash. Such dogs may not be leashed to inanimate objects such as trees, posts, buildings, etc. In addition, all pit bull dogs on a leash outside the animal's kennel must be muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.

B. Confinement. All pit bull dogs registered with the city clerk shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as above provided. Such pen, kennel, or structure must have secure sides and a secure top attached to the sides. All structures used to confine pit bull dogs registered with the city clerk must be locked with a key or combination lock when such animals are within the structure. Such structure must have a secure bottom or floor attached to the sides of the pen or the sides of the pen must be embedded in the ground no less than two (2) feet. All structures erected to house pit bull dogs must comply with all zoning and building regulations of the City of Estherville, Iowa. All structures must be adequately lighted and ventilated and kept in a clean and sanitary condition.

C. Confinement Indoors. No pit bull dog may be kept on a porch, patio, or in any part of a house or structure that would allow the dog to exit such building on its own volition. In addition, no such animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the dog from exiting the structure.

D. Signs. All owners, keepers, or harborers of pit bull dogs registered with the city clerk within the city shall within ten (10) days of the effective date of this ordinance display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dog." In addition, a similar sign is required to be posted on the kennel or pen of such animals.

E. Insurance. All owners, keepers, or harborers of pit bull dogs registered with the city clerk must within ten (10) days of the effective date of this ordinance provide proof to the city clerk of public liability insurance in a single incident

amount of fifty thousand dollars (\$50,000) for bodily injury to or death of any person or persons or for damages to property owned by any persons which may result from the ownership, keeping, or maintenance of such animal. Such insurance policy shall provide that no cancellation of the policy will be made unless (10) days written notice is first given to the city clerk of Estherville, Iowa.

F. Identification Photographs. All owners, keepers, or harborers of pit bull dogs registered with the city clerk must within ten (10) days of the effective date of this ordinance provide to the city clerk two color photographs of the registered animal clearly showing the color and approximate size of the animal.

G. Reporting Requirements. All owners, keepers, or harborers of pit bull dogs registered with the city clerk must within ten (10) days of the incident, report the following information in writing to the city clerk as required hereinafter:

- (1) The removal from the city or death of a pit bull dog registered with the city clerk
- (2) The birth of offspring of a pit bull dog registered with the city clerk
- (3) The new address of the owner of a pit bull dog registered with the city clerk should the owner move within the corporate city limits

H. Sale of Transfer of Ownership Prohibited. No person shall sell, barter, or in any other way dispose of a pit bull dog registered with the city clerk to any person within the city unless the recipient person resides permanently in the same household and on the same premises as the registered owner of such dog; provided that the registered owner of a pit bull dog may sell or otherwise dispose of a dog registered with the city clerk or the offspring of such dog to persons who do not reside within the city.

I. Animals Born of Dogs Registered With the City Clerk. All offspring born of pit bull dogs registered with the city clerk must be removed from the city within six (6) weeks of the birth of such animal.

J. Irrebuttable Presumptions. There shall be an irrebuttable presumption that any dog registered with the city clerk as a pit bull dog or any of those breeds prohibited by Section 320-6 of this article is in fact a dog subject to the requirements of this section.

K. Failure to Comply. It shall be unlawful for the owner, keeper, or harbinger of a pit bull dog registered with the city clerk to fail to comply with the requirements and conditions set forth in this ordinance. Any dog found to be the subject of a violation of this ordinance shall be subject to immediate seizure and impoundment. In addition, failure to comply may result in the revocation of the registration of such animal resulting in the immediate removal of the animal from the City of Estherville, Iowa.

L. Violation and Penalties. Any person violating or permitting the violation of any provision of this ordinance shall upon conviction of the Magistrate Court be fined a sum not more than one hundred dollars (\$100). In addition to the fine imposed, the court may sentence the defendant to imprisonment in the county jail for a period not to exceed thirty (30) days. In addition, the Court shall order the registration of the subject pit bull dog revoked and the dog removed from the city. Should the defendant refuse to remove the dog from the city, the magistrate shall find the

defendant owner in contempt and order the immediate confiscation and impoundment of the animal. Each day that a violation of this ordinance continues shall be deemed a separate offense. In addition to the foregoing penalties, any person who violates this ordinance shall pay all expenses, including shelter, food, handling, veterinary care and testimony necessitated by the enforcement of this ordinance.

**320-8 SEIZURE, IMPOUNDMENT, AND DISPOSITION OF DANGEROUS, VICIOUS, OR RABID ANIMALS.**

1. In the event that an alleged dangerous or vicious animal or an animal reasonably believed to be infected or infested with rabies is found at large and unattended upon public property or the property of someone other than its owner, thereby creating a hazard to persons or property, such animal may in the discretion of the chief of police be destroyed if it cannot be safely captured. The City of Estherville, Iowa, shall be under no duty to attempt the confinement or capture of a dangerous or vicious animal or an animal reasonably believed to be rabid when found at large, nor shall it have a duty to notify the owner of such animal prior to its destruction.
2. Upon the written complaint of any individual that a person is keeping, sheltering, or harboring a dangerous or vicious animal or an animal reasonably believed to be infected with rabies on premises located in the City of Estherville, Iowa, a hearing on the matter shall be conducted by the chief of police of the City of Estherville, Iowa. The person, firm, or corporation owning, keeping, sheltering, or harboring the animal in question shall be given not less than seventy-two (72) hours written notice of the time and place of said hearing. Said notice shall set forth the description of the animal in question and the

basis for the allegation that the said animal is dangerous, vicious, or rabid. The notice shall also set forth that if the animal is determined to be dangerous, vicious, or rabid, the owner will be required to remove it from the city or allow it to be destroyed. The notice shall be served upon any adult residing at the premises where the animal is located, or may be posted on those premises if no adult is present to accept service. Appeal from the decision of the chief of police of the City of Estherville, Iowa, under this section, may be made to the City Council of the City of Estherville, Iowa, by filing written notice of the appeal with the city clerk of the City of Estherville, Iowa, within three (3) days after final action by the chief of police in the matter. Failure to file such written notice of appeal shall constitute a waiver of the right to appeal the order of the chief of police.

3. The notice of appeal shall state the grounds for appeal and shall be delivered personally or by certified mail to the city clerk. The hearing of such appeal shall be scheduled for the following regular meeting of the City Council of the City of Estherville, Iowa, following receipt of the notice of appeal. After such hearing, the City Council of Estherville, Iowa, may affirm or reverse the order of the chief of police in the matter. Such determination shall be contained in a written decision and shall be filed with the city clerk within three (3) days after the hearing, or any continued session thereof.

4. If the City Council of Estherville, Iowa, affirms the action of the chief of police in the matter, the council shall order in its written decision that the individual or entity owning, sheltering, harboring, or keeping such animal shall remove the animal from the city or destroy it. The decision and order shall be immediately served upon the person or entity

against whom rendered in the same manner as the notice of removal. If the original order of the chief of police is not appealed and is not complied with within three (3) days, or the order of the City Council after appeal is not complied with within three (3) days of its issuance, the chief of police is authorized to seize and impound such animal. An animal so seized shall be impounded for a period of seven (7) days. If at the end of the impoundment period, the individual or entity against whom the decision or order was issued has not petitioned to the Emmet County District Court for review of said order, the city shall cause the animal to be disposed of or destroyed in a humane manner. Failure to comply with an order of the city issued pursuant hereto shall constitute a misdemeanor offense, punishable pursuant to Section 110-107 of this code.

**320-9 IMPOUNDMENT.** Any animal which is alleged to be dangerous, vicious, or rabid and which is under impoundment or quarantine at the designated municipal animal shelter shall not be released to the owner, but shall continue to be held at the expense of the owner pending the outcome of the hearing as provided in this chapter.

**320-10 IMPOUNDMENT FOR FAILURE TO CONTROL.** It shall be the duty of the animal warden to cause dogs running at large to be impounded. It shall be the duty of the animal warden to notify the owner of animals impounded solely for running at large where ownership can be established. Where the owner of the said animal is known, the owner shall be notified by telephone or contacted in person and advised that his animal has been impounded, date and time and place of impounding, and the time of keeping of said animal. Where the owner cannot be reached by telephone or contacted in person, after reasonable efforts by the animal warden, then the animal warden shall mail a notice to the owner at the owner's last known address. The owner of any impounded animal under the provisions of this section may reclaim the impounded

animal on payment of any due registration fee, cost of food and care of such animal while impounded, and an additional impounding penalty of twenty-five dollars (\$25).

**320-11 FAILURE TO PAY COSTS OR RECLAIM ANIMAL.** If the owner of an animal impounded for running at large is not known to the animal warden or his agent, or if any such owner shall fail to appear and pay the charges for taking up and caring for any animal impounded solely for failure to control, then after seven (7) days impoundment, the animal warden shall either destroy said animal or may sell the same at private sale and apply the proceeds thereof for paying the costs of taking up and caring for such animal.

**\*320-12 RABID ANIMALS.** Any other provisions of this chapter notwithstanding, if any animal bites any person so as to puncture the skin, or if any animal warden or member of the Police Department shall have reasonable grounds to believe that any animal is infected or infested with rabies, it shall then become the duty of the chief of police to cause such animal to be taken up and to impound such animal for observation for a period of ten (10) days if proof of current rabies vaccination is provided. Any owner of such animal shall, when notified by the chief of police or his agent, deliver any such animal to the chief of police or his agent for impounding and observation for a period of ten (10) days if proof of current rabies vaccination is provided. If rabies vaccination is delinquent, the animal must be impounded for a period of fourteen (14) days. Rabies vaccination and approval from the attending veterinarian will be required before the animal is released. If vaccination history is not available, the matter will be referred to a local veterinarian. They may, at their discretion, order an impoundment period or require that the animal be euthanized and submitted for testing. All costs of impoundment, vaccination, and/or euthanization and testing are the responsibility of the animal owner. If an animal bites a person so as to puncture the skin, the owner shall within a period of six (6) hours report the

same to the chief of police and deliver such animal to the chief of police or his agent for impounding and observation as provided herein. The fees for impounding an animal and quarantine under the provisions of this section shall be the obligation of the owner.

**\*320-13 RETURN TO OWNER.** If, at the end of the impoundment period provided in the preceding section, the chief of police shall determine that it is safe to return any animal to the owner, he shall thereupon notify the owner, if known, of such fact, and of the costs of taking up and caring for the said animal. If the owner thereof shall pay such costs within two (2) days, he shall be entitled to the return of the animal. In the event of the failure of the owner to pay such costs and repossess such animal as provided herein, then in such event, the chief of police shall either destroy the said animal or may sell the same at private sale and apply the proceeds thereof to paying the costs of taking up and caring for such animal.

**320-14 ABANDONMENT.** It shall be unlawful for any owner of an animal to abandon the same within the corporate limits of the city.

**320-15 DEAD ANIMALS.** Any animal killed or which dies upon public property and where ownership can be ascertained, may be removed by the city for disposal, or may be removed by the owner; but where removed and disposed of by the city, the owner of the animal shall pay a fee of fifteen dollars (\$15).

**320-16** Any violation of the provisions of this ordinance constitutes a misdemeanor offense punishable as provided by law.

**320-17 SEVERABILITY CLAUSE.** If any section, provision, 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 section, provision, or part hereof not adjudged invalid or unconstitutional.

**\*\*320-18 FAILURE TO PROTECT CERTAIN WORKERS.** Any individual who owns an animal shall keep their animal under control at all times. Any individual who owns an animal which bites,

\*Revised 2-7-05; Ord. No. 650

\*\*Revised 9-19-11; Ord. No. 708 (New section created)

attempts to bite, attacks or pursues a State or local government employee, employee of a utility provider, letter carrier or parcel delivery person who, during the ordinary course of employment, is required to enter upon private property to perform a function of such employment is guilty of a simple misdemeanor.

A violation shall result in a fine of not less than \$250.00 for the first violation and not less than \$500.00 for each subsequent violation.

**TITLE III - MENTAL AND PHYSICAL HEALTH**

**CHAPTER 2 - ANIMAL PROTECTION AND CONTROL**

**ARTICLE 2  
RESERVED FOR FUTURE USE**

**TITLE III - MENTAL AND PHYSICAL HEALTH****CHAPTER 3 - LIQUID WASTES****ARTICLE 1  
GENERAL PROVISIONS**

**330-101** The purpose of this chapter is to establish rules and regulations governing the treatment and disposal of sanitary sewage within the city in order to protect the public health, safety, and welfare.

**330-102 DEFINITIONS.** For use in this chapter, unless the context specifically indicates otherwise, the following terms are defined:

1. "B.O.D." (denoting Biochemical Oxygen Demand): shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees C., expressed in milligrams per liter or parts per million.
2. "Building Storm Drain": a building (house) storm drain is a building drain and used for conveying rain water, surface water, groundwater, subsurface water, or other similar discharge to a building storm sewer or a combined building sewer extending to a point not less than three feet outside the building wall.
3. "Building Storm Sewer": a building (house) storm sewer is the extension from the building storm drain to the public storm sewer, combined sewer, or other point of disposal.
4. "City": shall mean the City of Estherville, Iowa.
5. "Combined Sewer": shall mean a sewer receiving both surface run-off and sewage.
6. "Contributor": shall mean any person responsible for the production of domestic,

commercial, or industrial waste which is directly or indirectly discharged into the public sewer system.

7. "Garbage": shall be interpreted to mean all putrescible waste, except sewage and body wastes, including vegetable and animal offal and carcasses of dead animals, but excluding recognized industrial byproducts, and shall include all such substances from all public and private establishments and from all residences.

8. "Industrial Wastes": shall mean the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

(Code of Iowa, 1999, 455B.171 [10])

9. "Inspector": shall mean the person duly authorized by the council to inspect and approve the installation of building sewers and their connections to the public sewer system; and to inspect such sewage as may be discharged therefrom.

10. "Natural Outlet": shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

11. "pH": shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

12. "Penalty Charge": shall mean an extra charge for exceeding set parameters of waste loads.

13. "Private Sewer": shall mean a sanitary building drain and sewer privately owned and not directly controlled by public authority.

14. "Properly Shredded Garbage": shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles

will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one half (1/2) (1.27 centimeters) inch in any dimension.

15. "Public Sewer": shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

16. "Sanitary Sewage": shall mean sewage discharging from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories or institutions, and free from storm, surface water, and industrial waste.

17. "Sanitary Sewer": shall mean a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.

18. "Sewage": shall mean a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.

19. "Wastewater Treatment Plant": shall mean any arrangement of devices and structures used for treating sewage.

20. "Sewage Works" or "Sewage System": shall mean all facilities for collecting, pumping, treating, and disposing of sewage.

21. "Sewer": shall mean a pipe or conduit for carrying sewage.

22. "Sewer Rental": shall mean any and all charges, rates, fees, or rentals levied against and payable by contributors, as consideration for the servicing of said contributors by said sewer system.

23. "Slug": shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.

24. "Storm Drain" or "Storm Sewer": shall mean a sewer which carries rain and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.
25. "Superintendent": shall mean the administrative or supervisory person to whom such duty is assigned pursuant to Title I, Chapter 4, Article 4 of this code or his authorized deputy, agent, or representative.
26. "Surcharge": shall mean the amount by which a waste parameter exceeds the maximum limit.
27. "Suspended Solids": shall mean solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.
28. "TKN": shall mean total Kjeldahl nitrogen and includes ammonia and organic nitrogen as defined in standard methods.
29. "Watercourse": shall mean a channel in which a flow of water occurs, either continuously or intermittently.

**330-103 SUPERINTENDENT.** The water pollution control superintendent shall be appointed by the administrative or supervisory person to whom such duty is assigned pursuant to Title I, Chapter 4, Article 4 of this code subject to the approval of the council and exercise the following powers and duties:

(Code of Iowa, 1999, Sec. 372.13 [4])

1. Operation and Maintenance. He shall operate and maintain the city sewage system and wastewater treatment plant.

2. Inspection and Tests. He shall conduct necessary inspections and tests to assure compliance with the provisions of this chapter.
3. Records. He shall maintain a complete and accurate record of all sewers, sewage connections, and manholes constructed showing the location and grades thereof.

**330-104 PROHIBITED ACTS.** No person shall do, or allow, any of the following:

1. Damage Sewer System. Maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the sewer system.

(Code of Iowa, 1999, Sec. 716.1)

2. Downspouts. Connect a roof downspout, exterior foundation drain, areaway drain, or other source of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.
3. Manholes. Open or enter any manhole of the sewer system, except by authority of the superintendent.
4. Objectionable Wastes. Place or deposit in any unsanitary manner on public or private property within the city, or in any area under the jurisdiction of the city, any human or animal excrement, garbage, or other objectionable waste.
5. Septic Tanks. Construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage except as provided in this chapter.

(Code of Iowa, 1999, Sec. 364.12 [3f])

6. Untreated Discharge. Discharge to any natural outlet within the city, or in any area under its jurisdiction, any sanitary sewage, industrial wastes, or other polluted waters,

except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

(Code of Iowa, 1999, Sec. 364.12 [3f])

**330-105 SEWER CONNECTION REQUIRED.** The owners of any houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the city and abutting on any street, alley, or right-of-way in which there is now located, or may in the future be located, a public sanitary or combined sewer, are hereby required to install, at such owner's expense, suitable toilet facilities therein and a building sewer connecting such facilities directly with the proper public sewer, and to maintain the same all in accordance with the provisions of this chapter, such compliance to be completed within thirty (30) days after date of official notice from the city to do so provided that said public sewer is located within one hundred (100) feet of the property line of such owner and is of such design as to receive and convey by gravity such sewage as may be conveyed to it.

(Code of Iowa, 1999, Sec. 364.12 [3f])

**330-106 SERVICE OUTSIDE THE CITY.** The owners of property outside the corporate limits of the city so situated that it may be served by the city sewer system may apply to the council for permission to connect to the public sewer upon the terms and conditions stipulated by the council.

(Code of Iowa, 1999, Sec. 364.4 [2 & 3])

**330-107 RIGHT OF ENTRY.** The superintendent and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this chapter. The superintendent or his representatives shall have no authority to

inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

**330-108 OWNERS LIABILITY LIMITED.** While performing the necessary work on private property, the superintendent or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the owner or occupant and the owner or occupant shall be held harmless for injury or death to city employees and the city shall indemnify the owner or occupant against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the owner or occupant and growing out of any gauging and sampling operation, except as such may be caused by negligence or failure of the owner or occupant to maintain safe conditions.

**330-109 USE OF EASEMENTS.** The superintendent and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

**330-110 SPECIAL PENALTIES.** The following special penalty provisions shall apply to violations of this chapter:

1. Notice of Violation. Any person found to be violating any provision of this chapter except subsections 1, 3, and 4 of Section 330-104, shall be served by the city with written notice stating the nature of the violation and providing a reasonable time limit for

the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

2. Continuing Violations. Any person who shall continue any violation beyond the time limit provided for in subsection 1 hereof, shall be guilty of a misdemeanor, and on conviction thereof shall be fined an amount not exceeding one hundred dollars (\$100) for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

3. Liability Imposed. Any person violating any of the provisions of this chapter shall become liable to the city for any expense, loss, or damage occasioned the city by reason of such violation.

**TITLE III - MENTAL AND PHYSICAL HEALTH****CHAPTER 3 - LIQUID WASTES****ARTICLE 2  
BUILDING SEWERS AND CONNECTIONS**

**330-201 PLUMBER REQUIRED.** Any connection to a public sewer shall be made by a plumber approved by the city. The superintendent shall have the power to suspend the approval of any plumber for violation of any of the provisions of this chapter; a suspension, unless revoked, shall continue until the next regular meeting of the council. The superintendent shall notify the plumber immediately by personal written notice of the suspension, the reasons for the suspension, and the time and place of the council meeting at which he will be granted a hearing. At this council meeting the superintendent shall make a written report to the council stating his reasons for the suspension, and the council, after fair hearing, shall revoke the suspension or take any further action that is necessary and proper.

**330-202 EXCAVATIONS.** All excavations for building sewer installations shall be made in accord with the provisions of Section 810 and the following:

1. Pipe Bed. Immediately prior to installing the pipe, the trench bottom shall be accurately shaped and graded by hand and bell holes shall be excavated so that the pipe will have uniform contact with a longitudinal bearing on undisturbed earth along its entire barrel length. Bell holes shall be excavated by the pipe layer immediately prior to laying the pipe and shall be of such depth that the pipe bell does not come in contact with the bottom of the bell hole. All sewer pipe shall be laid with the bell end upgrade. Where the floor of the trench at the proper grade is of hard or rock material, the floor shall be excavated four (4) inches or more below grade and backfilled with fine gravel or

material approved by the superintendent. Where the floor of the trench at the proper grade is of unstable material the same treatment as described above shall be provided.

2. Backfill. All sewer pipe shall be provided with adequate bottom and lateral support by thoroughly, carefully and adequately tamping and ramming suitable and proper backfill material beneath, around and to the top of the pipe between the bell holes and sewer joints. All material used for pipe embedment and tamped backfill shall be free of stones, sticks, large clods, lumps of earth, debris, or similar material. When backfill is made in and across a roadway ditch or other watercourse it shall be protected from surface erosion by adequate means. Backfill shall be made with dirt and tamped by hand to a depth of six (6) inches over the pipe. The remainder of the trench shall be backfilled and tamped with gravel or materials approved by the superintendent. All excess dirt will be removed immediately by the excavator and before the connection is approved by the superintendent.

**330-203 CONNECTION REQUIREMENTS.** Any connection with a public sanitary sewer must be made under the direct supervision of the superintendent and in accordance with the following:

1. Old Building Sewers. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the superintendent, to meet all requirements of this article.
2. Separate Building Sewers. A separate and independent building sewer shall be provided for every occupied building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. In such cases the

building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

3. Materials and Installation. All building sewers and connections shall comply fully with all the pertinent and applicable provisions, whether regulatory, procedural, or enforcement provisions of the latest issue of the Iowa State Plumbing Code.
4. Water Lines. When possible, building sewers should be laid in the same trench as the water service, provided the water service line is located at one side and at least twelve (12) inches above the top of the building sewer.
5. Size. Building sewers shall be sized for the peak expected sewage flow from the building with a minimum building sewer size of four (4) inches.
6. Alignment and Grade. All building sewers shall be laid to a straight line and at a uniform grade of not less than the following:
  - A. Four (4) inch lines: one-fourth (1/4) inch per foot.
  - B. Six (6) inch lines: one-eighth (1/8) inch per foot.
  - C. Deviations: any deviation in alignment or grade shall be made only with the written approval of the superintendent and shall be made only with properly curved pipe and fittings.
7. Depth. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. The depth of cover above the sewer shall be sufficient to afford protection from frost. In no case shall there be less than four (4) feet of cover over the top of said sewer tile.
8. Sewage Lifts. In all buildings in which any building drain is too low to permit gravity

flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer.

9. Pipe Specifications. Building sewer pipe shall be free from flaws, splits, or breaks.

Materials shall be as specified in the state plumbing code except that the building sewer pipe, from the property line to the public sewer, shall comply with one of the following requirements:

A. Vitrified clay sewer pipe - A.S.T.M. C 200-69 (extra strength).

B. Extra heavy cast iron soil pipe - A.S.T.M. A74-69.

C. Cast iron water pipe - A.S.T.M. A377-66.

10. Bearing Walls. No building sewer shall be laid parallel to, or within three (3) feet of any bearing wall, which might thereby be weakened.

11. Jointing. Fittings, type of joint, and jointing material shall be commensurate with the type of pipe used and subject to the approval of the superintendent, subject to the following specific requirements.

A. Vitrified clay sewer pipe - compression joints in accordance with A.S.T.M. C425-71.

B. Cast iron soil pipe - A.S.T.M. A74-69.

C. Cast iron water pipe - A.S.T.M. 377-66.

12. Unstable Soil. No sewer connection shall be laid so that it is exposed when crossing any watercourse. Where an old watercourse must of necessity be crossed or where there is any danger of undermining or settlement, cast iron soil pipe or vitrified clay sewer pipe thoroughly encased in concrete shall be required for such crossings. Such

encasement shall extend at least six (6) inches on all sides of the pipe. The cast iron pipe or encased clay pipe shall rest on firm, solid material at either end.

13. Preparation of Basement or Crawl Space. No connection for any residence, business, or other structure with any sanitary sewer shall be made unless the basement floor is poured, or in the case of a building with a slab or crawl space, unless the ground floor is installed with the area adjacent to the foundation of such building cleared of debris and backfilled. The backfill shall be well compacted and graded so that the drainage is away from the foundation. Prior to the time the basement floor is poured, or the first floor is installed in buildings without basements, the sewer shall be plugged and the plug shall be sealed. Any accumulation of water in any excavation or basement during construction and prior to connection to the sanitary sewer shall be removed by means other than draining into the sanitary sewer.

14. Manhole Required. A manhole, or clean out, may be required in any building sewer extending a distance of one hundred (100) feet or more.

**330-204 INTERCEPTORS REQUIRED.** Grease, oil, sludge, and sand interceptors shall be provided in accordance with the following: filling stations, automobile wash racks, garages, and other facilities, when, in the opinion of the superintendent, they are necessary for the proper handling of such wastes that contain grease in excessive amounts or any flammable waste, sand, or other harmful ingredients. Such interceptors shall not be required for private living quarters or dwelling units.

1. Design and Location. All interceptors shall be of a type and capacity as provided by the Iowa Public Health Bulletin and state plumbing code, to be approved by the superintendent, and shall be located so as to be readily and easily accessible for cleaning and inspection.

2. Construction Standards. The interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight, and equipped with easily removable covers that shall be gastight and watertight.
3. Maintenance. All interceptors of grease, oil, sludge, and sand shall be maintained by the owner at his expense in continuously efficient operations at all times.

**330-205 SEWER TAP.** Connection of the building sewer into the public sewer shall be made at the “Y” branch, if such branch is available at a suitable location. If no properly located “Y” branch is available, the property owner shall at his own expense install a “Y” saddle with mortar in the public sewer at the location specified by the superintendent. At no time shall a building sewer be constructed so as to enter a manhole unless special permission is received from the superintendent and in accordance with his direction if such connection is approved. The property owner shall pay a tap charge as set out by resolution of the council and on file in the City Hall.

**330-206 CONNECTION DEADLINE.** All approved connection permits shall require the owner to complete construction and connection of the building sewer to the public sewer within thirty (30) days from the approval of the permit, except that when, in the judgment of the superintendent, a property owner on application has made sufficient showing that due to conditions beyond his control or peculiar hardship, the period of time set forth for the completion of the connection shall be inequitable or unfair to him, an extension of time within which to comply with the provisions herewith may be granted.

**330-207 INSPECTION REQUIRED.** All connections with the sanitary sewer system before being covered shall be inspected and approved by the superintendent. As soon as all pipe work from the public sewer to inside the building has been completed, and before any backfilling is

done, the superintendent shall be notified at least twenty-four (24) hours in advance of the time inspection is desired, and he shall inspect and test the work as to workmanship and material; no sewer pipe laid under ground shall be covered or trenches filled until after the sewer has been so inspected and approved. If the superintendent refuses to approve the work, the plumber or owner must proceed immediately to correct the work.

**330-208 PROPERTY OWNER'S RESPONSIBILITY.** All costs and expenses incident to the installation, connection, and maintenance of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation and maintenance of the building sewer.

**330-209 FAILURE TO MAINTAIN.** When any building sewer becomes defective or creates a nuisance and the owner fails to correct such nuisance, the city may do so and assess the costs thereof to the property.

**330-210 TERMINATION OF SEWER SERVICE.** Property owner shall plug the sewer pipe with concrete at the service valve in the parking between the curb line and the property line upon termination of service and shall plug all floor drains and other inlets to prevent rain water and snow melt from entering the sewer system. If the property owner shall fail to plug the sewer pipe with concrete within 30 days after termination of service, then in such event the city will plug the pipe without further notice and assess the cost to the property owner.

**TITLE III - MENTAL AND PHYSICAL HEALTH****CHAPTER 3 - LIQUID WASTES****ARTICLE 3  
USE OF PUBLIC SEWERS**

**330-301 STORM WATER.** No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the superintendent. Industrial cooling water or unpolluted process waters may be discharged on approval of the administrative or supervisory person to whom such duties are assigned pursuant to Title I, Chapter 4, Article 4 of this code, to a storm sewer, combined sewer, or natural outlet.

**330-302 SURFACE WATERS EXCEPTION.** Special permits for discharging surface waters to a public sanitary sewer may be issued by the council upon recommendation of the superintendent where such discharge is deemed necessary or advisable for purposes of flushing, but any permit so issued shall be subject to revocation at any time when deemed to the best interests of the sewer system.

**330-303 PROHIBITED DISCHARGES.** No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

1. Flammable or Explosive Material. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
2. Toxic or Poisonous Materials. Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other

wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) milligrams per liter as CN in the wastes as discharged to the public sewer.

3. Corrosive Wastes. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

4. Solid or Viscous Substances. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, egg shells, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

**330-304 RESTRICTED DISCHARGES.** No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming its opinion as to the acceptability of these wastes, the superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The restricted substances are:

1. High Temperature. Any liquid or vapor having a temperature higher than one hundred fifty (150) degrees F (65 degrees C).
2. Fat, Oil, Grease. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) milligrams per liter.
3. Viscous Substances. Water or wastes containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150) degrees F (0 and 65 degrees C).
4. Garbage. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three fourths (3/4) horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the superintendent.
5. Acids. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solution whether neutralized or not.
6. Toxic or Poisonous Wastes. Any water or wastewater containing a toxic or poisonous substance or a high chlorine demand in sufficient quantity to injure or interfere with any sewage treatment process, sludge treatment or disposal process, constitute a hazard to animals or humans, or create a hazard in the receiving water or effluent of the sewage treatment plant. Chlorine demand, iron, copper, zinc, chromium, arsenic, cadmium, lead, mercury, molybdenum, nickel, and selenium, or other similar objectionable or toxic substance in wastewater discharged to the sewer system may be limited as determined by the city for protection of the wastewater treatment plant, the receiving stream or the sludge application sites.

Iron as Fe-----	15 parts per million
Chromium as Cr (hexavalent)-----	5 parts per million
Copper as Cu-----	3 parts per million
Zinc as Zn-----	2 parts per million
Chlorine demand-----	30 parts per million

7. Odor or Taste. Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the superintendent as necessary, after treatment of the composite sewage, to meet the requirements of state, federal, or other public agencies or jurisdiction for such discharge to the receiving waters.
8. Radioactive Wastes. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.
9. Any waters or wastes having a pH in excess of 9.5.
10. Unusual Wastes. Materials which exert or cause:
  - A. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
  - B. Excessive discoloration (such as, but not limited to dye wastes and vegetable tanning solutions).
  - C. Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
  - D. Unusual volume of flow or concentrations of wastes constituting a "slug." A "slug" shall mean any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than three (3) times the average twenty-four (24) hour concentration or flow during normal operations and shall adversely affect the collection system and/or performance of the wastewater treatment plant.

11. Noxious or Malodorous Gases. Any noxious or malodorous gases or other substance which either singly or by interaction with other wastes is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.

12. Any water which contains concentrations in excess of the following parameters which are defined as normal domestic sewage:

BOD - 275 mg/l  
TSS - 275 mg/l  
TKN - 45 mg/l  
O & G - 40 mg/l

14. Damaging Substances. Any waters, wastes, materials, or substances which react with water or wastes in the sewer system to release noxious gases, develop color of undesirable intensity, form suspended solids in objectionable concentration or create any other condition deleterious to structures and treatment processes.

15. Untreatable Wastes. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

**330-305 RESTRICTED DISCHARGES - POWERS.** If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 304 of this article, and which in the judgment of the superintendent may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the superintendent may:

1. Rejection. Reject the wastes.

2. Pre-treatment. Require pre-treatment to an acceptable condition for discharge to the public sewers.
3. Controls Imposed. Require control over the quantities and rates of discharge, and/or
4. Special Charges. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Article 5 of this chapter.

**330-306 SPECIAL FACILITIES.** If the superintendent permits the pre-treatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the superintendent and subject to the requirements of all applicable codes, ordinances, and laws. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

**330-307 CONTROL MANHOLES.** When required by the superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessible to the city and safely located, and shall be constructed in accordance with plans approved by the superintendent. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

**330-308 TESTING OF WASTES.** All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of "Standard Methods of the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at

the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD, TSS, and TKN analyses are obtained from twenty-four (24) hour composites of all outfalls whereas oil and grease pH's are determined from periodic grab samples.)

**330-309 INDUSTRIAL LOADS.** A statement setting forth the anticipated loads of BOD suspended solids, grease, TKN, and the hydraulic flow originating with each such user and placed in the sanitary sewer system shall be filed by each present industrial user with the council through the office of the clerk and by each future industry proposing to use said sewer system within one hundred eighty (180) days prior to actual connection to the said sanitary sewer system of the city. The loads established in each such statement must be approved by the council and will constitute the maximum waste limits above which the user will pay a penalty. If the user discharges waste loads below these limits, billing will be based upon the normal industrial sewer rate, except that the minimum bill will be seventy-five (75) percent of the billing for each parameter established in the above statement and approved by the council. Minimum billing will be in effect for a minimum period of six (6) consecutive months after which time the user may reapply for a change in the maximum limits. After this time the user will have the option of reapplying once every twelve (12) months for a change in the parameter load limits.

If the user exceeds the parameter limits established in the above statement, the user will pay a penalty charge for the amount the limits for each parameter established in the said statement is exceeded.

**TITLE III - MENTAL AND PHYSICAL HEALTH****CHAPTER 3 - LIQUID WASTES****ARTICLE 4  
PRIVATE SEWER SYSTEMS**

**330-401 WHEN PROHIBITED.** Except as otherwise provided in this article, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

(Code of Iowa, 1999, Sec. 364.12 [3f])

**330-402 WHEN REQUIRED.** Where a public sanitary or combined sewer is not available under the provisions of Section 330-105, the building sewer shall be connected to a private sewage system complying with the provisions of this article.

**330-403 COMPLIANCE WITH STATE RULES.** The type, capacity, location, and layout of a private sewage disposal system shall comply with all recommendations of the State Department of Health.

**330-404 DISCHARGE TO NATURAL OUTLETS PROHIBITED.** No septic tank or cesspool shall be permitted to discharge to any natural outlet.

**330-405 MAINTENANCE OF FACILITIES.** The owner of private sewage disposal facilities shall operate and maintain the facilities in a sanitary manner at all times and at no expense to the city.

**330-406 ADDITIONAL REQUIREMENTS.** No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by any health officer acting in his official capacity.

**330-407 PRIVATE SYSTEMS ABANDONED.** Within sixty (60) days of notice that a public sewer is available to a property served by a private sewage disposal system, as provided in

Section 330-105, a direct connection shall be made to the public sewer in compliance with this chapter and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

(Code of Iowa, 1999, Sec. 364.12 [3e])

**330-408 DISPOSAL OF WASTE.** It shall be unlawful for any person to place any effluent or waste from cesspools, septic tanks, or privy vaults in any other location in the city except in such location as may be designated by the superintendent. The rate or charge for receiving such waste shall be determined by resolution of the council.

**TITLE III - MENTAL AND PHYSICAL HEALTH****CHAPTER 3 - LIQUID WASTES****ARTICLE 5  
SEWER RENTAL**

**330-501 SEWER RENTAL REQUIRED.** Every contributor shall pay to the city sewer rental fees as hereinafter provided.

(Code of Iowa, 1999, Sec. 384.84 [1])

**330-502 CONTRIBUTOR'S CLASSIFIED.** Contributors shall be classified as follows:

1. Class I. Class I shall include all industries having contracts for the disposal of industrial wastes with the city.
2. Class II. Class II shall include all industries, not in Class I exceeding surcharge limits.
3. Class III. Class III shall include all other contributors including commercial and residential contributors.

**330-503 CLASS I RATE.** The rate for Class I contributors shall be based upon provisions in the contract with the city.

**\*\*330-504 CLASS II RATE.** The rate for Class II contributors shall be as follows:

1. Regular Billing:  
Flow x \$6.00 per 1,000 ft.<sup>3</sup>  
BOD x \$0.12 per lb.  
TSS x \$0.24 per lb.  
TKN x \$0.33 per lb.  
O & G x \$0.09 per lb.
2. Penalty Billing: A 20% penalty shall be applied to the accumulative total bill if any of the actual loadings exceed the allocation limits in the approved treatment agreement.
3. Minimum Charge. The City Council shall establish the minimum charge for all Class II industries on a case by case basis. All such agreements shall not be construed as being a "contract" for the purposes of classifying contributors.

\*\*4. Minimum Bill Averaging: If during a calendar year minimum billing is applied, a credit will be issued to bills in months where minimum billing is exceeded. This shall not apply to penalties.

**\*\*330-505 CLASS III RATE.** The rate for Class III contributors shall be \$4.25/100 cubic feet of water used during each month.

**\*\*330-506 MINIMUM CHARGE.** The minimum service charge for Class III contributors for each connection, either direct or indirect to the sewage system, shall be twenty dollars (\$20) per month.

**330-507 PRIVATE WATER SYSTEMS.** Contributors whose premises are served by a private water system shall pay sewer rentals based upon the water used as determined by the superintendent either by an estimate agreed to by the contributor or by metering the water system at the contributor's expense. Any negotiated, or agreed upon sales or rental shall be subject to approval of the council.

(Code of Iowa, 1999, Sec. 384.84)

**330-508 PAYMENT OF BILLS.** All sewer rentals shall be due and payable under the same terms and conditions provided for payment for water service except that the provision of Section 330-509 shall be used to enforce collection of delinquent sewer charge. Water service may be discontinued for failure to pay sewer rental charges.

(Code of Iowa, 1999, Sec. 384.84 [1])

**330-509 NONPAYMENT OF BILL.**

1. Termination of Service. Sewer service may be discontinued for nonpayment of sewer rental charges but only as to each location where service was furnished and payment is delinquent.

(Code of Iowa, 1999, Sec. 384.84 [2b])

(Berner V. Interstate Power Co., 57 N.W. 2d 56)

\*Revised 6-16-03; Ord. No. 636

\*\*Revised 2-21-11; Ord. No. 704

2. Lien for Nonpayment. Sewer rental charges remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the clerk to the county auditor for collection in the same manner as property taxes.

(Code of Iowa, 1999, Sec. 384.84 [3a])

**TITLE III - MENTAL AND PHYSICAL HEALTH****CHAPTER 4 - SOLID WASTE CONTROL****ARTICLE 1  
GENERAL PROVISIONS**

**340-101 PURPOSE.** The purpose of this chapter is to provide for the sanitary storage, collection, and disposal of solid wastes and, thereby, to protect the citizens of this city from such hazards to their health, safety, and welfare as may result from the uncontrolled disposal of solid wastes.

**340-102 DEFINITIONS.** For use in this chapter the following terms are defined:

1. "Solid Waste": shall mean garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined by subsection one of Section 321.1 of the Code of Iowa.

(Code of Iowa, 1999, Sec. 455B.301 [20])

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

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

4. "Rubbish": shall mean nonputrescible solid waste consisting of combustible and noncombustible wastes, such as ashes, paper, cardboard, tin cans, yard clippings, wood, glass bedding, crockery, or litter of any kind.
5. "Open Burning": shall mean any burning of combustible materials where the products of combustion are emitted into the open air without passing through a chimney or stack.
6. "Landscape Waste": shall mean any vegetable or plant wastes except garbage. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, and yard trimmings.
- \*7. "Container Burning": shall mean the burning of any waste, trash, lawn landscape clippings, or any combustible materials whatsoever in a container, burn barrel, residential incinerator of any kind in the open area of any yard or lot.
8. "Residential Waste": shall mean any refuse generated on the premises as a result of residential activities. The term includes landscape wastes grown on the premises or deposited thereon by the elements, but excludes garbage, tires, and trade wastes.
9. "Discard": shall mean to place, cause to be placed, throw, deposit, or drop.
10. "Litter": shall mean any garbage, rubbish, trash, refuse, waste materials, or debris.
11. "Open Dumping": shall mean the depositing of solid wastes on the surface of the ground or into a body or stream of water.
12. "Rubble": shall mean stone, brick, or similar inorganic material.
13. "Sanitary Disposal Project": shall mean all facilities and appurtenances including all real and personal property connected with such facilities, which are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the executive director.

(Code of Iowa, 1999, Sec. 455B.301)

14. "Hazardous Substance": means any substance or mixture of substances that presents a danger to the public health or safety and includes, but is not limited to, a substance that is toxic, corrosive, or flammable, or that is an irritant or that generates pressure through decomposition, heat, or other means. "Hazardous substance" may include any hazardous waste identified or listed by the administrator of the United States environmental protection agency under the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, or any toxic pollutant listed under section 307 of the federal Water Pollution Control Act as amended to January 1, 1977, or any hazardous substance designated under section 311 of the federal Water Pollution Control Act as amended to January 1, 1977, or any hazardous material designated by the secretary of transportation under the Hazardous Materials Transportation Act.

(Code of Iowa, 1999, Sec. 455B.381 [5])

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

16. "Yard Wastes": shall mean lawn rakings, leaves, and garden waste. Yard waste shall not include green grass clippings nor the woody debris of trees, brush, or shrubbery in whole or in part.

17. "Sanitary Disposal": shall mean a method of treating solid waste so that it does not produce a hazard to the public health or safety or create a nuisance.

18. "Executive Director": shall mean the executive director of the State Department of Environmental Quality of his designee.

(Code of Iowa, 1999, Sec. 455B.103)

19. "Approved Incinerator": shall mean equipment or facilities for the enclosed burning of refuse having a stack adequate to maintain a draft sufficient for efficient combustion and equipped with a screen sufficiently fine to prevent ejection of particles of burning materials as approved by the Iowa Air Quality Commission.

20. "Salvage Operation": shall mean any business, industry, or trade engaged wholly or in part in salvaging or reclaiming any project or material, including, but not limited to, chemicals, drums, metals, motor vehicles, or shipping containers.

21. "Premises": shall mean and include every residence, household, apartment, boarding house, hospital, nursing home, hotel, restaurant, café, market, wholesale or retail store, and establishment or place of business in the city in which solid waste accumulates, including all surrounding grounds and yards.

**340-103 HEALTH HAZARD.** It shall be unlawful for any person to permit to accumulate on any premises, improved or vacant, or on any public place, such quantities of solid waste, either in containers or not, that shall constitute a health or sanitation hazard.

**340-104 FIRE HAZARD.** It shall be unlawful for any person to permit to accumulate quantities of solid waste within or close to any building, unless the same is stored in containers in such a manner as not to create a fire hazard.

**\*340-105 OPEN BURNING RESTRICTIONS.** No person shall allow, cause, or permit open burning of any material including yard waste within the City limits of the City of Estherville, Iowa, except that the following shall be permitted during such times as an applicable ban on burning periods is not in affect:

1. Disaster Rubbish. The open burning of rubbish, including landscape waste, for the duration of the community disaster period in cases where an officially declared emergency condition exists.

2. Trees, Brush, Shrubbery. The open burning of woody debris of trees, brush, or shrubbery only at the City's authorized burn site.
3. Flare Stacks. The open burning or flaring of waste gases, provided such open burning or flaring is conducted in compliance with applicable State regulations.
- \*\*4. Recreational Fires. Open fires for cooking, heating, recreation, and ceremonies. All such fires must use only untreated, unprocessed, unmilled wood, charcoal, propane, or natural gas as fuel. All such fires shall be within a non-combustible barrier or defined fire ring designed for the purpose of containing a recreational fire not to exceed forty (40) inches in diameter and shall be no closer than ten (10) feet from any neighboring structure.  
  
The minimum fine for non-compliance of the above section is not less than \$200.00 for the first offense and \$500.00 for the second and subsequent offenses.
5. Training Fires. Fires set for the purpose of bona fide training of public or industrial employees in fire fighting methods, providing that such burning is conducted in compliance with applicable State regulations.
6. Wooded Acreages. Open burning of landscape waste and yard waste originating on the premises on parcels of commonly-owned land consisting of at least 1.5 acres at locations at least 150 feet distance from any structure.

**340-105 (a) BAN ON BURNING PERIODS.** The term "Ban on Burning Period" shall be such period of time, as determined by the fire chief, that because of dry weather conditions, heavy winds, or a combination of other relevant factors, a hazardous threat of fire exists within the city and additional restrictions on open burning are required. Such "Ban on Burning Period" shall commence twenty-four (24) hours after the fire chief causes the announcement of its commencement to be made at by at least one radio station having a normal operating range covering the city. The "Ban on Burning Period" will terminate upon a like announcement of the fire chief.

\*Revised 7-17-00; Ord. No. 612 (Part of Section 340-105)

Revised 5-17-04; Ord. No. 644 (All of Section 340-105)

\*\*Revised 8-18-08; Ord. No. 686

**\*340-105 (b) CONTAINER BURNING PROHIBITED.** It shall be unlawful to engage in container burning at any time within the city.

**\*340-105 (c) VIOLATIONS.** Any person(s) who violate a ban on burning or container burning shall be guilty of a simple misdemeanor. Costs associated with extinguishing any prohibitive burning practice may be assessed to the violator.

**340-106 LITTERING PROHIBITED.** No person shall discard any litter onto or in any water or land, except that nothing in this section shall be construed to affect the authorized collection and discarding of such litter in or on areas or receptacles provided for such purpose. When litter is discarded from a motor vehicle, the driver of the motor vehicle shall be responsible for the act in any case where doubt exists as to which occupant of the motor vehicle actually discarded the litter.

(Code of Iowa, 1999, Sec. 455B.363)

**340-107 OPEN DUMPING PROHIBITED.** No person shall dump or deposit or permit the open dumping or depositing of any solid waste except rubble at any place other than a sanitary disposal project approved by the executive director of the State Department of Environmental Quality.

**340-108 TOXIC AND HAZARDOUS SUBSTANCES.** The collection, storage, and disposal of toxic and hazardous wastes shall be subject to the following:

1. Labeling. All containers used for the storage, collection, or transportation of toxic or hazardous wastes shall be plainly marked so as to provide adequate notice of the contents thereof.
2. Vehicles and Containers. All vehicles and containers used for the storage, collection, and transportation of toxic and hazardous wastes shall be so constructed that they can be loaded, moved, and unloaded in a manner that does not create a danger to public health or safety and in compliance with federal and state laws, rules, and regulations.
3. Disposal. No person shall deposit in a solid waste container or otherwise offer for collection any toxic or hazardous wastes. Such materials shall be transported by the owner, responsible person, or his agent, to a place of safe deposit or disposal as prescribed by the executive director of the State Department of Environmental Quality.

**340-109 WASTE STORAGE CONTAINERS.** Every person owning, managing, operating, leasing or renting any premises, dwelling unit, or any place where refuse accumulates shall provide and at all times maintain in good order and repair portable containers for refuse in accordance with the following:

1. Container Specification. Waste storage containers shall comply with the following specifications:
  - A. Residential. Residential waste containers shall be of not less than twenty (20) gallons nor more than twenty (20) gallons in nominal capacity; shall be leak proof, water proof, and fitted with a fly tight lid which shall be kept in place except when depositing or removing the contents thereof. They shall be of light weight and sturdy construction with the total weight of any individual containers

and contents not exceeding fifty (50) pounds. Galvanized metal containers, rubber or fiberglass containers, and plastic containers which do not become brittle in cold weather may be used. Each person subscribing for residential collection with the city shall do so by purchasing city solid waste collection bags from an authorized distributor or from City Hall, and use the bag as a can liner. The solid waste collection bag(s) shall be placed at the curb not more than twelve (12) hours prior to the scheduled collection of same.

B. Commercial. Every person owning, managing, operating, leasing, or renting any commercial premise where excessive amounts of refuse accumulates and where its storage in portable containers as required above is impractical, shall maintain metal bulk storage containers approved by the city.

2. Location of Containers. Residential solid waste containers shall be stored upon the residential premises. Commercial solid waste containers shall be stored upon private property, unless the owner shall have been granted written permission from the city to use public property for such purposes. The storage site shall be well-drained; fully accessible to collection equipment, public health personnel, and fire inspection personnel.

**340-110 STORAGE OF YARD WASTES.** All yard wastes shall be stored in containers so constructed and maintained as to prevent the dispersal of wastes placed therein upon the premises served, upon adjacent premises, or upon adjacent public rights-of-way. Tree limbs less than four (4) inches in diameter and brush shall be securely tied in bundles not larger than forty-eight (48) inches long and eighteen (18) inches in diameter when not placed in storage containers. The weight of any individual bundle or container shall not exceed fifty (50) pounds.

**340-111 SANITARY DISPOSAL REQUIRED.** It shall be the duty of each property owner to provide for the sanitary disposal of all refuse accumulating on his or her premises. It shall be unlawful for any person to permit such accumulation of refuse to remain upon any premises for a period of more than seven (7) days.

**340-112 PROHIBITED PRACTICES.** It shall be unlawful for any person to:

1. Unlawful Use of Containers. Deposit refuse in any solid waste containers other than his own without the written consent of the owner of such containers.
2. Interfere with Collectors. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the city, or those of any other authorized waste collection service.
3. Unlawful Disposal. Dispose of refuse at any facility or location which is not an approved sanitary disposal project.
4. Unlawful Collection. Engage in the business of collecting, transporting, processing, or disposing of refuse within the city without a contract therefor with the city or a valid permit therefor.
5. Unlawful Burning. Burn nonputrescible solid waste consisting of combustible and noncombustible wastes such as garbage, ashes, tin cans, glass jars or containers, wood, glass bedding, crockery, milk cartons, disposable diapers, or litter of any kind.
6. Unlawful Deposit in Burning Container. Deposit in a burning container nonputrescible solid waste consisting of combustible and noncombustible wastes such as garbage, ashes, tin cans, glass jars or containers, wood, glass bedding, crockery, milk cartons, disposable diapers, or litter of any kind.

**340-113 DEFINITIONS.** For the purposes of Sections 340-114 and 340-115, these words shall have the following meanings:

1. "Hazardous Waste": means those wastes which are included by the definition in Section 455B.411(3), Code of Iowa, 1999.
2. "Hazardous Substance": means any substance as defined in Section 455B.381(5), Code of Iowa, 1999.
3. "Hazardous Condition": means the same as set out in Section 455B.381(4), Code of Iowa, 1999.
4. "Responsible Person": means a person, partnership, corporation, association, cooperative, or any governmental agency of any kind having control over a hazardous substance or hazardous wastes, who at any time produces, handles, stores, uses, transports, refines, or disposes of a hazardous substance, the release of which creates a hazardous condition, whether on public ways or grounds or on private property, including bailees, carriers, and any other person in control of a hazardous substance when a hazardous condition occurs, whether the person owns the hazardous substance or is operating under a lease, contract, or other agreement with the legal owner of the hazardous substance.
5. "Clean Up": means the removal of the hazardous wastes or substances to a place where the waste will not cause any danger to persons or the environment, in accordance with state rules therefor, or the treatment of the material as defined herein to eliminate the hazardous condition, including the restoration of the area to a general good appearance without noticeable odor, as far as practicable.

(Code of Iowa, 1999, Sec. 455B.381 [1])

6. "Treatment": means a method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of a hazardous substance so as to neutralize it or to render the substance nonhazardous, safer for transport, amenable for recovery, amenable for storage, or to reduce it in volume. Treatment includes any activity or processing designed to change the physical form or chemical composition of hazardous substance to render the waste nonhazardous.

(Code of Iowa, 1999, Sec. 455B.411 [10])

#### **340-114 CLEAN UP REQUIRED.**

1. Whenever a hazardous condition is created by the deposit, injection, dumping, spilling, leaking, or placing of a hazardous waste or substance, so that the hazardous substance or waste or a constituent of the hazardous waste or substance may enter the environment or be emitted into the air or discharged into any waters, including ground waters, the responsible person shall cause the condition to be remedied by a clean up, as defined in the preceding section, as rapidly as feasible to an acceptable, safe condition. The costs of clean up shall be borne by the responsible person.
2. If the responsible person does not cause the clean up to begin in a reasonable time, in relation to the hazard and circumstances of the incident, the city may--through the city administrator--give reasonable notice, based on the character of the hazardous condition, with this notice setting a deadline for accomplishing the clean up, or that the city will proceed to procure clean up services and bill the responsible person.
3. If the bill for those services is not paid within thirty days, the city attorney shall proceed to obtain payment by all legal means. If the cost of the clean up is beyond the

capacity of the city to finance, the authorized officer shall report to the council and immediately seek any state or federal funds available for the clean up.

(Code of Iowa, 1999, Sec. 455B.392 and 455B.423)

**340-115 NOTIFICATIONS.** The first city officer or employee who arrives at the scene of an accident involving hazardous substances, if not a peace officer, shall notify the Police Department which shall notify the city administrator and the proper state office as required by Section 455B.386, Code of Iowa, 1999.

**TITLE III - MENTAL AND PHYSICAL HEALTH****CHAPTER 4 - SOLID WASTE CONTROL****ARTICLE 2  
COLLECTION AND TRANSPORTATION**

**340-201 DEFINITIONS.** For use in this article the following terms are defined:

1. "Residential Collection": means service provided the owner or occupant of a single or multiple family dwelling who has purchased city solid waste collection bags for collection.
2. "Business Collection": means service provided the owner or occupant of any other establishment not defined as a residential collection. Including multiple-family dwellings with three (3) or more dwelling units.
3. "Collectors": shall mean any person authorized by this article to gather solid waste from public and private places.
4. "Dwelling Unit": shall mean any room or group of rooms located within a structure and forming a single habitable unit with facilities which are used, or are intended to be used, for living, sleeping, cooking, and eating.
5. "Single-family Dwelling": shall mean a structure containing one dwelling unit only.
6. "Multiple-family Dwelling": shall mean a structure containing more than one dwelling unit.
7. "Property Served": shall mean any property which is being used or occupied and is eligible to receive solid waste collection and disposal service as provided herein.

**340-202 COLLECTION SERVICE.** The city shall provide for the collection of all solid waste except bulky rubbish as provided in Section 340-207 within the city. The city solid waste

collection service shall be operated and directed by the administrative or supervisory person to whom such duties are assigned pursuant to Title I, Chapter 4, Article 4 of this code or his representative.

(Code of Iowa, 1999, Sec. 455B.302)

**340-203 COLLECTION VEHICLES.** Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste or solid waste containing such materials shall be leakproof, durable, and of easily cleanable construction. They shall be cleaned to prevent nuisances, pollution, or insect breeding and shall be maintained in good repair.

**340-204 LOADING.** Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such a manner that the contents will not fall, leak, or spill therefrom, and shall be covered to prevent blowing or loss of material. Where spillage does occur, the material shall be picked up immediately by the collector or transporter and returned to the vehicle or container and the area properly cleaned.

**340-205 FREQUENCY OF COLLECTION.** All solid waste shall be collected from residential premises at least once each week and from commercial, industrial, and institutional premises as frequently as may be necessary, but not less than once each week.

**340-206 RESIDENTIAL COLLECTION REGULATIONS.** Residential collection service is provided subject to the following regulations:

1. Metered Bags Required. Only officially authorized city solid waste bags or miscellaneous objects with authorized bags attached will be picked up.
2. Curb Service. Curb service bags must be placed within five (5) feet of the curb along the collection truck's route.
3. Custom Service. Custom service bags must be placed outside the house or garage and be visible from the street or alley along the collection truck's route.

4. Weight. Maximum weight per bag shall be fifty (50) pounds.
5. Bags Tied. Both curb service and custom service metered bags must be outside of the cans and securely tied closed on the days of collection if they are to be picked up.
6. Books, magazines, and newspapers in large quantities and not inside a metered bag must be tied in bales or in a disposable container not exceeding fifty (50) pounds and metered bag attached.

**340-207 BUSINESS COLLECTION REGULATIONS.** Business collection service is provided subject to the following regulations:

1. Loose Material. All loose material (small items such as waste paper, garbage, etc.) shall be placed in securely tied disposable plastic bags or any other type of disposable container.
2. Sunday Collection. No Sunday collections shall be made except in cases of danger to public health.
3. Bulky or Hazardous Items. Appliances, furniture, dangerous or hazardous items, and all items over fifty (50) pounds will not be collected by the city.

**340-208 BULKY RUBBISH.** Bulky rubbish which is too large or heavy to be collected in the normal manner of other solid waste may be collected by the collector upon request in accordance with procedures therefor established by the council.

**340-209 TREE LIMBS AND BRUSH COLLECTION.** Tree limbs of less than four (4) inches in diameter and brush will be collected by the City on a time available basis provided it is placed at the curb. Tree limbs and brush shall be separated from other waste to be collected by the City's solid waste collection crew. The City may, at its discretion, assess the property owner or occupant for the collection of large quantities of tree limbs and brush. City solid waste collection metered bags shall not be used for purposes of collection and disposal under this section.

**340-210 YARD WASTE COLLECTION.** Yard wastes as defined by Section 340-102 (16) shall be collected by the City on a seasonal basis on dates so designated by the City. Such waste shall be placed in plastic leaf bags. City metered bags shall not be used for collection of yard wastes. It shall be the duty of the landowner or occupant of the property to separate yard waste from other waste to be collected by the City solid waste collection crew, and the City reserves the right to refuse collection of any nonconforming materials. Green grass clippings and other landscaped waste will not be collected by the City's solid waste collection crew and may be disposed of by the landowner in any manner in compliance with this Code of Ordinances.

**340-211 RIGHT OF ENTRY.** Solid waste collectors are hereby authorized to enter upon private property for the purpose of collecting solid waste therefrom as required by this article, however solid waste collectors shall not enter dwelling units or other residential buildings.

**340-212 PRIVATE COLLECTION SERVICE.** From and after January 25, 1978, all individuals and all other legal entities or organizations whose principal activities involve the collection and disposal of solid waste shall be prohibited from performing said activities within the corporate city limits of the City of Estherville, Iowa, other than present solid waste collection permit holders. Upon the expiration of all currently issued Solid Waste Collection Permits, no renewals of said permits shall be authorized and all such former permit holders shall refrain from the collection and disposal of solid waste from any location within the corporate limits of the City of Estherville. The aforementioned prohibitions on collection and disposal of solid waste shall not apply to persons transporting only building demolition materials or other rubbish that the city is not authorized to collect or transport when said collection and disposal meets all other requirements of this chapter.

**340-213 OWNER MAY TRANSPORT.** Nothing herein is to be construed so as to prevent the owner from transporting solid waste accumulating upon premises owned, occupied, or used by him, provided such refuse is disposed of properly in an approved sanitary disposal project.

**340-214 GRADING OR EXCAVATION EXCEPTED.** No license or permit shall be required for the removal, hauling, or disposal of earth and rock material from grading or excavation activities, however, all such materials shall be conveyed in tight vehicles, trucks, or receptacles so constructed and maintained that none of the material being transported shall spill upon the public rights-of-way.

**340-215 COLLECTION FEES.** The collection and disposal of solid waste as provided by this article is declared to be a benefit to the property served or eligible to be served and there shall be levied and collected fees therefor in accordance with the following:

(Goreham vs. Des Moines, 1970, 179 NW 2<sup>nd</sup>, 449)

- \*1. Residential Service. A monthly base fee, as the City Council shall establish for garbage collection expense, will be charged to each household other than those on business service as set forth below where city garbage pick-up service is available. All such base fees shall be collected through the City Finance Office at the same time and in the same manner as the municipal light and water bills are collected. All residential service garbage and rubbish shall be enclosed in solid waste collection bags to be sold to the public at such a price or prices as the City Council shall from time to time establish. The current price list shall be available for inspection by the public in the office of the City Clerk.

2. Business Service. All business rates shall be negotiated by the administrative or supervisory person to whom such duties are assigned pursuant to Title I, Chapter 4, Article 4 of this code or his agent depending on the quantity, type of refuse, pick-up location, frequency of collection, and time spent at each business. All charges for business collections only shall be collected through the City Finance Office at the same time and in the same manner as the municipal light and water bills are collected.

\*3. Residential Solid Waste Recycling Service. An additional monthly base fee, as the City Council shall establish for operating the City's residential solid waste recycling program, will be charged to each household other than those on business service as set forth above. Such recycling base fee shall be shown separately upon the billing and shall be collected through the City Finance Office at the same time and in the same manner as the municipal utility bills are collected. All residential solid waste recycling materials shall be placed at the curb in compliance with the rules and regulations of the Estherville Residential Solid Waste Recycling Program as now or hereinafter approved by the City Council.

**TITLE III - MENTAL AND PHYSICAL HEALTH****CHAPTER 4 - SOLID WASTE CONTROL****ARTICLE 3  
SOLID WASTE DISPOSAL**

**340-301 DEFINITIONS.** For use in this article the following terms are defined:

1. "Processing Facility": shall mean the site and equipment for the preliminary and incomplete disposal of solid waste, including but not limited to transfer, open burning, incomplete land disposal, incineration, composting, reduction, shredding, and compression.

(IAC, 1999, 567-100.2 [455B])

2. "Site": shall mean any location, place, or tract of land used for collection, storage, conversion, utilization, incineration, or burial of solid wastes.

(IAC, 1999, 567-100.2 [455B])

3. "Scavenging": shall mean the uncontrolled removal of materials from the unloading or working area of a sanitary disposal project.

(IAC, 1999, 567-100.2 [455B])

4. "Operator": shall mean the person or agency authorized to conduct disposal operations at a public sanitary disposal project or licensed private sanitary disposal project.

5. "Resident": shall mean in addition to any person residing in the city, any person occupying or using any commercial, industrial, or institutional premises within the city.

**340-302 SANITARY DISPOSAL REQUIRED.** All solid wastes generated or produced within the city shall be disposed of at a sanitary disposal project designated by the city and approved by the executive director of the Iowa State Department of Environmental Quality.

(Code of Iowa, 1999, Sec. 455B.302)

**340-303 OPEN DUMPING PROHIBITED.** No person shall cause, allow, or permit the disposal of solid wastes upon any place within the jurisdiction of the city owned or occupied by him unless such place has been designated by the city as a licensed sanitary disposal project, public sanitary disposal project, or an approved processing facility.

(Code of Iowa, 1999, Sec. 455B.302)

**340-304 EXCEPTIONS.** Nothing in this article shall prohibit the filling, leveling, or grading of land with earth, sand, dirt, stone, brick, gravel, rock, rubble, or similar inert wastes provided these materials are not contaminated or mixed with combustible, putrescible or other waste materials, nor to the disposal of animal and agricultural wastes on land used or operated for farming.

**340-305 TOXIC AND HAZARDOUS WASTES.** Toxic or hazardous wastes shall be disposed of only upon receipt of and in accordance with explicit instructions obtained from the executive director of the State Department of Environmental Quality.

(IAC, 1999, 567-100.2 [455B])

**340-306 RADIOACTIVE MATERIALS.** Materials that are radioactive shall not be disposed of in a sanitary disposal project. Luminous timepieces are exempt.

(IAC, 1999, 641-40.14 [3])

**340-307 SANITARY DISPOSAL PROJECT DESIGNATED.** The solid waste disposal or processing facilities operated by the Emmet County Council of Governments are hereby designated as the official "Public Sanitary Disposal Project" for the disposal of solid waste produced or originating within the city.