

CHAPTER 83

SIDEWALK, DRIVEWAY AND CURB CUT CONSTRUCTION

Sections:

- 83.1 Definitions.
- 83.2 Permit--Required--Fees.
- 83.3 Permit--Application--Issuance--Expiration.
- 83.4 City Specifications.
- 83.5 Permit--Revocation.
- 83.6 Inspection And Approval.
- 83.7 Sidewalk Construction, Reconstruction And Repairs--Notice--Assessments.

SEC. 83.1 DEFINITIONS. As used in this chapter:

1. "Director" means the public works director.
2. "Driveway" means that part of any approach for motor vehicles to private property that lies between the property line and the roadway of the public street.
3. "Person" means any individual, firm, corporation, trust or other association.
4. "Property owner" means the contract purchaser if there is one of record, otherwise the record holder of legal title.

SEC. 83.2 PERMIT--REQUIRED--FEES.

1. No person, other than those under contract with the city, shall construct, reconstruct or repair any sidewalk, driveway or curb cut without having first obtained a permit signed by the public works director.
2. The fees for the permit shall be based upon the total value of the work to be performed. These fees shall be as adopted by resolution of the city council.
3. These fees shall be deposited in the city treasury not later than the tenth day of the month following the month in which they were collected, with a written report to the city clerk of the amounts and sources.

SEC. 83.3 PERMIT--APPLICATION--ISSUANCE--EXPIRATION. The application for a permit required by Section 83.2 shall be upon a form furnished by the city and shall contain the name of the owner of the property, a description of the lot, lots or parcels of ground upon which the work is to be performed, the name and address of the person who will perform the work, the proposed plan of the work to be performed, and a statement that the work to be performed shall be in accordance with this chapter and with the city specifications in force. The director shall issue the permit bearing the authorization signature and the date of issuance, if the proposed plan meets all of the requirements of this chapter and the city specifications, if the fee required under this chapter has been paid, and if the work to be performed will not create any substantial hazard in the use of any street or sidewalk for public travel or drainage or create any defect. Each permit shall expire six months from the date of issuance.

SEC. 83.4 CITY SPECIFICATIONS. Any construction, reconstruction or repairs made pursuant to this chapter shall be in accordance with city standard specifications which are in force and governing the work. The standard specifications shall be retained in the office of the director and shall be made available to any person upon request.

SEC. 83.5 PERMIT--REVOCATION. The director may at any time revoke the permit for any violation of this chapter and may require that the work be stopped.

SEC. 83.6 INSPECTION AND APPROVAL. The work performed pursuant to this chapter shall be inspected and approved in writing by the director within thirty days after completion of the work. The director shall maintain a record of such approvals in his office. If he refuses to approve the work, it must be corrected immediately so that it will meet with his approval. If the work has been done improperly, the director shall have the right to finish or correct the work and the council shall assess the costs to the property owner. Such assessment shall be collected with and in the same manner as general property taxes.

SEC. 83.7 SIDEWALK CONSTRUCTION, RECONSTRUCTION AND REPAIRS--NOTICE--ASSESSMENT.

1. Whenever the council desires to order the construction, reconstruction or repair of any permanent or temporary sidewalk along any property fronting on any street within the city limits, it shall do so by a resolution to that effect, which resolution shall describe the location of the sidewalk with reference to the lot or property line and the street, and the time within which the construction shall be completed by the owner of property abutting thereon, after being notified thereof as provided in this section.

2. The city clerk shall be ordered and directed to serve the resolution upon each owner of the property abutting the sidewalk by certified mail. The resolution shall describe the location of the sidewalk with reference to the lot or property line and the street as it specifically refers to the owner. Returned receipt shall be full proof of service of the resolution.
3. In case the owner of property fronting on a sidewalk ordered to be constructed, reconstructed or repaired pursuant to this section, fails, neglects or refuses to construct, reconstruct or repair such sidewalk within thirty days from the date of deposit of notice in the mail, unless the time is extended by a resolution, the council shall construct, reconstruct or repair such sidewalk under the direction and supervision of the director.
4. Upon completion thereof, the director shall return to the council an itemized statement of the cost and expense thereof opposite each lot, part of lot or parcel of land along which the construction, reconstruction or repair of the sidewalk has been made, with the name of the owner thereof, if known, and thereupon the council shall, by resolution, declare an assessment against such lot, part of lot or parcel of land of the cost of such construction, reconstruction or repair, together with all the costs and expenses connected therewith, and the city clerk shall certify the same to the county auditor in the manner provided by law and the same as for other taxes.
5. The resolution shall be introduced at a regular meeting of the council, but it shall not be passed, nor shall such tax be assessed or levied before the next regular meeting following the introduction of the resolution. After the resolution has been introduced, it shall be published at least once in a newspaper published in the city.
6. During the time provided in the notice required in this chapter, the property owner may procure a permit as provided in this chapter and build or have built a sidewalk at his own expense, but such sidewalk, when completed, shall conform strictly with this chapter and the plans and specifications in force. Nothing in this chapter shall be construed to prevent a property owner, at any time, from procuring a permit, as provided in this chapter, and constructing or reconstructing a sidewalk, either permanent or temporary, as the case may be.

CHAPTER 84

EXCAVATIONS AND OBSTRUCTIONS

Sections:

- 84.1 Obstructions--Prohibited/Exceptions.
- 84.2 Obstructions--Awnings/Canopies.
- 84.3 Obstructions--Waterspouts, Troughs and Gutters.
- 84.4 Excavations--Definitions.
- 84.5 Excavations--Permit--Required.
- 84.6 Excavations--Permit--Application.
- 84.7 Excavations--Permit--Issuance.
- 84.8 Excavations Prohibited During Winter Months.
- 84.9 Excavations--Deposit and Bond.
- 84.10 Excavations--Additional Permit Not Required When.
- 84.11 Excavations--Right Of City To Do Work.

SEC. 84.1 OBSTRUCTIONS—PROHIBITED/EXCEPTIONS.

A. It is unlawful for any person or corporation to place, cause to be placed or allow to be deposited or placed over, into or upon any of the public highways, streets, avenues or alleys of the city any obstructions or materials whatsoever, including any building, fence, structure, projection, lumber, timber, brick, stone, soil, gravel, manure, refuse or other material, except for the purpose of construction, or lawful repair of such street. The person or entity in control of a construction site is responsible for preventing the track out of materials. The fine for a first offense violation is set at \$100 and \$250 for second and subsequent offenses. In addition, the City shall be entitled to recover the actual costs of providing clean-up of materials deposited in the public streets from those responsible for the track out or obstruction.

B. No person shall place any obstruction on any public sidewalk, except that in the downtown along West and East Bremer Avenue from 5th Street West to 4th Street East, temporary stands, tables or other displays may be placed on the downtown sidewalks for the sale of goods or merchandise during special promotional events as approved by the City Administrator. Such stands, tables or other displays shall not completely block use of the sidewalk and shall only remain on the sidewalk during the event and when the adjoining retail store is open to the public.

C. Benches, planters, trees, public art, trash receptacles or other commonly accepted elements of streetscape approved for placement by the Waverly City Council after review and recommendation by the Leisure Services Commission and the Design Committee of the Waverly Chamber of Commerce are allowed on sidewalks in the downtown along West and East Bremer Avenue from 5th Street West to 4th Street East and on adjacent side streets. Decorations, plantings and promotional items may also be placed by merchants near storefronts in the downtown, but shall not extend into the sidewalk area more than 36 inches and shall be

placed as close as possible to the storefront.
(Ord. 1055 2/12/19)

SEC. 84.2 OBSTRUCTIONS—AWNINGS/CANOPIES. No person shall erect any awning or canopy on any building within the city, which projects over the street or is supported by any structural member placed within the street right of way, and in every case, there shall be a clearance of at least eight feet between the awning/canopy and the sidewalk or pavement below. (Ord. 1055 2/12/19)

SEC. 84.3 OBSTRUCTIONS--WATERSPOUTS, TROUGHS AND GUTTERS. It is unlawful for any person to cause the waterspouts, troughs or gutters from any building owned or leased by that person to discharge or conduct water upon the surface of any sidewalk in the city, but permission may be given by the city to conduct water over or under any sidewalk with the approval of the public works director.

SEC. 84.4 EXCAVATIONS--DEFINITIONS. The following definitions shall apply to all terms and provisions of Sections 84.5 through 84.10.

1. "Driveway surface" includes all driveway surfaces within the limits of streets, avenues or alleys within the city, other than "pavement surface" as defined herein, whether of earth, gravel, cinders, bituminous or other materials.
2. "Pavement surface" includes all pavements, pavement surfaces, sidewalks and all other appurtenances or construction within the limits of streets, avenues and alleys in the city.

SEC. 84.5 EXCAVATIONS--PERMIT--REQUIRED. It is unlawful for any person, firm or corporation to excavate or dig, except to plant or remove trees, or to place building or other material, or to erect barricades, false work, form work, or place other obstructions within the limits of any street, avenue or alley, or to cut into or through or excavate along or under any pavement surface or driveway surface, without first obtaining written permission from the director of public works to do such work and without doing such work in the time and manner as specified in such permit.

SEC. 84.6 EXCAVATIONS--PERMIT--APPLICATION. Before beginning any of the work specified in Section 84.5, the person, firm or corporation desiring to do such work shall make application to the director of public works for a permit. Such application shall specify the location and extent of the proposed work, the manner and method of doing the same, and the time during which the work will be in progress.

SEC. 84.7 EXCAVATIONS--PERMIT--ISSUANCE. The public works director may, upon proper application, issue a permit for any of the work specified in Section 84.5, specifying therein such regulations and restrictions as the public works director may deem necessary to insure the safety and convenience of the public and to restore the street surfaces damaged by such work in the most satisfactory manner.

SEC. 84.8 EXCAVATIONS PROHIBITED DURING WINTER MONTHS. Permits for excavations under this chapter shall not be issued for work to be performed between November 15th and March 15th of each year, except in the case of emergency or other compelling circumstances.

SEC. 84.9 EXCAVATIONS--DEPOSIT AND BOND. Before issuing a permit for cutting into or through a pavement surface or street surface, the public works director shall require the person, firm or corporation making application for such permit to make a cash payment to the city clerk in sufficient amount to reimburse the city for all costs and expenses for work done or to be done by the city in connection with such permit and the increased maintenance cost of the pavement surfaces or street surfaces due to such work. The payments required shall be based upon schedule of charges maintained and available to the public on the office of the public works director.

The public works director shall, in addition to the above charges, require the person, firm or corporation doing such work to file with the city clerk an approved surety company bond in the amount of one thousand dollars to indemnify the city against claims for accidents or property damage arising from or occasioned by such work.

SEC. 84.10 EXCAVATIONS--ADDITIONAL PERMIT NOT REQUIRED WHEN. The issuance of a plumbing permit by the city for sewer and water connections shall be construed as granting permission to a licensed master plumber to do such excavation within the limits of any street, avenue and alley other than cutting into or through or excavating under any pavement surface, as may be necessary to properly execute the work included in the plumbing permit. Such work shall, however, be done under the supervision of the public works director and in such manner as the director may direct.

SEC. 84.11 EXCAVATIONS--RIGHT OF CITY TO DO WORK. The public works director 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 backfilling of trenches and pavement surfaces repairs, as the director may deem necessary to fully protect the city from undue injury or excessive repair to such pavement surfaces.

CHAPTER 85

STREET AND ALLEY GRADES

Sections:

85.1 Grade Book.

SEC. 85.1 GRADE BOOK. All grades for streets and alleys within the city are recorded and maintained in a book known as the "Grade Book for the City of Waverly, Iowa," which book is in the custody of the public works director.

CHAPTER 86

WIDTH OF STREETS AND ALLEYS

Sections:

- 86.1 Record.
- 86.2 Widths in New Additions.

SEC. 86.1 RECORD. The width of all streets, highways, avenues and alleys within the city shall be recorded and maintained in a ledger which shall be in the custody of the public works director. Said widths are now and shall hereafter be the official widths for the streets, highways, avenues and alleys within the city, unless subsequently changed by ordinance.

SEC. 86.2 WIDTHS IN NEW ADDITIONS. The city council shall provide that the width of all streets, highways, avenues and alleys of all additions to the city shall conform to the width of the existing streets, highways, avenues and alleys; however, the city council has authority to make exceptions in those cases where, because of the natural contour of the land and buildings heretofore constructed, it would be impractical to require the full width to be extended.

CHAPTER 87

RAILROAD REGULATIONS

Sections:

- 87.1 Definitions.
- 87.2 Warning Signals.
- 87.3 Operation.

SEC. 87.1 DEFINITIONS. Terms used in this chapter shall be defined as follows:

1. Railroad Train. The term "railroad train" means any steam, electric, or other motor driven engine with or without cars coupled to such engine, provided that it operates to travel on rails.
2. Operator. The term "operator" means any person, including an individual, partnership, corporation, association or organization that supervises the operation of a railroad train.

SEC. 87.2 WARNING SIGNALS. Operators shall sound a horn at least one thousand (1,000) feet before a street crossing is reached and after sounding the horn, shall ring a bell continuously until the crossing is passed.

SEC. 87.3 OPERATION. A railroad train shall not be operated in a manner as to prevent vehicular use of any throughway for a period of time that exceeds ten (10) minutes except in the following situations:

1. Signals. When it is necessary to comply with signals that they may affect the safety of the movement of the railroad train.

2. Avoidance. When it is necessary to avoid striking any object or person on the track.
3. Disabled. When the railroad train is disabled.
4. Safety Regulations. When it is necessary to comply with governmental safety regulations including laws relating to the rate of speed that vehicles must travel.
5. In Motion. When the railroad train is in motion except when engaged in switching operations.
6. No Traffic. When there is no vehicular traffic waiting to use the crossing.
7. Crossing maintenance. Operators shall construct and maintain good, sufficient and safe crossings that are located over a throughway.
8. Flying Switchings. No operator shall cause any railroad car that is unattached to an engine, to be propelled across an intersection of throughways in order to make a "flying switch" unless a qualified person, including an employee of the railroad, is stationed at the intersection to provide warning of a car's approach.
9. Speed. It shall not be lawful to operate a railroad train through an intersection of throughways within the city at a speed greater than thirty-five (35) miles per hour. However, when the railroad train is operated on Federal Railroad Administration Classification (FRA), Class Four (4), continuous welded rail and bed, its speed shall not exceed the following maximum speeds:
 - a. Coal and Grain Railroad Trains. Forty (40) miles per hour.
 - b. All Other Railroad Trains. Fifty-five (55) miles per hour.

CHAPTER 88

STREET CLOSINGS

Sections:

- 88.1 Intermittent Closing of Second Avenue Northwest Between First Street and Second Street Northwest.
- 88.2 Intermittent Closing of First Avenue Northwest Between Third Street and Fourth Street Northwest.

SEC. 88.1 INTERMITTENT CLOSING OF SECOND AVENUE NORTHWEST BETWEEN FIRST STREET AND SECOND STREET NORTHWEST.

- 1. It is established that Second Avenue Northwest between First Street and Second Street Northwest shall be closed from 7:30 a.m. to 4:00 p.m. on days that the adjacent St. Paul's School is in session.
- 2. Said road closing shall be in effect when barricades, markers or other similar warning device have been installed in accordance with the Uniform Traffic Code.
- 3. It shall be unlawful to operate a motor vehicle on Second Avenue between First Street Northwest and Second Street Northwest between the hours of 7:30 a.m. and 4:00 p.m. when said street is designated closed.

SEC. 88.2 INTERMITTENT CLOSING OF FIRST AVENUE NORTHWEST BETWEEN THIRD STREET AND FOURTH STREET NORTHWEST.

- 1. It is established that First Avenue Northwest between Third Street and Fourth Street Northwest shall be closed between the hours of 7:00 a.m. and 12:45 p.m. on days that school is in session at the Waverly-Shell Rock Community School

District Junior High Facility.

2. Regardless of the above, said street shall not be closed at any time that appropriate barricades, markers and warning devices have not been installed in accordance with the Uniform Traffic Code.
3. It shall be unlawful to operate a motor vehicle on First Avenue Northwest between Third Street and Fourth Street Northwest between the hours of 7:00 a.m. and 12:45 p.m. when said street is designated closed.

Sec. 88.3 BLOCK PARTIES

- 88.3.01 Purpose
- 88.3.02 Definitions
- 88.3.03 Regulation
- 88.3.04 Prohibited Acts
- 88.3.05 Denial of Request
- 88.3.06 Request for Hearing
- 88.3.07 Fees

SEC. 88.3.01 PURPOSE.

The City of Waverly, believing there is a benefit in encouraging a sense of community within neighborhoods, will permit the use of public rights-of-way for neighborhood "block parties". The City of Waverly establishes reasonable and necessary regulations of block parties in the best interest of public health, safety, and welfare of the residents and citizens.

SEC. 88.3.02 DEFINITIONS.

1. "Block Party" shall mean a neighborhood social event intended to take place on a public roadway or city-owned right-of-way. The purpose of such neighborhood event should benefit all persons whose property abuts the section of the street to be closed and is not intended to be used for a private benefit of a specific property owner (birthday parties, anniversaries, etc.)
2. "Public roadway" is any street, road, thoroughfare, alley or highway that provides vehicular and/or pedestrian access to the general public.
3. "Applicant" means the responsible party who has filed a written application for a block party.
4. "Arterial Roadway" means a major or main route designed to carry larger volumes of traffic.

SEC. 88.3.03 REGULATION.

1. The applicant must sign the Block Party Application and agree to the Block Party Guidelines as prescribed by the City of Waverly City Council.
2. The applicant must sign a statement holding the City of Waverly, its officers and employees, whether elected or appointed, harmless from any and all liability arising from the street closure.
3. Application must contain signatures from adjoining property owners.
4. Streets shall only be blocked using barricades provided by the Public Works Department.
5. The section of street to be closed shall only extend one block (cross-street to cross-street).
6. Alcohol (Beer and Wine) is allowed as long as it is not sold. Liquor is not allowed and can only be approved if a Class C Liquor License is obtained.

SEC 88.3.04 PROHIBITED ACTS.

1. No person may conduct a block party without prior approval pursuant to Section 88.3.03.
2. All Alcohol and Liquors cannot be provided to those attendees under the age of twenty-one (21).
3. Fireworks will not be permitted.
4. No fires are permitted upon the roadway or public property.
5. Driving of stakes or affixing objects to the public roadway in a manner that causes damage.

SEC 88.3.05 DENIAL OF REQUEST.

1. The City Administrator or designee will consult with staff, and approve or reject the application. Applications may be rejected if, in the sole judgment of the City, granting the application would not be in the best interest of the public health, safety, or welfare, through excessive traffic, causing parking congestion, blocking access to other properties, or reducing access for emergency vehicles; or if the public health, safety or welfare was negatively affected by previous block parties in the same location or sponsored by the applicant; or if the applicant has previously failed to live up to their responsibilities as sponsor of a block party as outlined in this section; or if the applicant has supplied false information on the Block Party Application Form or failed to sign the

Block Party Guidelines and Liability Statement.

SEC 88.3.06 REQUEST FOR HEARING.

1. An applicant may appeal, in writing, the City Administrator's decision to the city council. The appeal will be heard before the city council at a time and date fixed by council. Findings of the council shall be conclusive.

SEC. 88.4 FEES.

1. A fee shall be collected upon completion of the Block Party Application. These fees are administrative fees and equipment rental.

RESERVED CHAPTER 89