

CHAPTER 50

NUISANCE ABATEMENT PROCEDURE

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50.01 DEFINITION OF NUISANCE. Whatever is injurious to health, indecent, or unreasonably offensive to the senses, or an obstruction to the free use of property so as essentially to interfere unreasonably with the comfortable enjoyment of life or property is a nuisance.

(Code of Iowa, Sec. 657.1)

50.02 NUISANCES ENUMERATED. The following subsections include, but do not limit, the conditions which are deemed to be nuisances in the City:

(Code of Iowa, Sec. 657.2)

1. **Offensive Smells.** Erecting, continuing or using any building or other place for the exercise of any trade, employment or manufacture, which, by occasioning noxious exhalations, unreasonably offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort or property of individuals or the public.
2. **Filth or Noisome Substance.** Causing or suffering any offal, filth, or noisome substance to be collected or to remain in any place to the prejudice of others.
3. **Impeding Passage of Navigable River.** Obstructing or impeding without legal authority the passage of any navigable river, harbor, or collection of water.
4. **Water Pollution.** Corrupting or rendering unwholesome or impure the water of any river, stream, or pond, or unlawfully diverting the same from its natural course or state, to the injury or prejudice of others.
5. **Blocking Public and Private Ways.** Obstructing or encumbering, by fences, buildings or otherwise, the public roads, private ways, streets, alleys, commons, landing places, or burying grounds.
6. **Billboards.** Billboards, signboards and advertising signs, whether erected and constructed on public or private property, which so obstruct and impair the view of any portion or part of a public street, avenue, highway, boulevard or alley or of a railroad or street railway track as to render dangerous the use thereof. **(See also Section 62.06)**
7. **Storing of Flammable Junk.** Depositing or storing of flammable junk, such as old rags, rope, cordage, rubber, bones and paper, by dealers in such articles within the fire limits of the City, unless in a building of fireproof construction. **(See also Chapter 51)**
8. **Air Pollution.** Emission of dense smoke, noxious fumes, or fly ash.
9. **Weeds, Brush.** Dense growth of all weeds, vines, brush, or other vegetation in the City so as to constitute a health, safety, or fire hazard.

10. Dutch Elm Disease. Trees infected with Dutch elm disease. **(See also Chapter 151)**

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

12. Houses of Ill Fame. Houses of ill fame, kept for the purpose of prostitution and lewdness; gambling houses; places resorted to by persons participating in criminal gang activity prohibited by Chapter 723A of the *Code of Iowa* or places resorted to by persons using controlled substances, as defined in Section 124.101 of the *Code of Iowa*, in violation of law, or houses where drunkenness, quarreling, fighting or breaches of the peace are carried on or permitted to the disturbance of others.

50.03 OTHER CONDITIONS. The following chapters of this Code of Ordinances contain regulations prohibiting or restricting other conditions which are deemed to be nuisances:

1. Junk and Junk Vehicles **(See Chapter 51)**
2. Dangerous Buildings **(See Chapter 145)**
3. Storage and Disposal of Solid Waste **(See Chapter 105)**
4. Trees **(See Chapter 151)**

50.04 NUISANCES PROHIBITED. The creation or maintenance of a nuisance is prohibited, and a nuisance, public or private, may be abated in the manner provided for in this chapter or State law.

(Code of Iowa, Sec. 657.3)

50.05 NUISANCE ABATEMENT. Whenever any authorized municipal officer finds that a nuisance exists, such officer has the authority to determine on a case-by-case basis whether to utilize the nuisance abatement procedure described in Section 50.06 of this chapter or the municipal infraction procedure referred to in Section 50.07.

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

50.06 ABATEMENT OF NUISANCE BY WRITTEN NOTICE. Any nuisance, public or private, may be abated in the manner provided for in this section:

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

1. Contents of Notice to Property Owner. The notice to abate shall contain: [†]
 - A. Description of Nuisance. A description of what constitutes the nuisance.
 - B. Location of Nuisance. The location of the nuisance.

[†] **EDITOR'S NOTE:** A suggested form of notice for the abatement of nuisances is included in the Appendix of this Code of Ordinances. Caution is urged in the use of this administrative abatement procedure, particularly where cost of abatement is more than minimal or where there is doubt as to whether or not a nuisance does in fact exist. If compliance is not secured following notice and hearings, we recommend you review the situation with your attorney before proceeding with abatement and assessment of costs. Your attorney may recommend proceedings in court under Chapter 657 of the *Code of Iowa* rather than this procedure.

- C. Acts Necessary to Abate. A statement of the act or acts necessary to abate the nuisance.
- D. Reasonable Time. A reasonable time within which to complete the abatement.
- E. Assessment of City Costs. A statement that if the nuisance or condition is not abated as directed and no request for hearing is made within the time prescribed, the City will abate it and assess the costs against the property owner.
2. Method of Service. The notice may be in the form of an ordinance or sent by certified mail to the property owner.
(Code of Iowa, Sec. 364.12[3h])
3. Request for Hearing. Any person ordered to abate a nuisance may have a hearing with the Council as to whether a nuisance exists. A request for a hearing must be made in writing and delivered to the Clerk within the time stated in the notice, or it will be conclusively presumed that a nuisance exists and it must be abated as ordered. The hearing will be before the Council at a time and place fixed by the Council. The findings of the Council shall be conclusive and, if a nuisance is found to exist, it shall be ordered abated within a reasonable time under the circumstances.
4. Abatement in Emergency. If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance or condition, the City may perform any action which may be required under this chapter without prior notice. The City shall assess the costs as provided in subsection 6 of this section after notice to the property owner under the applicable provisions of subsection 1 and 2, and the hearing as provided in subsection 3.
(Code of Iowa, Sec. 364.12[3h])
5. Abatement by City. If the person notified to abate a nuisance or condition neglects or fails to abate as directed, the City may perform the required action to abate, keeping an accurate account of the expense incurred. The itemized expense account shall be filed with the Clerk, who shall pay such expenses on behalf of the City.
(Code of Iowa, Sec. 364.12[3h])
6. Collection of Costs. The Clerk shall send a statement of the total expense incurred by certified mail to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one month, the Clerk shall certify the costs to the County Treasurer and such costs shall then be collected with, and in the same manner as, general property taxes.
(Code of Iowa, Sec. 364.12[3h])
7. Installment Payment of Cost of Abatement. If the amount expended to abate the nuisance or condition exceeds \$500.00, the City may permit the assessment to be paid in up to 10 annual installments, to be paid in the same manner and with the same interest rates provided for assessments against benefited property under State law.
(Code of Iowa, Sec. 364.13)
8. Failure to Abate. Any person causing or maintaining a nuisance who shall fail or refuse to abate or remove the same within the reasonable time required and specified in the notice to abate is in violation of this Code of Ordinances.

50.07 MUNICIPAL INFRACTION ABATEMENT PROCEDURE. In lieu of the abatement procedures set forth in Section 50.06, the requirements of this chapter may be enforced under the procedures applicable to municipal infractions as set forth in Chapter 3 of this Code of Ordinances.

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CHAPTER 51

JUNK AND JUNK VEHICLES

51.01 Definitions

51.02 Junk and Junk Vehicles Prohibited

51.03 Junk and Junk Vehicles a Nuisance

51.04 Exceptions

51.05 Notice to Abate

51.01 DEFINITIONS. For use in this chapter, the following terms are defined:

1. “Junk” means all old or scrap copper, brass, lead, or any other non-ferrous metal; old or discarded rope, rags, batteries, paper, trash, rubber, debris, waste or used lumber, or salvaged wood; dismantled vehicles, machinery and appliances or parts of such vehicles, machinery or appliances; iron, steel or other old or scrap ferrous materials; old or discarded glass, tinware, plastic or old or discarded household goods or hardware. Neatly stacked firewood located on a side yard or a rear yard is not considered junk.
2. “Junk vehicle” means any vehicle legally placed in storage with the County Treasurer or unlicensed and which has any of the following characteristics:
 - A. Broken Glass. Any vehicle with a broken or cracked windshield, window, headlight or tail light, or any other cracked or broken glass.
 - B. Broken, Loose, or Missing Part. Any vehicle with a broken, loose, or missing fender, door, bumper, hood, steering wheel or trunk lid.
 - C. Habitat for Nuisance Animals or Insects. Any vehicle which has become the habitat for rats, mice, snakes, or any other vermin or insects.
 - D. Flammable Fuel. Any vehicle which contains gasoline or any other flammable fuel.
 - E. Inoperable. Any motor vehicle which lacks an engine or two or more wheels or other structural parts, rendering said motor vehicle totally inoperable, or which cannot be moved under its own power or has not been used as an operating vehicle for a period of 30 days or more.
 - F. Defective or Obsolete Condition. Any other vehicle which, because of its defective or obsolete condition, in any other way constitutes a threat to the public health and safety.

Mere licensing of such vehicle shall not constitute a defense to the finding that the vehicle is a junk vehicle.

3. “Vehicle” means every device in, upon, or by which a person or property is or may be transported or drawn upon a highway or street, except devices moved by human power or used exclusively upon stationary rails or tracks, and includes without limitation a motor vehicle, automobile, truck, motorcycle, tractor, buggy, wagon, farm machinery, or any combination thereof.

51.02 JUNK AND JUNK VEHICLES PROHIBITED. It is unlawful for any person to store, accumulate, or allow to remain on any private property within the corporate limits of the City any junk or junk vehicle.

51.03 JUNK AND JUNK VEHICLES A NUISANCE. It is hereby declared that any junk or junk vehicle located upon private property, unless excepted by Section 51.04, constitutes a threat to the health and safety of the citizens and is a nuisance within the meaning of Section 657.1 of the *Code of Iowa*. If any junk or junk vehicle is kept upon private property in violation hereof, the owner of or person occupying the property upon which it is located shall be prima facie liable for said violation.

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

51.04 EXCEPTIONS. The provisions of this chapter do not apply to any junk or a junk vehicle stored within:

1. Structure. A garage or other enclosed structure; or
2. Salvage Yard. An auto salvage yard or junkyard lawfully operated within the City.

51.05 NOTICE TO ABATE. Upon discovery of any junk or junk vehicle located upon private property in violation of Section 51.03, the City shall within five days initiate abatement procedures as outlined in Chapter 50 of this Code of Ordinances.

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

CHAPTER 52

NOISE POLLUTION

52.01 Declaration of Policy

52.02 Definitions

52.03 Residential Property Noise Limits

52.04 Commercial and Industrial Property Noise Limits

52.05 Public Property Noise Limits

52.06 Special Provisions

52.07 Exception Permits

52.01 DECLARATION OF POLICY. It is hereby declared to be the policy of the City that the peace, health, safety, and welfare of its citizens require protection from excessive, unnecessary, and unreasonable noises from any and all sources in the community. It is the intention of the Council to control the adverse effect of such noise sources on the citizens under any conditions of use, especially those conditions of use that have the most severe impact on any person.

52.02 DEFINITIONS. For the purpose of this chapter, the following terms are defined:

1. “Commercial and industrial properties” does not refer to public property, but refers collectively to all property officially zoned any of the following classifications: Limited Agricultural (A-2), General Office and Retail (C-2), Industrial (M-1) and Highway Commercial (C-1).
2. “Emergencies” are essential activities necessary to restore, preserve, protect, or save lives or property from imminent danger of loss or harm.
3. “Local ambient” is the lowest sound level repeating itself during a six-minute period, as measured with a precision sound level meter, using slow response and “A” weighting. The minimum sound level shall be determined with the noise source at issue silent and in the same location as the measurement of the noise level of the source or sources at issue. However, for purposes of this chapter, in no case shall the local ambient be considered or determined to be less than: (i) 30 dBA for interior noise with respect to the requirements set forth in Section 52.03(1) and (2) of this chapter; and (ii) 40 dBA with respect to requirements set forth in all other sections. If a significant portion of the local ambient is produced by one or more individual identifiable sources that would otherwise be operating continuously during the six-minute measurement period and contributing significantly to the ambient sound level, determination of the local ambient shall be accomplished with these separate identifiable noise sources silent.
4. “Noise level” is the maximum continuous sound level or repetitive peak level produced by a source or group of sources as measured with a precision sound level meter using “A” weighting scale and the meter response function set to “Slow.”
5. “Precision sound level meter” is a device for measuring sound level in decibel units within the performance specifications in the American National Standards Institute Standard S 1.4, Specification for Sound Level Meters.
6. “Property plane” is a vertical plane passing through a property line which determines the property boundaries in space.
7. “Residential property” does not refer to public property, but refers to all property officially zoned Single-Family Residential (R-2). Any specific reference

herein to either single-family residential property or multi-family residential property refers to the actual use of the subject property as such.

8. “Sound level” expressed in decibels (dB), is a logarithmic indication of the ratio between the acoustic energy present at a given location and the lowest amount of acoustic energy audible to sensitive human ears and weighted by frequency to account for characteristics of human hearing, as given in the American National Standards Institute Standard S1.1, Acoustic Terminology, paragraph 2.9, or successor reference. All references to dB in this chapter utilize the A-level weighting scale, abbreviated dBa, measured as set forth in this section.

9. “Vehicle” means any device by which any person or property may be propelled, moved, or drawn on a highway or street.

52.03 RESIDENTIAL PROPERTY NOISE LIMITS.

1. No person shall produce, suffer, or allow to be produced by any machine, animal, or device, or any combination of same, on single-family residential property, a noise level more than dB above the local ambient at any point outside of the property planes.

2. No person shall produce, suffer, or allow to be produced by any machine, animal, or device, or any combination of same, on multi-family residential property, a noise level more than 6 dB above the local ambient three feet from any wall, floor, or ceiling inside any dwelling unit on the same property, when the windows and doors of the dwelling unit are closed, except within the dwelling unit in which the noise source or sources may be located.

52.04 COMMERCIAL AND INDUSTRIAL PROPERTY NOISE LIMITS. No person shall produce, suffer, or allow to be produced by any machine, animal, or device, or any combination of same, on commercial or industrial property, a noise level more than 8 dB above the local ambient at any point outside of the property planes.

52.05 PUBLIC PROPERTY NOISE LIMITS.

1. No person shall produce, suffer, or allow to be produced by any machine or device, or any combination of same, on public property, a noise level more than 15 dB above the local ambient at a distance of 25 feet or more, unless otherwise provided in this chapter.

2. Sound performances and special events not exceeding 80 dBa measured at a distance of 50 feet are exempt from this chapter when approval therefor has been obtained from the Council as herein provided.

3. Vehicle horns or other devices primarily intended to create a loud noise for warning purposes shall not be used when the vehicle is at rest or when a situation endangering life, health, or property is not imminent.

52.06 SPECIAL PROVISIONS.

1. Daytime Exceptions. Any noise source that does not produce a noise level exceeding 70 dBa at a distance of 25 feet under its most noisy condition of use is exempt from the provisions of Sections 52.03(1) and (2), 52.04, and 52.05(1) between the hours of 8:00 a.m. and 8:00 p.m. daily, except on Sundays and holidays, when the exemption herein shall apply between 10:00 a.m. and 6:00 p.m.

2. Safety Devices. Aural warning devices that are required by law to protect the health, safety, and welfare of the community shall not produce a noise level more than 3 dB above the standard or minimum level stipulated by law.
3. Emergencies. Emergencies are exempt from this chapter.
4. Construction. Notwithstanding any other provision of this chapter, between the hours of 8:00 a.m. and 8:00 p.m. daily, except on Sundays and holidays, when the exemption herein shall apply between 10:00 a.m. and 6:00 p.m.; construction, alteration, or repair activities that are authorized by a valid City permit shall be allowed if they meet at least one of the following noise limitations:
 - A. No individual piece of equipment shall produce a noise level exceeding 83 dBA at a distance of 25 feet. If the device is housed within a structure on property, the measurement shall be made outside the structure at a distance as close to 25 feet from the equipment as possible; or
 - B. The noise level at any point outside of the property planes of the project shall not exceed 86 dBA.

52.07 EXCEPTION PERMITS. If an applicant can show to the Council that a diligent investigation of available noise abatement techniques indicates that immediate compliance with the requirements of this chapter would be impractical or unreasonable, a permit to allow exception from the provisions contained in all or a portion of this chapter may be issued, with appropriate conditions to minimize the public detriment caused by such exceptions. Any such permit shall be of as short duration as possible, up to seven months, but renewable on a showing of good cause, and shall be conditioned by a schedule of compliance and details of methods therefor in appropriate cases.

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CHAPTER 55

ANIMAL PROTECTION AND CONTROL

55.01 Definitions	55.10 Animal Nuisance
55.02 Livestock	55.11 Frequent Violators; Nuisance Abatement; Protective Custody
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55.06 Rabies Vaccination	55.15 Abandonment of Cats and Dogs
55.07 Confinement	55.16 Pet Awards
55.08 Owner's Duty	
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55.01 DEFINITIONS. The following terms are defined for use in this chapter.

1. "Advertise" means to present a commercial message in any medium including but not limited to print, radio, television, sign, display, label, tag or articulation.
2. "Animal" means a nonhuman vertebrate.
(Code of Iowa, Sec. 717B.1)
3. "Animal control officer" means a person designated by the City to perform such duties involving animal control and having police authority for the enforcement of this chapter. If no such person is designated by the City, the Police Chief shall be the animal control officer.
4. "At large" means off the premises of the owner and not under the control of a competent person, restrained within a motor vehicle, or housed in a veterinary hospital or kennel.
5. "Business" means any enterprise relating to any of the following:
 - A. The sale or offer for sale of goods or services.
 - B. A recruitment for employment or membership in an organization.
 - C. A solicitation to make an investment.
 - D. An amusement or entertainment activity.
6. "Cats" means both male and female cats, six months of age or over, including both spayed and unspayed cats.
7. "Dogs" means both male and female dogs, including both spayed and unspayed dogs.
8. "Fair" means any of the following:
 - A. The annual fair and exposition held by the Iowa State Fair Board pursuant to Chapter 173 of the *Code of Iowa* or any fair event conducted by a fair under the provisions of Chapter 174 of the *Code of Iowa*.
 - B. An exhibition of agricultural or manufactured products.
 - C. An event for operation of amusement rides or devices or concession booths.

9. “Game” means a “game of chance” or “game of skill” as defined in Section 99B.1 of the *Code of Iowa*.

10. “Livestock” means an animal belonging to the bovine, caprine, equine, ovine or porcine species, ostriches, rheas and emus; farm deer as defined in Section 170.1 of the *Code of Iowa*; or poultry.

(Code of Iowa, Sec. 717.1)

11. “Owner” means any person owning, keeping, sheltering or harboring an animal.

12. “Pet” means a living dog, cat, or an animal normally maintained in a small tank or cage in or near a residence, including but not limited to a rabbit, gerbil, hamster, mouse, parrot, canary, mynah, finch, tropical fish, goldfish, snake, turtle, gecko, or iguana.

55.02 LIVESTOCK. It is unlawful for a person to keep livestock within the City except in compliance with the City’s zoning regulations.

55.03 ANIMALS AT LARGE PROHIBITED. It is unlawful for any owner to allow an animal to run at large within the corporate limits of the City.

55.04 IMPOUNDING ANIMALS AT LARGE. Animals found at large in violation of this chapter shall be seized and impounded, or at the discretion of the peace officer, the owner may be served a summons to appear before a proper court to answer charges made thereunder.

55.05 DISPOSITION OF ANIMALS. When an animal has been apprehended and impounded, written notice shall be provided to the owner within two days after impoundment, if the owner’s name and current address can reasonably be determined by accessing a tag or other device that is on or part of the animal. Impounded animals may be recovered by the owner upon payment of impounding costs, and if an unvaccinated dog, by having it immediately vaccinated. If the owner fails to redeem the animal within seven days from the date that the notice is mailed, or if the owner cannot be located within seven days, the animal shall be disposed of in accordance with law or destroyed by euthanasia.

(Code of Iowa, Sec. 351.37, 351.41)

55.06 RABIES VACCINATION. Every owner of a dog shall obtain a rabies vaccination for such animal. It is unlawful for any person to own or have a dog in said person’s possession, six months of age or over, which has not been vaccinated against rabies. Dogs kept in State or federally licensed kennels and not allowed to run at large are not subject to these vaccination requirements.

(Code of Iowa, Sec. 351.33)

55.07 CONFINEMENT. If a local board of health receives information that an animal has bitten a person or that a dog or animal is suspected of having rabies, the board shall order the owner to confine such animal in the manner it directs. If the owner fails to confine such animal in the manner directed, the animal shall be apprehended and impounded by such board, and after 10 days the board may humanely destroy the animal. If such animal is returned to its owner, the owner shall pay the cost of impoundment. This section does not apply if a police service dog or a horse used by a law enforcement agency and acting in the performance of its duties has bitten a person.

(Code of Iowa, Sec. 351.39)

55.08 OWNER'S DUTY. It is the duty of the owner of any dog, cat, or other animal which has bitten or attacked a person or any person having knowledge of such bite or attack to report this act to a local law enforcement official. It is the duty of physicians and veterinarians to report to the local board of health the existence of any animal known or suspected to be suffering from rabies.

55.09 STANDARD OF CARE. All owners and keepers of any animal shall comply with the following standards of care. Failure to comply with any standards shall be a violation of this section.

1. It is the duty of each person keeping an animal to provide adequate food, shelter, and water for that animal. No person keeping an animal shall abandon any such animal. Abandonment of an animal shall be deemed to exist when there is a failure to provide control over, shelter, food, and water for an animal without having made responsible arrangements for such care, custody, and physical control to be provided by another person.
2. It is the duty of each person keeping an animal to provide adequate food, which means providing at intervals appropriate for the species a quantity of wholesome foodstuff, suitable for the physical condition and age of the animal, served in a clean receptacle or container, sufficient to maintain an adequate level of nutrition for such animal.
3. It is the duty of each person keeping an animal to provide adequate outdoor shelter for such animal when it is kept outdoors, tangle free, which means a structurally sound, weatherproof, properly ventilated shelter for such animal, which provides access to shade from direct sunlight and egress from exposure to weather conditions. The shelter should be appropriate for the particular species and breed.
4. It is the duty of each person keeping an animal to provide adequate indoor shelter for such animal when it is kept indoors, which means a properly ventilated and illuminated facility, sufficiently regulated by heating or cooling to protect the animal from extremes of temperature, and to provide for its health and comfort. It should be appropriate for the particular species and breed.
5. It is the duty of each person keeping an animal to provide adequate sanitation, which means periodic cleaning or sanitizing housing facilities and any area where the animal is confined or restrained, and to remove excreta and other waste materials and dirt, so as to minimize vermin infestation, odors and disease hazards.
6. It is the duty of each person keeping an animal to provide adequate space, which means primary enclosures and housing facilities shall be constructed and maintained so as to provide sufficient space to allow each animal to make normal postural and social adjustments with adequate freedom of movement to maintain physical condition. The space shall be appropriate for the particular species.
7. It is the duty of each person keeping an animal to provide adequate veterinary care, which means that a sick, diseased, or injured animal shall be provided with a proper program of care by a veterinarian, or humanely euthanized. All animals shall be provided with proper immunizations and preventative health care including parasite control.
8. It is the duty of each person keeping an animal to provide adequate water, which means reasonable access to a supply of clean, fresh, potable water, provided in a sanitary manner. If potable water is not accessible to the animal at all times, it shall

be provided daily, for such duration and of sufficient quantity as appropriate for the species.

55.10 ANIMAL NUISANCE. The following acts and circumstances are hereby declared to be nuisances and therefore prohibited.

1. The keeping of an animal or animals on private property in such a manner that the accumulation of solid waste of such animal or animals becomes a detriment to or menace to the health of the animal, or an annoyance to humans.
2. Any person having in his or her possession any dog or cat which, by frequent and habitual howling, yelping, barking, or otherwise, unreasonably disturbs the peace and quiet of the vicinity.
3. Allowing any animal to molest any person on public or private property who has a legitimate reason to be thereon.

55.11 FREQUENT VIOLATORS; NUISANCE ABATEMENT; PROTECTIVE CUSTODY.

1. After the third conviction for violation of any provision of this chapter by the same person with respect to any animal or animals at any site or sites, proceedings for a fourth municipal infraction against that person for a violation of said chapter may include a request to the Court for an order that a specified animal or animals being kept by that person be relocated or other disposition made within a reasonable time to be specified in the City's request to the Court.
2. An animal that is a nuisance as declared by Section 55.10 of this chapter, or an animal being kept in conditions that are a nuisance as declared by said section, may be impounded by local law enforcement to abate the nuisance. If the keeper of the animal so impounded is known, a violation of said section may be charged against that person. Additionally, the law enforcement personnel may, in the municipal infraction proceedings brought for violation thereof, ask the Court for an order that the animal or animals be relocated or other disposition made within a reasonable time to be specified in the City's request to the Court.
3. When there is a violation of Section 55.09 of this chapter, Standard of Care, the animal control officer may cause an animal or animals affected by such violation be taken into protective custody. The owner and/or keeper failing to meet the requirements of said Section 55.09 may be charged with a violation of that section. Additionally, the animal control officer may, in the municipal infraction proceedings brought for violation thereof, ask the Court for an order that the animal or animals be relocated or other disposition made within a reasonable time to be specified in the City's request to the Court. When an animal is impounded or taken into protective custody under this section, the owner of the animal shall reimburse the City for the expense of nourishing and caring for the animal while impounded or in the protective custody of the City, and an animal shall not be released from impoundment or protective custody until the amount of such reimbursement due and payable to the City has been received by the City. If the animal is not reclaimed and the expense of its care paid to the City within 14 days after the day the animal is available for release, the animal may be humanely destroyed or otherwise disposed of according to law.

55.12 IMPOUNDMENT FEES. The owner of any dog, cat, or other animal impounded under this chapter, in addition to any charges for confinement and veterinary services incurred

in the impoundment, shall pay to the City the following fees in connection with impoundment: \$50.00 for the first day or fraction thereof involving first violation, and \$10.00 for each additional day or fraction of a day thereafter. If, within one year's time the same animal is impounded a second time, the impounding fee shall be increased to \$75.00 for the first day or fraction of a day thereof and \$10.00 for each additional day or fraction of a day thereafter. If, within a year's time the same animal is impounded three or more times, the impounding fee shall be increased to \$100.00 for the first day or fraction thereof, and \$10.00 for each additional day or fraction of a day thereafter.

55.13 TYPES OF ANIMALS PERMITTED. The following animals may be owned as pets under the following conditions.

1. Dogs (not to exceed three in number) and cats (not to exceed three in number) which are owned and maintained in compliance with the provisions of this chapter relating to such animals, and except for dogs or cats owned by an operator who is a State or federally licensed commercial breeder of dogs or cats.
2. Rabbits (not to exceed three in number) maintained in a hutch or other type of enclosure.
3. Domestic poultry and fowl; that is, poultry and fowl ordinarily raised for productions of eggs or meat, not to exceed two in number considered together and maintained at all times in a pen and/or coop.
4. The young produced by any pets permitted herein may be maintained with the parent animals for a period of approximately eight weeks but in no case longer than 10 weeks.
5. Gerbils, hamsters, guinea pigs, mice, birds, snakes, and other similar animals normally maintained as pets in an enclosure inside a dwelling are not prohibited by this section.
6. The provisions of this section shall not be deemed to prohibit the keeping or maintaining of any animal which was legally kept upon any land on December 30, 1994, provided no additional animals to those legally kept upon said date shall be placed upon any land on or after December 30, 1994, and any animal which dies or is removed or ceases to be kept or maintained under this section may not be replaced as long as the total number of animals kept exceeds the number allowable under this section. In order to establish a right to keep animals under this section, a person having control over land must have made application to the Clerk upon forms provided by the Council on or before March 1, 1995, and been granted a variance by the Council.

55.14 ENCLOSURES. Any enclosure, pen, coop, or hutch in which pets are maintained shall be cleaned at a minimum of every other day or more often if deemed advisable or necessary by the Council. They shall be located at a minimum of 25 feet from a neighboring dwelling. No animal may be enclosed or fenced in the front yard of a dwelling.

55.15 ABANDONMENT OF CATS AND DOGS. A person who has ownership or custody of a cat or dog shall not abandon the cat or dog, except the person may deliver the cat or dog to another person who will accept ownership and custody or the person may deliver the cat or dog to an animal shelter or pound.

(Code of Iowa, Sec. 717B.8)

55.16 PET AWARDS PROHIBITED.

(Code of Iowa, Ch. 717E)

1. Prohibition. It is unlawful for any person to award a pet or advertise that a pet may be awarded as any of the following:
 - A. A prize for participating in a game.
 - B. A prize for participating in a fair.
 - C. An inducement or condition for visiting a place of business or attending an event sponsored by a business.
 - D. An inducement or condition for executing a contract that includes provisions unrelated to the ownership, care or disposition of the pet.
2. Exceptions. This section does not apply to any of the following:
 - A. A pet shop licensed pursuant to Section 162.5 of the *Code of Iowa* if the award of a pet is provided in connection with the sale of a pet on the premises of the pet shop.
 - B. Youth programs associated with 4-H Clubs; Future Farmers of America; the Izaak Walton League of America; or organizations associated with outdoor recreation, hunting or fishing, including but not limited to the Iowa Sportsmen's Federation.

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CHAPTER 56

DANGEROUS AND VICIOUS ANIMALS

56.01 Definitions

56.02 Registration Required

56.03 Confinement Standards

56.04 Seizure, Impoundment, and Disposition of
Dangerous Animals

56.05 Keeping of Vicious Animals Prohibited

56.06 Seizure, Impoundment, and Disposition of
Vicious Animals

56.07 Violations

56.08 Impoundment Fees

56.01 DEFINITIONS. For use in this chapter, the following definitions apply:

1. “Animal control officer” means a person designated by the City to perform such duties involving animal control and having police authority for the enforcement of this chapter. If no such person is designated by the City, the Police Chief shall be the animal control officer.
2. “At large” means any animal off the premises of the owner. A dangerous animal shall not be deemed at large if such animal:
 - A. Is on the premises of the owner;
 - B. Is under the control of a person competent to restrain and control the animal, and securely leashed with a leash, cord, chain, or other similar restraint no longer than four feet in length, and muzzled by a muzzling device sufficient to prevent such dangerous animal from biting persons or other animals, or properly restrained within a motor vehicle; or
 - C. Is properly housed in a veterinary hospital or licensed kennel, pet shop, or City designated animal pound.
3. “Dangerous animal” means: †
 - A. Any animal with a known propensity, tendency, or disposition to attack, unprovoked, as evidenced by its habitual or repeated chasing, snapping, or barking at human beings or domestic animals so as to potentially cause injury or otherwise to endanger their safety; or
 - B. Any animal that snaps, bites, or manifests a disposition to snap or bite;
 - C. Any animal with a history, tendency, or disposition to attack, to cause injury to, or to otherwise endanger the safety of human beings or domestic animals;
 - D. Staffordshire terrier, American pit bull terrier, American Staffordshire terrier, or pit bull terrier breed of dogs; or dogs of mixed breed or of other breeds than above listed, which breed or mixed breed is known as pit bulls, pit bull dogs, or pit bull terriers; or any dog which has the appearance and characteristics of being predominately of the breeds of Staffordshire terrier, American pit bull terrier, American Staffordshire terrier, or pit bull terrier,

† **EDITOR’S NOTE:** Certain other dangerous animals, listed in Section 717F.1, paragraph 5a, of the *Code of Iowa*, are specifically prohibited and regulated by the Iowa Department of Agriculture and Land Stewardship.

any other breed commonly known as pit bulls, pit bull dogs, or pit bull terriers, or a combination of any of these breeds.

4. "Vicious animal" means:
 - A. Any animal that has bitten or attacked a person or persons without provocation while the animal was running at large;
 - B. Any animal that has exhibited vicious tendencies in present or past conduct, whether or not the animal was running at large, by: (i) biting a person or persons on two separate occasions; or (ii) biting any person once, causing injuries above the shoulders to the person; or (iii) biting any person on one occasion when the animal could not be controlled or restrained by the owner to prevent the bite; or (iv) attacking any domestic animal or fowl without provocation on two or more occasions within a 12-month period;
 - C. Any animal which has been found by the City Council to possess the characteristics of any of the definitions of a vicious animal as set forth herein, after hearing provided in Section 56.06;
 - D. Any animal that has been trained for dog fighting, animal fighting, or animal baiting, or is owned or kept for such purposes;
 - E. Any animal trained to attack human beings, upon command or spontaneously in response to human activities, except dogs owned by and under the control of a law enforcement agency.

56.02 REGISTRATION REQUIRED.

1. All dangerous animals shall be registered with the City Clerk by an adult person responsible for the keeping of the animal. Failure or refusal to register each such animal, stating the animal's location and identifying characteristics, on forms provided by the City, shall constitute a violation of this Code of Ordinances. Failure to re-register if the animal's owner is changed, or the animal is moved to another location, or to report the animal as missing, shall also be a violation hereof.
2. The registration of an animal shall be renewed annually. The premises and facilities where such registered animals are kept shall be inspected annually, unless there is reason to believe animals are being improperly kept or cared for, in which case inspections may be made as the animal control officer deems necessary. The City Council may establish a schedule of fees to cover the costs of administration and inspection.
3. The registration of a dangerous animal shall be denied unless the person having custody, ownership, or control of such a dog or other animal first presents written proof of public liability insurance of not less than \$1,000,000.00, to the City Clerk.

56.03 CONFINEMENT STANDARDS. All dangerous animals shall be confined. A dangerous animal is unconfined as the term is used in this section if such animal is not:

1. Confined indoors; or
2. Confined outdoors in an enclosed and locked pen or structure, provided that the existence of such pen or structure is permitted by zoning regulations. Dangerous animals are not permitted in areas where such structures or pens are not authorized by zoning regulations. If permitted, such pen or structure shall be at least two lengths of

the animal wide, four lengths of the animal long, and two lengths of the animal high, and must be constructed with chain link fencing for all four sides and top, with a concrete floor.

56.04 SEIZURE, IMPOUNDMENT, AND DISPOSITION OF DANGEROUS ANIMALS.

1. In the event that a dangerous animal is found at large and unattended upon public property, park property, public right-of-way, or the property of someone other than its owner, thereby creating a hazard to person or property, such animal may, in the discretion of the animal control officer, be destroyed if it cannot be confined or captured. The City shall be under no duty to attempt the confinement or capture of a dangerous animal found at large, nor shall the City have a duty to notify the owner of such animal prior to its destruction.

2. Upon the determination by the animal control officer that: (i) a person is keeping, sheltering, or harboring a dangerous animal on premises located in the City in violation of the registration requirements or confinement standards of this chapter; or (ii) a person keeping, sheltering, or harboring a dangerous animal is unable to keep the animal in compliance with the requirements of this chapter, thereby creating a risk of harm to the public, the animal control officer, at his or her discretion, shall, by written notice and order served personally or by certified mail upon the person keeping, sheltering, or harboring the dangerous animal, order the person to do either or both of the following:

A. Comply with any requirements of this chapter concerning dangerous animals within three days of receipt of the order; or

B. Safely remove such animal from the City or destroy the animal within three days of the receipt of such order.

3. A written order and notice shall not be required where any animal has caused physical harm or death to any person, in which case the animal will be deemed to be a dangerous animal. In such case, the animal control officer shall cause the animal to be immediately seized and impounded, or killed if seizure and impoundment are not possible without risk of serious physical harm or death to any person. After seizure and impoundment of any such animal, the animal control officer may proceed under the notice and order provisions set forth in this section (as a dangerous animal), or under the notice provisions set forth in Section 56.06 (as a vicious animal).

4. The written order and notice issued by the animal control officer may be appealed to the City Administrator. In order to appeal such order, written notice of appeal must be filed with the City Clerk within three days after receipt of the order contained in the notice and order. Failure to file such written notice of appeal shall constitute a waiver of right to appeal the order of the animal control officer. If the order of the animal control officer is not appealed and is not complied with within three days, the animal control officer is authorized to immediately seize and impound such dangerous animal. Failure to comply with an order of the City issued pursuant hereto shall constitute a misdemeanor offense.

5. Notice of appeal of an order of the animal control officer shall state the grounds for such appeal and shall be delivered personally or by certified mail to the City Clerk. The hearing of such appeal shall be scheduled within 14 days of the receipt of notice of appeal. After such hearing, the City Administrator may affirm or

reverse the order of the animal control officer. Such determination shall be contained in a written decision and shall be filed with the City Clerk within three days after the hearing, or any continued sessions thereof.

6. If the City Administrator affirms the action of the animal control officer, the City Administrator shall issue a written decision ordering the individual or entity owning, sheltering, harboring, or keeping such dangerous animal to comply with the original order of the animal control officer within three days after service of the decision. The decision and order shall immediately be served upon the person or entity against whom the decision was rendered by personal service or by certified mail. If the order of the City Administrator after appeal is not complied with within three days of its issuance, the animal control officer is authorized to seize and impound such dangerous animal. Failure to comply with an order of the City issued pursuant hereto shall constitute a misdemeanor offense.

7. Any animal seized under this section shall be impounded for a period of seven days. If at the end of the impoundment period, the individual or entity against whom the order of the animal control officer or the City Administrator was issued has not petitioned the court for a review of said order, the City shall cause the animal to be disposed of by sale, or destroyed in a humane manner.

56.05 KEEPING OF VICIOUS ANIMALS PROHIBITED. No person shall keep, shelter, or harbor for any reason within the City a vicious animal; provided, however, animals under the control of a law enforcement or military agency are exempt from this prohibition.

56.06 SEIZURE, IMPOUNDMENT, AND DISPOSITION OF VICIOUS ANIMALS.

1. The animal control officer, in his or her discretion or upon receipt of a complaint alleging that a particular animal is a vicious animal as defined herein, may initiate proceedings to declare such animal a vicious animal. A hearing on the matter shall be conducted by the City Administrator. The person owning, keeping, sheltering, or harboring the animal in question shall be given not less than 72 hours' written notice of the time and place of said hearing. Said notice shall set forth the description of the animal in question and the basis for the allegation of viciousness. The notice shall also set forth that if the animal is determined to be vicious, the owner will be required to remove it from the City or allow it to be destroyed. The notice shall be served upon any adult residing at the premises where the animal is located, or may be posted on those premises if no adult is present to accept service.

2. If, after hearing, the City Administrator determines that an animal is vicious, the person, firm, or corporation owning, sheltering, harboring, or keeping the animal shall be ordered to remove it from the City, or to cause it to be destroyed in a humane manner within three days. The order shall immediately be served upon the individual or entity owning, keeping, sheltering, or harboring the animal in question by personal service or by certified mail. If the order is not complied with within three days of its issuance, the animal control officer is authorized to seize and impound the animal. An animal so seized shall be impounded for a period of seven days. If at the end of the impoundment period, the individual or entity against whom the order of the City Administrator was issued has not petitioned the court for a review of said order, the animal control officer shall cause the animal to be destroyed.

3. Failure to comply with an order issued pursuant hereto shall constitute a misdemeanor offense.

4. Any animal found at large which displays vicious tendencies may be processed as a vicious animal pursuant to the foregoing, unless the animal is so vicious that it cannot safely be apprehended, in which case the animal control officer may immediately destroy it. If the ownership of an animal found at large which displays vicious tendencies is not ascertainable, the animal control officer may destroy it after three days' impoundment.

5. Any animal which is alleged to be vicious and which is under impoundment or quarantine at the animal shelter shall not be released to the owner, but shall continue to be held at the expense of the owner pending the outcome of the hearing. All costs of such impoundment or quarantine shall be paid by the owner if the animal is determined to be vicious. If the animal is not determined to be vicious, all costs of such impoundment or quarantine shall be paid by the City.

56.07 VIOLATIONS.

1. No person shall aid or cause any animal, whether owned by such person or not, to escape confinement or impoundment, whether such confinement or impoundment be upon such person's property or that of another, by opening any gate, door or window, by making an opening in any fence, enclosure or structure, or by unleashing such animal.

2. It is prohibited for any person in any manner to interfere with any employee or designated representative of the City, so as to hinder, delay, or prevent such person's executing duties in relation to the matters and things contained in this chapter.

56.08 IMPOUNDMENT FEES. The owner of any animal impounded under this chapter, in addition to any charges for confinement and veterinary services incurred in the impoundment, shall pay impoundment fees to the City as established in Section 55.13 of this Code of Ordinances.

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CHAPTER 57

DOG LICENSE REQUIRED

57.01 Annual License Required

57.02 License Fees

57.03 Delinquency

57.04 License Tags

57.05 License Records

57.06 Immunization

57.07 Duplicate Tags

57.08 Transfers of Licensed Dogs

57.09 Kennel Dogs

57.01 ANNUAL LICENSE REQUIRED.

1. Every owner of a dog over the age of six months shall procure a dog license from the Clerk on or before January 1 each year.
2. Such license may be procured after January 1 and at any time for a dog which has come into the possession or ownership of the applicant or which has reached the age of six months after said date.
3. The owner of a dog for which a license is required shall apply to the Clerk on forms provided by the City.
4. The form of the application shall state the breed, sex, age, color, markings and name, if any, of the dog, and the address of the owner and shall be signed by the owner. The application shall also state the date of the most recent rabies vaccination, the type of vaccine administered and the date the dog shall be revaccinated.
5. All licenses shall expire on January 1 of the year following the date of issuance.

57.02 LICENSE FEES. The annual license fee shall be as established by resolution of the Council.

57.03 DELINQUENCY. All license fees shall become delinquent on July 1 of the year in which they are due, and a delinquent penalty of \$1.00 shall be added to each unpaid license on and after said date.

57.04 LICENSE TAGS. Upon receipt of the application and fee, the Clerk shall deliver or mail to the owner a license which shall be in the form of a metal tag stamped with the serial number of the license as shown on the record book of the Clerk, the year in which it is issued, and the name of the City. The license tag shall be securely fastened by the owner to a collar or harness which shall be worn at all times by the dog for which issued. A license for one dog shall not be transferable to another dog. Upon the expiration of the license the owner shall remove said tag from the dog.

57.05 LICENSE RECORDS. The Clerk shall keep a book to be known as the record of licenses which shall show:

1. The serial number and date of each application for a license.
2. The description of the dog as specified in the application, together with the name of the owner of the dog.

3. The date when each license tag is issued and the serial number of each tag, the date of the most recent rabies vaccination, the type of vaccine administered, and the date the dog shall be revaccinated.
4. The amount of all fees paid.
5. Such other data as may be required by law.

57.06 IMMUNIZATION. Before a license is issued, the owner shall furnish a veterinarian's certificate showing that the dog for which the license is sought has been vaccinated against rabies, and that the vaccination does not expire within six months from the effective date of the dog license. A tag showing evidence of proper vaccination shall at all times be attached to the collar of the dog.

57.07 DUPLICATE TAGS. Upon the filing of an affidavit that the license tag has been lost or destroyed, the owner may obtain another tag on the payment of \$1.00 and the Clerk shall enter in the license record the new number assigned.

57.08 TRANSFERS OF LICENSED DOGS. Upon transfer of a licensed dog into the City, the owner shall surrender the original license tag to the Clerk. The Clerk shall preserve the surrendered tag and, without a license fee, issue a new license tag.

57.09 KENNEL DOGS. Dogs kept in State or federally licensed kennels, which are kept or raised solely for the bona fide purpose of sale and which are kept under constant restraint, are not subject to the provisions of this chapter.

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