

CHAPTER 22
STREETS AND SIDEWALKS

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CHAPTER 22

STREETS AND SIDEWALKS

DIVISION I IN GENERAL

Sec. 22.1. ABUTTING PROPERTY OWNER TO MAINTAIN SIDEWALKS AND PARKINGS.

The abutting property owner shall maintain sidewalks, parkings and all other property outside the lot and property lines and inside the curb lines upon the public streets except that the property owner shall not remove diseased trees or dead wood on the publicly owned property or right-of-way.

[State Law Ref. Iowa Code Sec. 364.12(2)(c)]

Sec. 22.2. SNOW AND ICE REMOVAL FROM SIDEWALKS.

(1) **Duty of property owner.** It is the responsibility of the abutting property owner to promptly remove snow, ice, and accumulations from the sidewalks.

(Ord. No. 805, Sec. 1; Code 1956, Sec. 41-1)

(2) **Failure of owner to remove.** No owner shall, for a period of ten (10) daylight hours after the cessation of the storm or cause of accumulation, permit snow, ice, or accumulations to remain upon the adjoining and abutting sidewalks.

(Ord. No. 805, Sec. 2; Ord. No. 3003, Sec. 33, 2-23-88; Code 1956, Sec. 41-2)

(3) **Removal by city; assessing costs.** Should snow, ice, or accumulations be permitted to remain upon any sidewalk for a period of ten (10) daylight hours after the cessation of the storm or cause of accumulation, the city manager may, after affording reasonable notice cause the same to be removed and the actual cost of the removal assessed against the property as herein provided.

(Ord. No. 805, Sec. 3; Code 1956, Sec. 41-3) [State Law Ref. Iowa Code Sec. 364.12(2)]

Sec. 22.3. ENCROACHMENTS.

(1) **Permit Required.** No person shall create, construct, use or maintain upon, over or under the surface of any street, alley or sidewalk or within the limits of such street, alley or sidewalk in the city any chimney, stairway, platform, steps, pipes, cables, wires, ropes, wells, areaways, railings, vaults, storage tanks, coal or boiler rooms or any other encroachment of a private and fixed character, unless and until permission is granted to create, construct, use or maintain the encroachment in connection with the real property of the person and a written permit has been issued, therefore, according to the following procedure.

a) **Permit exception — Breakaway mailboxes.** Mailboxes may be installed without an encroachment permit if they are designed to bend or fall away when struck by a vehicle and constructed in accordance with the specifications for mailboxes erected on highways published by the American Association of State Highway and Transportation officials, Washington, D.C., on May 24, 1984.

(Ord. No. 809, Sec. 1; Code 1956, Sec. 37-1)

(2) **Application.**

a) Application for a permit to construct, use or maintain any encroachment of a private and fixed character, within the limits of any street, alley or sidewalk, except a non-breakaway mailbox, shall be made in writing to the city council and accompanied with a complete plan in detail of the proposed encroachment.

b) Non- breakaway mailboxes. Applications for permits to construct, use or maintain a mailbox within the limits of any street, alley or sidewalk, except a non-breakaway mailbox, shall be made in writing to the city traffic engineer and shall be accompanied with a complete plan in detail of the proposed encroachment.

(Ord. No. 809, Sec. 2; Code 1956, Sec. 37-2)

(3) **Approval.**

a) The city council may, after investigation, approve, modify or reject the application. An insurance certificate naming the City of Ames, its officers, and employees as an additional insured with comprehensive general liability limits in the amount of \$500,000 combined single limit shall be in full force and effect during the life of the encroachment permit. The coverage shall be at least as broad as the ISO Form Number CG0001 covering commercial general liability written on an occurrence basis only. A copy of the current insurance certificate shall be

maintained on file with the City Clerk. The Council may waive the requirement of an insurance certificate as described herein if the applicant is an agency of the State of Iowa.

(Ord. No. 3746, 11-18-03; Ord. No. 3906, 3-27-07)

b) Non-breakaway mailboxes. Permits for non-breakaway mailboxes may, after investigation, be approved by the city traffic engineer if it is determined by the city traffic engineer that the installation does not create a dangerous or hazardous situation.

(Ord. No. 809, Sec. 3; Code 1956, Sec. 37-3)

(4) **Issuance of permit; records.** Upon approval of an application for an encroachment permit by the city council or city traffic engineer, the city clerk shall, upon receipt of the Certificate of Insurance, unless waived as provided in this section, collect the payment of a minimum fee of twenty-five dollars (\$25.00) or one dollar (\$1.00) per square foot of encroachment, whichever is the larger amount, and issue the permit and retain a record thereof. The permit issued shall set forth in detail any requirements imposed by the city council or city traffic engineer in granting the permit.

(Ord. No. 809, Sec. 5; Code 1956, Sec. 37-5; Ord. No. 2429, Sections 1, 2, 1-2-73, Ord. No. 3746, 11-18-03; Ord. No. 3806, 3-27-07)

(5) **Revocation.** The city council may at any time revoke any permit issued under and by virtue of the terms of this chapter when the privilege granted thereunder conflicts with the city's use of the streets, alleys or sidewalks, any contract or agreement to the contrary notwithstanding.

(Ord. No. 809, Sec. 6; Code 1956, Sec. 37-6)

(6) **Inspection fee; failure to pay.** The city council may require the payment of an annual fee as it shall prescribe for the purpose of covering costs of making inspection of the encroachment. Failure to pay the fee when due shall operate to cancel the permit.

(Ord. No. 809, Sec. 4; Code 1956, Sec. 37-4)

(Ord. No. 3411, Sec. 1, 11-26-96)

Sec. 22.4 TEMPORARY OBSTRUCTIONS

(1) It is unlawful for any person to place any building or other materials, or to erect barricades, false work, form work or place other temporary obstructions within the limits of streets, alleys, public parking lots or sidewalks in the city without first obtaining written permission from the city manager setting out the time to do the work. The permission given by the city manager shall specify the time, place and manner of placing the temporary obstructions and the precautions to be observed to protect the public during the time the obstructions are in place. The city manager may withdraw the permission at any time the obstructions become hazardous to the public or upon failure of the person failing or refusing to observe the instructions as set forth in the written permit.

(Ord. No. 3916, 05-22-07; Ord. No. 3984, 02-10-09)

(2) No person shall construct any sidewalk, residence, building or other improvement, or while make repairs to the same, or for any other purpose, pile sand, dirt, brick, lumber, or other material upon any street, avenue, alley, or public place, or within the street limits, without maintaining at and thereon, at proper places, a lighted barricade, lighted lantern or flares between the hours of sunset and sunrise, sufficiently bright to be easily observed at a distance of three hundred (300) feet.

(Ord. No. 809, Sec. 7; Ord. No. 812, Sections 67, 71; Code 1956, Sections 37-7, 76-67, 76-71; Ord. No. 3003, Sec. 34, 2-23-88)

(3) **Insurance** An insurance certificate naming the City of Ames, its officers, and employees as an additional insured with comprehensive general liability limits in the amount of \$500,000 combined single limit shall be in full force and effect during the life of any temporary obstruction permit. The coverage shall be at least as broad as the ISO Form Number CG0001 covering commercial general liability written on an occurrence basis only. A waiver of this requirement may be granted by the City Manager for Sections 22.4(1) and (2). A copy of the current insurance certificate shall be maintained on file with the City Clerk.

(a) Waivers of the insurance requirement shall be based on the following criteria:

- (1) Type of obstruction
- (2) Nature of the event requiring an obstruction
- (3) Anticipated volume of traffic and whether street closings will be required
- (4) Whether the event is for a commercial or private purpose

(5) The zoning of the area in which the obstruction will occur. Areas with commercial and high density residential zoning will [likely] require insurance
(*Ord. No. 3746, 11-18-03; Ord. No. 3916, 05-22-07; Ord. No. 3968, 9-9-08*)

Sec. 22.5. EXCAVATIONS.

(1) The following definition of terms applies to all provisions of this section.

(a) Concrete pavements include all Portland cement and asphaltic concrete pavements and concrete base with any type of bituminous wearing surface.

(b) Stabilized base pavements include pavement with base stabilized with gravel, stone, cinders and a cementing material other than Portland cement, and with or without a bituminous wearing surface.

(c) Street appurtenances include all concrete curbs, curb and gutter and sidewalks within the street limits.

(d) Street surfaces include all other street surfaces of earth, unstabilized gravel or stone, cinders or similar material.

(*Ord. No. 863, Sec. 1 - 1.3; Code 1956, Sec.-38-1.4*)

(2) As a matter of general policy, all work incident to the cutting of the street surfaces and appurtenances and excavations shall be performed by the contractor; the backfilling and resurfacing shall be done by the city under the terms and conditions herein provided. The city manager may reserve the right to perform all or such portions of the work of cutting into or through or excavating along or under pavement surfaces, including the back-filling of trenches and pavement surface repairs, as the city manager may deem necessary to fully protect the city from undue injury or excessive repair to the pavement surfaces.

(*Ord. No. 863, Sec. 9; Code 1956, Sec. 39-9*)

(3) It is unlawful for any person to cut into or remove any part of a concrete pavement, stabilized base pavement, street surface or street appurtenance without first having obtained a permit therefor. Application for a permit to do work as specified in this section shall be made in writing to the city manager on forms furnished by the city. The forms shall specify the location and extent of the proposed work, and the time when the work is to be in progress.

(*Ord. No. 863, Sec. 3; Code 1956, Sec. 38-3*)

(4) The city manager shall, upon approval of an application for an excavation permit, issue the permit and retain a record thereof.

(5) The city manager, may, upon proper application, authorize the issuance of a permit under such restrictions and regulations as the city manager deems necessary to insure the safety and convenience of the public.

(*Ord. No. 863, Sections 6, 7; Code 1956, Sections 38-6. 38-7*)

(6) The charges to be made for reimbursing the city for the cost of repair and maintenance of pavement and appurtenance cuts shall be as set out in a schedule of rates and charges for this purpose to be prepared by the city manager on the basis of reasonable estimated costs and enacted by resolution of the city council.

(*Ord. No. 2721, 6-26-79*)

Sec. 22.6. BUILDING NUMBERING.

(1) Duff Avenue and an imaginary line extended north from 20th Street through the center of subsequent sections constitutes the base line for the numbering system as applied to streets running east and west. Lincoln Way constitutes the base line for the numbering system as applied to streets running north and south.

(2) Diagonal and curved streets are classified as east and west or as north and south streets depending on which classification their general alignment most nearly conforms to.

(*Ord. No. 794, Sec. 2; Code 1956, Sec. 44-2*)

(3) Even numbers shall be assigned to principal buildings fronting on the east side of streets running north and south and on the south side of streets running east and west.

(4) Odd numbers shall be assigned to principal buildings fronting on the west side of streets running north and south and on the north side of streets running east and west.

(*Ord. No. 794, Sec. 3; Code 1956, Sec. 44-3*)

(5) In areas where the streets follow regular patterns, the principal buildings fronting on the first block extending from the base line shall be assigned numbers between 100 and 199; those fronting on the second block from the base line shall be assigned numbers between 200 and 299; those fronting on the third block from the base

lines shall be assigned numbers between 300 and 399, etc. increasing the group of numbers by 100 for each block. In areas where the streets do not follow regular patterns the numbering system shall be adapted in general to the system as specified in this chapter.

(Ord. No. 794, Sec. 4; Code 1956, Sec. 44-4)

(6) It is the duty of the city manager to prepare a plan for the numbering of principal buildings in accordance with the provisions of this chapter. The city manager is the custodian of the plan and shall keep the same for public inspection so that the owner of any principal building may, by applying therefor, receive the correct number to be placed on the building.

(Ord. No. 794, Sec. 5; Code 1956, Sec. 44-5)

(7) It is the duty of the owner, agent or lessee of any principal building in the city, owned, controlled or occupied by them and not now bearing a proper number, to place or cause to be installed and maintained on the building a proper house number as hereinafter designated.

(Ord. No. 794, Sec. 6; Code 1956, Sec. 44-6)

(8) The figures of each number shall be not less than two and one-half (2½) inches in height. Each figure shall be plain, legible, and of a contrasting color with its background. The numbers shall be maintained in this condition at all times.

(Ord. No. 794, Sec. 7; Code 1956, Sec. 44-7)

(9) The building number shall be placed on the principal building in a conspicuous place as near as may be to the main entrance thereto so that it may be easily seen from the street extending in front of the building.

(Ord. No. 794, Sec. 8; Code 1956, Sec. 44-8)

(10) It is the duty of the city manager to enforce the provisions of this section respecting the duty of owners, agents or lessees to number buildings, and no person shall refuse to number a building as herein provided, or shall fail to do so for a period of thirty (30) days after being notified in writing by the city manager to do so.

(Ord. No. 794, Sec. 9; Ord. No. 3003, Sec. 35, 2-23-88)

DIVISION II EMERGENCY SNOW REMOVAL

Sec. 22.7. PURPOSE

The purpose of Sections 22.7 through and including Section 22.10 of the Municipal Code is to provide procedures for ordering the location of the vehicles parked on City streets so as not to impede the progress of snow removal equipment endeavoring to clear the streets of snow and to provide for the tow-away of vehicles so stopped, standing or parked as to constitute safety hazards by impeding the passage of vehicles on the streets or the removal of unsafe accumulations of snow and ice.

(Ord. No. 2686, Sec. 1, 10-17-78; Ord. No. 2836, 12-7-82)

Sec. 22.8. SNOW ROUTES

(1) Stopping, standing or parking of vehicles upon a street or streets designated as snow routes, except as required at intersections or otherwise to avoid collision, shall be and is hereby prohibited when, by public announcement, the snow ordinance has been placed in effect. Parking on snow routes is prohibited from the time the snow ordinance goes into effect until the snow removal operations have been completed for the entire width of the street for said streets. Vehicles found to be parked in violation of this ordinance shall be cited for said violation and, to obviate the safety hazards occasioned by incomplete snow removal, be summarily towed on orders of a police officer to some place where the vehicle may be lawfully parked, to the City impoundment lot, or to a privately owned impoundment lot. The costs of such towing shall be assessed to and paid by the operator or registered owner of the vehicle.

(2) In order to remove snow piles left after ordinary plowing operations, this ordinance may, by public announcement, be placed in effect for certain portions of the city, as follows:

(a) Downtown. When it is announced that this ordinance is being placed in effect for the Downtown Area, the following portions of streets are included: Main Street from Duff Avenue to Northwestern Avenue; 5th Street from Grand Avenue to Duff Avenue; Pearle Avenue from Main Street to 5th Street; Clark Avenue and

Kellogg Avenue from Lincoln Way to 6th Street; and Burnett Avenue and Douglas Avenue from Main Street to 6th Street.

(Ord. No. 3521, 4-13-99)

(b) Campustown. When it is announced that the ordinance is being placed in effect for the Campustown area, the following portions of streets are included: Lincoln Way from Sheldon to Lynn; Chamberlain from Hayward to Lynn, Welch Avenue from Lincoln Way to Storm Street; and Hayward, Stanton and Lynn Avenues from Lincoln Way to Chamberlain.

When the snow ordinance has been placed in effect pursuant to this subsection, parking on streets in the announced area(s) shall be prohibited from midnight to 6:00 a.m. Vehicles found to be parked in violation of this subsection shall be cited for said violation, and to obviate safety hazards occasioned by incomplete snow removal, be summarily towed on orders of a police officer to some place where the vehicle may be lawfully parked, to the City impoundment lot, or to a privately owned impoundment lot. The costs of such towing shall be assessed to and paid by the operator or registered owner of the vehicle.

(Ord. No. 2686, 10-17-78; Ord. No. 2836, 12-7-82; Ord. No. 3505, Sec. 1, 11-10-98)

Sec. 22.9. SNOW ROUTES DESIGNATED

On the following streets or portions of streets designated in this section, it shall be unlawful, when official signs have been erected giving notice of such as a "Snow Route--Tow-Away Zone", to operate a motor vehicle contrary to Section 22.8:

Street Name	Location	Citation
Airport Road	From the west line of Duff Avenue to the east line of University Boulevard	Ord. No. 3307, 11-22-94
Allan Drive	From Fifth Street to Northwestern Avenue	Ord. No. 3812, 12-14-04
Ash Avenue	From the south line of Lincoln Way to the north line of Mortensen Parkway	Ord. No. 3307, 11-22-94, Ord. No. 3642, 12-11-01
Beach Avenue	From the south line of Lincoln Way to the north line of Mortensen Parkway	Ord. No. 3307, 11-22-94
Bloomington Road	From its intersection with Grand Avenue to the west corporate limits	Ord. No. 3307, 11-22-94
Buckeye Avenue	From its intersection with South 16 th Street to its intersection with Chestnut Street	Ord. No. 3869, 12-20-05
Chestnut Street	From its intersection with South Duff Avenue to its intersection with Buckeye Avenue	Ord. No. 3869, 12-20-05
Clark Avenue	From the north line of Sixth Street to the south line of Ninth Street	Ord. No. 3307, 11-22-94
Crystal Street	From its intersection with South Duff Avenue to its intersection with Opal Drive	Ord. No. 3869, 12-20-05
Dayton Avenue	From the south line of Lincoln Way to the north corporate limits	Ord. No. 3307, 11-22-94
Dickinson Avenue	From Steinbeck Street to Mortensen Road	Ord. No. 3803, 9-28-04
Duff Avenue	From the north line of Lincoln Way to its intersection with Grand Avenue	Ord. No. 3307, 11-22-94
Emerald Drive	From the north line of Ken Maril Road to the south line of Jewell Drive	Ord. No. 3307, 11-22-94; Ord. No. 3321, 3-7-95

Garden Road	From Garnet Drive to Viola May Avenue	<i>Ord. No. 3600, 11-28-00</i>
Garnet Avenue	From its intersection with Garden Road to the east line of Jewell Drive	<i>Ord. No. 3307, 11-22-94</i>
Grand Avenue	From the north line of Lincoln Way to the north corporate limits	<i>Ord. No. 3307, 11-22-94</i>
George Washington Carver Avenue	From its intersection with Stange Road to the north corporate limits	<i>Ord. No. 4089, 10-25-11</i>
Hayes Avenue	From 20 th Street to 24 th Street	<i>Ord. No. 4089, 10-25-11</i>
Hayward Avenue	From the south line of Lincoln Way to the south line of Chamberlain Street; and on the east side only, from the south line of Chamberlain Street to Mortensen Road	<i>Ord. No. 3252, 12-14-93; Ord. 3307, 11-22-94; Ord. No. 3605, 1-23-01</i>
Hoover Avenue	From Twenty-Fourth Street to the north line of Bloomington Road	<i>Ord. No. 3251, 11-9-93; Ord. No. 3307, 11-22-94</i>
Hyland Avenue	From Lincoln Way to the south line of Ontario Road	<i>Ord. No. 3251, 11-9-93; Ord. 3307, 11-22-94</i>
Jewell Drive	From the east line of Duff Avenue to the south line of Garnet Drive	<i>Ord. No. 3307, 11-22-94</i>
Ken Maril Road	From Duff Avenue to Viola Mae	<i>Ord. No. 3251, 11-9-93; Ord. No. 3307, 11-22-94</i>
Knapp Avenue	From the west line of Ash Avenue to its intersection with Sheldon Avenue	<i>Ord. No. 3307, 11-22-94</i>
Lincoln Way	From the east corporate limits to the west corporate limits	<i>Ord. No. 3307, 11-22-94</i>
Lynn Avenue	From the south line of Lincoln Way to the north line of Knapp Avenue	<i>Ord. No. 3642, 12-11-01</i>
Mortensen Road & Mortensen Parkway	From the west line of University Boulevard to the west end of Mortensen Road	<i>Ord. No. 3252, 12-14-93; Ord. No. 3307, 11-22-94</i>
Ninth Street	From the west line of Duff Avenue to the east line of Northwestern Avenue	<i>Ord. No. 3307, 11-22-94</i>
North Dakota Avenue	From the north line of Lincoln Way to the north corporate limits	<i>Ord. No. 3307, 11-22-94</i>
North Loop Drive	From its western terminus with Airport Road, east, to its eastern terminus with Airport Road	<i>Ord. No. 3898, 1-23-07</i>
Northwestern Avenue	From its intersection with Main Street to Thirtieth Street	<i>Ord. No. 3307, 11-22-94</i>
Oakwood Road	From its intersection with State Avenue, east, to its intersection with University Boulevard	<i>Ord. No. 3252, 12-14-93; Ord. No. 3307, 11-22-94; Ord. No. 3898, 1-23-07</i>
Ontario Street	From its intersection with Hyland Avenue to the west corporate limits	<i>Ord. No. 3307, 11-22-94</i>
Opal Drive	From its intersection with Jewell Drive to its intersection with Crystal Street	<i>Ord. No. 3869, 12-20-05</i>

Ridgewood Avenue	From Sixteenth Street to the south line of Twentieth Street	<i>Ord. No. 3307, 11-22-94</i>
Roy Key Avenue	From Thirtieth Street to Wheeler Avenue	<i>Ord. No. 3151, 11-9-93; Ord. No. 3307, 11-22-94</i>
Sheldon Avenue	From the intersection of Knapp Street to the intersection of Hyland Avenue	<i>Ord. No. 3307, 11-22-94</i>
Sixteenth Street	From the west line of Duff Avenue to Ridgewood Avenue	<i>Ord. No. 3307, 11-22-94</i>
Sixth Street	From the west line of Duff Avenue to the west line of Brookside Park	<i>Ord. No. 3307, 11-22-94</i>
South Fourth Street	From its intersection with Beach Avenue, east, to its intersection with South 3 rd Street	<i>Ord. No. 3307, 11-22-94; Ord. No. 3898, 1-23-07</i>
South Fifth Street	From the west line of Duff Avenue to the west line of Walnut Avenue	<i>Ord. No. 3307, 11-22-94</i>
South Sixteenth Street	From the west line of Duff Avenue to the east line of University Boulevard	<i>Ord. No. 3307, 11-22-94; Ord. No. 3898, 1-23-07</i>
South Third Street	From the west line of Duff Avenue to its intersection with South Fourth Street	<i>Ord. No. 3307, 11-22-94</i>
South Bell Avenue	From its intersection with Lincoln Way to South East Sixteenth Street	<i>Ord. No. 4022, 1-26-10</i>
South Dayton Avenue	From the south line of Lincoln Way to the U.S. 30 Bypass	<i>Ord. No. 3307, 11-22-94</i>
South Dayton Place	From its intersection with South Dayton Avenue to its southern end	<i>Ord. No. 4022, 1-26-10</i>
South Duff Avenue	From the south line of Lincoln Way to the south corporate limits	<i>Ord. No. 3307, 11-22-94</i>
South Dakota Avenue.	From the south line of Lincoln Way to the south corporate limits	<i>Ord. No. 3307, 11-22-94</i>
South East Fifth Street	From South Duff east to its eastern end	<i>Ord. 3251, 11-9-93; Ord. No. 3307, 11-22-94</i>
South East Third Street	From its intersection with South Duff Avenue, east, to its eastern terminus	<i>Ord. No. 3898, 1-23-07</i>
South East Sixteenth Street	From its intersection with South Duff Avenue, east, to its eastern terminus	<i>Ord. No. 3898, 1-23-07</i>
South Grand Avenue	From its intersection with Lincoln Way to its southern end	<i>Ord. No. 4022, 1-26-10</i>
Stange Road	From the north line of Thirteenth Street to its northerly terminus	<i>Ord. No. 3307, 11-22-94</i>
State Avenue	From its intersection with Lincoln Way, south, to its intersection with Oakwood Road	<i>Ord. No. 3307, 11-22-94; Ord. No. 3898, 1-23-07</i>
Steinbeck Street	From Dickinson Avenue to South Dakota Avenue	<i>Ord. No. 3803, 9-28-04</i>

Storm Street	From its intersection with Hayward Avenue, east, to its intersection with Welch Avenue	<i>Ord. No. 3251, 11-9-93; Ord. No. 3307, 11-22-94; Ord.No. 3898, 1-23-07</i>
Thackeray Drive	From its intersection with Todd Drive to the south line of Lincoln Way	<i>Ord. No. 3307, 11-22-94</i>
Thirteenth Street	From the east corporate limits to Hyland Avenue	<i>Ord. No. 3307, 11-22-94</i>
Thirtieth Street	From the west line of Grand Avenue to its intersection with Hoover	<i>Ord. No. 3307, 11-22-94</i>
Todd Drive	From its intersection with Thackeray Drive to its intersection with South Dakota Avenue	<i>Ord. 2913, 12-18-94; Ord. No. 3307, 11-22-94</i>
Twentieth Street	From its intersection with Duff Avenue, west to its western terminus	<i>Ord. No. 3307, 11-22-94; Ord. No. 3898, 1-23-07</i>
Twenty-Fourth Street	From the west line of Duff Avenue to the west line of Stange Road	<i>Ord. No. 3307, 11-22-94</i>
University Boulevard	From the south line of Lincoln Way to the south corporate limits	<i>Ord. No. 3307, 11-22-94</i>
Viola Mae	From Ken Maril Road to Garden Road	<i>Ord. No. 3251, 11-9-93; Ord. No. 3307, 11-22-94</i>
Walnut Avenue	From the south line of Lincoln Way to South Fifth Street	<i>Ord. No. 3251, 11-9-93; Ord. No. 3307, 11-22-94</i>
Welch Avenue	On the east side from the south line of Hunt Street to its intersection with Storm Street	<i>Ord. No. 3307, 11-22-94; Ord. 3375, 3-5-96</i>
West Street	From the west line of Sheldon to its intersection with Hyland Avenue	<i>Ord. No. 3307, 11-22-94</i>
Wheeler Avenue	From Hoover Avenue to Grand Avenue	<i>Ord. No. 3251, 11-9-93; Ord. No. 3252, 12-14-93; Ord. No. 3307, 11-22-94</i>

(Ord. No. 2686, 10-17-78; Ord. No. 2836a, 12-7-82; Ord. No. 3231, 7-27-93; Ord. No. 3251, 11-9-93; Ord. No. 3252, 12-14-93; Ord. No. 3307, 11-22-04; Ord. No. 3600, 11-28-00; Ord. No. 3642, 12-11-01; Ord. No. 3803, 9-28-04; Ord. No. 3869, 12-20-05; Ord. 3898, 1-23-07; Ord. No. 4022, 1-26-10; Ord. No. 4089, 10-25-11)

Sec. 22.10. TEMPORARY TOW-AWAY ZONES FOR SNOW REMOVAL.

(1) After especially heavy snow accumulations, the City Manager may post other streets with snow removal, tow-away notice signs, and cause the towing of vehicles parked contrary to such notice posted for more than twelve hours when such is deemed necessary to enable City crews to clear out snow from areas that had numerous parked cars or which for some other reason could not be effectively cleared of snow by ordinary snow plowing operations, so as to obviate the occurrence or continuance of a special hazard caused by the said condition.

(2) Vehicles parked in violation of this section shall be cited for said violation and to obviate the safety hazards caused by incomplete snow removal, be summarily towed on orders of a police officer to some place where the vehicle may be lawfully parked, to the City impoundment lot, or to a privately owned impoundment lot. The costs of such towing shall be assessed to and paid by the operator or registered owner of the vehicle.

(Ord. No. 2686, 10-17-78; Ord. No. 2836a, 12-7-82; Ord. No. 3230, Sec. 1, 6-22-93; Ord. No. 3149, Sec. 2, 11-12-91; Ord. No. 3375, Sec. 3, 3-5-96; Ord. No. 3505, Sec. 1, 11-10-98)

DIVISION III
VENDING

Sec. 22.11. FINDINGS AND PURPOSE. It is found and declared that:

1) Vending on the public streets and sidewalks may promote the public interest by contributing to an active and attractive pedestrian environment. The purpose of accommodating vending carts, sidewalk sales, newspaper dispensers, vendor persons and sidewalk dining in pedestrian oriented commercial areas is to add activity, attract pedestrians, extend their visits and enhance overall community quality of life.

2) Reasonable regulation of street and sidewalk vending is necessary to protect the public health, safety, welfare and meet the primary purpose as described in Division III. 22.11.

(Ord. No. 4208, 2-10-15)

Sec. 22.12. DEFINITIONS. The following words, terms, and phrases, when used in this Division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Where words and phrases used in this Division are defined by state law, such definitions shall apply to the use of such words and phrases in this Division and are adopted by reference. Those definitions so adopted that are further defined or are reiterated in this Division shall have the meanings set out in this Division.

1) Alcoholic beverages - means any beverage containing more than one-half of one percent of alcohol by volume including alcoholic liquor, wine, and beer.

2) Applicant - a person who applies for a permit as provided in this division.

3) Mobile Vending Vehicle - a motorized structure that is used for vending ice cream or similar frozen desserts from public streets.

4) Mobile Vending Location - an appropriate area to operate a mobile vending vehicle as approved in writing by the City Manager or designee in writing. Mobile vending vehicles are allowed to operate on public streets. Mobile vending vehicles are prohibited from operating on sidewalks, alleys, walkways, bicycle lane right-of-way or public way, designated for bicycle or pedestrian travel.

5) Mobile Vending Vehicle Permit - means a permit issued by the City for operation of a mobile vehicle business that meets all of the requirements of this Division and all other applicable ordinances of the City and all State laws.

6) Pedestrian - any person traveling on foot or with an assistive device.

7) Person - any person, business association or other business entity including, but not limited to, a corporation, a limited liability company, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assignee of any of the foregoing, or any other legal entity.

8) Public Right-of-Way - means any public street, alley, roadway, sidewalk, walkway, highway, bicycle lane right-of-way, or public way designed for vehicular, bicycle, or pedestrian travel that is dedicated to public use and/or publicly owned.

9) Public Sidewalk - means the improved portion of the public right-of-way lying between the traveled portion of the street and the private property line or building line that is intended primarily for pedestrian use.

10) Sidewalk Cafe - an outdoor area located on a public right-of-way, contiguous to a building wherein a restaurant is located and where food and beverages are taken for consumption by persons sitting or standing at tables in that area. Permitted sidewalk cafes must abide by the requirements and limitations as determined by the City.

11) Sidewalk Cafe Elements - means all tables, chairs, fencing, planters and plants, and any other privately owned property comprising the sidewalk cafe, which is approved for use in a sidewalk cafe by this division or in a sidewalk cafe permit.

12) Sidewalk Cafe Permit - means a permit issued by the City for operation of a sidewalk cafe which meets all of the requirements of this division and all other applicable ordinances of the city and all state laws.

13) Vendor - means any person engaged in selling, or offering for sale, of food, beverages, or other merchandise from a stand, motor vehicle or from the vendors person, on the public streets, alleys, parking lots, sidewalks, thoroughfares, and public rights-of-way.

14) Vending Cart - is defined as a non-motorized wheeled carrier that is pushed or pulled into place on the sidewalk. A vending cart is not designed for human enclosure or occupancy. And is used for outdoor display and vending of food and non-alcoholic beverages, unless it is for a special event as designated by the City Council, it may also include merchandise. Vending carts may include light cooking and final preparation of food products. Any components associated with the vending cart operation must be either integrated into the cart, or able to be stored on the cart for mobility. Separate counters or appliances that cannot be folded and easily stored on the vending cart are not allowed. The vending cart and its components cannot be more than one hundred (100) square feet in size. Vending carts must be removed and stored in a non-public location when not in use. Vending carts are intended to be used by walk-by patrons and may not include sit-down dining.

15) Vending Cart Location - the area assigned on the Vending Permit as determined by the City Manager, or designee, in writing for the operation of vending carts.

16) Vending Cart Permit - that a permit issued by the City for operation of a vending cart business which meets all of the requirements of this Division and all other applicable ordinances of the City and all state laws. Each vending permit shall carry with it the authorization to operate at one designated location during valid dates of operation as stated on the permit.

17) Vendor Person - any person operating a vending business that does not require a vending cart or is not attached to an adjacent business to conduct a sidewalk sale.

18) Vendor Person Permit - means a permit issued by the City for operation of a vendor person business which meets all of the requirements of this Division and all other applicable ordinances of the City and all State laws.

(Ord. No. 4208, 2-10-15)

Sec. 22.13. USE OF PUBLIC SIDEWALKS RESTRICTED: Use of public sidewalks for any commercial purpose, including sidewalk cafes and all forms of vending, shall be unlawful except as specifically provided herein or as specifically authorized by this Division.

(Ord. No. 4208, 2-10-15)

Sec. 22.14. VENDING PERMIT REQUIRED: It shall be unlawful to sell, or offer for sale, any food, beverage, merchandise, or service on any street, sidewalk, alley, City parking lot or other thoroughfare or public right-of-way without first obtaining the applicable vending permit for the following:

- 1) Vending Cart
- 2) Vendor Person
- 3) Sidewalk Sales
- 4) Mobile Vending Vehicle-Ice Cream Truck
- 5) Newspaper Dispenser
- 6) Sidewalk Cafe
- 7) or other private uses of the public right-of-way

(Ord. No. 4208, 2-10-15)

Sec. 22.15. VENDING ON PUBLIC RIGHT-OF-WAY

1) Where Permissible. The Downtown Service Center, Campustown Service Center and Village-Town Center Zoning Districts are allowed for the operation of vending on public right-of-way. Mobile Vending Vehicle-ice cream is allowed on public streets, except the Hospital-Medical zoning district.

2) Vending in City Parks is regulated by the Parks and Recreation Commission and the City of Ames Park System Vending Policy.

(Ord. No. 4208, 2-10-15)

Sec. 22.16. FILING APPLICATION:

1) Applications for all Permits in Division III, Sec. 4 will be available in the Office of the City Clerk.

2) An application for a Permit shall be filed with the City Manager or designee by any person or group of persons desiring to use the public right-of-way as provided in this Division. Applications shall be made on forms prepared by the City Manager or designee.

3) The City will not issue a permit any earlier than three business days from receipt of the application.

(Ord. No. 4208, 2-10-15)

Sec. 22.17. CONSIDERATION OF APPLICATIONS FOR VENDING:

- 1) All permits are granted on a first come, first served basis.
- 2) In the event that two or more applications are received for the same location, the earliest application, if approved, shall be awarded the location if otherwise qualified and acceptable.
(Ord. No. 4208, 2-10-15)

Sec. 22.18. VENDING PERMIT TERM:

- 1) A vending cart, sidewalk cafe, newspaper dispensers, and mobile vending vehicle - ice cream permits may be used for up to one year.
- 2) A vendor person and sidewalk sales permits no more than five business days.
- 3) A permit for vending during a special event or celebration shall be limited to no longer than the stated duration of such event or celebration. Sidewalk cafe and newspaper dispenser permits will remain valid during special events or celebrations.
- 4) Permits may be temporally suspended for a special event or celebration that compasses the permit location.
- 5) The sale, transfer, or assignment of a permit is prohibited.
(Ord. No. 4208, 2-10-15)

Sec. 22.19. RENEWAL. All permits are valid for the entire period as stated in the application, as approved, unless revoked or suspended prior to expiration. Permittees may renew their permit to maintain a location based on the following stipulations:

- 1) An application for vending cart permit may be renewed no earlier than 60 days before the expiration date.
- 2) Vending cart applicants must file for renewal more than 30 days before the expiration date in order to maintain seniority.
(Ord. No. 4208, 2-10-15)

Sec. 22.20. REVOCATION OR DENIAL OF A PERMIT

- 1) The City Manager or designee may revoke or deny a Vending Permit if:
 - a. It is determined by the Chief of Police or Fire Chief and/or their designees that public safety requires such revocation or denial.
 - b. The application is incomplete;
 - c. The application is determined to be fraudulent, to include a misrepresentation, or to contain a false statement;
 - d. The applicant has had a permit revoked by the City for any reason within the preceding two (2) years;
 - e. The applicant or permittee has an outstanding arrest warrant in this or any other jurisdiction, or is a fugitive from this or from any other jurisdiction.
 - f. The permittee is operating a vending operation in violation of the terms of the Permit.
 - g. The permittee's insurance has been canceled.
 - h. The permittee violates any Requirements or Operating Policies of the Vendor Permit Administrative Policies.
- 2) A Vending Permit may be revoked by the City Manager, or designee, at any time, without advanced notice, for any violation of this ordinance, other City of Ames ordinances, or State or federal laws or to evaluate or ensure the safety of the community.
(Ord. No. 4208, 2-10-15)

Sec. 22.21. TEMPORARY SUSPENSION

- 1) A permit may be temporarily suspended, if it is determined by the Chief of Police or Fire Chief and/or their designees that, by reason of disaster, public calamity, riot, or other emergency, the public safety requires such suspension. A temporary suspension may also be issued due to any of the items noted in Division III, 22.20
- 2) As stated elsewhere, a temporary suspension may be issued due to a special event or celebration on public right-of-way.
(Ord. No. 4208, 2-10-15)

Sec. 22.22. CONSTRUCTION RELATED TO THE PUBLIC RIGHT-OF-WAY

1) Permittees may be required to accommodate construction on or adjacent to the public right-of-way, including construction on private property that requires use of the public right-of-way. Construction on public right-of-way might also require suspension or revocation of the permit.

(Ord. No. 4208, 2-10-15)

Sec. 22.23. APPEAL PROCESS: Any party aggrieved by the City Manager's or designee's decision to deny, revoke, or issue a permit may appeal the determination to the City Council if, within twenty (20) working days after the decision, the party files a written notice of appeal with the City Clerk. In such event, a hearing shall be held by the City Council no later than its next regularly scheduled meeting, assuming the appeal is filed in time to allow notice of said appeal in accordance with Chapter 21 of the Iowa Code. Upon such hearing, the City Council may, based upon the standards enumerated herein, reverse, affirm or modify in any regard the City Manager's or designee's decision. The City Council's decision is the final decision.

(Ord. No. 4208, 2-10-15)

Sec. 22.24. ADMINISTRATIVE RULES AND REGULATIONS: Separate administrative rules and regulations not inconsistent with any ordinance will be established by the City Council. A copy of said rules and regulations shall be on file with the City Clerk.

(Ord. No. 4208, 2-10-15)

Sec. 22.25. DISPLAY OF PERMIT. All permits shall be displayed at all times during the operation of the vending business.

Sec. 22.26. FEE. A fee for the permit and inspection shall be charged based upon the direct and indirect costs of administration, inspection, and enforcement as set by resolution of the City Council.

Sec. 22.27. BLANKET VENDING PERMITS AND OTHER EXCEPTIONS TO VENDING ON PUBLIC RIGHTS OF WAY.

1) Organized business districts' are allowed to apply for a vending permit for the entire district. Blanket Vending Permits can only be issued in the Downtown Service Center, Campustown Service Center, Village Town Center Zoning Districts, and any farmers market located in these three organized business districts.

Sec. 22.28. HEALTH AND SANITATION REQUIREMENTS FOR FOOD AND BEVERAGE VENDING. Vendors of food and beverages shall comply with the inspection provisions and standards as stated by the Iowa Department of Inspections and Appeals and all other applicable State of Iowa requirements for health and sanitation.

(Ord. No. 4208, 2-10-15)

DIVISION IV
PARKING AREA USES

Sec. 22.25. PARKING AREA IRRIGATION APPARATUS.

(1) The provisions of Section 22.3 on encroachments notwithstanding, the owner of the abutting lot may install permanent irrigation apparatus in the street parking upon first executing a written registration and responsibility agreement in a form provided by the City Department of Public Works.

(2) Such apparatus shall be so designed and operated as to not cast water onto either the abutting street or any abutting or adjacent public walkway.

(3) The terms of the said responsibility agreement shall make it clear that the city, other utilities and cable television operators, have no duty of care with respect to said apparatus; and, that the owner of the abutting lot shall indemnify and hold the city, other utilities and cable television operators harmless from any claims, demands or liability whatsoever pertaining to such irrigation apparatus.

(4) The said agreement shall also be executed by mortgagees of said lot; it shall run with the land to bind successors and assigns; and, it shall be filed for record with the county recorder before the installation apparatus is installed.

(Ord. No. 3225, Sec. 1, 5-11-93)

Sec. 22.26. PENALTIES FOR OFFENSES PERTAINING TO STREETS AND SIDEWALKS.

A violation of any provision of Chapter 22, Streets and Sidewalks, shall be a municipal infraction punishable by a penalty of \$500 for a person's first violation thereof, and a penalty of \$750 for each repeat violation.

(Ord. No. 3497, Sec. 43, 8-25-98)

DIVISION V
NEIGHBORHOOD STREET PAINTING

Sec. 22.27. PURPOSE.

The purpose of the sections in Division V of this chapter is to establish a mechanism by which city residents can come together and paint an aesthetically pleasing mural on a public street. Specifically, this chapter aims at strengthening neighborhood unity; improving, or at least maintaining, traffic safety and the safety of individuals at or in the vicinity of the mural; creating an aesthetically pleasing neighborhood connection spot; and nurturing connectivity between neighbors and with the city government.

(Ord. No. 4014, 11-24-09)

Sec. 22.28. PETITION REQUIREMENT.

(1) The applicant shall submit a petition to the Traffic Engineer before a permit shall be issued approving the project.

(2) The petition shall include a graphic portrayal of the proposed street painting, and must contain the following:

- (a) Signatures from 100 percent of the property owners abutting the proposed project AND
- (b) Signatures from at least 80 percent of the property owners and/or residents on the project street frontage(s) within two standard city blocks of the proposed project.

(3) The Traffic Engineer may modify the petition boundaries when considered appropriate.

(4) The Traffic Engineer will certify the accuracy of the petition.

(Ord. No. 4014, 11-24-09)

Sec. 22.29. PROJECT DESIGN AND APPROVAL.

(1) The applicant must provide the Traffic Engineer with a written description of the proposed painting, including diagrams depicting how the intersection will look when completed. The applicant must demonstrate how the project will improve, or at least maintain, traffic safety and the safety of individuals at or in the vicinity of the intersection.

(2) Approval shall not be arbitrarily or unreasonably withheld nor shall the free exercise of speech or artistic point of view be restrained. However, any plan that contains content which is unreasonably offensive, disruptive or disturbing to the community shall be restrained. No advertising or text of any sort shall be allowed as part of the project.

(3) The Traffic Engineer may make final modifications to the project plan where necessary to protect the public safety.

(Ord. No. 4014, 11-24-09)

Sec. 22.30. PERMIT REQUIREMENTS.

(1) The applicant will hold the City of Ames, its officers, agents, and employees free and harmless from any claims for damages to persons or property, including legal fees and costs of defending any actions or suits, including any appeals, which may result from permitted activity.

- (2) If the project is completed at an intersection, the two streets shall be classified as local streets and carry less than a combined 2,500 vehicles on an average day. If the project is completed on a street segment, the segment shall be classified as a local street and carry less than 1,250 vehicles on an average day.
- (3) The applicant must provide to the City Traffic Engineer a signed petition of support as described in section 22.28.
- (4) The applicant must provide to the City Traffic Engineer a statement of project design as described in section 22.29.
- (5) The City Traffic Engineer may approve a revocable permit for a term of one year authorizing construction and maintenance of the project as described and shown in the submitted diagrams, subject to any changes that may be required by the City Traffic Engineer. Said permit may be extended for additional one year terms at the conclusion of the initial year so long as there remains continued support and interest in the project. The Traffic Engineer may require the applicant to complete the petition process again to demonstrate the continued support for the project.
- (6) The permit shall be for use of the public right-of-way, and does not exempt the permittee from obtaining any license or permit required by the City Code or Ordinances for any act to be performed under this permit. Nor shall the permit waive the provisions of any City Code, Ordinance, or the City Charter, except as stated herein.
- (7) The permit shall not exempt any party from complying with all applicable traffic laws, including laws regarding pedestrians.
- (8) The permittee is not authorized to do any excavation. The permittee shall be responsible for protecting all public and private facilities placed in the public right-of-way, including underground utilities.
- (9) The permittee shall notify all households and businesses within four standard city blocks of the proposed project and street closure at least 30 days before the project installation date.
- (10) The permittee shall obtain a Block Party permit to close all legs of an intersection, for up to one block distance, in order to install the street mural project. No street shall be blocked for more than a 24-hour period unless specifically allowed by the City Traffic Engineer.
- (11) Repair, maintenance, or installation of existing or future utility facilities in the right-of-way may require the permittee to repaint the project, or portions of the project, with all costs borne by the permittee.
- (12) The permittee shall work with all affected neighbors to resolve any concerns that may arise regarding the project. The inability to resolve such concerns may be grounds for revocation of the permit by the City Traffic Engineer. The Traffic Engineer may also require the permittee to complete the petition process again in order to demonstrate that there is continued support for the mural project. Failure to acquire the necessary signatures on the new petition shall also be grounds for revocation of the permit by the City Traffic Engineer.
- (13) The permittee shall maintain, at no cost to the City, all aspects of the project during the term of the permit. If any nuisance condition is allowed to exist in the area of the project, the City may summarily abate such nuisance. The existence of a nuisance in the area of the project may be grounds for the revocation of the permit.
- (14) All permits shall be revocable by the City Traffic Engineer and may be revoked for any cause. The City Traffic Engineer shall immediately revoke a permitted project no longer meeting the purposes as outlined in section 22.27.
- (15) The paint used for the street mural shall contain antiskid additives as approved by the Traffic Engineer.

(Ord. No. 4014, 11-24-09)

**DIVISION VI
INFRASTRUCTURE REQUIRED**

Sec. 22.31. INFRASTRUCTURE REQUIRED.

(1) If infrastructure required under Section 5.118 is not present or is not in a satisfactory condition, as determined by the Public Works Director or designee, the developer shall install said infrastructure and/or dedicate said rights-of-way prior to issuance of a building permit. Alternatively, the developer may submit financial security and an improvement agreement to be approved by the Public Works Director or designee and City Clerk, in which case the building permit may be issued. No final certificate of occupancy of any structure shall occur until the public improvements have been installed, inspected, and accepted by the City and/or rights-of-way have been dedicated.

(2) If a sidewalk in satisfactory condition does not meet the current width requirements, it does not have to be replaced. If City plans indicate that a shared use path is required, the sidewalk shall be replaced with a shared use path.

(3) In addition to the above requirements, these specific exceptions apply to sidewalk and shared use paths for projects in industrial zones:

(a) In areas zoned industrial on both sides of the street, a sidewalk or shared use path shall be installed consistent with an approved sidewalk installation agreement.

(b) In areas zoned industrial on both sides of the street and where there is no sidewalk installation agreement, a sidewalk or shared use path shall be installed if an adjacent lot has an existing sidewalk or shared use path.

(c) In areas zoned industrial on both sides of the street and where there is no sidewalk installation agreement and where the adjacent lots have no sidewalk or shared use path, a sidewalk or shared use path shall be installed on the north side of east/west streets or the east side of north/south streets. If conditions exist that would impact the placement of a sidewalk or shared use path, such as topography, width of right-of-way, or proposed future road improvements, the Public Works Director or designee may approve an alternative location.

(d) In areas zoned industrial and the other side of the street is zoned other than industrial, a sidewalk or shared use path shall be installed whether or not the non-industrial zoned side has a sidewalk or shared use path.

(4) If it can be demonstrated to the satisfaction of the Public Works Director or designee that there is significant hardship for the installation of required infrastructure, the Public Works Director or designee may approve an alternative improvement schedule.

(a) Significant hardship is presumptively demonstrated when the construction costs for the required infrastructure equal or exceed 20 percent of the permit valuation.

(b) In the event that significant hardship is determined, improvements shall still be required and will be based on the stated preference for installation, provided that the construction costs do not equal or exceed 20 percent of the permit valuation. Once the 20 percent threshold is reached, any additional required infrastructure may be waived by the Public Works Director or designee.

(c) Preference for improvements are generally in the order listed below.

i. Dedication of needed rights-of-way or easements.

ii. Shared-use paths.

iii. Sidewalks.

iv. Street lights.

v. Street paving.

(d) The determination of preferred infrastructure and the design and construction is at the discretion of the Public Works Director or designee. All improvements must meet SUDAS requirements as referenced in Chapter 23.

(e) Significant hardship can be demonstrated only for additions or substantial improvements to existing principle buildings. The cost of site work and building permit valuation shall be considered in review of hardships for building additions. New principle buildings shall meet all installation requirements.

(5) Deferral Options. In limited circumstances a building permit may be issued without completion of the final infrastructure improvements if one of the following infrastructure-deferral options is approved by the Public Works Director:

(a) Three-year temporary deferral with financial security. A developer may provide financial security in the form of cash, letter of credit, or bond for the missing infrastructure, and be allowed to defer implementation for up to three years with approval of the Public Works Director. This option is only available when

there are extenuating circumstances related to project coordination with City plans for improvements making it impractical to complete the infrastructure concurrent with completing the principal building.

(b) Cash payment for future improvements. A developer may provide cash payment to the City, which the City will use to construct the infrastructure in the future, subject to the City's discretion on the timeline for completion. The developer would be relieved of the obligation for installing or constructing the infrastructure and the City would assume responsibility for installing or constructing the infrastructure. The Public Works Director will set the amount of the cash payment to cover costs of the infrastructure based upon an engineer's estimate for the City to complete the work. This option is only available when there are extenuating circumstances making it premature or impractical to complete the infrastructure concurrent with completing the principal building and it would be appropriate for the City to integrate completion of the missing infrastructure as part of a planned improvement. This option is not allowed when existing improvements, such as connecting sidewalks, are located near the site and the City has no specific project planned for making other improvements.

(c) For City owned property zoned S-GA the City shall strive to complete critical missing links with improvements to its property; however, the Public Works director may approve deferral of infrastructure in recognition of planned City improvements, unique circumstances related to shape or use of the property, or due to City Council authorization of funding for a project.

(6) Definitions: For purposes of this section, the following definitions shall be used.

(a) Satisfactory condition means in a state of good repair meeting the adopted standards of the City, such as Statewide Urban Design and Specifications (SUDAS).

(b) Substantial improvement means any repair, reconstruction, rehabilitation, addition, or improvement of a principle building, the cost of which has a value of \$100,000 or more. The term does not, however, include any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the Building Official and that are the minimum necessary to assure a safe living condition. The term also does not include improvements to the site or to an accessory structure.

(Ord. No. 4225; 8-11-15; Ord. 4387, 6-25-19)

DIVISION VII SIDEWALK CAFÉ PERMITS

Sec. 22.32. SIDEWALK CAFÉ PERMITS.

The purpose of this subsection is to set forth the conditions and requirements under which a sidewalk cafe, as defined, may be permitted to operate by Sidewalk Cafe Permit on a public sidewalk within the City of Ames. The fee for a Sidewalk Cafe Permit is listed in Appendix D.

(a) **Definition.** A sidewalk cafe is any group of tables and/or chairs, and its authorized decorative and accessory devices, situated and maintained upon the public sidewalk for use in connection with ordering, purchasing and consuming food and beverages sold to the public from, or in, an adjoining indoor restaurant. For the purposes of this section, an indoor business selling food for consumption on the premises shall be considered an adjoining indoor restaurant.

(Ord. No. 3537, Sec. 1, 9-28-99)

(b) **Where Permissible.** A sidewalk cafe shall be permitted as follows:

- (1) In zoning districts which allow indoor restaurants, and
- (2) Adjacent to an indoor restaurant, which shall be construed as either:
 - (i) being immediately contiguous to and abutting the indoor restaurant on
 - (ii) being offset from the indoor restaurant, where a clear path of pedestrian

the public sidewalk, or

travel exists between the indoor restaurant and the sidewalk café. An offset sidewalk café may be created upon the public sidewalk, or by the installation of one or more semi-permanent seating structures or “parklets” in an adjacent on-street parking area, or by a combination of the two. The installation of a seating structure or “parklet” in an on-street parking area is subject to City Council approval, and the City Council may require reimbursement for any lost parking meter revenue, and

(3) Where the cafe's operation is incidental to and a part of the operation of its adjacent indoor restaurant, and

(4) Provided the area in which the sidewalk café is located extends no farther along the sidewalk’s length than the actual sidewalk frontage of the operating indoor business, or no farther than the actual sidewalk frontage of an adjacent business with the written permission of the adjacent business operator, or a combination of the two, and all other applicable provisions of this subsection are fulfilled.

(Ord. No. 3537, Sec. 1, 9-28-99; Ord. No. 4436, 4-13-21)

(c) **Restrictions on Smoking and Alcoholic Beverages.** Permittees shall enforce the following prohibitions or restrictions:

(1) Smoking tobacco or using an electronic smoking device at a sidewalk café is prohibited.

(2) Alcoholic beverages may be served at sidewalk cafes pursuant to a valid liquor control license, and in accordance with state and local alcoholic beverage control laws, provided the following additional requirements are met:

(i) Patron entrance to and egress from the sidewalk café shall be controlled by staff of the establishment, who shall continuously monitor the sidewalk café during times alcoholic beverages are being sold or consumed, and p.m., and

(ii) No alcoholic beverages may be sold or served to patrons later than 10

(iii) Patrons shall not be permitted to consume any beverages within the sidewalk café that were not purchased on the premises, and

(iv) If the sidewalk café is an offset sidewalk café per Sec. 22.32(b)(ii), the establishment shall ensure that no patron loiters in the clear path of pedestrian travel while in possession of an alcoholic beverage. Patrons may be in possession of an alcoholic beverage in the clear path of pedestrian travel only for the purpose of moving to the sidewalk café from the adjoining indoor restaurant or vice versa, and

(v) **Delineating Sidewalk Cafe Area.** The sidewalk cafe shall be delineated by barriers at least forty-two (42) inches in height separating patrons from the pedestrian traffic on the sidewalk and, if applicable, roadway traffic. Barriers may consist of ropes, chains, planters, fencing, or other sturdy material that physically separates the sidewalk café from the adjoining right-of-way. Barriers separating a sidewalk café from roadway traffic must be secured to other barriers or weighted to prevent their encroachment into driving or parking lanes. Barriers shall comply with detectability requirements as set forth in the current version of the Americans with Disabilities Act Accessibility Guidelines. Barriers shall be set within the 50 percent of the sidewalk designated for the sidewalk cafe, to ensure a minimum of four (4) feet of sidewalk width clear of obstructions, and

(Ord. No. 4436, 4-13-21)

(vi) Alcoholic beverages shall not be served or dispensed at the sidewalk café of any establishment where minors are prohibited according to Section 17.16, except that establishments permitted to have minors on the premises only during certain hours of the day according to Section 17.16 may serve alcohol at their sidewalk café only during those hours. An establishment which is not permitted to have minors on the premises at any time may request, and the City Council may grant, an exception to this requirement on a case-by-case basis. The City Council shall consider the site conditions, the compliance history of the establishment and its staff, staff training, and any other factors it deems relevant to ensuring the safe and responsible use of City sidewalks. The City Council may impose special conditions in addition to those indicated in this Section on any sidewalk café granted an exception to dispense alcohol.

(Ord. No. 4436, 4-13-21)

(d) **Number of Sidewalk Cafes.** An indoor restaurant shall be permitted to operate only one sidewalk cafe, and each sidewalk cafe shall be confined to a single location on the sidewalk. The City may limit the number of permits issued for sidewalk cafes if necessary to maintain adequate pedestrian flow and access to

(e) buildings, to safeguard pedestrian and traffic safety, to preserve the aesthetic quality of the surrounding area, or for any other valid public purpose.

(Ord. No. 3537, Sec. 1, 9-28-99)

(f) **Sidewalk Clearances.** A sidewalk cafe shall be permitted only where the sidewalk is wide enough to adequately accommodate both the usual pedestrian traffic in the area and the operation of the proposed cafe. A sidewalk cafe shall not occupy more than 50 percent of the sidewalk's width at any point as

measured from the curb, or measured from the street-side edge of any semi-permanent seating structure installed in an on-street parking space. There shall be a minimum of four (4) feet of sidewalk width clear of obstructions. No part of the sidewalk café or its accessory elements shall obstruct any entrance to or exit from any adjacent structure. No sidewalk café shall be situated within eight (8) feet of any designated bus stop, or within twenty (20) feet of a street intersection, or within eight (8) feet of a fire hydrant or fire sprinkler post indicator valve.

(Ord. No. 3437, Sec. 1, 5-27-97)

(g) **Tables and Chairs, Location and Requirements of Furniture.** All tables and chairs comprising a sidewalk cafe shall be set within the area designated on the sidewalk café permit application and it shall be the responsibility of the permit holder to ensure tables, chairs, and other sidewalk café furniture do not encroach upon any part of the sidewalk not designated on his or her sidewalk café permit.

All outdoor dining furniture, including tables, chairs, umbrellas, barriers, and authorized accessory items, shall be readily movable. "Readily movable" shall mean that no object as stated above, which is part of the sidewalk cafe, shall be leaded, cemented, nailed, bolted, power riveted, screwed-in or affixed, even in a temporary manner, to either the sidewalk on which the sidewalk cafe is placed, to the building, or to any other structure which the sidewalk cafe abuts. Umbrellas must be secured with a minimum base of not less than 60 pounds.

Accessory devices for the comfort of patrons, such as air conditioners, fans, amplified sound, or speakers may be used at a sidewalk café, provided, however, that any such devices, cables, or wiring are installed and operated in a safe and responsible manner in compliance with applicable codes. Any noisemaking devices shall comply with the City's Noise Ordinance. Devices with a heating element may be permitted with the approval of the Fire Inspector.

Sidewalk café components, such as tables and chairs, shall be constructed of commercial quality materials marketed for the use(s) in which they are employed in the sidewalk café. No components of a sidewalk café may be constructed primarily of plastic, plastic resin, or fabric; however, sidewalk café components made of dimensional pieces of high-density polyethylene (HDPE), and umbrellas made of fabric are acceptable.

Within one hour of the close of the sidewalk café for the night, and on days when the sidewalk café is not in operation, tables, chairs, barriers, accessory devices, and all other elements used in the operation of an outdoor café shall be either:

- (1) Removed from the sidewalk and stored indoors, or
- (2) Orderly secured by means of chains or cables and locks, or other secure means, in a manner that prevents the use of the sidewalk café elements to cause injury to persons or property. Secured elements shall be arranged in such a manner as to not obstruct maintenance of the sidewalk.

(Ord. No. 3537, Sec. 1, 9-28-99)

(b) Signs shall not be allowed at any outdoor café, except for the name of the establishment on an awning or umbrella fringe. Notwithstanding any provision of the Code to the contrary, however, within the Downtown Service Center (DSC), temporary portable signs may be permitted at any outdoor café pursuant to a permit issued as provided in Municipal Code Chapter 21.

(1) A proprietor of a business establishment located within the DSC who holds a valid Sidewalk Cafe Permit issued pursuant to this section and who applies for a permit for a temporary portable sidewalk sign permit for the same location shall be required to pay only one application fee for both permits, the applicable fee being the one, if the fees are different, that is the greater of the two.

(2) A proprietor of a business establishment located within the DSC who holds a valid Sidewalk Cafe Permit issued pursuant to this section and who applies for a permit for a temporary portable sidewalk sign permit for the same location shall be required to maintain on file with the city clerk only one insurance certificate if applicable to both permits.

(c) **Maximum Occupancy.** The maximum occupancy of a sidewalk café shall be the lesser of the number of seating places available to patrons within the sidewalk café area or the occupancy limit of the sidewalk café as established by local building or fire codes adopted by the City.

(d) **Delineating Sidewalk Cafe Area.** The sidewalk cafe shall be delineated by barriers at least forty-two (42) inches in height separating patrons from the pedestrian traffic on the sidewalk and, if applicable, roadway traffic. Barriers may consist of ropes, chains, planters, fencing, or other sturdy material that physically separates the sidewalk café from the adjoining right-of-way. Barriers separating a sidewalk café from roadway traffic must be secured to other barriers or weighted to prevent their encroachment into driving or parking lanes. Barriers shall comply with detectability requirements as set forth in the current version of the Americans with Disabilities Act Accessibility Guidelines. Barriers shall be set within the 50 percent of the sidewalk designated for the sidewalk cafe, to ensure a minimum of four (4) feet of sidewalk width clear of obstructions.

(e) **Food and Beverages.** A sidewalk cafe shall serve only food and beverages prepared, or stocked for sale, at the adjoining indoor restaurant.

(Ord. No. 3537, Sec. 1, 9-28-99)

(f) **Service Requirements.** The outdoor preparation of food is prohibited at sidewalk cafes. Sidewalk café patrons may obtain food and beverages from within the adjoining indoor restaurant, or staff from the adjoining indoor restaurant may provide table service. The presetting of sidewalk café tables with utensils, glasses, napkins, condiments, and the like is prohibited. All tables shall be bused promptly, and soiled tableware shall be taken inside for cleaning. No soiled tableware shall be kept in an outdoor busing station. Public street furniture and waste receptacles shall not be used in the operation of a sidewalk café. Restrooms for the cafe shall be provided in the adjoining indoor restaurant, and the cafe seating shall be counted in determining the restroom requirements of the indoor restaurant.

(Ord. No. 3537, Sec. 1, 9-28-99)

(g) Trash and refuse storage for the sidewalk cafe shall not be permitted within the outdoor dining area, or on adjacent sidewalk areas, and the permittee shall remove all trash and litter as they accumulate. All exterior surfaces within the sidewalk café, including tables, chairs, barriers, and the sidewalk surface, shall consist of materials that are easily cleaned, and shall at all times be kept in a clean and safe condition.

(h) **Days and Hours of Operation.** Sidewalk cafes may operate on days whenever fair weather would enhance outdoor dining from the dates of April 1, to October 31, of the said given year that the Sidewalk Cafe Permit was issued. The hours of operation are limited to between 7:00 a.m. and 11:00 p.m. No sidewalk café shall be in operation during times when the kitchen of the adjoining restaurant is closed.. The City Manager or designee, and any duly sworn peace officer shall have the power to prohibit the operation of a sidewalk cafe or require the service of alcohol to cease at any time because of anticipated or actual problems or conflicts in the use of the sidewalk area. Such problems and conflicts may arise from, but are not limited to, scheduled festivals and similar events, parades or marches, repairs to the street or sidewalk, or from demonstrations or emergencies occurring in the area. To the extent possible, the permittee shall be given prior written notice of any time period during which the operation of the sidewalk cafe will be prohibited by the City, but any failure to give prior written notice shall not affect the right and power of the City to prohibit the cafe's operation at any particular time.

(i) **Findings and Conditions.** In connection with granting approval for any Sidewalk Cafe Permit, the City Manager shall make findings that the proposed operation meets the limitations of this subsection, and the Manager may impose such conditions in granting approval as are needed to assure that the proposed operation will meet the operating requirements and conditions set forth in this article, and to assure that the public safety and welfare will be protected.

(j) **Term and Renewal.** A Sidewalk Cafe Permit shall be approved by the City Manager for a maximum period of one year. Thereafter, the City Manager, if an extension application is filed prior to any expiration date of the Sidewalk Cafe Permit, may extend the permit for additional periods, not to exceed one year each, following review and approval of the cafe's operations. The City Manager may make any renewal of a Sidewalk Cafe Permit subject to additional and revised conditions and requirements. Any renewal granted by the City Manager shall not exceed a period of one year. All applications shall be filed with the City Clerk, who shall refer them to the City Manager. The City Clerk shall maintain the records of permits issued, denied, or revoked.

(k) **Revocation.** The City Manager may revoke or deny a Sidewalk Cafe Permit at any time, without advance notice, for any of the following reasons:

(1) It is determined by the Chief of Police or Fire Chief that public safety requires such revocation or denial;

(2) The application is incomplete;

(3) The application is determined to be fraudulent, to include a misrepresentation, or to contain a false statement;

(4) The applicant has had a license or permit revoked by the City for any reason within the preceding two (2) years;

(5) The permittee has an outstanding arrest warrant in this or any other jurisdiction, or is a fugitive from this or from any other jurisdiction;

(6) The permittee's insurance has been canceled;

(7) The permittee violates any administrative rules or policies authorized by this division.

(8) The permittee violates any provision of this ordinance, other City of Ames ordinances, or State or federal laws

(9) It is determined that a need exists to evaluate or ensure the safety of the community as it pertains to Sidewalk Cafés.

(l) **Appeal Process.** Any party aggrieved by the City Manager's decision to deny, revoke, suspend, or issue a Sidewalk Cafe Permit may appeal the determination to the City Council if, within twenty (20)

working days after the decision, the party files a written notice of appeal with the City Clerk. In such event, a hearing shall be held by the City Council no later than its next regularly scheduled meeting, assuming the appeal is filed in time to allow notice of said appeal in accordance with Chapter 21 of the Iowa Code. Upon such hearing, the City Council may, based upon the standards enumerated herein, reverse, affirm or modify in any regard the City Manager's decision. The City Council's decision is the final decision.

(m) **Insurance.** An insurance certificate naming the City of Ames, its officers, and employees as an additional insured with comprehensive general liability limits in the amount of \$500,000 combined single limit shall be in full force and effect during the life of a Sidewalk Cafe Permit. The coverage shall be at least as broad as the ISO Form Number CG0001 covering commercial general liability written on an occurrence basis only. A copy of the current insurance certificate shall be maintained on file with the City Clerk.

(Ord. No. 3968, 9-9-08; Ord. No. 4064, 05-10-11; Ord. No. 4292, 3-28-17).