

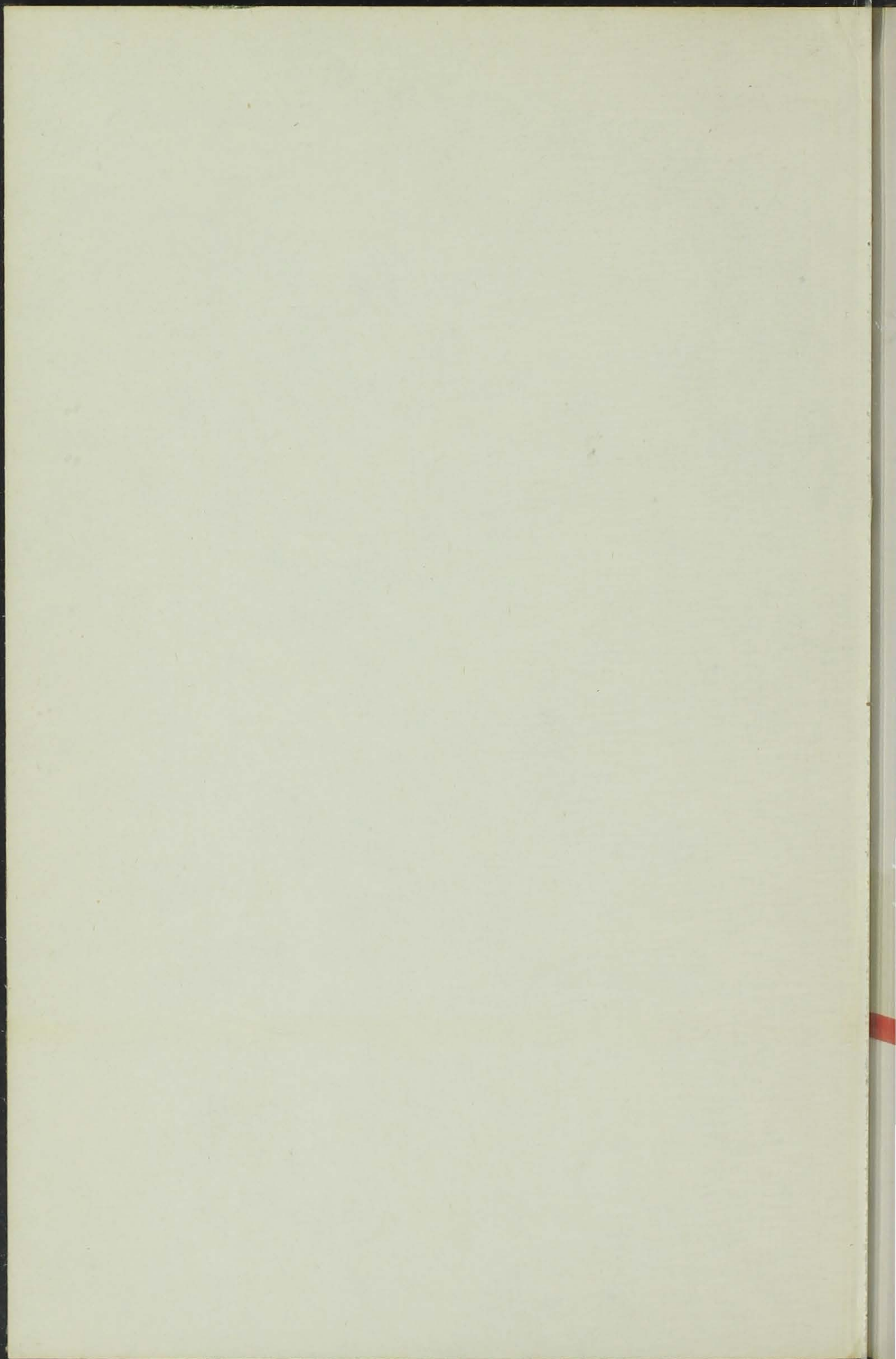
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Iowa Fire Laws

Iowa

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Institute of Public Affairs of the  
State University of Iowa  
and Firemanship Training, Engineering Extension,  
Iowa State College  
in cooperation with the  
League of Iowa Municipalities and the  
Fire Marshal Division,  
State Public Safety Department

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# IOWA FIRE LAWS



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# Introduction

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THIS BOOKLET CONCERNS the laws of Iowa which pertain to fire prevention and fire protection. It is designed to bring together, in digest form, references to sections of the Code of Iowa and Iowa and federal regulations as a guide for firefighters, public safety officials, planning groups, attorneys and citizens generally.

Fire continues to be a social problem of vast importance. A great social good when put to proper uses, like the automobile and the atom, it can be a vehicle of enormous destructiveness.

Let anyone who would be casual about the matter ponder these facts:

Fire took the lives of 11,475 Americans in 1955.

Fire took the lives of 91 Iowans in 1955.

Fire caused property damage in the United States in 1955 of \$1,026,200,000.

Fire caused property damage in Iowa in 1955 of \$12,300,000.

Iowa's 1955 fire loss would buy 30,750 acres of farm land at \$400 an acre.

Iowa's 1955 fire loss would provide \$1,000 a year for four years for 3,075 college students.

Iowa's 1955 fire loss would provide 123 libraries at \$100,000 each.

Iowa's 1955 fire loss would provide 1,230 public school classrooms at \$10,000 each.

Iowa's 1955 fire loss would provide 123 miles of new highways at \$100,000 per mile.

Every person who starts a fire — whether to light a cigarette, to heat his home, to cook food, to provide steam or electrical power for industry or for a multitude of other reasons — each such person assumes a social responsibility to control the force he has brought to life. But all too often something goes wrong — there is a mechanical or human failure — and fire intended for individual or industrial good becomes a force for social harm. Because of this, our society has agreed that the dangers of fire make organized social action a public necessity. Regardless of who starts it or how it gets out of hand, fire uncontrolled is a public problem. Therefore, in our communities we organize groups



of volunteers or companies of paid men whose job it is to protect us against the menace of fire. We maintain these protection units either through taxes or subscription.

Our firemen are urged to use every weapon at their command to control the menace of fire through engineering in the construction of dwellings and machinery, through education in fire prevention, through inspection of buildings and machinery, and in containing, controlling and extinguishing fires.

These activities carry with them very grave responsibilities. If they are to be conducted with maximum efficiency, our public officials must enjoy a high degree of public confidence; such public confidence can only be earned through top level performance. A thorough understanding of the laws which govern firefighters and other public officials who must provide firefighters with the tools for their work is basic to good performance. This booklet outlines these laws with the hope that their presentation in this form will make them more understandable and accessible for easy reference.

Ordinances that set up rules and regulations governing firefighting differ from community to community. Every fire chief must be thoroughly familiar with the fire ordinances of his own community. The fire chief should also avail himself of additional information so that he may be better prepared to interpret the responsibilities of his department as set forth by his community's ordinances. In many cities and towns in Iowa the ordinances are badly in need of review and revision. Model ordinances on fire problems can be obtained from the National Board of Fire Underwriters. These model ordinances may be adopted by reference under Iowa law. The procedures for adopting such ordinances are outlined in *Iowa Model Ordinances*, a copy of which has been furnished to cities and towns in Iowa by the League of Iowa Municipalities and the Institute of Public Affairs at the State University of Iowa.

Numerous relationships add to the difficulties of administering a fire department. The fire chief must be able to analyze the fire protection needs of his community and make recommendations to the elected officials who share his responsibility to the public.

Councilmen and administrators, as well as the fire chief, must understand certain techniques and procedures which enable the chief to manage and direct department activities intelligently. All concerned should be able to determine what is essential and what is desirable. The fire chief, of course, should be more fully informed about the problems and needs of the department than any other official. He should know best the extent to which it is advisable for the community to adopt recommendations of the Underwriters and other outside agencies. He should also know how to apply standards set forth by



accepted fire protection agencies and bureaus so that uniform practices are maintained. Although the primary responsibility for fire protection rests with the local chief and his department, help may be obtained from many other agencies in meeting the requirements of any community. These sources of help are state and national organizations and associations organized to study and combat the problem of fire waste. Such sources where help may be obtained, and a description of the services available from them, are outlined in part two of this booklet.

In studying the fire problems, local officials should be interested in trends in their own communities and elsewhere. Meaningful comparisons should be made concerning annual fire losses, causes of fire, costs of fire protection, and the physical nature of the fire problems in other communities of similar size. From such comparisons and studies made by outside agencies, public officials can obtain help and reach more meaningful conclusions concerning their local problems. Such information should, of course, always be evaluated and interpreted in terms of local conditions before recommendations are adopted to meet local needs. The interpretation of such information in terms of local conditions tests the ability of every fire administrator and chief.

Many times public officials, because of limited contact with the fire problem before their election to office, are not aware of the technical aspects of fire protection. They may not know that fire protection is the serious problem that it is, or they may not recognize that fire protection in the community needs to be improved. They may be at a loss to know what steps can or should be taken.

Under such circumstances the chief must take the leadership in planning the community's program. After careful study, recommendations should be made by the fire chief, in writing, to the responsible elected officials and these recommendations should be made a part of the public record. If the chief is to perform his duties well, he must be able to interpret his analysis of local conditions and be ready to offer clear, understandable suggestions. He must be familiar with the fundamentals and science of his business and be able to make them clear to those upon whom he relies for funds to do his work effectively.

This booklet is designed to make information on the legal aspects of their responsibilities readily available to fire chiefs with the hope that they may perform their duties more efficiently and effectively. It is also hoped that the booklet will be of value to others concerned with fire protection and fire prevention, particularly municipal officials in Iowa's cities and towns.

This book is the result of a cooperative effort on the part of Firemanship Training of the Engineering Extension, Iowa State College of Agriculture and Mechanic Arts, and the Institute of Public Affairs at



the State University of Iowa. It was undertaken at the suggestion of the late Mr. Mark Brosier, who headed the Firemanship Training program from 1948 to 1955. We wish to acknowledge the help and cooperation of officials in the State Department of Public Safety and the State Fire Marshal's office in bringing this work to completion.

We wish also to thank the League of Iowa Municipalities for its cooperation in making this work available to the mayors of all of Iowa's cities and towns.

The original draft of the summaries of laws and regulations was prepared by Mr. Will Gibson, research assistant in the Institute of Public Affairs. Mr. Gibson's work was supervised by Dr. Dean Zenor, Chief of Research in the Institute. Mr. James C. Nemmers assisted Dr. Zenor in revising and preparing the manuscript for publication. The compilation of agencies which provide assistance and information to fire officials was prepared by Firemanship Training, Iowa State College. Mr. George B. Mather, Institute of Public Affairs, edited and designed the publication.

Additional copies of this book may be obtained by writing to Firemanship Training at Iowa State College of Agriculture and Mechanic Arts.

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Iowa City  
March 1956

#### ABBREVIATIONS

Code — Code of Iowa, 1954  
C.F.R. — Code of Federal Regulations  
I.D.R. — Iowa Departmental Rules, 1954  
I.R.C. — Internal Revenue Code, 1954  
Laws 1955 — Acts Regular Session, 56th General Assembly  
Op.Atty.Gen. — Opinions of the Attorney General of Iowa  
U.S.C.A. — United States Code Annotated



# Establishment of Fire Protection

## Facilities by Cities and Towns

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### *Fire departments and equipment*

1.1 All cities and towns have power to provide for the protection of life and property against fire. Code 368.1, 368.11

1.2 They may establish, house, equip, staff, uniform and maintain a fire department, and can establish fire limits. Municipalities also can specify the conditions under which the fire department will answer calls outside the city or town limits. While firemen are on such calls, the municipality's governmental immunity is preserved. Code 368.11. [The city is merely an arm of the sovereign state, hence it cannot be liable for the negligent acts of its employees while they are performing "governmental" services, unless provided for by statute. And fire fighting is a "governmental" service. *Bradley v. City of Oskaloosa*, 193 Iowa 1072, 188 N. W. 896 (1922)]

(a) Every city or town that maintains a fire department is required to defend itself in any suits for personal injuries, death or property damage arising out of the operation of department vehicles in the performance of duties. Code 321.495

(1) Cities and towns are also required to indemnify department members against liability, loss or expense by reason of such claims. Code 321.495

(2) They are authorized to compromise or settle such damage suits, and may make the necessary payments of judgments, compromises or settlements from the public safety fund. Code 321.495

(3) They may pay premiums on liability insurance policies on fire department members. Code 321.497, 368A.1(12)

(4) The maximum amount for which a city or town is liable for a single accident under section 321.495 or 321.497 is limited to \$1,000 for property damage, \$5,000 for injury or death of one person, and \$10,000 if injury or death results to more than one person. Code 321.496

(b) The "Motor Vehicle Financial Responsibility Act" does not apply to municipally owned vehicles while operated on official duty, except that section 321A.4 of the Code requires the Commissioner of Public Safety to suspend the license of any municipal operator who willfully fails to report traffic accidents. Code 321A.4, 321A.33



(c) For municipally-owned fire trucks, see sections 11.1 through 11.9 below.

1.3 Cities and towns have the power, when duly authorized, to own, use and operate fire equipment, facilities or services jointly with any other city, town or township, and to provide for the purchase, rental or maintenance of such facilities. Code 368.12

1.4 Fire departments in cities or towns that have voted to change their form of government continue to exist and function while the reorganization is in process. Code 363.38

#### *Jurisdiction of municipalities*

1.5 The jurisdiction of municipalities extends to land used for municipal hospital purposes outside their corporate limits. All the laws of the municipality have full force and effect there. Code 380.7

1.6 County hospitals located on land outside of, but adjacent to, a municipality are subject to all the latter's ordinances relating to fire protection. The municipality also has the power to enforce those ordinances. Code 347.20

1.7 Cities and towns have power to make and enforce ordinances, rules and regulations for the control, supervision and operation of their municipal airports, regardless of where the airports are located, except that they must be in Iowa. These local laws, however, cannot conflict with state and federal laws. Code 330.11, as amended by Laws 1955, ch. 172

#### *Fire radio service*

1.8 Authorization to operate a station in the Fire Radio Service is granted only to certain governmental units, including cities, counties, etc., and private persons and organizations charged with the specific task of fire protection. When private persons and organizations apply for a license, they must submit a supporting statement from the governmental subdivision which has legal jurisdiction over the area to be served. 47 CFR 10.301

1.9 Stations in the Fire Radio Service are authorized to transmit the following: 47 CFR 10.302

(a) Messages directly relating to public safety and the protection of life or property. 47 CFR 10.302

(b) Messages that are essential to official fire department activities. 47 CFR 10.302

1.10 F.C.C. regulations authorize the following points of communication: 47 CFR 10.303

(a) Fire base stations are primarily authorized to intercommunicate with fire mobile stations. Fire mobile stations are primarily authorized to intercommunicate with the base and other fire mobile stations.

(b) Fire base stations and mobile stations are secondarily author-



ized to intercommunicate with other stations in the Public Safety Radio Service. Both may also transmit to receivers at fixed locations, provided no harmful interference results to the service of any station transmitting to a point of communication for which that station is primarily authorized.

(c) Fire fixed stations are authorized to intercommunicate with other fixed stations in the Public Safety Radio Service and to transmit to receivers at fixed locations.

1.11 Mobile relay stations in the Fire Radio Service will be authorized only on frequencies above 152 Mc. and only where a showing of need can be made in accordance with either or both of the following conditions: 47 CFR 10.304

(a) Where the distances involved are so great that a fire radio system cannot function satisfactorily through direct car-to-car communication alone.

(b) Where an integrated system of radio communication is desirable between two or more fire license-holders and where, by the use of a mobile relay station, the integrated system provides an actual reduction in the number of frequencies needed in the area as compared to the number required if the same number of license-holders operated separate systems.

1.12 Communication units of a licensed fire mobile station may be installed in emergency vehicles other than fire department vehicles, including emergency units of public utilities and water departments, that might be alerted during a fire emergency. But in no case may these units be installed or maintained in any vehicle, regardless of whether or not it belongs to a fire department, that is not at all times controlled exclusively by the license-holder, unless precautions have been taken to prohibit effectively the operation of the transmitter during times when the vehicle is not under the license-holder's control. 47 CFR 10.154, 10.304

1.13 The frequencies or bands of frequencies available to the Fire Radio Service are listed in 47 CFR 10.305, where certain conditions and limitations are also found. 47 CFR 10.305

#### *Slogans and emblems*

1.14 The character of "Smokey Bear" was originated by the Forest Service for use in public information concerning the prevention of forest fires. It is a federal crime to use this name or character, or anything resembling or suggesting it, as a trade name or mark. 18 USCA 711

#### *Water supply*

1.15 Cities and towns can purchase, establish, maintain and operate a waterworks either within or outside their corporate limits. They may



grant certain individuals or private corporations the authority to maintain and operate such plants, provided each franchise is not exclusive and does not exceed 25 years in duration. Code 397.1, 397.2, 398.5, 399.1

(a) In any case, no waterworks can be authorized unless a majority of the voters approve it. Code 397.5, 398.7, 399.1

(b) Cities and towns also have the power to require persons who operate privately-owned waterworks to supply water for fire protection, subject always to reasonable rules and regulations. Code 397.28

1.16 All cities and towns may extend water mains and assess the cost to abutting property as provided in chapter 401. Code 401.1

1.17 For radios on water department trucks, see section 1.12 above.



# Establishment of Fire Protection Facilities by Other Units\*

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## *Fire equipment in townships*

2.1 The trustees of any township may purchase, own, rent or maintain fire equipment, fire housing and services for fire protection in the township, either independently or jointly with any adjoining township or municipality. Code 359.42

*Fire radio service*, see sections 1.8-13 above.

*Slogans and emblems*, see section 1.14 above.

## *Water supply in counties*

2.2 When petitioned by 25 percent of the resident property owners in a proposed district, the board of supervisors of any county must grant a hearing on whether a benefited water district should be established. If a proposed district is located wholly within a municipality, only the city or town council has this authority. Code 357.1, as amended by Laws 1955, ch. 178

(a) The petition must set out, among other things, the type of service desired — whether domestic only, or for fire protection and other uses. Code 357.1

(b) The requirements and procedures concerning the public hearing on the petition, the decision at the hearing, the engineer's report, and elections are set out in chapter 357 of the Code. Code 357.4-.33

2.3 The district may include all or part of any city or town. If a water district includes all or part of a city or town, the county board of supervisors, at the request of the water district trustees, may convey all the rights the county has in the district to the city or town. Code 357.2, 357.34

2.4 When the source of water supply is outside the district and not under its control, the board must instruct its engineer to obtain from the corporation or municipality that controls the water a written, binding option which outlines the terms under which water will be furnished to the district or to individuals in the district. Code 357.7

\* For suggested articles of incorporation, constitution and by-laws for volunteer fire departments, see *Volunteer Fire Department Organization* (Bulletin 122, Engineering Extension Service, Iowa State College).



2.5 The special assessment permitted by chapter 357 of the Code may be used to cover the costs of installing the water system. Code 357.3

*Fire protection in other governmental units*

2.6 The State Board of Regents and the Board of Control of State Institutions are authorized to enter into contracts with municipalities for fire protection for property under their control that is located in that municipality or contiguous to it. Code 218.5, 262.33, as amended by Laws 1955, ch. 131

2.7 The Board of Control also must prescribe rules to reduce the danger to life and property from fire. Code 218.4

(a) In case any building it controls is destroyed or rendered unfit for habitation by fire or similar causes, the Board of Control must provide temporary quarters for the inmates. Code 218.72

2.8 For fire prevention and safety in hospitals and related institutions, see sections 6.6-6.11 below.



# Financing Fire Protection Facilities

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## *Cities and towns*

3.1 Cities and towns can levy taxes, up to 12 mills on the dollar, on all taxable property within the corporate limits for the "Public Safety Fund." Money from this fund can be used for such purposes as establishing, equipping and maintaining a fire department, paying liability insurance premiums authorized by 321.497 of the Code and for other purposes related to public safety. Code 404.8

3.2 Every city and town in Iowa can issue general obligation bonds to provide funds to buy equipment for its fire department, subject to the requirements of section 368.16 of the Code. Code 368.16

3.3 Municipalities also can become indebted to construct, purchase or remodel fire stations, or to purchase, erect, extend, reconstruct or maintain and operate waterworks when authorized to acquire such utilities. Code 407.3(1, 5)

## *Townships*

3.4 When authorized by a vote, the trustees of any township may levy an annual tax not exceeding one and one-half mills on taxable property in the township, but outside the limits of cities and towns, to purchase, own, rent or maintain fire equipment, fire housing and services for fire protection in the township, either independently or jointly with any adjoining township or municipality. Code 359.43, 359.44, as amended by Laws 1955, ch. 181; Code 359.42

3.5 In anticipation of the revenue from the tax levy stated in section 3.4 above, townships can issue bonds for fire protection purposes. Code 359.45

3.6 Townships may accept money and property by gift, devise or bequest for public purposes. Code 359.29

## *Collection of firefighting costs*

3.7 Section 368.11 of the Code authorizes cities and towns to specify the conditions under which their fire departments will answer calls outside their corporate limits.

3.8 [Volunteer fire departments may charge for their firefighting



services. Their rates are often published to notify property owners in the area. The property owner's liability to pay arises from a contract entered into when he summons the department for help, usually an agreement implied from the fact that the latter requested help knowing that the department charged for its services. Of course, an agreement to pay can always be expressly spelled out by the property owner and the fire department. See Code 504.1-.2

[However, the liability of the property owner is not so clear where (a) a stranger, without the owner's consent or authority, summons the department to fight fire on the owner's premises, or (b) where the owner himself summons help without knowing that the department charged for its services. In both cases the owner would probably be liable to the fire department for at least the reasonable value of the firefighting service on a contract which the law would imply. Cf. *Cotnam v. Wisdom*, 83 Ark. 601, 104 S. W. 164 (1907); *Edson v. Hammond*, 142 App. Div. 693, 127 N. Y. Supp. 359 (1911); See *City of Pella v. Fowler*, 215 Iowa 90, 96, 244 N. W. 734, 737 (1932).

[Although the Iowa Supreme Court has yet to rule on the question, one Iowa district court has held a property owner liable to pay a volunteer fire department for extinguishing a fire on the owner's premises even though the department was summoned by a stranger without the owner's consent or authority. The court likened this to a situation where a physician is called by a stranger, or where the doctor proceeds without having been asked, to render medical services to a person incapable of making a request for, or expressing consent to, medical treatment. The decision suggests that the law implies the necessary agreement because: (a) in an emergency that requires immediate attention to preserve life and property, the fire department should not be required to inquire by whom it will be paid, or to make known that it expects to be paid, and (b) to prevent the owner from becoming unjustly enriched from the services he received from the department. This district court decision, though not binding as a precedent of any kind, represents a sensible approach to the problem. *Williamsburg Rural Fire Service v. Osweiler*, District Court Case No. 16839, Iowa County (1955)]

### *Taxes on fire equipment*

3.9 Fire engines and other equipment used for extinguishing fires, and publicly owned buildings and grounds used exclusively for firefighting purposes, are exempt from the state property tax. Code 427.1 (4)

3.10 Cities and towns are exempt from the transportation tax levied under the 1954 United States Internal Revenue Code. 1954 IRC 4261, 4271, 4292



3.11 The federal admissions tax which is usually imposed on admissions to places of entertainment, is not collected on admissions to such functions as firemen's balls and benefits, all the proceeds from which go exclusively to benefit members of the fire department of a city, town, village or municipality, or exclusively to a retirement, pension or disability fund for the sole benefit of the members or their heirs. However, this exemption does not apply to admissions to athletic contests, wrestling or boxing matches, carnivals, rodeos or circuses where performers are paid, or any movie exhibition. 1954 IRC 4233

#### *Gifts and donations*

3.12 Cash donations and other property contributions made to volunteer fire departments are allowable deductions as gifts to charity when the donor computes his federal income tax, because these organizations are within the definition of "charity" as used in the federal income tax law. 1954 IRC 170, Roy C. McKenna, 5 Tax Court 712 (1945), Acq. C. B. 1950-2, p. 23

(a) Moreover, the area served by the volunteer firemen need not be an incorporated municipality to qualify under this definition, for such volunteers relieve some political subdivision of a burden normally carried by a municipality. 1954 IRC 170 (c), Roy C. McKenna, 5 Tax Court 712 (1945)

(b) However, no part of the earnings of such a group can be for the benefit of any private shareholder or any individual. Roy C. McKenna, 5 Tax Court 712 (1945)

(c) Such organizations must not carry on propaganda or otherwise attempt to influence legislation. Roy C. McKenna, 5 Tax Court 712 (1945)

3.13 Gifts to regular municipal fire departments are allowable deductions within the express provisions of section 170 (c) (1) of the 1954 Internal Revenue Code. 1954 IRC 170 (a), 170 (c) (1)

3.14 Contributions by individuals or corporations to a firemen's benevolent association that provides such things as entertainment, recreation, relief and benefits for its members are also deductible as gifts made to charity. 1954 IRC 170 (c) (2), Isabella M. Sheldon, 6 Tax Court 510 (1946)

#### *Transportation rates*

3.15 The Interstate Commerce Act, which prevents discrimination and preference by interstate carriers, does not prevent the carriage, storage or handling of property belonging to any state or municipal governments free or at reduced rates. 49 USCA 22

3.16 The Interstate Commerce Act does not prevent any carrier or carriers from giving reduced rates for the transportation of property to



and from any section of the country if the object is to provide relief from fire and similar disasters. 49 USCA 22

(a) First, however, the reduced rate must be authorized by order of the Interstate Commerce Commission. 49 USCA 22

(b) The order from the Commission must be of the form required by Title 49, section 22 of the United States Code. 49 USCA 22



# Fire Protection Personnel

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## *Employment of firemen and appointment of fire chiefs*

4.1 All appointments to fire departments must be made with due regard for the Soldiers Preference Law and the Civil Service Law where it is applicable. See sections 4.7-4.33 below.

4.2 In a mayor-council town or city that is not covered by the civil service law, the mayor has the responsibility of employing firemen and appointing the fire chief, if so directed by ordinance. Otherwise, the council has this responsibility. Code 363A.3. If a city is under civil service, the fire chief is appointed by the mayor, and the fire chief, with the approval of the council, employs the firemen. Code 365.13, 365.15

4.3 In cities that operate under the commission form of government and that are not under civil service, the superintendent of the department of public safety has the executive power to employ firemen and appoint the fire chief. Code 363B.4. This is also true when the city is under civil service, except that the hiring of firemen and the appointment of the fire chief must be done with the city council's approval. Code 365.13, 365.15

4.4 Under the council-manager by election form of government, the city manager has the power, and the responsibility if the city is under civil service, to employ firemen and appoint the fire chief. Code 363C.7, 365.13, 365.15

4.5 The appointment of the chief of the fire department in cities under civil service must be made from the chief's civil service eligibility list. Code 365.13

4.6 The chief of the fire department must take the prescribed oath of office, and give a bond if it is required, before he begins his duties. Code 63.1, 63.10. Any person who willfully fails to take the required oath before beginning his official duties may be fined not more than \$5,000 or imprisoned for not more than five years, or both. Code 740.11

## *Civil service law*

4.7 All employees under civil service must be selected on the basis



of their qualifications and fitness, and the good of the public service, and not on the basis of their political faith or party. Code 365.16

4.8 In cities with populations of 8,000 or more that also have a paid fire department, the mayor, with the council's approval, *must* appoint three civil service commissioners. Code 365.1-.2

4.9 In cities with populations less than 8,000, the city council *may* by ordinance adopt the provisions of chapter 365 of the Code (the civil service law). The council may appoint a civil service commission or perform the functions of the civil service commission itself. Code 365.3

4.10 In cities where civil service is mandatory or has been adopted by ordinance, it is applicable to the following persons:

(a) In cities with 15,000 or more population, to all appointive officers and employees, except: city clerk, solicitor, assistant solicitor, assessor, treasurer, auditor, civil engineer, health physician, chief of police and market master; laborers whose jobs require no special skill or fitness, secretaries to the mayor or any commissioner, commissioners themselves, election officials and casual employees. Code 365.6

(b) In cities with less than 15,000 population, only to members of the police and fire departments with the following exceptions: chiefs of police, janitors, clerks, stenographers, secretaries and casual employees. Code 365.6

(c) [The status of a civil service employee is retained even though there is a change in the form of the municipal government employing him. Op.Atty.Gen., January 27, 1949]

4.11 The civil service commission is required to prescribe the necessary examination rules, publish them in advance and post them in the city hall. Code 365.8

(a) Some time during April of each year and at other times it feels necessary, the commission must hold examinations that are practical in character and designed to test fairly the mental and physical abilities of the applicants to perform the job applied for. Code 365.8

(b) Applicants for positions as firemen must take their physical examinations under the rules and direction of the board of trustees of the fire retirement system established by section 411.5 of the Code. Code 365.8

4.12 For appointing authority, see sections 4.2-.5 above.

4.13 All initial civil service appointments are conditional for a probation period of not more than six months. During this period the appointee can be removed or discharged without the right of appeal to the commission. But continuance in office after this period constitutes permanent employment. Code 365.8

4.14 Except for the persons listed in section 4.10 above, no one may be appointed in any capacity in the fire department until he has passed



a civil service examination and has been entered upon the eligibility list. Other exceptions, however, include appointments made in certain emergency cases. Code 365.17

4.15 But in no case may any person be appointed to any capacity in a fire department that is governed by civil service unless he:

(a) Is a citizen of the United States and has been a resident of the city for more than one year (but residence in the city is not required for appointment as fire chief). Code 365.17

(b) Is of good moral character. Code 365.17

(c) Is able to read and write the English language. Code 365.17

(d) Is not a liquor or drug addict. Code 365.17

(e) Has not been convicted of a felony. Code 365.17. [However, a full pardon, granted by the Governor, forgives the felon and relieves him from all punishment and legal disabilities that resulted from his conviction, including the one imposed by section 365.17 of the Code. *Slater v. Olson*, 230 Iowa 1005, 299 N. W. 879 (1941)]

(f) Has not borne arms against the United States government. Code 365.17

(g) Has not claimed exemption from military service as a conscientious objector. Code 365.17

4.16 Under the Civil Service Act, war veterans, including those who served during the Korean conflict between June 27, 1950, and July 27, 1953, who have been honorably discharged from the military service of the United States and who are citizens and residents of Iowa, are entitled to preference over other candidates if they are "otherwise qualified." Code 365.10 as amended by Laws 1955, ch. 184. [Under the Soldier's Preference Law\* the test is "equal qualification." *Zanfes v. Olson*, 232 Iowa 1169, 7 N. W. 2d 901 (1943); *Herman v. Sturgeon*, 228 Iowa 829, 293 N. W. 488 (1940)]

(a) [This preference is mandatory and applies also to promotions under civil service. *Herman v. Sturgeon*, 228 Iowa 829, 292 N. W. 488 (1940)]

(b) ["Otherwise qualified" means that the applicant's name has been placed among the top 10 names on the commission's eligibility list from which the appointing authority must make its appointment. *Zanfes v. Olson*, 232 Iowa 1169, 7 N. W. 2d 901 (1943); *Glenn v. Chambers*, 242 Iowa 760, 48 N. W. 2d 275 (1951)]

(c) [However, the commission has the power only to determine which of the applicants have the qualifications that make them eligible for appointment and to list them by their percentage standings. In *Zanfes v. Olson*, 232 Iowa 1169, 7 N. W. 2d 901 (1943), it was held that although the appointing authority is confined to this certified list,

\* See sections 4.27-4.33 below.



the relative standings of the various applicants as indicated by the list merely give information; the appointing authority is not compelled to follow that order.]

(d) [Once a veteran's name is placed on the commission's certified list, he has "otherwise qualified," and thus becomes entitled to preference regardless of the relative standings of the various non-veterans on the list. *Zanfes v. Olson*, 232 Iowa 1169, 7 N. W. 2d 901 (1943)]

(e) [The power of appointment rests in the department or office having the position sought, subject always to this preference. *Herman v. Sturgeon*, 228 Iowa 829, 293 N. W. 488 (1940)]

(f) [An appointment of a non-war veteran who has passed the civil service examination is final and conclusive after the probation period has expired, even against a veteran's right to preference, provided the appointee is not guilty of any fraud or responsible for any error in his appointment. *Glenn v. Chambers*, 242 Iowa 760, 48 N. W. 2d 275 (1951)]

4.17 The person who has appointive authority (see sections 4.2 through 4.4 above) or the fire chief may, without hesitation, suspend, demote or discharge any fireman for neglect of duty, disobedience to orders, misconduct or improper performance of his duties.\* When this is done by the fire chief himself, he must report that fact within 24 hours to the following authorities: Code 365.19

(a) Under the commission form of government, he reports to the superintendent of public safety.

(b) In council-manager cities, he reports to the manager. (If the action is taken by the manager, he reports to the city council.)

(c) In other cities, these reports are made to the mayor.

4.18 If the person or body to whom these reports are made affirms the removal, demotion or suspension, the employee has 20 days in which to appeal to the civil service commission. A hearing must be provided on the appeal and the removal, demotion or suspension can be upheld only by a majority vote of the civil service commission. Code 365.18, 365.20

(a) [The civil service commission has both original and appellate jurisdiction to suspend an employee; hence, when the fire chief forwards to the commission a statement of misconduct by an employee, the commission thus acquires the necessary jurisdiction. *Misbach v. Civil Service Commission*, 230 Iowa 323, 297 N. W. 284 (1941)]

(b) [The discharged employee must present all his testimony and defenses at the time of his appeal before the commission, because the court will not be willing to hear them for the first time at a hearing by

\* For court review by writ of certiorari under the Soldiers' Preference Law, see section 4.32 below.



certiorari. *Fronsdahl v. Civil Service Commission*, 189 Iowa 1344, 179 N. W. 874 (1920)]

(c) [When the commission on appeal orders an employee reinstated, "reinstatement" means only general restoration to the department at a particular grade, and not necessarily a particular position. The assignment of the reinstated employee is in the discretion of the appointing authority. *Markey v. Schunk*, 152 Iowa 508, 132 N. W. 883 (1911)]

(d) And a suspended employee, upon being reinstated by the commission, may be denied his compensation for the time of his suspension; the matter is discretionary in the first instance with the body having jurisdiction and also with the commission. However, this discretion is subject to the limitation in section 4.18 (e) below. Code 365.27; *Luke v. Civil Service Commission*, 225 Iowa 189, 279 N. W. 443 (1938)

(e) [When the city has actually in good faith paid a replacement because of a wrongful discharge by the commission itself, the city is not liable to the wrongfully discharged employee for his salary, due to the rule against double liability. *Harding v. City of Des Moines*, 193 Iowa 885, 188 N. W. 135 (1922); *Glenn v. Chambers*, 244 Iowa 750, 56 N. W. 2d 892 (1953)]

(f) [An employee who has been removed from office cannot be said to have had the required fair and impartial hearing before the commission when in fact the charges against him were filed by the commission itself, for such a hearing can hardly be said to be "impartial." *Sandahl v. City of Des Moines*, 227 Iowa 1310, 290 N. W. 697 (1940)]

4.19 The official who seeks to have an employee removed, demoted or suspended also has a right of appeal to the commission if his ruling is not affirmed by the applicable authority under section 4.17 (a-c) above within five days. Code 365.20

4.20 In either case, notice of appeal must be given. Code 365.21

4.21 The civil service commission has jurisdiction to hear and determine all matters involving the rights of firemen under civil service. It may affirm, modify or reverse any case on its merits. When the commission reverses a ruling from which an employee has appealed, the commission must order the employee reinstated as of the date of his suspension, demotion or discharge. The employee is entitled to whatever compensation the body having jurisdiction may determine. However, all appeals must comply with the following rules of procedure: Code 365.27

(a) Within five days of service of the notice of appeal, the person or body who made the ruling must file with the commission a written specification of the charges and the grounds upon which the ruling was based. If this is not done, the employee may present his case to the commission by affidavit, setting forth the facts. The commission



must enter an order at once reinstating the employee for want of prosecution. Code 365.22

(b) If written specifications are filed, however, the commission must, within 10 days, fix the time—not less than five nor more than 20 days thereafter—and place for hearing the appeal. The commission must notify the parties in writing of the time and place of the hearing. This notice must contain a copy of the specifications that were filed. Code 365.23

(c) The chairman of the civil service commission has the power to administer oaths in the same manner as a magistrate exercising criminal or civil jurisdiction. He must subpoena such witnesses and books and papers as either party may designate. These subpoenas must be signed by the chairman of the commission. In cities in which the city council acts as the civil service commission, the mayor performs these duties. Code 365.24

(d) In case of contempt by any witness duly subpoenaed, the body hearing the appeal must report in writing to the district court or district court judge of that county, whereupon the latter must proceed with the contempt proceeding as if it had occurred there. Code 365.25

(e) The trial of all appeals must be public and the parties may be represented by legal counsel. The city attorney or solicitor acts as counsel for the commission, except that in cities of more than 100,000 population, the commission may hire an attorney when there are conflicting interests between it and the city council. Code 365.26, 365.27 as amended by Laws 1955, ch. 186

4.22 The commission, during April of every second year, and at such other times it finds to be necessary, must also hold competitive promotional examinations designed to test ability. Promotional examination rules must be published in advance and posted in the city hall. Code 365.9

(a) All vacancies, other than in the lowest positions, are filled by the promotion of subordinates who, by taking such examinations, qualify as eligible. Code 365.9

(b) Also, when a fireman takes this examination and is certified as eligible and then enters the armed forces (active state or federal service), he is eligible for promotion whenever he returns from service. Code 29.28; *Gibbons v. City of Sioux City*, 242 Iowa 160, 45 N. W. 2d 842 (1951)

4.23 After the promotional examination, the commission must certify to the city council a list of 10 or fewer applicants who qualify for promotion. All vacancies that occur before the beginning of the next examination for promotion to those positions must be filled from this list within 30 days. If there is a preferred list of former employees who were removed by a reduction in force, appointments may be made from this list within 30 days (see section 4.25 below). Code 365.11



(a) Preference for temporary service is also given persons whose names are on the promotion and preferred lists. If there are no such lists, the appointing authority may appoint persons temporarily to fill any vacancies (limited to 90 days) until an examination can be given. Code 365.11

(b) A person who temporarily fills a vacancy in a higher grade for at least 20 days is entitled to the pay of that higher grade. Code 365.11

4.24 Seniority, computed as required by section 365.12 of the Code, must be given preference (see section 4.25 below). The civil service commission must also post in the city hall on or before July 1 of each year, a list of the names of all civil service employees indicating each employee's seniority ranking. Code 365.12

4.25 Whenever the public interest may require a reduction in the number of employees in any classification or grade under civil service, the city council, by resolution and acting in good faith, may (a) abolish a position and remove employees from that classification or grade, or (b) reduce the number of employees in any classification or grade by suspending the necessary number. Code 365.28

(a) The council must notify the civil service commission of its action. Code 365.28

(b) Seniority must be considered in determining which employees are to be removed or suspended. Code 365.28

(c) Employees so removed or suspended are given certificates showing their comparative seniority or length of service in their classification or grade and the fact that the removal was honorable. Code 365.28

(d) Employees so removed or suspended are placed on a preferred list for not less than three years, and all appointments during that time to their former duties in their classification or grade are made in the order of seniority from this list. Code 365.28

4.26 Any violation of chapter 365 is punishable as a misdemeanor. Code 365.30

#### *General soldier's preference\**

4.27 War veterans, including those who served during the Korean conflict between June 27, 1950, and July 27, 1953, who have been honorably discharged from the military service of the United States and who are citizens and residents of Iowa, are entitled to a preference in all Iowa governmental employment over candidates of *no greater qualification*. Code 70.1, as amended by Laws 1955, ch. 73

(a) [This preference, with respect to either appointments or promotions, controls only the jobs not under civil service. The civil service preference governs appointments and promotions to jobs covered by civil service. Code 70.1; *Zanfes v. Olson*, 232 Iowa 1169, 7 N. W. 2d 901 (1943)]

\* For civil service preference, see section 4.16 above.



(b) [Under this preference the only condition, other than citizenship and residency, a war veteran must satisfy is that his qualifications for the particular job are at least equal to those of other candidates who seek the same position. *Bender v. City of Iowa City*, 222 Iowa 739, 269 N. W. 779 (1936)]

4.28 A war veteran is not disqualified from holding any public position because of his age or any physical disability, if these do not prevent him from performing the job properly. Code 70.2

4.29 When a veteran applies for a position, the appointing person or board is required to make an investigation of his qualifications before hiring him. Code 70.3

(a) [However, as between two applicants, both of whom are *war* veterans, the appointing officer or board is not required to make a formal investigation as to their respective qualifications. The appointing authority may make his selection at his discretion in such cases. *Kitterman v. Supervisors*, 137 Iowa 275, 115 N. W. 13 (1908)]

(b) [The nature and manner of this investigation cannot be controlled by the courts; hence these officials need not hold public hearings or formally take evidence. *McLaughlin v. Board of Supervisors*, 227 Iowa 267, 288 N. W. 74 (1939)]

(c) [Such investigations, therefore, may be more or less of a casual nature. For example, an official may use information obtained from his own personal acquaintance with the veteran. *McLaughlin v. Board of Supervisors*, 227 Iowa 267, 288 N. W. 74 (1939)]

(d) [Furthermore, in considering such things as moral character and competency, the appointing authority exercises its discretion in determining whether other applicants have no greater qualifications. *Bender v. City of Iowa City*, 222 Iowa 739, 269 N. W. 779 (1936)]

(e) [The courts in a mandamus proceeding are not authorized to interfere with the exercise of this discretion, except in cases of clear abuse, such as acts which are either arbitrary and unwarranted or in disregard of clear and unmistakable evidence that shows the veteran's equal qualification. *Bender v. City of Iowa City*, 222 Iowa 739, 269 N. W. 779 (1936). But see section 4.30 (c) below for the power of a court under an *appeal*.]

4.30 However, a war veteran who has been disallowed the soldier's preference is entitled to maintain an action of mandamus or appeal to the district court. Code 70.4-.5

(a) [For a veteran successfully to attack by mandamus the city council's determination that he was not the equal in qualification of a non-veteran, he must produce oral or documentary evidence that either impeaches the good faith of the council or shows that it was ill-advised as to the qualifications of the various applicants. *Robertson v. Alber-son*, 114 N. W. 885 (1908)]



(b) [An action of mandamus is also available when the appointing authority refuses to investigate, declines to apply the law or proceeds in a clear abuse of its discretionary powers. *Bender v. City of Iowa City*, 222 Iowa 739, 269 N. W. 779 (1936)]

(c) [Under an *appeal*, the district court may determine qualifications and direct the appointing authority to appoint the veteran to the position applied for and cancel all actions taken in appointing a non-war veteran, rather than merely send the matter back to that body for further consideration, *Maddy v. City Council*, 226 Iowa 941, 285 N. W. 208 (1939)]

4.31 After the investigation has been made and if the veteran is found to be of equal qualification, he must be hired for the position. Code 70.3

(a) In any case, the appointing authority is required to set forth in writing, and file for public inspection, the reasons upon which it held the veteran to be entitled to the position, or the reasons for refusing his application. Code 70.3

(b) [But the failure of these officials to file a statement of the reasons for refusing a veteran an appointment will not, of itself, invalidate the appointment of any non-veteran who might have been appointed instead. Nor will this fact necessarily reflect that the officials acted arbitrarily and unwarrantedly. *McLaughlin v. Board of Supervisors*, 227 Iowa 269, 288 N. W. 74 (1939)]

4.32 An employee who has soldier's preference has a right to a review by a writ of certiorari when he is removed from his job. Code 70.6

(a) Under this provision, such a person may not be fired except for incompetency or misconduct. Code 70.6

(b) Even then, the removal of such a veteran from his job can only be done after a hearing, of which the veteran must be given due notice, upon specified charges. Code 70.6

(c) Moreover, upon the review of the writ of certiorari, the person or board charging the veteran with incompetency or misconduct has the burden of proving those charges. Code 70.7

(d) [The scope of this review under a writ of certiorari embraces, contrary to ordinary cases of certiorari, a consideration of all evidence legitimately bearing on whether the discharge was wrong for any reason. *Butin v. Civil Service Commission*, 179 Iowa 1048, 162 N. W. 565 (1917)]

(e) [Both demotions and removals, whether under civil service or not, are controlled by this provision. *Ervin v. Triplett*, 236 Iowa 272, 18 N. W. 2d 599 (1945)]

(f) [Any demotion or removal, therefore, not in strict conformity with the Soldier's Preference Law will be considered an illegal "ouster." *Jones v. Des Moines*, 225 Iowa 1342, 283 N. W. 924 (1939)]



(g) [To avoid any demotion or removal from being an illegal "ouster," the charges must be stated, and the veteran must be given notice and hearing as provided by law. Code 70.6; *Jones v. Des Moines*, 225 Iowa 1342, 283 N. W. 924 (1939)]

(h) [The preference act does not apply in cases in which an employee's office is abolished, for example, when a city council, by appropriate resolution, in good faith and for the purpose of improving efficiency, orders a reduction in the number of municipal firemen operating under civil service. *Lyon v. Civil Service Commission*, 203 Iowa 1203, 212 N. W. 579 (1927)]

(i) The following cases are a few the Iowa Supreme Court has regarded as illegal demotions or removals:

(1) [A general transfer within the department, from one pay scale to another, not in conformity with the Soldier's Preference Law. *Ervin v. Triplett*, 236 Iowa 272, 18 N. W. 2d 599 (1945)]

(2) [The removal of an honorably discharged veteran because of his failure to pay his creditors when he had made good faith attempts to meet those obligations, even though the department suffered considerable inconvenience from his creditors over the years. *Anderson v. Civil Service Commission*, 227 Iowa 1164, 290 N. W. 493 (1940)]

(3) [The discharge of a veteran for the reason that his office had been abolished when, in fact, there remained in the department a need for personnel to do the same kind of work for which the veteran was qualified. *Dickey v. King*, 220 Iowa 1322, 263 N. W. 823 (1936)]

(j) [Yet, when a person is employed to replace a veteran wrongfully discharged, the veteran cannot recover the pay that would have been rightfully his except for the illegal discharge, because that would result in double liability for the city. *McClinton v. Melson*, 232 Iowa 543, 4 N. W. 2d 247 (1942)]

4.33 When a veteran's salary is reduced for the purpose of bringing about his resignation or discharge, he may maintain an action in mandamus. Code 70.4

### *Compensation*

4.34 Compensation of firemen is fixed by the council in mayor-council and commission form cities and towns. Code 363A.4, 363B.11. In council-manager cities the city manager has the authority to classify all employees and to fix their compensation, but inasmuch as the council must approve the budget, the council would seem to have final authority. Code 363C.7(7, 16, 17)

4.35 All compensation—wages, salaries and other forms of remuneration—received by persons for their services as firemen is taxable under both federal and state income tax laws. 1954 IRC 61(a); Treasury regulation 118, Sec. 39:22 (a)-2; 1954 IDR 367



(a) When a fireman spends money to purchase and maintain (clean and repair) his fireman's uniform, which (1) is required as a condition of his employment and (2) is not adaptable for use as ordinary clothing, this constitutes an "ordinary and necessary business expenditure" under the federal income tax law. Such costs thus are allowable deductions from the fireman's gross income provided he does not use the standard deduction method of tax reporting. 1954 IRC 162; Mim. 6463, C. B. 1950-1, p. 29; I. T. 3373, C. B. 1940-1, p. 28

(b) Items of clothing such as helmets, rubber coats and rubber boots have been held to qualify for the business expense deduction. C. B. 1940-1, p. 28

(c) However, blue suits of the quality and style suitable for street wear, and with large brass buttons that are removable, have been held not to qualify as uniforms for deduction purposes. C. B. 1950-1, p. 29

### *Removal, demotion or suspension of public officers and employees*

4.36 Any appointive or elective state or local officer, except persons who can be removed only by impeachment, may be removed from office by the district court for any of the following reasons: for willful or habitual neglect of duty; for willful maladministration in office; for corruption; for extortion; upon conviction of a felony; for intoxication or upon a conviction of being intoxicated. Code 66.1

4.37 Also, all persons appointed to office in any city or town may be removed by the body that made the appointment, if a written order giving the reasons for removal is filed with the city clerk. Code 363.40

4.38 For the removal of persons who have soldier's preference or employees under civil service, see also sections 4.13, 4.17-4.21, 4.25 and 4.33 above.

### *Pension funds*

4.39 The pension fund law (chapter 410 of the Code) applies to all firemen in cities not under civil service. In cities that are under civil service, it applies only to those firemen appointed before March 2, 1934. Laws 1934, Ex. Sess., ch. 75; Op. Atty. Gen., 1934, p. 580

(a) Any city or town that has an *organized* fire department *may*, and all cities and towns that have a *paid* fire department *shall*, levy a tax annually for the firemen's pension fund. Moreover, in any city, in which in addition to the pension fund a civil service retirement system is established by law under chapter 411 of the Code (see section 4.49 below), a sufficient tax *shall* be levied to meet all necessary obligations and expenditures. Code 410.1

(b) The pension fund law is applicable to volunteer or call members of a paid fire department, but the amount of pension to be paid to such members is determined by the board of trustees. Code 410.12



(c) [A "paid" fire department is one in which the members devote considerable time and service and are paid a regular salary, however small, usually payable monthly. *Seavert v. Cooper*, 187 Iowa 1109, 175 N. W. 19 (1919); see also *Op. Atty. Gen.*, 1925-26, p. 232]

(d) [An "organized" fire department is one in which an irregular sum is paid to members who follow independent occupations, occasionally responding to fire alarms and devoting relatively little of their time to the service of the department. *Seavert v. Cooper*, 187 Iowa 1109, 175 N. W. 19 (1919)]

(e) [Mandamus is the only remedy when the council fails to make a tax levy. *Lage v. City of Marshalltown*, 212 Iowa 53, 235 N. W. 761 (1931)]

(f) [However, a municipality cannot be compelled by mandamus to levy a tax for an emergency fund in order to pay deficits in its pension fund that seem to be continual rather than temporary. *Mathewson v. City of Shenandoah*, 233 Iowa 1368, 11 N. W. 2d 571 (1943)]

4.40 All rights and benefits under the fund are direct charges upon the city or town. Code 410.15

4.41 Each member of the pension fund system is required to pay a membership fee of no more than \$5, fixed by the board of trustees, and an annual assessment equivalent to one percent of his annual salary. Code 410.5

4.42 Any member who has served 22 years in the fire department and who has reached the age of 50, or any member who becomes permanently mentally or physically disabled while a member of the department and is unable to discharge his duties, is entitled to retire and receive a monthly pension equal to one-half of his monthly salary on the date of his retirement. Code 410.6

(a) [A cost-of-living allowance to a fireman is an increase in his salary and should be included in the base used in computing his final compensation for retirement. Otherwise such allowances would be unauthorized gifts. *Op. Atty. Gen.*, 1949-50, p. 191]

(b) Any member who resigned or obtained leave of absence to serve in the armed forces during World War I or II and who was honorably discharged therefrom is entitled to have included in his departmental service the period of time he served in the armed forces. Code 410.7

(c) [A member retired because of length of service and attained age does not necessarily waive his right to pension payments during a period of re-employment when he agrees to return to the department to work on a temporary basis, for when he has been duly granted a pension it becomes vested and can only be deprived by method provided by law. *Lamb v. City of Boone*, 237 Iowa 273, 21 N. W. 2d 462 (1946)]

(d) For a disabled member who has less than five years' service in the department to qualify for retirement, his disability must have been



caused by reason of his employment as a fireman. Code 410.8; Op. Atty.Gen., 1946, p. 100

(e) [But a member who has more than five years' service in the department may qualify for retirement if he is disabled from injuries received while off duty, pursuing other employment. Op. Atty.Gen., 1946, p. 100]

(f) [However, a member who has more than five years' departmental service upon entering the armed forces and who becomes disabled while in the armed forces, is *not* entitled to disability benefits by reason of that injury. He is not a member of the department during his absence and his pension rights depend upon his being a member at the time he became disabled. Op. Atty.Gen., 1944, p. 21. But see section 4.63(b) below for persons under the civil service retirement system.]

(g) Members retired because of mental or physical disability may be assigned to light duty in the department. Therefore, if a member becomes entitled to a disability pension and is put on the pension roll and draws pension payments, he still may be required to perform whatever light services he can. Code 410.9; *Lerch v. Morgan*, 191 Iowa 963, 183 N. W. 578 (1921)

(h) The question of disability of a member is determined by the board of trustees acting on the concurring report of at least two out of the three physicians designated by the board to make a complete examination. Code 410.8

(1) The board of trustees have power at any time to cause any member retired because of disability to be brought before it and again examined by three physicians appointed by the board. The question of continued disability or ability to perform regular or light duty in the department is determined by the concurring report of at least two of the three examining physicians. Code 410.13

(2) The disabled member remains on the pension roll unless and until reinstated in the department by reason of the examination. Code 410.14

(i) The decision of the board upon the matter of disability is final and conclusive, in the absence of fraud, and no appeal is allowed from that decision. Code 410.14; *Fehrman v. Sioux City*, 223 Iowa 308, 271 N. W. 500 (1937)

(j) [Hence the proper remedy to test the legality of the board's action in denying an application for retirement due to disability is *certiorari*, not *mandamus*. *Riley v. City of Des Moines*, 203 Iowa 1240, 212 N. W. 716 (1927)]

4.43 Upon the death of a member, the benefits under this fund are paid to the following beneficiaries:

(a) \$50 a month to the surviving spouse of the member so long as



he or she remains unmarried and of good moral character. "Spouse" means a surviving spouse of a marriage contracted before the member's retirement from active service. Also, the marriage of a retired member contracted prior to March 2, 1934, will qualify under this provision although the member married *after* retiring. Code 410.10, as amended by Laws 1955, ch. 202

(b) If there is no surviving spouse, or upon the death or remarriage of the spouse, the pension benefits go to the member's dependent mother and father if they are both living; if not, then to the sole survivor. However, whether the benefits pass to both parents jointly or to the sole survivor, the amount of the benefit is \$30 per month. Code 410.10, as amended by Laws 1955, ch. 202.

(c) Whether the spouse survives the member or not, \$10 per month will be paid to the guardian of each of his surviving children under the age of 18. The terms "child" or "children" mean only the surviving issue of an active or retired member. The terms also include a child or children legally adopted by a deceased member prior to his retirement from active service. However, children adopted by a retired member before March 2, 1934, qualify under this provision even though they were adopted after the member's actual retirement. Code 410.10, as amended by Laws 1955, ch. 202

4.44 The sum total of all payments made under section 4.43 above must in no case exceed one-half of the salary which the member was receiving at the time of his death or retirement. Code 410.10, as amended by Laws 1955, ch. 202

4.45 All pension benefits are exempted from creditors. Code 410.11

4.46 The management of the pension fund is vested in a board of trustees. Code 410.2

(a) In any city where a civil service retirement system is established under chapter 411 of the Code, the board of trustees of that system also becomes the pension board. Code 410.2; *Rockenfield v. Kuhl*, 242 Iowa 213, 46 N. W. 2d 17 (1951)

(b) No part of the fund may be used for any purpose other than the payment of pensions to its members, not even the payment of expenses connected with litigation that involves the fund. Code 410.3; *Mathewson v. City of Shenandoah*, 233 Iowa 1368, 11 N. W. 2d 571 (1943)

(c) This board, however, has the power to invest the surplus in the fund. Code 410.3

(d) The board may also accept gifts for the benefit of the fund. Code 410.4

4.47 The city must provide firemen injured in the performance of duty with hospital, nursing and medical attention, the cost of which is paid out of the appropriations for the fire department. However,



any amounts for medical and hospital care received by the injured fireman under the state workmen's compensation law, or from any other source, must be deducted from the costs paid by the city. Code 410.18. See also section 4.74 below.

4.48 Firemen injured while operating equipment on calls outside the corporate limits are entitled to the benefits of chapter 410 or 411 of the Code when otherwise qualified. Code 368.11

#### *Civil service retirement system*

4.49 In any city in which firemen are under *civil service*, there shall be a separate system for providing retirement allowances to all firemen appointed after March 2, 1934. Code 411.2; see also chapter 411 generally; Op.Atty.Gen., 1934, p. 530

(a) The system covers firemen who have passed a regular mental and physical civil service examination and have been duly appointed as firemen. Code 411.1(3)

(b) Such persons as firemen, probationary firemen, lieutenants, captains and other senior officers, including fire chiefs who have passed the civil service examination, who have been employed to fight fires are included as members of the system. Code 365.6, 411.1(3); Op. Atty.Gen., 1936, p. 168

(c) [Temporary firemen may not share in these benefits. Op.Atty. Gen., 1940, p. 98]

4.50 All persons who become firemen after March 2, 1934 are re-required to become members as a condition of their employment. Code 411.3

4.51 Once a member, a fireman is not required to make contributions to any other pension or retirement system of the city, county or state. Code 411.3. They also need not contribute to federal social security. 1954 IRC 3121(b)(7), 3306(c)(7); sec. 218, Social Security Act. The rate of contribution to the retirement fund is established by section 411.8 of the Code.

4.52 Membership in the system ceases: Code 411.3

(a) If a member is absent from service for more than four years within the five consecutive years after his last becoming a member;

(b) If he withdraws his accumulated fund contribution;

(c) If he becomes a beneficiary;

(d) If he dies.

4.53 General administration and responsibility of the system are vested in a board of trustees composed of the following persons: the chief officer of the fire department, the city treasurer, the city solicitor or attorney, two firemen elected by pension members of the department, and two citizens who do not hold any other public office. Code 411.2, 411.5. This board also constitutes the trustees for management



of any pension fund provided for in chapter 410 of the Code that might exist at the time the civil service fund is set up. The two funds remain separate, however. Code 410.2; Op.Atty.Gen., 1949-50, p. 191

4.54 The board of trustees fixes and determines by rules and regulations how much actual service in any year is equivalent to one year of departmental service. Code 411.4

(a) But in no case may more than one year of departmental service be credited for any amount of actual service in one calendar year. Code 411.4

(b) Nor shall the board allow credit for any period of more than one month's duration during which the member was absent without pay. Code 411.4

4.55 The retirement of a member on a service retirement allowance is made by the board of trustees. Code 411.6

(a) [A cost-of-living allowance to a fireman is an increase in his salary and should be included in the base used in computing his final compensation for retirement. Otherwise such allowances would be unauthorized gifts. Op.Atty.Gen., 1949-50, p. 191]

(b) [A fireman's age on the date of his original appointment, rather than his age on the date of expiration of his probationary period, is used in computing his contributions to the system. Op.Atty.Gen., 1940, p. 98]

(c) Any member who enters the United States military service is entitled to have the period of his military service included as part of his departmental service for retirement purposes, if he is physically capable of resuming his duties and does so within six months after his honorable discharge. Code 411.9

4.56 The board of trustees has the power to manage, invest and re-invest the funds in the manner provided by section 411.7 of the Code. Code 411.7. Actuarial investigations of the fund must be made as required by section 411.5(11, 12, 13) of the Code.

4.57 The purposes of the various funds of the system determine the rate of contribution and the manner in which the assets are credited. Section 411.8 of the Code outlines in detail the methods of financing to be used. Code 411.8

4.58 On or before the first day of July in each year, the board of trustees must submit to the superintendent of public safety\* a certificate specifying the amounts payable to the pension accumulation and expense funds for the following year. Code 411.11(1)

(a) These amounts must be included by the superintendent in his annual budget estimate. Code 411.11(1)

\* "Superintendent of public safety" means any elected city official who has direct jurisdiction over the fire department, or the city manager in cities under the city manager form of government. Code 411.1 (24)



(b) The city must levy a sufficient tax for these amounts and appropriate them to the retirement system. Code 411.11(1)

(c) A special appropriation to these funds must be made to cover the needs of the retirement system prior to the time the first regular appropriation is paid. Code 411.11(2)

4.59 All benefit payments, costs and expenses of the retirement system are the direct liability obligations of the city in which the system is established. Code 411.12

4.60 Membership benefits are exempted from any state tax or any execution that might be decreed by the courts. Code 411.13

4.61 Anyone who attempts to defraud a civil service retirement and pension system is guilty of a misdemeanor. Code 411.14

4.62 Firemen injured while operating equipment on calls outside the corporate limits are entitled to the benefits of chapter 410 or 411 of the Code when otherwise qualified. Code 368.11

#### *Retirement benefits under civil service retirement system*

4.63 Under chapter 411 of the Code there are three kinds of retirement benefits available to members of the fund: (a) service retirement, (b) ordinary disability, and (c) accidental disability benefits. Any member may file a written application for retirement with the board of fire trustees. If he qualifies, the member must be retired no earlier than 30 nor later than 90 days after filing his application. He must stipulate in his application the exact date he desires to retire, which must be within these time limits. However, members who reach the age of 70 must be retired, unless the superintendent of public safety requests that they remain in service for not more than one year from the date of each request. Code 411.6

(a) To qualify under the "service retirement" benefit the member must reach the age of 55 and must have served the department for at least 22 years. The allowance consists of an annuity based on the actuarial equivalent of the member's accumulated contribution at the time of his retirement and a pension which is given by the city. The total allowance must equal one-half of his average salary at the time of the member's retirement. Code 411.6(1,2)

(b) To qualify for "ordinary disability" the member must have at least five years of membership service with the fund. "Ordinary disability" is a disability other than accidental that physically or mentally incapacitates the member for further performance of duty—a condition certified by the medical board. If the member is at least 55 years old, he will receive the "service retirement" benefit mentioned above. Otherwise he receives an annuity which is the actuarial equivalent of his accumulated contribution at the time of retirement and a pension computed as outlined in section 411.6(4)(b) of the Code. Code



411.6(3,4), as amended by Laws 1955, ch. 203. [A member may qualify under this disability if he becomes disabled while serving in the armed forces, provided he has had more than five years of departmental service upon entering the armed forces. However, in this case the time spent in the armed forces is not included as service in the department when computing the retirement benefits. Op.Atty.Gen., 1946, p. 138. But see section 4.42(f) above for persons under the pension fund.]

(c) To qualify for "accidental disability" benefits a member must have become totally and permanently incapacitated for duty as the natural and proximate result of an accident or exposure while in the actual performance of duty—a condition certified by the medical board. If such a member is at least 60 years old, he will receive the "service retirement" benefit mentioned above. Otherwise, he receives an "accident disability allowance," which is an actuarial equivalent of his accumulated contribution at the time of retirement and a pension of  $66 \frac{2}{3}$  percent of his average final compensation. Code 411.6(5,6)

4.64 The board of trustees may require any former member under 55 who is receiving a disability allowance to undergo an examination by the medical board once each year for the first five years following his retirement and once every three years thereafter.

(a) Should any such member refuse to submit to the medical examination, his allowance may be discontinued until he takes the examination. Furthermore, if he does not submit to the examination within one year from the time the trustees require him to do so, all his pension rights can be revoked by the trustees.

(b) Upon the application by a former member under 55 who is receiving a disability allowance, the board of trustees must provide for his examination by the medical board.

(c) If any such member is restored to active service at a salary at least equal to his average final compensation, his retirement allowance ceases and he must again contribute to the retirement system. However, for purposes of future retirement he is credited with all his former service. Code 411.6(7)

4.65 If any former member receiving an allowance for a disability that was not incurred in the line of duty engages in an occupation paying more than the difference between his retirement allowance and his average final compensation, the amount of his allowance must be reduced to the point where his earnings plus his allowance equal his average final compensation.

(a) At any time his earnings change, the amount of his pension allowance may be correspondingly modified, but the new pension may never be greater than the pension originally granted. Code 411.6(7)



4.66 Any former member who is retired and drawing a pension for disability may be required by the fire chief, with the medical board's approval, to perform light duties in the department. Code 411.6(7)

4.67 When a member who has been receiving retirement benefits dies, the following beneficiaries receive a pension: Code 411.6(13), as amended by Laws 1955, ch. 205

(a) His spouse, so long as he or she remains unmarried, receives a sum equal to one-half of the allowance which the member was receiving before his death. But in no case should this amount be less than \$50 per month, plus \$10 per month for each child under 18.

(b) In case the spouse has died, either before or after the member's death, then the guardian of the member's surviving children receives \$10 per month for the support of each child who has not reached the age of 18.

4.68 Payments under any workmen's compensation or similar law to a member or his dependents must be subtracted from the benefits provided under the fireman's retirement fund in the manner set out in section 411.6(12) of the Code. Code 411.6(12). See also section 4.74 below.

#### *Death benefits under civil service retirement system*

4.69 The death, other than accidental, of a member in service is said to be "ordinary" and death benefits are payable as follows:

(a) Persons who have an insurable interest in the member's life and who have been listed by him as his beneficiaries are paid his accumulated contributions, and if the member has had one or more years of service, such beneficiaries also receive an amount equal to one-half of the member's salary for the year preceding his death, *or*

(b) If there are no persons named as beneficiaries, the benefits listed in (a), above, are paid to the member's estate;

(c) However, instead of the above benefits, any of the persons listed below (whether named as beneficiaries or not) may elect to receive a pension which, including the actuarial equivalent of the member's accumulated contributions, must equal one-fourth of his average final compensation. This pension may never be less than \$50 per month and in addition to it each of the member's surviving children under the age of 18 must be paid \$10 per month. The persons who are eligible to receive this pension are:

(1) The spouse as long as he or she remains unmarried, *or*

(2) If there is no spouse, or if the spouse dies or remarries before any of the member's surviving children reach the age of 18, the guardian of such children. This continues until every such child dies or reaches the age of 18, *or*

(3) If there is no surviving spouse or child under 18, the mem-



ber's dependent father or mother or both (as determined by the board of trustees) will receive the pension until remarriage or death. Code 411.6(8), as amended by Laws 1955, chs. 204, 205

4.70. If the board of trustees decides a member's death is "accidental," the benefits listed below will be paid instead of the "ordinary" death benefits. A member's death is "accidental" if it was the natural and proximate result of an accident or exposure occurring while the member was in the actual performance of duty. The "accidental" death benefits are payable as follows:

(a) The persons who have an insurable interest in the member's life and who have been listed by him as his beneficiaries are paid his accumulated contributions, *or*

(b) If there are no persons named as beneficiaries, the accumulated contributions are paid to the member's estate, *and*

(c) In addition to the benefits payable under either (a) or (b) there must be paid an amount equal to one-half of the member's average final compensation to the following persons:

(1) The spouse as long as he or she remains unmarried, *or*

(2) If there is no spouse, or if the spouse dies or remarries before any of the member's surviving children reach the age of 18, the guardian of such children. This will continue until every child dies or reaches the age of 18, *or*

(3) If there is no surviving spouse or child under 18, the member's dependent father or mother or both (as determined by the board of trustees) will receive the pension until remarriage or death.

(d) However, if there is no surviving unmarried spouse or children under the age of 18 or dependent father or mother, there must be paid to the member's estate an amount equal to one-half of his salary for the year preceding his death. This amount is in addition to the benefits payable under either (a) or (b) above. Code 411.6(9), as amended by Laws 1955, chs. 204, 205

4.71 When a member ceases to be a fireman through causes other than death or retirement, he shall receive upon demand a return of his accumulated contributions. Code 411.6(10)

4.72 See section 4.67 above for death of a member who had been receiving retirement benefits.

4.73 Payments under workmen's compensation or similar laws to a member's dependents on account of his death must be subtracted from the benefits provided under the fireman's retirement fund in the manner set out in section 411.6(12) of the Code. Code 411.6(12). See also section 4.74 below.

#### *Other insurance plans*

4.74 The Workmen's Compensation Law, chapter 85 of the Code, does not apply to persons entitled to benefits from any firemen's pen-



sion fund except volunteer firemen. Code section 85.61 defines a volunteer fireman as "any active member of an organized volunteer fire department in this state and any other person performing services as a volunteer fireman for a municipality at the request of the chief or other person in command of the fire department of such municipality, or of any other officer of such municipality having authority to demand such service, and who is not a full-time member of a paid fire department."

4.75 Cities and towns that have volunteer fire departments may insure their members against death or injuries. Code 368.14

4.76 Fire department employees cannot be included in group insurance systems set up by a city. Code 365A.7

#### *Hours of work*

4.77 The period of time firemen in certain cities are required to remain on duty is limited. Code 410.19

(a) Firemen in cities with populations of 15,000 or more cannot be required to be on duty for periods of time totaling more than an average of 12 hours per day in a given month. Also, no single duty period or shift can exceed 24 hours except in emergencies. When ordered by the fire chief or other commanding officer, firemen may be required to remain on duty until an emergency has passed. Code 410.19

(b) These time limitations do not apply to the chief or other persons in command of a fire department. Nor do they apply to firemen who are employed subject to call only. Code 410.20

#### *Bonds required of fire personnel*

4.78 Municipal officers who are required to be bonded must furnish a bond of the amount set by state law or by ordinance. If an officer receives less than \$100 a year, the municipality may pay for his bond. Code 64.13-.14

4.79 For indemnification against loss from embezzlement of municipal funds by municipal officers and employees, the city or town council has authority to purchase bonds running to the municipality which cover all such officers and employees. Code 368A.1(13)

4.80 The bond of the State Fire Marshal is \$5,000. Code 64.6

#### *Training*

4.81 All municipalities may require the attendance and pay the expenses of firemen and other employees at conferences and short courses designed to increase their efficiency. Code 368.13

#### *Civic exemptions*

4.82 Active members of any fire company are exempt from serving state military or jury duty. Code 102.1. [How long a fireman has been a member is unimportant as long as he is active at the time. Moreover,



no specific form of firefighting organization is required for its members to obtain this exemption if the department is under the control of some municipality. Op. Atty. Gen., 1916, p. 37; Op. Atty. Gen., 1911-12, p. 856]

(a) Persons who are presently inactive, but who have served the department faithfully for at least 10 years, are entitled to be exempt from jury duty and peace time state military service. In order to obtain these exemptions they must first obtain a certificate of service as evidence of their status in the manner outlined in section 102.3 of the Code. Code 102.1-.3

(b) A fine and imprisonment are the punishments for the use of any false claims to these exemptions. Code 102.1-.2, 102.4

4.83 With respect to jury duty in the federal courts, in the interest of public health, safety or welfare, members of fire departments of any state or its subdivision are exempt from federal jury service. 28 USCA 1862

#### *Special privileges accorded firemen*

4.84 Firemen are given free transportation in intracity passenger carriers. Code 368A.23

4.85 All other common carriers of passengers may issue free passes to firemen for travel within the city while wearing their insignia. Code 479.94

#### *Right to unionize*

4.86 [Section 553.11 of the Iowa Code grants "men and women" the right to unionize. Although there appears to be no Iowa case on the matter, the wording of section 553.11 seems sufficiently broad to include municipal employees. If the act does apply to city employees, any municipal ordinance which prohibits city employees from joining labor unions would be void for being inconsistent with state law. Code 366.1

[The right of municipal employees, specifically firemen, to unionize may not be as important as it might appear at first glance. First, the right of employees to organize, and the obligation of employers to bargain collectively with them are two distinct rights. Thus, it is possible that in Iowa, even though municipal firemen may have the right to unionize, municipalities lack the authority to enter into contracts with firemen's unions. Several states that have decided the question seem to require that such authority be expressly given by state law, since the municipality is merely a "creature of the state." And no such authority can be found in the Iowa Code. (Miami Waterworks Local No. 654 v. City of Miami, 157 Fla. 445, 26 So. 2d 194 (1946); cf. C. I. O. v. City of Dallas, 198 S. W. 2d 143 (1946))

[Second, even if Iowa municipalities have authority to bargain col-



lectively with firemen's unions, they would certainly lack the power to change state law. Therefore, inasmuch as appointments, tenure, promotions, demotions, suspensions, removals, reinstatements and other working conditions of firemen are largely governed by state law, the topics for collective bargaining are limited. Cf. *Hagerman v. City of Dayton*, 147 Ohio 313, 71 N. E. 2d 246 (1947)]

#### *Conduct and behavior of state and municipal employees*

4.87 If any officer willfully and maliciously oppresses any person, under the pretense of acting in his official capacity, he may be subject to fine and imprisonment. He also is liable civilly. Code 740.3-.4

4.88 If any person tries to exercise or to officiate in any office or place of authority in this state without having been legally authorized to do so, he may be fined or imprisoned or both. Code 740.4

4.89 If a person falsely assumes to be a special agent of the Iowa Department of Public Safety or a conservation officer, he may be subject to fine or imprisonment. Code 740.5

4.90 Any state officer who accepts a bribe in connection with any official matter may be subject to imprisonment, or to imprisonment and a fine. Code 739.2

(a) The person who makes the bribe may be subject to the same punishment. Code 739.1

(b) Upon conviction, either party to the bribery is disqualified forever from holding any office under the laws of this state. Code 739.3

4.91 Any person other than a state officer who accepts a bribe from anyone, given for the purpose of corruptly soliciting any place, office or position of trust within this state, may be subject to a fine and imprisonment. Code 739.4-.5

4.92 If any state, county, township or other local officer directly or indirectly accepts a reward for doing, or neglecting to do, his public duty, he may be subject to fine or imprisonment. Code 739.10

4.93 Any person who gives or offers to give, directly or indirectly, a reward to any state or local officer, with a view toward corruptly influencing the official acts of the officer, may be subject to imprisonment or fine. Code 739.11

4.94 If any officer or person willfully fails to take a required oath before beginning his public duties, he may be subject to fine, imprisonment or both. Code 740.11

4.95 A public officer or employee who has charge or custody of any property, such as motor vehicles or other equipment, owned by the state or any of its governmental subdivisions cannot use or permit such property to be used for any private purpose. Code 740.20

#### *Political activity*

4.96 No officer or employee under civil service can make any kind



of political contribution, or take part in any political activity, except voting. Code 365.29

4.97 It is unlawful for any person to use or permit to be used any motor vehicle owned by the state or any of its political subdivisions for transporting political literature or persons engaged in political campaigning. Code 740.15

4.98 A state officer or employee cannot leave his state employment during duty hours to engage in political campaign work unless he is a candidate for political office. This exception qualifies sections 740.13 to 740.16. Code 740.16-.17

4.99 It is unlawful for any person or political organization to solicit donations for political purposes from any member or employee of any commission, board or agency created under the statutes of Iowa. Code 740.13



# Authority of Local Units to Regulate for Fire Prevention

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## *Municipal ordinances*

5.1 All municipalities have power to pass ordinances, if not inconsistent with state laws, to carry into effect the powers and duties given to them, and to provide laws necessary and proper to promote public health and safety. Code 366.1

(a) Chapter 366 of the Code sets the requirements ordinances must meet, and the procedures that must be followed in their adoption. Code 366.2-.15

(b) Municipalities can enforce ordinances with fines not exceeding \$100 or imprisonment not exceeding 30 days. Code 366.1

## *Municipal fire ordinances and building codes*

5.2 Municipalities may adopt fire prevention and building codes and provide for the regulation and inspection of all construction, major repairs and remodeling of buildings and the installation of such facilities as heating and electricity. Code 368.1, 368.9, 366.7 as amended by Laws 1955, ch. 191

(a) Complete codes relating to construction, maintenance and operation of buildings may be adopted by reference. Code 366.7, as amended by Laws 1955, ch. 191

## *Municipal building zones, restricted residence districts and building lines*

5.3 Cities and towns also can regulate and restrict the way in which property is put to use and the manner in which buildings are constructed, to promote the health, safety or general welfare of the community. To achieve these purposes, the council may divide the city or town into districts. Code 414.1-.2

(a) On the basis of these districts, regulations must be set up to promote safety from fire, panic and other dangers. Such regulations must be made with reasonable consideration of such things as the character of the areas and to encourage the most appropriate use of land. Code 414.3

(b) The council is required to provide for the manner of determin-



ing the necessary regulations. These regulations may be amended or repealed, subject always to protests presented in the manner required by chapter 414. Proper notice and hearings must also be provided. Code 414.4-5

5.4 A zoning commission must be appointed to make recommendations regarding districting if a municipality is to avail itself of the powers given by chapter 414. Code 414.6

5.5 A board of adjustment must also be appointed, which may in certain cases make exceptions to zoning ordinances, rules and regulations. Any person aggrieved by the administration of the zoning law may appeal to this board, which has the power to hear and decide appeals. The effect of an appeal—whether successful or unsuccessful—and the required procedures are outlined in chapter 414. Code 414.7-.19

5.6 In case of a violation of chapter 414 or any zoning ordinance, the council, in addition to any other remedies it might have, may institute a court action to enforce the law and prevent further violation. Code 414.20

5.7 The provisions of the local laws made under the authority of chapter 414 govern when they conflict with any other ordinance or law, state or otherwise, if such local laws require a higher standard. Code 414.21

5.8 Cities and towns *may*, and upon the petition of 60 percent of the real estate owners of the district *must*, establish restricted residence districts. Code 415.1

(a) Under this authorization, cities and towns can provide for reasonable regulation of the construction and use of buildings within restricted residence districts, and can require building permits. Code 415.2

(b) Any building erected, altered or used in violation of chapter 415 will be considered a nuisance, which these cities and towns are empowered to abate, either by ordinance or by proceedings in the courts, or both. Code 415.3

5.9 Chapter 415 on restricted residence districts does not apply to any city or town that decides to proceed under chapter 414. Code 414.22

5.10 Cities and towns can establish building lines on private or public property, for the protection of public health and safety, by ordinance, under the procedure of code section 368.10. Code 368.10

#### *Municipal regulation of dangerous activities and conditions*

5.11 All municipalities have the power to limit the number of, regulate, license or prohibit gasoline curb pumps in their streets, highways, avenues, alleys and other public places. Code 368.8(6)



5.12 Consistent with standards of nationally recognized fire prevention agencies, they may regulate the storage, handling, use and transportation of flammables, combustibles and explosives, within their corporate limits. Code 368.11

5.13 They also can regulate the manufactories of fertilizers and chemicals. Code 368.5(1)

5.14 Also, they have the power to abate, restrain or prohibit any nuisance, public or private, including those enumerated in the Code. Moreover, they may maintain court actions in equity to restrain or abate certain airport hazards. Code 368.3, 329.5; see also Code 329.2, 657.1-.2

5.15 Municipalities may restrain and prohibit the accumulation of junk and other offensive materials if this becomes necessary to protect the public. Code 368.7

5.16 Furthermore, by ordinance they can require property owners to cut all weeds and other growth which constitute health, safety or fire hazards. Code 368.31

5.17 Cities and towns also can provide for the removal, repair or dismantling of dangerous buildings or structures, and assess the costs against the property. Code 368.9

### *County zoning*

5.18 All counties—at the option of their boards of supervisors only—have power to regulate and restrict the size, number, location and use of buildings and also construction on land outside cities and towns, except farm land and buildings used primarily for an agricultural livelihood. Code 358A.1 and 358A.3, as amended by Laws 1955, ch. 180, 358A.2

(a) The board may divide the county into districts, and regulate the construction, alteration and use of buildings or land according to districts. Code 358A.4

(b) Such regulations must be designed to promote safety from fire and panic, among other things, and must be made with reasonable consideration for such things as the character of the areas and to encourage the most appropriate use of land. Code 358A.5

(c) The board is required to provide for the manner of determining, enforcing and changing the zoning regulations, which may be changed, amended or repealed—subject always to certain protests by the affected property owner. Code 358A.6-7

5.19 A zoning commission and a board of adjustment must be appointed if the county is to avail itself of the powers conferred by chapter 358A. Code 358A.8, 358A.10

5.20 The board must also appoint an administrative officer to enforce its zoning ordinances and resolutions. Any person aggrieved by



this officer may appeal to the board of adjustment. Code 358A.9, 358A.13

5.21 In case of any violation of chapter 358A or any zoning ordinance, the board, in addition to any other remedies it might have, may institute a court action to enforce the law and prevent further violation. Code 358A.23

5.22 The regulations made under the authority of chapter 358A govern when they conflict with any other law, state or otherwise, if the regulations require a higher standard. Code 358A.24

5.23 Any violation of chapter 358A constitutes a misdemeanor, punishable by a fine of not more than \$100 or imprisonment of not more than 30 days. Continued illegal occupancy or use is a continuing violation and may be the subject of repeated prosecutions. Code 358A.26



# Fire Regulation of Public and Private Buildings and Premises \*

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## *Housing Law\*\**

6.1 The housing law (chapter 413 of the Code) applies to cities with population of 15,000 or more. Other cities and incorporated towns may adopt this law, or parts of the law, by ordinance. Code 413.1-.2

6.2 All dwellings erected after July 4, 1919, that exceed one story in height must comply with the following laws:

(a) No dwelling can exceed four stories in height unless constructed of fire-resistive material. Code 413.35

(b) Every flat-roofed multiple dwelling more than one story high must have in its roof a fireproof or metal covered bulkhead or scuttle not less than two feet by three feet in size that is easily accessible to all occupants of the building. Code 413.37

(c) No wooden multiple dwelling may exceed two stories; wooden buildings of more than two stories cannot be altered into multiple dwellings. Code 413.46

6.3 Occupants of dwellings have the following duties to maintain their dwellings in safe condition:

(a) If the local health officer requires it, a proper light must be kept burning each night in the public hallways near the stairs in multiple dwellings. Code 413.60

(b) Multiple dwellings cannot have a transom, window or door opening into a public hall from any part of the building where paint, oil, gasoline or drugs are kept. This provision, however, does not apply to hotels. Code 413.75

(c) No dwelling or its grounds can be used for storing or handling any dangerous or combustible matter, except as prescribed by the fire

\* The responsibility for enforcement of state fire protection laws is as follows: fire escape laws—State Fire Marshal (see section 7.17 (a) below), building code—local health officers and municipal building inspectors (see sections 6.4 (b) and 9.1 below); hotel laws—State Department of Agriculture (see section 9.14 below). Op.Atty.Gen., 1948, p. 23.

\*\* Sections 6.2 through 6.4 are applicable to cities of 15,000 or more population and cities and towns that have adopted these provisions of the Housing Law by ordinance.



commissioner or other proper official, and then only under authority of a written permit. Code 413.74

(*d*) Every dwelling must be kept clear and free from accumulations of filth, rubbish and other trash. Code 413.69

(*e*) If any room in a dwelling is overcrowded, the local health officer may order the number of persons sleeping or living there reduced. Code 413.77

(1) The local health officer also may prohibit the letting of lodgings by any of the tenants in a multiple dwelling, and may prescribe the conditions under which lodgers or boarders may be taken. Code 413.78

(2) The local health officer, moreover, may issue an order requiring all persons living in a dwelling that is unfit for human habitation, or dangerous to life or health because of defectiveness or need for repairs, to show cause why that dwelling should not be vacated. He also may declare a dangerous dwelling a public nuisance, and order it to be removed, abated or improved. Code 413.79-.80

6.4 Enforcement and penalties under the housing law are as follows:

(*a*) As the penalty for failure to comply with chapter 413, the health officer or his assistant is authorized to revoke or cancel any permit or approval for the construction or alteration of a dwelling. Code 413.103

(*b*) Generally, the enforcement of all housing laws is the responsibility of the city health inspector, except sections 413.89 to 413.91 (ways of egress and skylights) and 413.35 to 413.46 (fire protection), which are the responsibility of the city department of buildings where one exists (see section 9.2 below). But in cities of more than 100,000 population that have a department of building inspection, the city council may, by ordinance, charge any person in that department who devotes his entire time to the supervision and enforcement of municipal ordinances relating to building construction with the powers and duties (otherwise given to the city health inspector) of sections 413.92 to 413.103, inclusive, which pertain to the requirements of housing construction and remedies. Code 413.104, 413.121

(*c*) Every person who violates or assists in the violation of chapter 413 is guilty of a misdemeanor punishable by a fine of not less than \$10 or more than \$100, and in default of payment, imprisonment in the county jail for not more than 30 days. Code 413.107

(*d*) The owner of any building that stands in violation of chapter 413, or that constitutes a nuisance, is subject to a civil penalty. Furthermore, a judgment in these civil actions is a lien upon the defective buildings until paid. Code 413.108-.111

(*e*) The health officer may institute any appropriate action that will prevent, restrain, correct or abate these violations and nuisances. Code 413.113



6.5 For stairs, exits and fire escapes in housing, see sections 7.19 through 7.28 below.

*Hospitals and other institutions that require hospital licenses*

6.6 The facilities and construction of all hospitals in the state of Iowa, including institutions wholly or partially constructed with federal funds under Public Law 725, 79th Congress [federal institutions such as V. A. hospitals are not within this law by definition] must comply with the following Iowa State Department of Health regulations on fire prevention and safety: Code 135B.1, 135B.3; 1954 IDR 131

(a) The facilities and construction must be in accordance with the rules and regulations of the state and local fire authorities, and must be so certified by the local authority. 1954 IDR 131

(b) There must be at least one piece of first aid firefighting equipment on each floor of every hospital building. Where special hazards exist, the type of firefighting equipment recommended by the State Fire Marshal must be used. 1954 IDR 131

(c) Fire extinguishers must be inspected periodically and recharged. The date of the inspection must be recorded on the tag attached to the extinguisher. 1954 IDR 131

(d) A system for warning patients and attendants of fire must be provided. The type, location, device and central point of this system must be determined by the local fire authority or the State Fire Marshal. 1954 IDR 131

(e) All employees must be instructed concerning the fire prevention facilities of the institution, the use of firefighting equipment and the methods for removing patients from the building. A specific person within the institution must be designated to give these instructions and to be responsible for evacuating patients in case of fire. 1954 IDR 131

(f) All parts of the heating system must be constructed and maintained so as to eliminate fire hazards. Metal and asbestos protection must be provided for all steam and hot water pipes within two inches of woodwork. 1954 IDR 131

(g) Laundry chutes and dumbwaiter shafts must be lined with fireproof materials, and must have close fitting doors. No shaft can terminate in the attic. 1954 IDR 131

(h) Elevator shafts must be enclosed with fireproof material. There must be no open grille work in new construction. 1954 IDR 131

(i) Plain lettered red exit lights must be located at fire exits on each floor and kept burning from sunset to sunrise. 1954 IDR 131

(j) All exit doors must open outward. 1954 IDR 131

(k) When restraints are used on patients, careful consideration must be given to the methods by which they can be speedily removed in case of fire or other emergencies. 1954 IDR 130



(l) Any electrical heating appliance used for patient care must be carefully checked periodically. 1954 IDR 130

(m) Doors to patients' rooms must be wide enough to permit the removal of occupied beds. Where it is not practical to widen the corridors and the doors of the individual rooms, the State Fire Marshal may allow the use of mattresses equipped with two straps on each side and one on each end. These straps, which are to be used as hand grips, must be substantially fastened to the mattress and be sufficiently strong so that patients can be easily removed from the beds and carried to the outside. 1954 IDR 128

(n) An adequate number of stairways must be provided with hand-rails, and they must be wide enough and designed so that patients can be removed on stretchers. 1954 IDR 128

(o) There must be at least two exits leading to the outside of the building from each floor. Such exits must be located as near to opposite ends of the building as practical. 1954 IDR 128

(p) Policies, procedures, rules and regulations with which each employee is to be familiar must be provided for the administrative and technical guidance of the hospitals' personnel. 1954 IDR 127

#### *Nursing homes\**

6.7 A nursing home may not be licensed until it has complied with the minimum standards for prevention of fire and for protection of life and property against fire and has written approval from the State Fire Marshal or the local fire authority certifying to its compliance. 1954 IDR 134

6.8 All nursing homes must comply with the following Iowa State Department of Health regulations for fire prevention and safety: Code 135C.1-.2, 1954 IDR 134

(a) There must be more than one exit leading to the outside of the nursing home building from each floor. Exits must be located as near to the opposite ends of the buildings as practical. 1954 IDR 134

(b) Facilities and construction must be in accordance with the rules and regulations of state and local fire authorities, and must be certified by the local authority. 1954 IDR 134

(c) There must be at least one piece of first aid firefighting equipment on each floor of every nursing home building. Where special hazards exist, the type of firefighting equipment recommended by the State Fire Marshal must be used. 1954 IDR 134

\* A nursing home is any place in which accommodation is maintained primarily for the care—for more than 24 hours—of two or more nonrelated aged or sick persons who require convalescent care, and includes such places as rest homes, boarding houses and similar institutions. However, hotels and similar places that furnish their guests only food and lodging (or either) are not covered by these regulations. Code 135C.1, 1954 IDR 133



(d) Fire extinguishers must be inspected periodically every six months and recharged as necessary. The date of the inspection must be recorded on the tag attached to the extinguisher by a reliable person, preferably the local fire chief or service man from the fire extinguisher company. 1954 IDR 134

(e) A system for warning the occupants and attendants of fire must be provided. The type, location, device and control point are determined by the local fire authority or the State Fire Marshal. 1954 IDR 134

(f) All employees must be instructed concerning the fire prevention facilities of the home, the use of firefighting equipment and the methods for removing patients from the building. A specific person within the home must be designated to give these instructions and to be responsible for evacuating patients in case of fire. 1954 IDR 134

(g) All parts of the heating system must be constructed and maintained so as to eliminate fire hazards. Metal and asbestos protection must be provided for all steam and hot water pipes within two inches of the woodwork. 1954 IDR 134

(h) Laundry chutes and dumbwaiter shafts must be lined with fireproof materials, and must have close fitting doors. Shafts may not terminate in attics. 1954 IDR 134

(i) Elevator shafts must be enclosed with fireproof material. There must be no open grille work in new construction. 1954 IDR 134

(j) Plain lettered red exit lights must be located at fire exits on each floor and must be kept burning between sunset and sunrise. 1954 IDR 134

(k) All doors must open outward. 1954 IDR 134

(l) All stairways must have handrails. All open stairways must be adequately protected with guard rails. Non-slip treads are recommended. Elevators may be required in multi-story buildings. 1954 IDR 135

(m) There must be at least one telephone in the building, and additional telephones if needed to summon help promptly in case of emergency. 1954 IDR 134

(n) Hallways must not be used for sitting rooms or patient bedrooms. 1954 IDR 136

(o) Restraints may be applied to a patient only on written order of a physician. In case of emergency, however, they may be applied until the physician arrives. Doors may not be locked so that they cannot be opened immediately in an emergency. 1954 IDR 136

(p) Willful or repeated violation of these regulations is cause for the Iowa State Department of Health to deny, revoke or suspend a nursing home's license. 1954 IDR 134



### *Day nurseries*

6.9 Before a license can be issued to a child nursery—a home or institution that cares for six or more children, two years old or older, temporarily during part or all of the day—the nursery itself must be inspected by the local fire department or the State Fire Marshal. Moreover, all recommendations for fire safety based on this inspection (and approved by the State Department of Social Welfare) must be carried out. 1954 IDR 352, 354

(a) No nursery can be operated where any condition exists that is injurious to the moral and physical welfare of the children. 1954 IDR 353

(b) A nursery that uses facilities above the first floor of the building must provide the building with an approved fire escape. 1954 IDR 354

(c) Any new building or remodeling plan for a nursery must be approved by the State Department of Social Welfare before actual construction is begun. 1954 IDR 353

(d) The nursery must provide fire extinguishers within the building at places recommended by the local fire department. 1954 IDR 353

(e) The general premises must be kept free from fire hazards and accumulations of combustible matter. More specifically, outdoor play areas must be maintained in good condition throughout the year; must be kept free from litter, rubbish and flammable matter at all times, and must be fenced if located on a busy thoroughfare. 1954 IDR 353, 354

### *Children's boarding homes*

6.10 Boarding homes must conform to state laws and local ordinances regarding fire protection, building construction and maintenance. 1954 IDR 365

(a) Children's beds may not be placed in an attic, basement, stairway, storeroom or unfinished room. Also, it is not advisable to provide sleeping quarters for children in rooms used for general family purposes, i.e., kitchens, dining or living rooms. 1954 IDR 365

(b) The intentional or persistent violation of these rules will be cause for revocation of the home's license. 1954 IDR 364

### *Child-placing agencies*

6.11 All buildings and grounds of all private child-placing agencies must conform with state and local laws relating to health and safety, and standards prescribed by the State Department of Health and by the State Board of Social Welfare. Fire inspections must be made twice a year by the local fire inspector or by the State Fire Marshal. 1954 IDR 358, 359

(a) It is the responsibility of the agency to eliminate safety hazards in the building and on the playgrounds. 1954 IDR 360



(b) The children should receive practical instruction in the rules of safety. 1954 IDR 360

### *Schools*

6.12 In order for a school to be designated as "standard," it must have a suitable schoolhouse, grounds and out-buildings in proper condition and repair. Code 293.1

(a) It must have the necessary school equipment, and adequate heating and ventilating systems. Code 293.1

(b) Also, it must have complied with the requirements specified by the State Superintendent of Public Instruction, who sets minimum requirements regarding such things as heating, water supply and fire protection. Code 293.1-.2

6.13 Local school rules must prohibit smoking by students. Code 279.9

6.14 Fire drills must be conducted at least once a month, as required by the State Fire Marshal, in both public and private schools in all buildings that are more than one story high. Doors of all school buildings must always be kept unlocked during school hours. Code 100.31

6.15 For exits and fire escapes in schools, see *Fire Escapes and Other Means of Escape* below.

### *Industrial buildings*

6.16 Steam boilers must have steam gauges, safety valves and water gauges in good working order. Violation of this law is a misdemeanor punishable by fine. Code 88.5, 88.13(2)

6.17 All places that keep or use molten metal or other materials that give off deleterious gases or fumes must be equipped and arranged so as to permit the gases or fumes to escape into the open air. All violations of this law, which are misdemeanors, are punishable by fine. Code 88.9, 88.13(3)

### *Warehouses*

6.18 For laws regulating bonded and unbonded agricultural warehouses, see chapters 543 and 544, 1954 Code, respectively. Note section 543.15 of the Code especially, which requires bonded warehousemen to insure stored agricultural products at their current value against loss by fire and inherent explosion.

(a) The State Commerce Commission provides by regulation that all licensed, bonded storage facilities must be maintained in a manner suitable for proper and safe storage of the products stored there. 1954 IDR 72-3

(1) Failure of the warehouseman to provide such facilities can be cause for the commission to revoke his license. 1954 IDR 73



(2) For the exits required of bonded warehouses, see section 7.38 below.

(b) The Iowa Secretary of Agriculture has the duty to provide regulations necessary to protect products stored in unbonded agricultural warehouses. Code 544.2

### *Grain bins or cribs*

6.19 It is not unlawful to break the seal of a grain bin sealed under the "Unbonded Agriculture Warehouse Act" (Chapter 544 of the Code), when this is necessary to prevent damage, loss or destruction of the grain stored there. In all other cases, the unlawful breaking of such a seal is a misdemeanor. Code 544.23

6.20 Under commodity credit loans, the producer, generally the farmer, is charged by federal regulation with the responsibility to care for grain under seal because of a mortgage with the federal Commodity Credit Corporation. By terms of the loan agreement the producer usually promises to "take whatever action necessary to keep the commodity in safe and good condition." 6 CFR 606.15, 16, 17, 18; USDA C.S.S. 722-2; Commodity Loan form A(2-16-53) and AA(2-16-53)

### *State parks*

6.21 No fire may be built in any state park or preserve except in places provided for that purpose, and, even then, all fires must be extinguished when such places are vacated unless used immediately by some other party. Code 111.40

(a) The use of firearms, fireworks, explosives and weapons by the public in state parks is prohibited. Code 111.42

(b) No person may dispose of waste, litter or the like in these parks and preserves except in areas provided for that purpose. Code 111.43

(c) Violations of these laws are punishable by fine or imprisonment in the county jail. Code 111.57

### *Municipal parks*

6.22 The municipal park board may prescribe rules and regulations for the government of parks or public grounds under their control. Code 370.22

(a) To become effective, copies of such rules must be posted at each main entrance. Code 370.22

(b) The board of park commissioners also has power to regulate or forbid the stretching of electric wire by anyone in parks or along their streets. Code 370.23



### *Other public property*

6.23 The State Executive Council must appoint a custodian who has charge of the preservation and protection of all state grounds, buildings and other property at the seat of the state government. The custodian must make biennial reports showing in detail, among other things, the condition of this property and a report of any loss or destruction affecting it. Code 18.1-.3

6.24 The State Executive Council also must provide suitable quarters for the Division of Vital Statistics, which must be properly equipped with fireproof vaults and filing cases for permanent and safe custody of official records. Code 144.3

6.25 As for county jails, the sheriff or his assistants must remove all prisoners to safety when the jail is on fire or threatened by fire. Code 356.8

(a) County jails must be kept clean and in a healthful condition, and it is the duty of the district court clerk and the county attorney to make periodic inspections of them. Code 356.5, 356.9-.10

(b) It is the special duty of the grand jury to inquire into the condition and management of public prisons within the county. It is entitled to free access to county jails at all reasonable times. Code 771.2-.3

6.26 In townships, the clerk, under the direction of the township trustees, has charge of township halls; further, he has all the power of a constable to protect this property. In case of joint ownership by a township and town, this becomes a joint responsibility. Code 360.6

6.27 A municipal board of auditorium trustees can make and enforce all rules and regulations necessary to govern the administration, use and preservation of auditoriums. Code 374A.6

### *State forests and wooded areas*

6.28 The State Conservation Commission is empowered to provide for protection against fire on state and privately owned forests and wild life areas, and to cooperate with federal and other state agencies in their protection programs. Code 107.24(9)

(a) The U.S. Secretary of Agriculture is authorized and directed, in cooperation with state officials, to recommend for each forest region of the United States such systems of forest fire prevention and suppression as will adequately protect the timber lands. 16 USCA 564

(1) Because of the hazard of dead trees, he may set forth policies for the control and extermination of insects and tree diseases which menace forest lands. 16 USCA 594

(2) He is authorized and directed to conduct investigations and experiments to determine the best methods of protecting forest growth from fire. For this purpose he may maintain a Central States Forest



Experiment Station in Ohio, Indiana, Illinois, Kentucky, Missouri, Iowa and in adjacent states. 16 USCA 581, 581a

### *State-owned watersheds*

6.29 The U.S. Secretary of Agriculture is authorized to enter into agreements with states or group of states to cooperate in organizing and maintaining a system of fire protection on private or state forest land that is in the watershed of a navigable river. 16 USCA 563

(a) No such agreement, however, can be made with any state that has not provided by law for a system of forest-fire protection. 16 USCA 563

(b) But in no case can the amount spent by the federal government in any one state, in any one fiscal year, exceed the amount appropriated by that state for the same purpose during that fiscal year. 16 USCA 563

### *Boats*

6.30 Any boat or watercraft propelled by machinery, or by attachment to another craft propelled by machinery, and operated for hire must be equipped with a fire extinguisher of the type and size approved by the State Conservation Commission that is capable of extinguishing burning gasoline. Code 106.9, 106.11(1)

### *Coal mines and mining*

6.31 At least two hand fire extinguishers must be kept ready for use in a convenient place near all hoisting, air and escape shafts, exits, stables, boiler and engine rooms in mines and all other places where gasoline engines are used. Code 83.98

6.32 Recognizing that outcrop and underground fires in coal formations constitute a waste of the nation's resources as well as a menace to the health and safety of the public, Congress has declared its policy to provide for controlling and extinguishing such fires. 30 USCA 551

(a) To carry out this policy, the Secretary of the Interior has been authorized to conduct research regarding the cause and extent of outcrop and underground fire, and the methods for controlling and extinguishing them. The results of this research may be published and information about the various methods investigated may be disseminated. The U.S. Secretary of the Interior also is authorized to plan and carry out projects relating to the control and extinguishment of fires in coal formations. 30 USCA 553

(b) Before federal aid can be given to projects involving non-federal lands, except when such action is necessary for the actual protection of federal property, the secretary may require states and local governments to pass laws providing for the protection of coal forma-



tions on state or privately owned land, and for the cooperation of the state and local authorities with the project. 30 USCA 555

(c) In addition, the secretary may require an agreement promising the performance and maintenance of such projects. 30 USCA 555

(d) With respect to certain non-federal lands, the secretary *must* require the state or person that owns or controls the land to contribute 50 percent of the cost of planning and executing the project. 30 USCA 555



# Fire Escapes and Other Means of Escape

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## *Buildings that require fire escapes*

7.1 Chapter 103 of the Iowa Code, which concerns fire escapes and other means of escape from fires, applies to all buildings three or more stories high and to all other buildings specifically designated in that chapter. Code 103.1. "Story" is defined to include basements if the basement story is, on the average, five or more feet above the ground. Code 103.2. [A two and one-half story building should be treated as a three-story building under chapter 103. Op.Atty.Gen., 1913-14, p. 95.]

7.2 Class "A" or "B" fire escapes must be provided for the following types of buildings: hotels, lodging houses, tenements, apartment buildings, schools, college buildings, seminaries, hospitals, asylums, opera houses, theaters, assembly halls, office buildings, retail or department stores, and factories that are required by law to be equipped with fire escapes. Code 103.7(1)

7.3 All other buildings that must be equipped with fire escapes must use Class "A," "B" or "C" fire escapes, or a combination of the three.\* Code 103.7(1)

(a) Class "C" escapes must not be used on any building more than three stories high in which more than five persons are allowed at any one time upon any of the floors above the third story. Code 103.7(2)

(b) Class "C" escapes must not be used where any of the persons allowed on floors above the third story are females or minors. Code 103.7(2)

(c) Class "C" escapes may be used on the following buildings when permitted by the State Fire Marshal, where peculiar conditions exist, and where the hazards are not too great: Code 103.7(2)

(1) On buildings of more than three stories. But when ladder fire escapes are allowed, they must be offset at the platforms and must not continue in the same line for more than one story.

\* Specifications for Classes "A," "B" or "C" fire escapes may be found in the pamphlet, "Fire Escape Law," published by the State Fire Marshal. Copies of this pamphlet may be obtained from the State Fire Marshal, State Office Building, Des Moines 19, Iowa. See also sections 7.4-7.6 below.



(2) On ordinary dwellings not more than three stories high that are temporarily used in part for lodging purposes, if not more than five persons, none of whom is under 16 years of age, occupy the third floor.

### *Classes of fire escapes*

7.4 Class "A" fire escapes consist of escapes that are more safe and efficient than outside ladders and stairways and that have been approved by the State Fire Marshal. However, they may include inside stairs and means of escape in fireproof buildings when likewise approved. Code 103.5

7.5 Class "B" fire escapes consist of suitable outside stairs of not less than 22 inches clear width of steel or wrought iron, with a platform and a stationary stairway extending to within six and one-half feet of the ground, or a drop or counterbalanced stairway from the second story platform or balcony to the ground. Code 103.5

7.6 Class "C" fire escapes consist of at least one ladder, not less than 18 inches wide, of steel or wrought iron attached to the outside wall. They must have platforms of steel or wrought iron, enclosed by suitable railings and close enough to the windows of each story above the first floor to make escape to the ladder from each story easy and safe. The ladder must extend to within six and one-half feet of the ground or be provided with a drop ladder hung at the second story so that it can be easily lowered for use. Code 103.5

### *Number of fire escapes required*

7.7 The following buildings must have fire escapes of the type specified by law: all buildings with three or more stories; two-story schoolhouses that do not have two stairways located approximately at each end of the hallway of the second story; every structure that has a stage, and every theater or opera house more than one story high, or that has balconies or galleries. The number of fire escapes needed is determined by the formula: Required Number equals "C" times "P." Code 103.3

(a) "P" is the highest average number of persons on any one floor above the first story. Code 103.3

(b) Each building, according to its ability to withstand fire hazards, is assigned a "C" number. Buildings are assigned "C" numbers according to the following table: Code 103.3

(1) Buildings with wooden or combustible walls, C equals .020.

(2) Buildings with brick or [in]combustible\* walls, and combustible interiors, C equals .014.

\* Although the Code word is "combustible," it is the opinion of the State Fire Marshal that the word should be "incombustible." See Laws 1915, ch. 302, for original enactment of this legislation.



(3) Buildings with brick or incombustible walls and incombustible roofs and slow burning construction, C equals .012.

(4) Buildings of fireproof construction throughout, C equals .007.

(5) Buildings that have wooden or combustible walls and efficient water sprinkler systems, C equals .014.

(6) Buildings that have brick or incombustible walls, combustible interiors and efficient water sprinkler systems, C equals .008.

(7) Buildings with brick or incombustible walls and incombustible roofs and slow burning construction that are equipped with efficient water sprinkler systems, C equals .006.

(8) Fireproof buildings equipped with efficient water sprinkler systems, C equals .003.

(c) When the fraction in the answer obtained from the formula exceeds  $33/100$ , the number of fire escapes required must be the next whole number. [For example, if the answer is 5.34, six fire escapes are required.] Code 103.3

(d) When the result includes a fraction of  $33/100$  or less, the fraction may be dropped if permitted by the inspector, except there must be at least one fire escape on all such buildings. [For example, if the result is 5.32, the inspector may permit five fire escapes. If the result is 0.32, one fire escape is required.] Code 103.3

(e) If it is necessary to pass within 20 feet of stairs or elevator shafts to reach the fire escapes from points more than 20 feet from such stairs or elevator shafts, additional fire escapes must be provided. Code 103.4(3)

(f) If there are peculiar, unusual or extreme hazards, additional fire escapes may be required. Code 103.4(3)

(g) Whenever the building inspector deems it necessary because of its height or the number of its occupants, a building must be equipped with a sufficient number of fire escapes to permit all occupants to exit within the periods of time set out below. In estimating the time, the rate of descent on the fire escapes cannot be more than one and five-tenths feet of height per second. The rate must be estimated to permit the exit of not more than one person per second. However, for buildings that have efficient water sprinkler systems, the estimated rate of time required for a complete exit may be increased. The extent of the increase is determined by the character and efficiency of the sprinkler system, provided peculiar or unusual fire hazards do not exist. The time period table is as follows: Code 103.4(4)

(1) Buildings with wooden or combustible walls, two minutes.

(2) Buildings that have brick or incombustible walls and combustible interiors, three minutes.

(3) Buildings that have brick or incombustible walls and incombustible roofs and slow burning interior construction, four minutes.



(4) Buildings of fireproof construction throughout, 15 minutes or less, depending on the hazard.

#### *Location of fire escapes*

7.8 All required fire escapes and exits must be located as follows:

(a) The first fire escape must be placed as far as possible from the existing inside stairway or passage that leads to the lower floors of the building, taking into account the hazard and the path to the fire escape from the stairway or passage. Code 103.4(1)

(b) The nearest fire escape must not be more than 200 feet from any inside stairway or passage that leads to the lower floor. Code 103.4(2)

#### *General construction requirements*

7.9 All fire escapes of whatever class must be of suitable materials, construction, arrangement and location to make them safe and efficient. Code 103.6(1)

7.10 Fire escapes of one class cannot be less safe and efficient than those of a lower class. The requirements of lower classes with respect to strength, platforms and access to windows and openings apply to any upper class, unless modification is allowed by authorized persons. Code 103.6(1)

7.11 The roof of the building must be accessible from the fire escape platform on the top floor. However, the State Fire Marshal may waive this requirement if, upon examination, he finds that ladders or other fire escape extensions would be dangerous. Code 103.6(2)

7.12 There must be adequate windows and openings leading to fire escape platforms to make escape safe and efficient. Code 103.6(3)

(a) There also must be adequate, safe routes to fire escapes, and all doors leading to them must be built one-half of glass and equipped with latches so that quick and easy escape may be made by breaking the glass. Code 103.6(3)

(b) No window or door leading to the platform of a fire escape can be locked from the inside. Code 103.6(3)

#### *Entrances, doors and emergency exits*

7.13 The following buildings must have entrances and exit doors that open outward and are fastened so that they can be opened easily from within: Code 103.8

(a) All hotels, churches, lodge halls, courthouses, assembly halls, theaters, opera houses, colleges and public schoolhouses.

(b) The entrance doors to all class and assembly rooms in public school buildings.

(c) Any other structure where the building inspector feels the hazard merits it.



7.14 Subject to final decision by the State Fire Marshal, building inspectors have power to determine the number, size and location of exits to fire escapes in the following buildings: Code 103.9

- (a) All theaters, opera houses and assembly halls.
- (b) Other buildings that have one or more balconies.

7.15 In all buildings that are used for lodging or sleeping purposes, and in opera houses, theaters and public assembly halls red exit lights must be kept burning at night and at other times when these buildings are darkened to indicate the way to the fire escape. The State Fire Marshal can enforce these requirements in other buildings that are occupied or used at night. Red lights, therefore, must not be used for other lighting purposes at locations where they might be mistaken for exit lights. Code 103.6(6)

7.16 Suitable signs indicating the location of the fire escapes must be posted at all entrances to elevators, stairways and landings, and in all rooms in buildings required to be equipped with fire escapes. Code 103.6(5)

#### *Duties of the State Fire Marshal*

7.17 The State Fire Marshal must adopt standard, uniform specifications for the various classes of fire escapes; copies of these specifications are furnished to all building inspectors to be kept on file in their offices. Code 103.11

(a) Except when otherwise specifically provided by law, the general charge, supervision, regulation and enforcement of fire escape laws are his responsibility. Code 103.10

(b) Further, he must make all necessary rules and regulations to carry out the purposes of chapter 103 of the Code. Code 103.12

(c) He must have these rules and regulations printed in pamphlet form for distribution. Code 103.12

(d) He has power to approve all plans relating to fire escapes. Code 103.12

(e) He must see that these plans conform to law; he makes all rulings and orders relating to them. Code 103.12

(f) He also has authority to decide disputes or disagreements concerning plans or specifications for fire escapes, and to make appropriate orders. Code 103.12

#### *Enforcement*

7.18 Any person who violates these laws or the State Fire Marshal's orders may be fined not less than \$25, nor more than \$100. This also applies to owners, agents or trustees who have full care and control of any building and who fail, refuse or neglect to comply with these laws or orders. Code 103.17



(a) Such persons first must be served with notice as provided in section 103.15.

(b) Each additional week of neglect to comply with the State Fire Marshal's order, after the 60 days allowed by law or an extension of time allowed by the marshal himself, constitutes a separate offense.

*Stairs, exits and fire escapes in housing\**

7.19 Every multiple dwelling erected after July 4, 1919, that is more than two stories high must have at least two independent exits, each of which must extend from the ground floor to the roof. Both must be located at a distance from each other, and arranged as provided in chapter 413 of the Code. Code 413.36

(a) These dwellings must have at least one flight of stairs extending from the entrance floor to the roof. Winding stairs are not permitted. Code 413.38

(b) The stair halls must be enclosed on all sides and constructed of fire-resistant material at least eight inches thick. The doors opening from stair halls must be fire-resistant, self-closing, swinging doors. Furthermore, there may be no transoms or openings from stair halls to any part of the building used for living purposes. At least one flight of stairs must be enclosed in fireproof walls from the cellar to the roof. Code 413.39-.40

(c) The building inspector may prescribe appropriate means of egress for multiple dwellings built before July 4, 1919, if he thinks compliance with these laws would not be practicable. Code 413.89

7.20 In all multiple dwellings erected after July 4, 1919, less than five stories high and with only one stairway, the entrance hall must be at least five feet wide; in dwellings of five stories or more, the width must be at least six feet. In dwellings with more than one stairway, the entrance hall must be an additional two feet wider for each stairway over one. Code 413.41

7.21 In every multiple dwelling erected after July 4, 1919, there must be a passageway from the street or alley to the yard. There also must be an entrance to the cellar or the lowest story from outside the building. The inside cellar stairs must be enclosed and have fire-resistant walls and self-closing doors. Code 413.41, 413.43, 413.45

7.22 All dumb-waiters, chutes, ventilating and miscellaneous shafts in multiple dwellings built after July 4, 1919, must be enclosed with fire-resistant material. In such dwellings more than two stories high or where more than two families live above the ground floor, all

\* Sections 7.19 through 7.29 are applicable to cities of 15,000 or more population and cities and towns that have adopted these provisions of the Housing Law by ordinance.



elevators must be in separate fire-resistant well-holes or shafts, with entrances protected by fire doors. Code 413.42

7.23 For any existing fire escape to be deemed a sufficient fire exit, it must satisfy the following requirements: Code 413.89

(a) All parts must be made of iron, cement or stone.

(b) It must consist of outside balconies properly connected with each other by adequate stairs or stationary ladders, with openings not less than 24 inches by 28 inches.

(c) It must have proper drop ladders or stairways from the lowest balcony long enough to reach a safe landing beneath.

(d) If fire escapes lead to a yard or court, there must be a safe and adequate means of escape to the street.

(e) There must be prompt and ready access to all fire escapes unobstructed by bathtubs, waterclosets, sinks or other obstacles.

7.24 Whenever any multiple dwelling does not have sufficient exits, the building inspector must order such additional exits as may be necessary. Code 413.90

7.25 Owners of multiple dwellings must keep their fire escapes in good order and repair, and paint them with two coats of paint whenever they become rusty. Code 413.81

7.26 No obstructions of any kind can be placed on fire escapes by any person. Code 413.81

7.27 No closet can be constructed under any staircase leading from the entrance story to the upper stories; furthermore, this space must be kept open and free from encumbrances. Code 413.44

7.28 All scuttles or bulkheads, and the stairs or ladders leading to them, must be easily accessible to all occupants and must be kept free from obstructions. Their doors must not be locked with a key at any time, but they may be fastened on the inside with movable bolts or hooks. Code 413.82

7.29 There must be a window or a door at the bottom of courts and shafts so that they can be cleaned properly. Code 413.88

#### *Fire exits in hotels*

7.30 Every new hotel three or more stories high must have a hall on each floor above the ground floor, that extends from one outside wall to another, with fire escapes at each end. These requirements may be modified, with the approval of the State Fire Marshal, if a hotel is of approved fireproof construction and has class "A" fire escapes. Code 170.38

7.31 Except for hotels of approved fireproof construction, every hotel that has sleeping apartments with outside openings only into inside courts or lightwells that do not extend to the ground, must have suitable platforms or balconies that connect the bottom of these courts with some easy exit to the fire escapes. Code 170.39



(a) No door or window can be fastened against these exits. Code 170.39

(b) If the roof at the bottom of the court or lightwell is susceptible to easy destruction by fire, these platforms or balconies must be attached to the walls in a manner specified by the fire department. Code 170.40

(c) When the court or lightwell extends to the ground, there must be some suitable means for escape to the outside. Code 170.41

7.32 In hotels more than one story high and not of approved fire proof construction, in addition to other fire escapes required by law, there must be a manila rope sufficient to hold at least 500 pounds in every sleeping room that is long enough to reach the ground. This rope must have knots or loops not more than 15 feet apart and be securely fastened to the building as near an outside window as practicable. It must not be covered by curtains or other obstructions, but must be kept coiled in plain sight at all times. Something other than rope may be used if approved by the State Department of Agriculture. Code 170.42; Op. Atty. Gen., 1948, p. 23

7.33 In each sleeping room there must be posted a notice calling attention to and giving direction for the use of this rope and the fire escapes and other appliances with which the room is equipped. Signs stating the directions for reaching the fire escapes must also be posted at the entrance of each hall, elevator shaft and stairway, or in each sleeping apartment above the ground floor. Code 170.43

7.34 Each sleeping apartment must have at least one window or skylight of the size required by section 170.32 of the Code, opening on the outside of the building or court. Storm windows must be hung so that they may be opened easily to assure safe exit in case of fire. Code 170.32

7.35 There must be at least one efficient chemical fire extinguisher on each floor for every 2,500 feet of floor space, located in the hallway, and kept in condition for immediate use. Instead of an extinguisher, a standpipe of the kind approved by section 170.44 of the Code may be used. Code 170.44

7.36 Except in hotels of approved fireproof construction, if an elevator shaft extends below the first floor, the shaft must be enclosed, as nearly airtight as practicable, with iron or steel sheeting, wire glass or other fireproof material. As a substitute, the shaft may have an automatic floor trap at the first floor that is best designed to prevent the spread of fire. Code 170.45

7.37 Any violation of the above hotel fire protection laws is punishable by fine not exceeding \$100 or imprisonment in the county jail not exceeding 30 days. Code 170.49

(a) Also, persons who violate these laws may be restrained by injunction from operating their places of business, providing they have



had at least five days' notice of the application for the injunction, and a time fixed for a hearing. Code 170.50

(b) County attorneys must assist in enforcing these laws. Code 170.51

(c) For annual inspections, inspections upon complaint and reports of violations, see sections 9.1-9.19 below.

*Exits required in bonded storage facilities*

7.38 Licensed warehousemen must provide and maintain safe and adequate entrances and exits to the various units of their licensed warehouses. Any storage facility that fails to meet the requirements set out below will be called to the attention of the warehouseman. Failure of the warehouseman to place his facilities in a suitable condition within a reasonable time may result in withdrawal of the particular facility from coverage under his warehouseman's license. 1954 IDR 73. [The Iowa State Commerce Commission has power, after hearing a complaint filed by the commission or any other person, to suspend or revoke these licenses for failure to comply with these regulations. Code 543.10]

(a) Storage units that have entrances more than 20 feet but less than 50 feet above the ground or floor level must be equipped with fixed ladders or approved lifts. 1954 IDR 73

(b) If fixed ladders are used, they must have side rails and rungs. 1954 IDR 73

(c) The rungs must be spaced not to exceed one foot centers. 1954 IDR 73

(d) There must be sufficient space between the ladder rungs and the face of the structure to permit a safe foot-hold. 1954 IDR 73

(e) Storage units that have entrances more than 50 feet above ground level must be equipped with safe and adequate lifts. 1954 IDR 73

*Exits required on hospitals, see section 6.6 above.*

*Exits required on nursing homes, see section 6.7 above.*

*Exits on day-nurseries, see section 6.9 above.*

*Exits on children's boarding homes, see section 6.10 above.*

*Exits on child-placing agencies, see section 6.11 above.*



# Regulation of Hazardous Activities and Conditions

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## *Railway engines*

8.1 Railroads are liable for damages resulting from fires set or caused by railroad operations. Code 479.126

8.2 No building materials or supplies of any kind may be piled nearer than nine feet to any railroad track (as measured from the center of the track), except materials for immediate use, which may be placed not nearer than seven feet six inches from the center of the track. 1954 IDR 58

## *Metal tires*

8.3 Motor vehicles or trailers with metal tires that come in contact with the roadway are not allowed on public highways. Code 321.441

## *Electrical wiring*

8.4 No transmission line can be constructed, unless by agreement, within 100 feet of a house or other building, except in the following situations: Code 489.19

(a) Where the line crosses or passes along a public highway.

(b) Where the line is located along or parallel with a railway right of way.

8.5 In case of injury to persons or property by electric transmission lines, there is a rebuttable presumption that the person or corporation that operates the lines was negligent. This presumption, however, does not exist in favor of certain employees of such transmission companies. Code 489.15

8.6 No obstructions such as telephone or lighting wires are permitted on or near outside fire escapes. Electric light or power wires that pass directly over or within three feet of an outside fire escape or balcony must be enclosed in rigid conduits. 1954 IDR 319

8.7 The Iowa State Commerce Commission must inspect all wiring used by interurban railways. Improper wiring can be condemned and ordered to be removed or placed in a safe condition. Code 485.5

## *Gas and other petroleum products*

8.8 The State Fire Marshal makes, promulgates and enforces regula-



tions regarding the design, construction, location, installation and operation of equipment used for storing, handling and transporting liquefied petroleum gases. Equipment utilizing these gases also is regulated. These regulations must be in substantial compliance with the published standards (Pamphlet #58) of the National Board of Fire Underwriters as recommended by the National Fire Protection Association. Code 101.2; see also 1954 IDR 322-337

8.9 No one may fill, refill or use any liquefied gas container for any other purpose whatsoever without authorization of the owner. Code 101.3

8.10 No person may put any petroleum product with a flash point below 100 degrees Fahrenheit into any container of a pint or more, unless the container is painted bright red and is plainly marked with the word "gasoline" or with the warning "flammable—keep fire away" in red lettering. This law, however, does not apply to certain vehicle cargo and storage tanks. Code 208.6

8.11 Dry or abandoned oil and gas wells must be thoroughly cleaned out and filled from bottom to top with mud-laden fluid, before they can be considered officially closed. However, the State Geologist may prescribe other methods. Code 84.4

8.12 No person under 21 years of age may drive any motor vehicle used as a carrier of flammables or combustibles. Code 321.179

#### *Flammable goods*

8.13 If certain flammable or explosive goods are likely to injure other property stored in a warehouse, the warehouseman can have them removed. Code 542.34, 542.36

#### *Businesses that handle explosive and flammable materials*

8.14 No person under 16 years of age can be employed at any work in which the handling or use of gunpowder, dynamite or other explosives is required. Code 92.11

8.15 It is unlawful for anyone to establish or operate a dye, pantorium or cleaning plant in which dangerous or explosive fluids are used in any building any part of which is used as a residence or lodging house. Code 732.6

8.16 Any building in which gunpowder is manufactured, if within 80 rods of any valuable building erected before such manufacturing began, is a public nuisance for which the owner can be fined or imprisoned, and the nuisance abated. Code 697.5

#### *Explosives in intrastate commerce*

8.17 All vehicles used in transporting explosives must be marked on each side and at the rear with the word "Explosives" in letters eight inches or more high; instead, a red flag at least 24 inches square and



marked with the word "Danger" in white letters six inches high can be displayed at the rear. Code 321.450

(a) Such vehicles are required to carry at least two filled fire extinguishers ready for convenient and immediate use. Code 321.450

(b) Also, the drivers of such vehicles must stop, listen and look at all railway tracks before crossing. Code 321.343

(c) Vehicles loaded with explosives must carry flares or electric lanterns capable of producing a red light. These flares or electric lanterns must be the type approved by the Commissioner of Public Safety for carrying on trucks. If a vehicle is carrying flammable liquids or gases, it must not use open flares or fuses when warning devices are required to be put out. Code 321.448-.449

8.18 Vehicles used for public transportation of freight and passengers for hire cannot carry high explosives, acids or flammable liquids or articles while also carrying passengers. 1954 IDR 51

#### *Explosives in interstate commerce*

8.19 The Interstate Commerce Commission regulates the transportation of explosives and other dangerous articles from one state to another. 18 USCA 835

(a) These regulations are binding on all common carriers engaged in interstate or foreign commerce that transport these dangerous articles by land. They are also binding on anyone who makes shipments on any common carrier engaged in interstate or foreign commerce by land or water. 18 USCA 835; *Actiesselkabet Ingrid v. New Jersey Central R. Co.*, 216 Fed. 72 (1914)

(b) These regulations must be in accord with the best, most practicable means known for promoting safety in transit. 18 USCA 835

(c) Violation of these Interstate Commerce Commission regulations is a crime punishable by fine of not more than \$1,000 or imprisonment for not more than one year, or both. If death or bodily injury results, the penalty may be a fine of not more than \$10,000 or imprisonment for not more than 10 years, or both. 18 USCA 835

8.20 Anyone who knowingly transports, carries or conveys within the limits of the United States any high explosives, such as dynamite, blasting caps or gunpowder, on any vehicle that is used as a hired common carrier of passengers in interstate or foreign commerce can be fined not more than \$1,000 or imprisoned for not more than one year, or both. 18 USCA 832

(a) If death or bodily injury results from such an act, the punishment can be a fine of not more than \$10,000 or imprisonment for not more than 10 years, or both. 18 USCA 832

(b) This law does not apply to the transportation on interstate common carriers of military forces carrying arms. 18 USCA 832

(c) If kept separate from the passengers, certain smokeless powders,



primers, fuses (not including detonating fuses and other like explosives) and certain properly packed and marked samples of explosives for laboratory examination may be carried by interstate passenger carriers. Also, certain small-arms ammunition and signal equipment may be carried by such carriers. 18 USCA 832

8.21 The penalties for transporting nitroglycerin and similar explosives on common carriers of passengers or property in interstate or foreign commerce, including the higher penalties if death or bodily injury is caused thereby, are the same as the penalties for transporting dynamite, etc., set out in section 8.20 above. 18 USCA 833

8.22 These same penalties (see section 8.20 above) also apply to anyone who knowingly carries or delivers to any common carrier engaged in interstate or foreign commerce explosives or other dangerous articles specified in section 8.20 above under a false or misleading description, or without plainly marking what the contents are. 18 USCA 834

#### *Unlawful transportation of fireworks into Iowa*

8.23 Anyone who transports, or attempts to transport, fireworks into any state that prohibits or regulates the use of fireworks by state law, as Iowa does, knowing the fireworks are to be dealt with in a manner considered unlawful in that state, can be fined not more than \$1,000 or imprisoned not more than one year, or both. 18 USCA 836; See Iowa Code 732.18

(a) In Iowa it is unlawful for any unauthorized person to offer for sale or use any fireworks, unless the council of a city or town grants permission for fireworks displays at supervised exhibitions. Code 732.18

(b) Section 8.23 above does not apply to fireworks transported through Iowa in the course of continuous interstate transportation. Nor does it apply to common or contract carriers, including international or domestic water carriers, engaged in interstate commerce. Also excluded is the transportation of fireworks into Iowa for authorized use by federal agencies. 18 USCA 836

(c) In the enforcement of the federal law mentioned in section 8.23 above, the definition of "fireworks" in section 732.17 of the Iowa Code must be applied. 18 USCA 836

#### *Explosives in wartime*

8.24 The "Federal Explosives Act" can be put into effect by act of Congress or Presidential proclamation in a national emergency or state of war. Under this act, the regulation and control of all explosives becomes the responsibility of the federal government. Details of this act may be found in Title 50 of the United States Code Annotated.



# Inspections and Investigations

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## *Duties of local officers*

9.1 Municipal fire chiefs, mayors of municipalities that have no fire departments, and the clerks of townships that are outside the limits of any municipality, must investigate the cause, origin and circumstances of all fires that occur within their jurisdictions. Code 100.2

(a) After investigation, these officers must notify the State Fire Marshal immediately, and furnish him a written report within one week. Code 100.3

(b) If they fail or refuse to investigate or to make the required reports, they may be fined. Code 100.4

(c) The State Fire Marshal must pay an allowance of 50 cents to these officers for each fire reported and an additional 10 cents a mile for travel to and from the place of the fire to township clerks. Code 100.34

9.2 Building inspectors must inspect all fire escapes in their jurisdictions, except buildings required by law to be inspected by someone else. In cities that do not have a local building inspector, the fire chief, or the mayor if the city or town does not have a paid fire department, or the chairman of the county board of supervisors if the building is not in a municipality, must inspect all fire escapes on buildings within their respective jurisdictions, except buildings that are required to be inspected by someone else. Code 103.13

9.3 Fire escape inspections must be made as often as necessary, and whenever a complaint is turned in. Thus, when any person files a complaint that a fire escape is being maintained unlawfully, those officials named in section 9.2 must investigate the conditions. Code 103.14

(a) When buildings are not furnished with required fire escapes or when existing fire escapes are found to be defective, the inspector must notify the responsible persons of this fact in writing, requiring them to comply with the law within 60 days. However, this time limit may be extended by the State Fire Marshal if necessary. Code 103.15

(b) The responsible persons may appeal to the State Fire Marshal from such orders at any time within the 60 day period, and he must pass on and determine all matters in disagreement. Code 103.16



(c) Refusal or failure to comply with the law within the allotted time after receiving the notice, or to comply with the final order of the State Fire Marshal, is punishable by fine, and each additional week of neglect to comply with such notice, order or requirement constitutes a separate offense. Code 103.17

9.4 Local health inspectors, or other persons designated by the mayor, must inspect every multiple dwelling at least once a year. They can also inspect all dwellings as frequently as necessary.\* Code 413.123

(a) Inspections must be made at any time upon complaint by any person concerned. Code 413.123

(b) The health officer and all inspectors, officers and employees of the board of health authorized by him may enter, examine and make records of any building or premises in the city. Code 413.124

(c) All persons responsible for the care and management of the premises are required to give the inspecting officers free access to all buildings and premises at reasonable times. Code 413.124

9.5 The State Department of Health can delegate to local health officers the duties of inspecting and regulating mobile home parks within their jurisdictions. Code 135D.20, as amended by Laws 1955, ch. 97

9.6 Local health officers may enter any premises to look for nuisances or sources of filth. Code 137.12

#### *State Department of Public Safety*

9.7 The members of the Department of Public Safety may exercise their powers as state peace officers within the limits of any city or town when investigating and enforcing fire and arson laws. This is also true when they cooperate with local officers in other criminal investigations. Code 80.9

(a) Specifically, the State Department of Public Safety has the duty to investigate all fires, to apprehend persons suspected of arson, to enforce all safety measures in connection with the prevention of fires, and to disseminate fire-prevention information.

(b) In addition, the department has the duty to collect and classify information and data useful in the detection of crime and the identification of criminals.

9.8 The State Fire Marshal, as head of the Division of Fire Protection in the State Department of Public Safety, must cause an immediate investigation to be made of the cause, origin and circumstances of every fire that occurs in the state when so requested by a fire chief,

\* Although this section refers primarily to health officers, cooperation between the local health officer and the fire chief in their inspection activities may remedy many situations over which the fire chief alone may not have jurisdiction. The section applies only to cities and towns covered by the Housing law.



the mayor of a city or town without a fire department, township clerks, sheriffs, deputy sheriffs and county attorneys. Code 100.2

(a) He also has the power to supervise and direct all investigations made by chiefs of city fire departments, mayors of towns that have no fire department, and clerks of townships outside the limits of any municipality. Code 100.2-.3

(b) He must take testimony under oath of persons who have knowledge or information about matters under investigation, if, in his opinion, further investigation is necessary. Code 100.6

(1) He has power to administer oaths and compel the attendance of witnesses before him. Code 100.7

(2) He can order books and documents to be produced. Code 100.7

(c) If he believes there is sufficient evidence to charge any person with a fire crime, he must cause that person either to be arrested or charged with the crime, or both, and he must give the proper county attorney all the evidence, information and names of witnesses he has obtained. Code 100.9

9.9 He has authority to enter and inspect any building or premises. Code 100.10

9.10 The State Fire Marshal also has general charge and supervision of the inspection and regulation of fire escapes and other means of escape, and he directs and regulates subordinate inspectors. He must adopt standard uniform specifications for the various classes of fire escapes, copies of which must be furnished to all inspectors of fire escapes. Code 103.10-.11

(a) He must make all rules and regulations necessary to carry out the fire escape laws. Code 103.12

9.11 When the State Fire Marshal, or his designated subordinate, determines that a building is a fire hazard because of its condition, and it is so located as to endanger other buildings or property, or when he finds in any building or premises combustible or explosive matter or flammable materials that are dangerous to any building or premises, he is required to order in writing that the dangerous materials be removed or the dangerous condition of the building be remedied within a reasonable time. Code 100.13

(a) Persons affected by such orders may file a petition for review of the order within five days of the issue of the order. Code 100.14

(1) The State Fire Marshal must fix a time and a place within the county where the property is located for the review of any of his orders. Code 100.14

(2) He must hear evidence both for and against his orders, and may affirm, modify or revoke them, according to the facts discovered at the hearing. Code 100.15



(3) He must make a record of his findings and the final order. Code 100.15

(b) Owners, lessees or occupants may appeal from the State Fire Marshal's final order. Code 100.16

(1) They may appeal to the district court of the county where the building is located within 30 days of the order. Code 100.16

(2) A notice of appeal accompanied by a \$100 bond must be filed in the office of the State Fire Marshal. Code 100.17

(3) Immediately after notice of appeal, the State Fire Marshal must certify the transcription of his proceedings to the clerk of court. Code 100.19

(4) The trial will be in equity. Code 100.18

(5) The county attorney represents the state and the State Fire Marshal. Code 100.20

(6) Either party may appeal to the supreme court. Code 100.21

(7) When an order of the State Fire Marshal is appealed either to the district or supreme court, the order is suspended while the appeal is pending. Code 100.22

(8) If the petitioner loses in his appeal, the costs are taxed against him; if not, the state pays the costs. Code 100.23

(9) This appeal is the only remedy against orders of the State Fire Marshal. Code 100.25

(c) When no petition for review has been filed, or when the Fire Marshal on review or the court on appeal has affirmed or modified the order, it must be complied with within 30 days. Code 100.26

(d) If the person refuses to comply with the final order within the 30 day period, the proper officer can remove or repair the property at the person's expense. Code 100.27

(e) If the person then fails or refuses to pay within 30 days the expense incurred by the officers, they must certify the amount of the expenses plus a 25 percent penalty to the county auditor.

(1) Notice must be given of a hearing before the county auditor upon the reasonableness of the assessment. Code 100.28

(2) Any person aggrieved by the determination of the auditor may appeal to the district court by giving notice to the auditor within 20 days. The procedure in the courts is the same as when an order of the State Fire Marshal is appealed from. See section 9.11(b)(3-8) above.

(3) The auditor must enter the final determination of the expense on the tax records as a special charge against the land upon which the building is located. Code 100.29

9.12 The State Fire Marshal must inspect annually all institutions controlled by the Board of Control, and submit a written report to the board. Code 218.4



9.13 Any investigation conducted by the State Fire Marshal or his designated subordinates may be private. They may exclude from the place where an investigation is held all persons other than those required to be present, and witnesses may be kept separate from each other and not allowed to communicate with each other until they have been examined. Code 100.30

#### *State Department of Agriculture*

9.14 The State Department of Agriculture must inspect every hotel and food establishment in the state at least once each year. Inspections must also be made whenever a patron of such an establishment submits to the department a signed, verified complaint that states facts showing that the establishment is not maintaining its fire escapes and other appliances in accordance with the law. However, if a verified complaint is found to be unjustified, the cost of the inspection is charged against the person who made the complaint. Otherwise, this cost is collected from the owner of the establishment. Code 170.46-47

(a) The inspector may enter these establishments at any reasonable hour, and the management must give him assistance and free access to every part of the premises so that he can make a thorough and complete examination. Code 170.46

(b) After each inspection, the department must report all infringements of fire laws to the State Fire Marshal and local authorities, who must take the necessary action to compel compliance with the law. Code 170.48

#### *State Labor Commissioner*

9.15 The State Labor Commissioner, who supervises the enforcement of all inspection and safety appliance laws in industrial concerns, must also collect statistics on the means of escape and the protection of life and health in factories. These statistics are submitted to the Governor every two years. Code 91.4(2,4), 91.5(1)

(a) The term "industrial concern" means any factory, mill, workshop, mine, store or business house, public or private, where people are employed. Code 91.15

(b) He and his inspectors have the right to enter any industrial concern, whenever it is open or in operation, to collect statistics and examine the methods used to protect employees. He and his deputy may subpoena certain evidence needed by them. Code 91.9-10

(c) Women inspectors must inspect sanitary and general conditions of factories where women and children work. Code 91.7

(d) Upon learning of violations of any fire escape or other safety laws, the commissioner or the inspector may notify the proper county attorney to institute legal proceedings against the offender. In certain



cases, however, legal prosecution can be avoided if the responsible party complies with the inspector's orders to correct certain defects. Code 91.11

(e) The various penalties for violations of the above laws are stated in chapter 91 of the Code.

#### *State Boiler Inspector*

9.16 The State Boiler Inspector is required to inspect certain equipment used in generating steam to determine whether it is in a safe and satisfactory condition and whether it is properly constructed. Code 89.2-.3; see also 1954 IDR 202-208

(a) The inspector issues certificates of inspection that show the pressure that can be used in each unit. Certain boilers, however, are exempt from such inspections; also, these inspections are waived with respect to certain non-exempt boilers that are insured by approved insurance companies. Code 89.2, 89.3, 89.6

(b) Violations of these laws are misdemeanors punishable by fines. Also, if the responsible party continues to use the defective equipment after receiving the notice specified in chapter 89, he becomes subject to a court action to restrain him from use of the defective equipment. Code 89.9-.10

(c) The State Boiler Inspectors must investigate all boiler explosions, and then make a report to the Labor Commissioner. Code 89.4

#### *State Mine Inspectors*

9.17 For inspection of mines, see chapter 82, 1954 Code, and 1954 IDR 229, 230. Mine inspectors, mine owners and operators, foremen or pit bosses, and mine employees are required to perform certain detailed duties of inspection that are designed to promote safety in the mines. Generally, these inspections concern such things as safety, proper health conditions for mine employees, sufficiency of air in the mines, and adequate ventilating apparatus, airway and other means of directing air currents. Code 82.14, 82.16, 82.60, 82.76, 82.77

#### *Board of Control of State Institutions*

9.18 The Board of Control must make or supervise inspections of every private and county insane institution at least twice a year, with a view toward fire protection. Code 227.2(4)

#### *State Board of Social Welfare*

9.19 Agents of the State Board of Social Welfare must inspect the premises and buildings of licensed child placing agencies at least once every six months. Code 238.1, 238.2, 238.19, 238.20; also see section 6.11 above.



### *Other inspections*

For inspections of hospitals, see section 6.6 above.

For inspection of nursing homes, see section 6.7 above.

For inspection of day nurseries, see section 6.9 above.

For inspection of children's boarding homes, see section 6.10 above.



## Fire Crimes

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### *Mischievous and destructive acts against fire equipment*

10.1 Willful destruction or injury of any firefighting equipment is a crime punishable by imprisonment in the penitentiary for not less than one nor more than three years. Code 714.28

10.2 If anyone maliciously injures, destroys or makes a fire apparatus useless, he may be punished by imprisonment in the county jail for not more than one year and a fine of not more than \$500. Code 716.1

10.3 Unauthorized removal of any firefighting equipment from its proper place, except in time of fire or alarm, is a misdemeanor punishable by a fine of not more than \$100 or imprisonment in the county jail for not more than 30 days. Code 714.29-.30

10.4 Giving a false fire alarm is a misdemeanor punishable by fine not exceeding \$100 or imprisonment in the county jail for not more than 30 days. Code 714.31-.32

### *Mischievous and destructive acts against other property*

10.5 If any person maliciously burns, or aids or abets another in burning, any post or pole used in connection with any system of electric lighting, electric railway, or telephone or telegraph system, he may be imprisoned for not more than five years or fined not more than \$500 or both. Code 716.7

10.6 Any person who willfully and maliciously sets fire to or burns any dwelling house or any other structure that adjoins or "belongs" to that dwelling (for example, stable, barn, garage) or anyone who aids, counsels or procures the burning of such buildings, is guilty of arson, which is a crime punishable by imprisonment for not more than 20 years. Code 707.1

(a) [The burning of a building by the owner to avoid tearing it down is nevertheless illegal, even though the building is clear of all encumbrances, is uninsured, and the burning would not endanger other property. Op. Atty. Gen., 1932, p. 41]

(b) [That a person accused of arson did not hope to gain or profit—by collecting insurance, for example—is no defense. State v. Arhontis, 196 Iowa 223, 194 N. W. 209 (1923)]



10.7 Any person who willfully and maliciously sets fire to or burns, or who aids, counsels or procures the burning of, any building other than a dwelling house or other buildings which are considered a part of the same, may be imprisoned for not more than 10 years. Code 707.2. [Violations of sections 707.1 and 707.2 are two separate and distinct crimes, with the lesser (707.2) not necessarily included in the larger (707.1). The buildings referred to in section 707.2 are those that are not considered part of a dwelling house. *State v. Ferguson*, 233 Iowa 354, 6 N. W. 2d 856(1943)]

10.8 Any person who willfully and maliciously sets fire to or burns, or who aids, counsels or procures the burning of, any crib or stack of grain, any field of standing grain, pile of coal or other fuel, any boat or motor vehicle or other personal property that does not belong to him may be imprisoned for not more than three years, or fined not more than \$1,000. Code 707.3

10.9 Any person who willfully and maliciously burns or causes to be burned, or aids, counsels or procures the burning of, any personal property that is insured, no matter who owns it, with the intent to injure or defraud the insurer, may be imprisoned for not more than five years. Code 707.4

10.10 Any person who willfully and maliciously *attempts* to set fire to, or who attempts to aid, counsel or procure the burning of, any of the property mentioned in sections 707.1 to 707.4 of the Code, inclusively, may be imprisoned for not more than two years or fined not more than \$1,000. Code 707.5

10.11 Sections 707.1 to 707.5, inclusive, apply to a married women, even though the property involved may belong partly or wholly to her husband. Code 707.6

10.12 If any person willfully or carelessly sets fire to any prairie, timbered or other cultivated land, or any road, and the fire damages the property of another, he may be fined not more than \$500 or imprisoned for not more than one year, or both. Code 707.7. [However, a person who starts a fire on his own premises is not liable for damages that the fire may do to the property of others if he used *care and diligence* to prevent the fire from doing harm. *Hanlon v. Ingram*, 3 Iowa 81 (1856). But see section 10.13 and federal law in section 10.24]

10.13 If any person, between the first day of September and the first day of the following May, allows fire to escape while he is burning prairie or timbered land, he may be imprisoned for not more than 30 days or fined not more than \$100. Code 707.8. [One is absolutely liable under this act for damages caused by fires set within this time period, whether or not he was diligent. *Thoburn v. Campbell*, 80 Iowa 338, 45 N. W. 769 (1890); *Conn v. May*, 36 Iowa 241 (1873). But there is absolute liability only where a person directly set fire to the land and it



was his intention to burn the prairie or timber land. Otherwise, it must be shown that the person was negligent in allowing the fire to spread to the land, and then to another's land so as to damage the latter. *Ellsworth v. Ellingson*, 96 Iowa 154, 64 N. W. 774 (1895)]

10.14 Any person who commits larceny by stealing from a building on fire, or during a fire emergency, may be imprisoned for not more than 15 years. Code 709.6

10.15 If any person, with intent to destroy or to do injury, deposits explosives in or about any boat, bridge or other structure where damage or destruction is likely to result, he may be imprisoned for not more than 15 years. For depositing explosives in or about inhabited buildings, boats or structures, the punishment may be imprisonment for not more than 25 years. Code 697.3-.4

#### *Murder by fire or explosives*

10.16 Murders that result from the crime of arson, or from attempts to commit arson, are murders in the first degree. Code 690.2

10.17 A person is guilty of murder if he willfully deposits explosives in or about any inhabited place where injury or destruction is likely to result and someone is killed from the explosion. If, however, only personal injury results, the crime is assault with intent to commit murder. Code 697.1-.2

10.18 Murder that results from the commission of or attempt to commit arson within federal jurisdiction is murder in the first degree, which is punishable by death or, when the verdict is qualified by the jury, life imprisonment. 18 USCA 1111

#### *Mischievous and destructive acts against federal land and property*

10.19 Setting fire to any timber, underbrush, grass or other flammable material on the federal lands listed below—willfully and without authority—is a federal crime punishable by fine of not more than \$5,000 or imprisonment for not more than five years, or both. 18 USCA 1855

(a) The public domain or any land owned, leased by, or under the partial, concurrent or exclusive jurisdiction of, the United States.

(b) Land under contract for purchase by the federal government or for which condemnation proceedings have been instituted for acquisition by the federal government.

(c) Any Indian reservation or land belonging to, or occupied by, any tribe or group of Indians under the authority of the United States.

(d) Land allotted to Indians, the title to which is held in trust by the federal government, or which cannot be sold by the person who holds the allotment without the consent of the United States. However, this does not apply if the fire is set by the person who has the al-



lotment in the reasonable exercise of his property rights in the allotted land.

10.20 Any person who, after starting, or causing to be started, a fire on or *near* the property listed in section 10.19 above, leaves the fire without putting it out, or allows it to spread beyond his control, or leaves it unattended, may be fined not more than \$500 or imprisoned for not more than six months, or both. 18 USCA 1856. [This law applies also to fires set by persons on private property that is near flammable material on federal lands. *United States v. Alford*, 274 U. S. 264 (1926); but see state law in section 10.13.]

(a) All fines collected for violations of sections 1855 and 1856 of Title 18 of the United States Code must be paid into the public school funds of the county where the fire was set. 18 USCA 3613

(b) All persons employed in the U. S. Forest Service have authority, which is concurrent with the authority of other federal officials, to make arrests for violations of fire laws and regulations relating to national forests and parks. 16 USCA 559

(c) The U. S. Secretary of Agriculture may offer rewards for information leading to the arrest and conviction of persons who violate laws and regulations relating to fires in or near national forests. 16 USCA 559a

10.21 Any person who willfully injures, plunders or pilfers any federal property, or property being constructed or manufactured under a federal contract, may be fined not more than \$10,000 or imprisoned for not more than 10 years, or both, if the damage caused exceeds \$100. If the damage does not exceed \$100, the fine or imprisonment must not be more than \$1,000 or one year, or both. 18 USCA 1361

10.22 Any person who willfully or maliciously injures or destroys any federal communication line, station, system or property may be fined not more than \$1,000 or imprisoned for not more than three years, or both. 18 USCA 1362

10.23 Any person who willfully and maliciously destroys or injures, or attempts to destroy or injure, any building or property under federal jurisdiction may be fined not more than \$1,000 or imprisoned for not more than five years, or both. If the building is a dwelling, or if the life of any person is endangered, the fine can be no more than \$5,000, or the prison term no more than 20 years, or both. 18 USCA 1363

10.24 Any person who, with intent to interfere with foreign commerce, injures or destroys by fire or explosives any article in foreign commerce may be fined not more than \$10,000 or imprisoned for not more than 20 years, or both. 18 USCA 1364

10.25 Any person who willfully sets fire to, or places any explosive on or near any structure, property or equipment used by any railroad



in interstate or foreign commerce, may be fined not more than \$10,000 or imprisoned for not more than 20 years, or both. 18 USCA 1992

(a) If a person dies because of such an act, the penalty may be death or life imprisonment. 18 USCA 1992

(b) A conviction or an acquittal by a state court is a bar to federal prosecution for the same act or acts. 18 USCA 1992

10.26 While within federal jurisdiction, if anyone willfully and maliciously sets fire to, or burns or attempts to burn, any building, structure, vessel, machinery, building material or supplies, military or naval stores, munitions of war, or any structural aids or appliances for navigation or shipping, he may be fined not more than \$1,000 or imprisoned for not more than five years, or both. If the building is a dwelling, or if a person's life is endangered by such an act, the maximum fine may be \$5,000 and the maximum prison term 20 years, or both. 18 USCA 81, 1363

#### *Arson by servicemen*

10.27 Any person subject to the Uniform Code of Military Justice who willfully and maliciously burns or sets fire to an inhabited dwelling, or any other structure, knowing that there is a person inside, may be found guilty of aggravated arson, and may be punished as a court martial may direct. 50 USCA 720

(a) Under the Uniform Code of Military Justice, willful and malicious burning or setting fire to the property of another, except for cases of aggravated arson, is simple arson, which may be punished as a court martial may direct. 50 USCA 720

(b) Any person subject to the Uniform Code of Military Justice who, without justification or excuse, unlawfully kills a human being while committing or attempting to commit aggravated arson is guilty of murder and must suffer death or imprisonment for life, as a court martial may direct. 50 USCA 712

(c) However, until he is inducted into military service, the rights of any person are determined by civil law instead of military or court-martial law. *Ex parte Goldstein*, 268 Fed. 431 (1920); *Ex parte Billings*, 46 F. Supp. 663 (1942).



# Traffic and Motor Vehicle Laws

## Relating to Fire Protection

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### *Emergency vehicles*

11.1 Any fire department, police, ambulance, or emergency vehicle owned by the United States, the state of Iowa, subdivisions of the state, or municipalities, qualifies as an "authorized emergency vehicle." As such it is permitted to display flashing lights, red lights visible from the front, and may be equipped with warning devices. Code 321.1(26)

11.2 Privately owned ambulances, rescue, or disaster vehicles, when designated or authorized by the Commissioner of Public Safety, also qualify as authorized emergency vehicles. When so authorized, such private vehicles may also display flashing lights, red lights in front, or a warning device. Code 321.1(26), 321.451

11.3 A motor vehicle operated by a member of an organized volunteer fire department may be equipped with blue flashing lights that are visible from directly in front when duly authorized and when used for emergency services. Authorization to equip privately owned vehicles owned or usually operated by volunteer firemen, except motorcycles and motor bikes, with flashing blue lights may be obtained by writing to the Commissioner of Public Safety and stating the need for the authorization. To qualify, the applicant must be an active member of an organized volunteer fire department. When qualified, the member is required to carry his authorization at all times with his registration and the use of the light is restricted to actual emergencies. Code 321.423 (2,4)

11.4 Except for authorized emergency vehicles and those qualifying under section 11.3 above, no vehicle is permitted to display a red light visible from the front (Code 321.422); flashing lights, except for turn signals (Code 321.423), or warning devices (Code 321.433).

11.5 Drivers of vehicles owned by any government—federal, state or local—are not exempt from the chapter on "Motor Vehicles and Law of the Road," except as specified in chapter 321 of the Code. Code 321.230, 321.232

11.6 Drivers of authorized emergency vehicles, when on emergency calls, need not stop upon approaching a red or stop signal, but they



must slow down as necessary for safety, and then proceed cautiously. However, at all other times these drivers must obey traffic signs. Code 321.231. Also see Code 321.232

11.7 Speed limits do not apply to authorized emergency vehicles when on emergency calls, and while giving the proper emergency signals; however, this does not relieve such drivers from the duty to drive with due regard for the safety of others, nor does it relieve emergency drivers from the consequences of their negligence. Code 321.296

11.8 The provisions of chapter 321 governing the maximum length, size, weight and load of motor vehicles do not apply to fire apparatus. Code 321.453, 321.457, and see Code 321.467

11.9 Fire trucks are exempt from the fees imposed by chapter 321, provided that they are not owned and operated for profit. However, fire trucks are not exempt from the penalties of chapter 321, except as indicated above. The Department of Public Safety, upon application, must furnish licenses for fire trucks free of charge, which must bear the word "official." Code 321.19 as amended by Laws 1955, ch. 156

#### *Non-emergency vehicles*

11.10 Except when necessary to avoid a conflict with other traffic, or upon direction of a police officer or traffic-control device, no person may stop, stand or park a vehicle in any of these places: Code 321.358

(a) Within five feet of a fire hydrant.

(b) Within 20 feet of the driveway entrance to any fire station; however on the side of the street opposite the entrance, this distance is 75 feet when properly signposted.

(c) At any place where official signs prohibit stopping or parking.

(d) At the space reserved at the side of the street in front of any theater, auditorium or other building that has large assemblages of people, except for taking on or discharging passengers or freight. Code 321.360, as amended by Laws 1955, ch. 162

11.11 No driver of a vehicle, except on official business, may follow any fire apparatus enroute to a fire closer than 500 feet. Nor may any driver drive into or park his vehicle within the block where fire apparatus has stopped in answer to a fire alarm. Code 321.367

11.12 Without the permission of the fire officer in command, no vehicles may be driven over any unprotected fire hose when laid down to be used at a fire. Code 321.368

11.13 When immediately approached by an authorized emergency vehicle flashing a red signal light, or giving warning by siren or bell, the drivers of all other vehicles must yield the right of way and drive close to the curb and stop until the emergency vehicle has passed. Code 321.324



(a) However, drivers must always drive clear of any intersection before stopping. Code 321.324

(b) This section does not relieve drivers of emergency vehicles from the duty to drive with due regard for the safety of all persons. Code 321.324

11.14 For use of flashing lights and warning devices, see section 11.4 above.

11.15 Every school bus, except private passenger vehicles used for that purpose, must have an emergency door in the center at the rear end of the bus. The fuel tank must be located where it can be filled, drained and vented from the outside. Vehicles used as school buses, including those owned by private parties, must meet the standards of construction considered necessary by the Superintendent of Public Instruction. Code 321.373-.374

11.16 The Commissioner of Public Safety is authorized to adopt and enforce such rules and regulations as may be necessary to carry out the above traffic laws. Code 321.4

#### *Obstruction of streets*

11.17 It is unlawful for any city or town to close or obstruct any street or highway, except at times of fires, and for certain other reasons stated in section 321.348. Code 321.348

#### *Fire extinguishers in motor vehicles*

11.18 Every motor vehicle used for transporting passengers must be equipped with a fire extinguisher that bears the label of approval of Underwriters Laboratories, Incorporated. Fire extinguishers must be kept in condition ready for use at all times and must be attached to the vehicle in a place immediately accessible to the driver. 1954 IDR 51

11.19 School buses also must be equipped with fire extinguishers that have the approval of the National Board of Fire Underwriters. The extinguisher must be mounted in a place where it will be accessible to the driver — preferably at the dash inside the service door. School buses must also carry first aid kits. 1954 IDR 309, 310

#### *Penalties*

11.20 Violations of chapter 321 of the Code are misdemeanors, unless such violations are declared to be felonies. Code 321.482

11.21 If a violation is a misdemeanor and if a penalty is not elsewhere provided, the penalty is a fine of not more than \$100 or imprisonment for not more than 30 days. Code 321.482

11.22 If a violation is a felony, and if punishment is not otherwise provided, the penalty is imprisonment for not more than five years or a fine of not less than \$500, or both. Code 321.483



## Services

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### Iowa State College

IOWA STATE COLLEGE, through its Engineering Extension, maintains a Firemanship Training Program, the basic purpose of which is to supplement local fire department programs. To this end, the Firemanship Training staff works with local departments, both paid and volunteer, in conducting departmental, county and state fire schools.

The services of this program are available to all fire departments in the state without charge.

The College also carries on fire safety and training programs with Iowa industries in organizing and training fire brigades within plants.

The services to fire departments, both municipal and industrial, cover many phases of fire protection, and include such matters as establishing, financing and organizing municipal and rural fire departments. Technical training is given in developing fundamental skills and administrative and leadership skills, and many related technical subjects. Training in fire prevention, control and fire fighting is provided. The staff aids in developing mutual aid and cooperative agreements among fire protection agencies.

Engineering Extension also makes arrangements to give promotional and entrance examinations for civil service commissions throughout the state. Much effort is devoted to preparing informational material that will be helpful to local fire protection authorities and firemen. This information may be distributed as duplicated material, bound bulletin material or books. The Firemanship Training Program also prepares and distributes 11,000 copies of a bi-monthly publication, "The Fire Service Information Bulletin." Most of this material is available to firemen and fire officials without charge.

The Firemanship Training Program at the College also maintains an extensive library on information pertaining to fire waste control. Any citizen may write for information on fire safety questions.

### Iowa Inspection Bureau

THE IOWA INSPECTION BUREAU, 414 Insurance Exchange Building, Des Moines 8, Iowa, makes systematic inspections of public firefighting facilities and of municipal ordinances relating to building construction



and fire prevention in all cities in Iowa. Similar inspections are made by the National Board of Fire Underwriters in cities of 25,000 or more population and the Iowa Inspection Bureau assists in those inspections. Engineering data collected in these inspections are used in helping to establish a basic fire insurance rate.

The bureau cooperates with state and municipal officials by reviewing plans for new or expanded water systems, by reviewing specifications for fire fighting apparatus, by assisting in fire department training programs and by consulting with municipal officials about fire prevention ordinances and building laws.

The bureau will arrange for a meeting with the responsible officials in any city or town to discuss fire protection problems and the relationship of the public fire protection facilities to the fire insurance rates in the community.

Engineers and inspectors employed by the Bureau spend a great deal of time in the field. It is customary for them to inform municipal officials of any important need or deficiency that may have developed. Recommendations for correction of deficiencies are sent to officials if the fire insurance rating is affected.

### National Board of Fire Underwriters

THE NATIONAL BOARD OF FIRE UNDERWRITERS is an educational, factual and engineering organization, supported by the capital stock fire insurance business as the service organization of that group. It is not a corporation; it has no jurisdiction over fire insurance rates, nor does it have jurisdiction over commissions, companies or agents, nor legislative powers over fire insurance business.

It has no police powers, and its various standards, codes and findings have no force of law unless and until they become adopted by political subdivisions that are authorized to enforce such statutes.

The National Board of Fire Underwriters, upon request of a responsible official of a municipality, may perform the following services free of charge to the municipality, to the extent that personnel, material and facilities are available.

1. Survey the existing fire protection facilities of the city, including the water supply system, fire department, fire alarm, building laws and conditions and fire prevention laws and conditions. A printed report describing these conditions and containing recommendations for improvements is furnished to city officials. A grading is made, based on the National Board Standard Grading Schedule. This service is performed by the board for cities over 25,000 population. For smaller cities in Iowa, similar services would be performed by the Iowa Inspection Bureau, and it is suggested that cities that desire this service contact the Iowa Bureau.



2. Provide copies of the various codes and standards adopted by the board for use as models by the city in preparing regulatory statutes.
3. Provide information on matters of fire protection and special hazards, through special interest bulletins and research reports.
4. Advise on special problems within the scope of fire protection and prevention upon application by the municipality.
5. Through the listing of new models or assemblies of fire pumpers, assure that the quality of such pumpers is maintained at a high level.
6. Through the staff of its Arson Department, assist city officials in the investigation and prosecution of cases of incendiarism and arson.
7. Through its Public Relations Department, provide city officials educational material, booklets, posters, films, etc., for use in fire prevention campaigns.
8. Under its Committee on Adjustments, and through its Catastrophe Plan, assist the city through adjustment of claims in case of major catastrophes affecting the city.
9. On request of city officials, provide engineering advice in rehabilitating fire protection features after catastrophes.

### National Fire Protection Association

THE NATIONAL FIRE PROTECTION ASSOCIATION, 60 Batterymarch Street, Boston 10, Massachusetts, is a voluntary membership organization that serves as a clearing house for authoritative information on the subjects of fire protection and fire prevention. As a non-commercial and non-profit group, the association is supported by the dues of its members, by proceeds from the sale of its publications and by gifts. The membership now includes more than 190 national and regional organizations, and over 15,000 individuals, firms and corporations. Membership is open to any individual or organization interested in the protection of life and property against loss by fire.

The association has two functions: to provide standards under the guidance of which fire waste may be checked, and to educate the public so that loss of life and injury from fire will be reduced and the needless fire destruction of property will be halted.

At present there are more than 100 technical committees of the association at work developing and revising approximately 150 different standards.

Members receive a monthly news letter, *Fire News*, that contains information about new developments in the fire field. Current pamphlets and posters are included with each mailing. Members also receive the *NFPA*, a journal that contains articles on important fires and information on fire protection and prevention. The association's National Fire Codes are revised and published annually. The six-volume set contains



the complete texts of NFPA standards on all phases of fire protection and fire prevention:

Vol. I Flammable Liquids and Gases

Vol. II Combustible Solids, Dusts, Chemicals and Explosives

Vol. III Building Construction and Equipment

Vol. IV. Extinguishing Equipment

Vol. V Electrical

Vol. VI Transportation (Air, Highway, Marine)

A special monthly publication, *Firemen*, is distributed regularly to all fire department members.

The association maintains a library and members may write for information on any phase of fire waste control. If the NFPA does not have the specific information it can refer inquiries to the proper sources.



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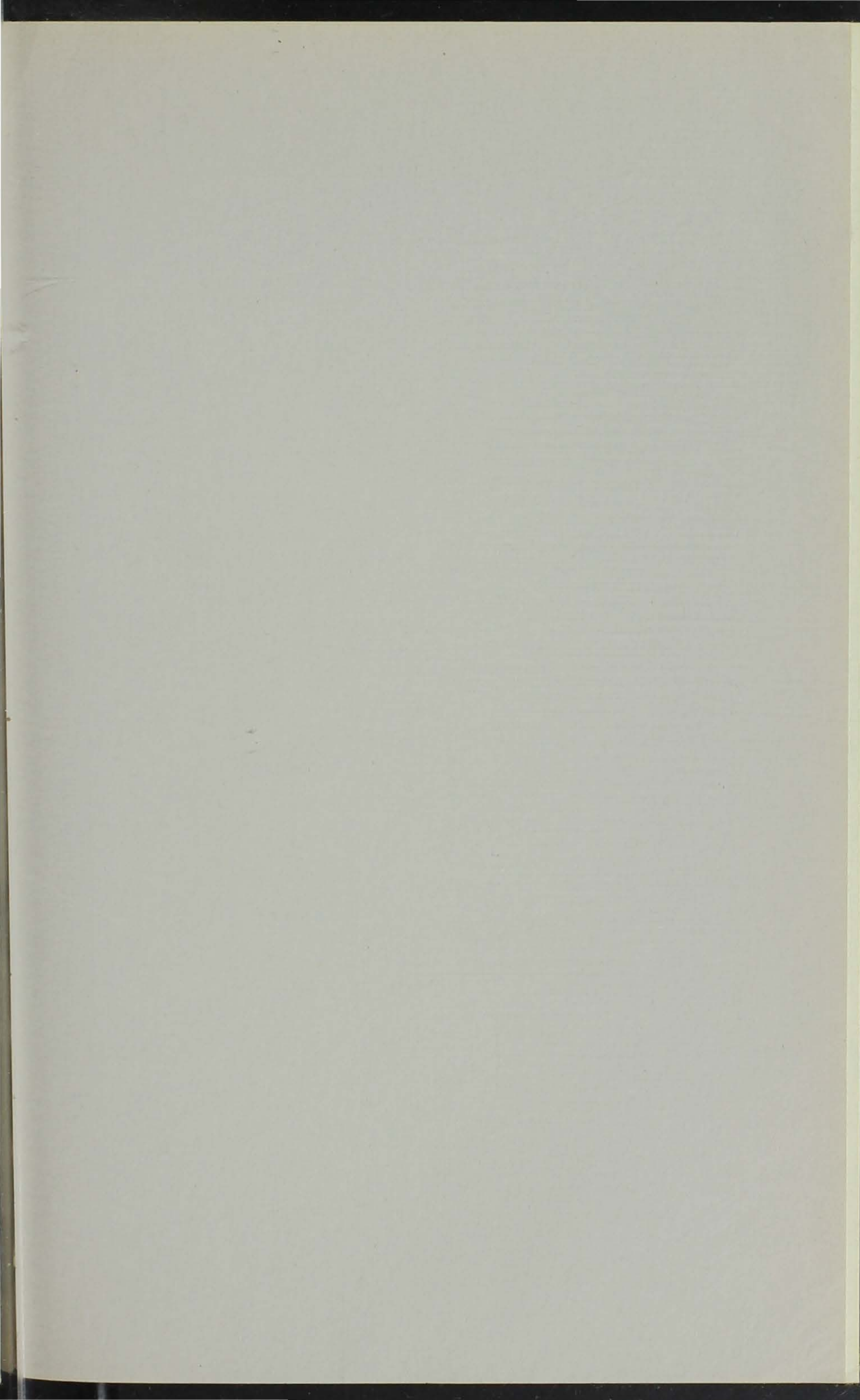


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