

NUISANCES AND ANIMAL CONTROL

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CHAPTER 50

NUISANCE ABATEMENT PROCEDURE

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50.01 DEFINITIONS. As used in this chapter, the following definitions shall apply:

1. "Abandoned building" means any building or portion thereof which has stood with an incomplete exterior shell for longer than one year or any building or portion thereof which has stood unoccupied for longer than one year and which meets one or more of the following criteria:
 - A. Unsecured; or
 - B. Having Building Code violations.
2. "Dangerous building or structure" means any building or structure in violation of the *Uniform Code for Abatement of Dangerous Buildings*.
3. "Enforcement Officer" means the City Manager or designee.
4. "Hazardous waste" means those wastes included by definition in Chapter 455B, Code of Iowa, as amended, and the rules of the Iowa Administrative Code, as amended.
5. "Inoperable or obsolete vehicle" means any device in, upon or by which a person or property is or may be transported or drawn upon a highway or street, excepting devices moved by human power or used exclusively upon stationary rails or tracks, and includes (but is not limited to) a motor vehicle, automobile, truck, trailer, motorcycle, tractor, buggy, wagon or any combination thereof, and not licensed for the current year as required by law and/or which exhibits any one of the following characteristics:
 - A. Any vehicle or part of a vehicle with a broken windshield or any other broken glass.
 - B. Any vehicle lacking an engine or one or more wheels or other structural parts which renders such vehicle totally inoperable.
 - C. Any vehicle or part of a vehicle which is a habitat for rats, mice or snakes or any other vermin or insects.
 - D. Any vehicle or part of a vehicle which, because of its defective or obsolete condition, constitutes a threat to the public health and safety.
 - E. Any vehicle that is not capable of moving in both forward and reverse gears.

6. "Junk or salvage material" means any discarded or salvaged building material or fixture; any obsolete or inoperable machinery and/or equipment or parts thereof; scrap iron or steel.
7. "Noxious substances" means substances, solid or fluid, which are offensive, detrimental to health, hurtful or dangerous. "Noxious substances" include, but are not limited to, any dead animal or portion thereof, together with human or animal excrement.
8. "Nuisances" means whatever is injurious to the senses or an obstruction to the free use of property so as essentially to interfere with the comfortable enjoyment of life or property by the public or community.
9. "Owner" means the person or persons who are the record owners of real property, together with any person having a property interest in the property, including legal or equitable interests.
10. "Property" includes both real property, such as land or buildings, as well as personal property, such as vehicles and appliances.
11. "Refuse" means any waste that is putrescible, nonputrescible, combustible or noncombustible, including (but not limited to) paper, garbage, material resulting from the handling, processing, storage, preparation, serving and consumption of food, vegetable or animal matter, offal, rubbish, yard waste such as tree trimmings or grass cuttings, ashes, incinerator residue, street cleanings, construction debris and solid industrial waste.
12. "Responsible party" means any person having possession or control of real or personal property, including (but not limited to) any one or more of the following:
 - A. Agent.
 - B. Assignee or collector of rents.
 - C. Contract seller or contract purchaser.
 - D. Holder of a deed.
 - E. Mortgagee or vendee in possession.
 - F. Receiver, executor, administrator or trustee.
 - G. Lessee and lessor.
 - H. Other person, firm, partnership, corporation or entity exercising apparent control over a property.

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 62.08*)
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. Airport Air Space. Any object or structure hereafter erected within one thousand (1,000) feet of the limits of any municipal or regularly established airport or landing place, which may endanger or obstruct aerial navigation including take-off and landing, unless such object or structure constitutes a proper use or enjoyment of the land on which the same is located.
10. Houses of Ill Fame. Houses of ill fame, kept for the purpose of prostitution and lewdness, gambling houses, or houses resorted to by persons using controlled substances, as defined in Section 204.101[6] 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.
11. Outside Storage. The following items stored in outdoor areas or in other structures not totally enclosed by structural walls: building materials, abandoned or inoperable vehicles, nonregistered vehicles, auto parts, tires, packing boxes, wooden pallets, broken or discarded furniture, broken or discarded household furnishings or equipment including carpeting, appliances and other typical household items, or any item not normally required in the day-to-day use of the property when stored continuously in excess of seventy-two (72) hours within any portion of a front, side or rear yard area. This section applies to all property, regardless of zoning classification. However, this section shall not be construed to prohibit a use specifically permitted by applicable zoning law. (*See also Zoning Ordinance, Chapter 167*)
12. Outside Storage in Residential Districts. The outside storage of pipe, lumber, farms machinery or other occupational materials upon property in the front yard or side yard corner lot or visible from a public street in a residential district.
13. Attractive Nuisance. Any attractive nuisance dangerous to children in the form of abandoned vehicles, abandoned or broken equipment, hazardous pools, ponds, excavations, materials, including building material, debris, or neglected machinery.
14. Deteriorated Property. Real property maintained in such condition as it becomes defective, unsightly, or in such condition of deterioration or disrepair that the

same causes substantial depreciation of the property values of the surrounding properties or is materially detrimental to properties and improvements.

15. Discarded Material. Any discarded or unused material on real property that is not consistent with the condition and visual appearance of the surrounding or adjacent real property.

16. Obstructions to View of Traffic. All trees, hedges, signage or other obstructions which prevent persons from having a clear view of all traffic approaching an intersection.

17. Debris in Streets. The placing or throwing on any street, alley, road, highway, sidewalk, or other public property of any glass, tacks, nails, bottles or other substances which may injure any person or animal or damage any pneumatic tire when passing over the same. *(See also Chapter 135)*

18. Solid Waste. The depositing of, maintaining, permitting, or failing to remove, garbage, trash, rubbish, bottles, cans and other refuse on any property within the City, including large quantities of organic debris and materials, which accumulated by other than natural means, except neatly maintained compost piles. *(See also Chapters 105 through 107)*

19. 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. All grass and/or weeds growing on lots and parcels of ground within the City limits, except for wildlife habitats, shall automatically be deemed a health, safety and fire hazard if vegetation reaches the maximum heights as herein specified:

<u>Land Use</u>	<u>Maximum Vegetation Height</u>
Developed Residential, Commercial and Industrial Zoned Areas	8 inches
Undeveloped Residential, Commercial and Industrial Zoned Areas unless planted for farm cropping purposes	12 inches

A lot may be exempted from the foregoing provision if all of the following conditions are met:

- A. All owners of property abutting such lot must consent in writing.
- B. A firebreak 30 feet in width on all sides of such lot shall be mowed to the height of not more than 8 inches.
- C. The lot shall contain no “noxious weeds” as defined in Section 317.1A, Code of Iowa.
- D. The property owners shall assume in writing all liability for such condition and indemnify the City for any claims or damages related thereto.

The property owners or occupants shall also be jointly or severally responsible for the cutting of such growths on the abutting space between the lot line and the curb line or edge of the traveled way within the street right-of-way, whether in front of or along the side of the lot or parcel of ground, and one-half of any alley abutting the property. The City Manager shall notify the property owners and occupants when the weeds are

longer than the limits set out in this section. If the weeds are not cut within seven (7) days, then the City will have the weeds or growth cut and assess the cost to be collected with the property taxes.

20. Wood Piles. The accumulation of any piles of wood which are not neatly stacked, or secured in a stable manner to avoid collapse.

21. Trees Overhanging Streets and Sidewalks. Tree limbs which overhang the sidewalk at a height less than seven (7) feet from the sidewalk, or at a height less than fourteen (14) feet from the ground or street surface of the traveled portion of the street. All live shade and ornamental trees planted in street right-of-way or other public grounds of the City shall be kept trimmed and pruned by the owner or occupant of the property in front of which the same stand to a point as high as the size and shape of the trees will permit. No person shall be compelled to trim or prune trees between March 1 and June 1 of each year, unless the condition poses a specific safety hazard requiring immediate attention. *(See also Chapters 135 and 136)*

22. Dutch Elm Disease and Dead or Dangerous Trees. Trees infected with Dutch Elm Disease and any dead or otherwise dangerous trees, shrubs or branches which are on the owner's property. *(See also Chapter 151)*

23. Abandoned Vehicles. The storage, parking, leaving or permitting the storage, parking or leaving of an inoperable or obsolete vehicle upon private property within the City for a period in excess of 48 hours unless excepted herein. Abandoned and inoperable or obsolete vehicles are declared to be a public nuisance creating a hazard to the health and safety of the public because they invite plundering, create fire hazards, attract vermin, and present physical dangers to the safety and well-being of children and other citizens. The accumulation and outside storage of such vehicles is in the nature of rubbish, litter, and unsightly debris and is a blight on the landscape and a detriment to the environment. This subsection shall not apply to any vehicle enclosed within a building on private property or to any vehicle held in connection with a junk yard or auto and truck oriented use operated in accordance with the zoning regulations of this Code of Ordinances. *(See also Chapter 80)*

24. Stopped or Parked Vehicles. Any vehicle, whether occupied or not, that is found stopped or parked in violation of any ordinance or State statute; or that is reported stolen; or that is found impeding firefighting, snow removal or plowing or the orderly flow of traffic.

25. Burning on Street or Alley. The burning of any substance whatsoever on that part of any City street or alley which is surfaced is prohibited. *(See also Chapter 135)*

26. Private Sewer Facilities:

A. Facilities for the storage or processing of sewage, such as privies, vaults, sewers, private drains, septic tanks, cesspools and drain fields, which have failed or do not function properly or which are overflowing, leaking or emanating odors.

B. Septic tanks, cisterns and cesspools which are abandoned or no longer in use unless properly emptied and filled with clean fill.

C. Any vault, cesspool or septic tank which does not comply with the County Department of Health regulations.

27. Unoccupied, Dangerous Buildings: *(See also Chapter 145)*
 - A. Unoccupied buildings or unoccupied portions of buildings which are unsecured.
 - B. Abandoned buildings.
 - C. Dangerous buildings or structures.
28. Hazardous Conditions:
 - A. Generally. Any hazardous thing or condition on property which may contribute to injury of any person present on the property. Hazards include, but are not limited to, open holes, open foundations, open wells, dangerous trees or limbs, abandoned refrigerators and trapping devices.
 - B. Fire Hazards. Any thing or condition on property creating a fire hazard, as determined by the Fire Marshal, or in violation of the Fire Code.
 - C. Health Hazards. Any thing or condition on property creating an imminent threat to human health or in violation of any health or sanitation law.

50.03 MAINTENANCE REQUIREMENTS. The following regulations govern the maintenance of structures and property so that nuisance conditions are not created.

1. General. All structures, equipment and exterior property, whether occupied or vacant, shall be maintained in good repair, structurally sound and sanitary condition as provided herein so as not to cause or contribute to the creation of a blighted area or adversely affect the public health or safety.
2. Accessory Structures. All accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair.
3. Protective Treatment. All exterior surfaces, including but not limited to doors, door and window frames, cornices, porches and trim, shall be maintained in good condition.
4. Roofs and Drainage. All roofs and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair, with proper anchorage and free from obstructions.
5. Stairways, Decks, Porches and Balconies. Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.
6. Basement Hatchways. Every basement hatchway shall be maintained to prevent entrance of rodents, vermin, and rain and surface drainage water.

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 the Mayor or other authorized municipal officer finds that a nuisance exists, such officer shall cause to be served upon the property owner a written notice to abate the nuisance within a reasonable time after notice or shall cause to be served a municipal infraction citation. †

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

50.06 NOTICE TO ABATE: CONTENTS. The notice to abate shall contain:

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

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

50.07 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])

50.08 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.

50.09 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 Section 50.11 after notice to the property owner under the applicable provisions of Sections 50.05, 50.06 and 50.07 and hearing as provided in Section 50.08.

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

50.10 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,

† **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.

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])

50.11 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 (1) 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])

50.12 INSTALLMENT PAYMENT OF COST OF ABATEMENT. If the amount expended to abate the nuisance or condition exceeds one hundred dollars (\$100.00), the City may permit the assessment to be paid in up to ten (10) annual installments, to be paid in the same manner and with the same interest rates provided for assessments against benefited property under State law.

(Code of Iowa, Sec. 364.13)

50.13 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.

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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, or 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 thirty (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 junk yard 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 (5) days initiate abatement procedures as outlined in Chapter 50 of this Code of Ordinances.

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

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CHAPTER 55

ANIMAL PROTECTION AND CONTROL

55.01 Definitions	55.10 Vicious Dogs
55.02 Animal Neglect	55.11 Owner's Duty
55.03 Livestock Neglect	55.12 Confinement
55.04 Abandonment of Cats and Dogs	55.13 At Large: Impoundment
55.05 Livestock	55.14 Disposition of Animals
55.06 At Large Prohibited	55.15 Impounding Costs
55.07 Damage or Interference	55.16 Trapping of Animals Prohibited
55.08 Annoyance or Disturbance	55.17 Police Department K-9 Unit
55.09 Bothersome Animals	55.18 Pet Awards Prohibited

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. "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.
4. "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.
5. "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.
6. "Game" means a "game of chance" or "game of skill" as defined in Section 99B.1 of the Code of Iowa.
7. "Licensed dog" means any dog bearing a currently valid license under this Code of Ordinances.
8. "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)

9. "Owner" means any person owning, keeping, sheltering or harboring an animal.

10. "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 ANIMAL NEGLECT. It is unlawful for a person who impounds or confines, in any place, an animal, excluding livestock, to fail to supply the animal during confinement with a sufficient quantity of food or water, or to fail to provide a confined dog or cat with adequate shelter, or to torture, deprive of necessary sustenance, mutilate, beat, or kill such animal by any means which causes unjustified pain, distress or suffering.

(Code of Iowa, Sec. 717B.3)

55.03 LIVESTOCK NEGLECT. It is unlawful for a person who impounds or confines livestock in any place to fail to provide the livestock with care consistent with customary animal husbandry practices or to deprive the livestock of necessary sustenance or to injure or destroy livestock by any means which causes pain or suffering in a manner inconsistent with customary animal husbandry practices.

(Code of Iowa, Sec. 717.2)

55.04 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)

55.05 LIVESTOCK. It is unlawful for a person to keep livestock within the City except by written consent of the Council.

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

55.07 DAMAGE OR INTERFERENCE. It is unlawful for the owner of an animal to allow or permit such animal to pass upon the premises of another thereby causing damage to, or interference with, the premises.

55.08 ANNOYANCE OR DISTURBANCE. It is unlawful for the owner of a dog to allow or permit such dog to cause serious annoyance or disturbance to any person by frequent and habitual howling, yelping, barking, or otherwise, or by running after or chasing persons, bicycles, automobiles or other vehicles.

55.09 BOTHERSOME ANIMALS.

1. Restrictions. It is unlawful for a person to keep within the City such bothersome animals as bees, cattle, horses, swine, sheep and exotic animals which tend to disrupt the peace and good order of the community except in agriculturally zoned districts or by a special exception granted by the City Council with the following restrictions:

A. The primary dwelling for livestock shall be at least 100 feet from any neighboring house.

- B. Fencing for any livestock must be constructed in such a manner that animals may not reach legs, necks or any body part onto neighbor's property, or to any shrub or plant growing on the neighbor's property.
- C. In the event a special exception is granted by the City, the City Council may add such other and further restrictions as are deemed necessary to prevent disruption of the peace and good order of the community.
2. Conditions. The keeping of livestock which is otherwise unlawful by this section may be continued subject to the following conditions:
- A. The property owner must file with the City a notice indicating the type of livestock, number of livestock and location of livestock upon the property as of July, 2003. Such notice shall be subject to confirmation by representatives of the City.
- B. The property owner shall not be permitted to materially increase the number of livestock located upon the property beyond the amount set forth on the above-referenced notice.
- C. No change in the type of livestock located upon the premises shall be permitted from that set forth on the notice referred to above.
- D. Failure of a property owner to submit timely notice to the City as set forth above shall void any right of the property owner or subsequent owner of the property to continued placement of livestock upon the premises.

This exception shall terminate in the event such livestock is vacant from such property for a period of six consecutive months or more.

Nothing herein shall be deemed to exempt an owner of livestock within the City limits from the enforcement of nuisance or other laws regarding the keeping of such livestock.

55.10 VICIOUS DOGS. It is unlawful for any person to harbor or keep a vicious dog within the City. A dog is deemed to be vicious when it has attacked or bitten any person without provocation, or when propensity to attack or bite persons exists and is known or ought reasonably to be known to the owner.

55.11 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 health or 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.

(Code of Iowa, Sec. 351.38)

55.12 CONFINEMENT. If the Police Department receives information that an animal has bitten a person or that a dog or animal is suspected of having rabies, the Police Department 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 the Department, and after ten (10) days the Department 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)

55.13 AT LARGE: IMPOUNDMENT. 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.

55.14 DISPOSITION OF ANIMALS. When an animal has been apprehended and impounded, written notice shall be provided to the owner within two (2) 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 (7) 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)

55.15 IMPOUNDING COSTS. Impounding costs for each dog or other animal plus the costs of food and care shall be set by resolution of the Council. In addition, the owner of each unlicensed dog over six (6) months of age shall post a bond in an amount set by resolution of the Council until proof of rabies vaccination and a license is secured. Fees incurred for the boarding and disposal of impounded animals which remain unpaid for a period of ninety (90) days shall constitute a lien upon the property of the owner of the animal and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

55.16 TRAPPING OF ANIMALS PROHIBITED. It is unlawful to set a trap or snare of any kind which is capable of taking, capturing, trapping or killing any game or fur-bearing animal on public property in the established limits of the City. Public property shall include all land owned by the City, the State, or any other subdivision of the State. However, the Police Chief may authorize the use of a trap or snare when it is determined to be in the interest of public safety. Traps for the control of mice, rats and other vermin when used in an enclosed structure are not prohibited.

55.17 POLICE DEPARTMENT K-9 UNIT. The following sections of this chapter do not apply to a dog utilized by the Manchester Police Department which has been trained and placed in service for use by the Police Department and which is commonly referred to as a K-9 Unit:

1. Section 55.13 – At Large: Impoundment;
2. Section 55.08 – Annoyance or Disturbance;
3. Section 55.10 – Vicious Dogs.

55.18 PET AWARDS PROHIBITED.

(Code of Iowa, Ch. 717.E)

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 which 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

DOG LICENSE REQUIRED

56.01 Annual License Required
56.02 License Fees
56.03 Delinquency
56.04 License Tags
56.05 License Records

56.06 Immunization
56.07 Duplicate Tags
56.08 Transfers of Licensed Dogs
56.09 Kennel Dogs

56.01 ANNUAL LICENSE REQUIRED.

1. Every owner of a dog over the age of six (6) months shall procure a dog license from the Clerk on or before the first day of January of 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 (6) 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 Clerk.
4. The form of the application shall state the breed, sex, color, markings, and name, if any, of the dog, and the address of 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.

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

56.03 DELINQUENCY. All license fees shall become delinquent on the first day of July of the year in which they are due and a delinquent penalty in an amount set by resolution of the Council shall be added to each unpaid license on and after said date.

56.04 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 issued 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.

56.05 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.

56.06 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.

56.07 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 an amount set by resolution of the Council and the Clerk shall enter in the license record the new number assigned.

56.08 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.

56.09 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.

CHAPTER 57

POTENTIALLY VICIOUS DOGS

57.01 Definition

57.02 Procedure for Declaration of Potentially Vicious Dog

57.03 Notification of Status of Potentially Vicious Dog

57.04 Exceptions to Classification

57.05 Disposition of Potentially Vicious Dog

57.06 Penalty

57.01 DEFINITION. A “potentially vicious dog” is a dog that:

1. When unprovoked, on two separate occasions, has engaged in any behavior that has required a defensive action by any person to prevent bodily injury when the person and dog were off the property of the owner or keeper of the dog;
2. When unprovoked, has attacked or bitten a person;
3. When unprovoked, has inflicted a serious injury or caused the death of a domestic animal, either on public or private property other than the property of the owner or keeper; or
4. When unprovoked, chases or approaches a person or domestic animal upon the streets, sidewalks, or any public or private property other than the property of the owner or keeper, in a menacing fashion or apparent attitude of attack.

57.02 PROCEDURE FOR DECLARATION OF POTENTIALLY VICIOUS DOG.

1. The City Manager may find and declare an animal potentially vicious based upon the following:
 - A. The written complaint of a citizen that the animal has acted in a manner set forth in this chapter;
 - B. Dog bite reports filed with the City Manager or Police Chief;
 - C. Actions of the dog witnessed by any law enforcement officer; or
 - D. Other substantial evidence.
2. The declaration of a potentially vicious dog shall be in writing and shall be served on the owner in one of the following methods: (i) personally, (ii) by certified mail to the owner at the owner’s last known address, or (iii) if the owner cannot be served personally or by mail, by publication in a newspaper of general circulation in the County. The declaration shall state:
 - A. The description of the animal;
 - B. The name and address of the owner of the animal, if known;
 - C. The whereabouts of the animal, if not in the custody of the owner;
 - D. The facts upon which the declaration of potentially vicious dog is based;
 - E. The owner’s right to a hearing if the person objects to the declaration;
 - F. The restrictions placed upon the animal as a result of the declaration of potentially vicious dog; and

G. The penalties for a violation of such restrictions.

3. The owner may object to the declaration of potentially vicious dog by requesting a hearing before the City Manager by submitting a written request to the City Clerk within ten (10) days after the date of mailing of the declaration, or within ten (10) days after the publication of the declaration.

A. If the City Manager finds that there is insufficient evidence to support the declaration, it shall be rescinded, and the restrictions imposed thereby annulled.

B. If the City Manager finds sufficient evidence to support the declaration, the City Clerk shall provide the owner with written notice of such determination within five (5) working days after the hearing.

C. Upon service of notice and pending hearing, the owner shall confine the dog in a fenced enclosure on the owner's premises. It is unlawful for the owner of the potentially vicious dog to allow or permit such dog to go beyond the premises of the owner unless such dog is securely leashed and humanely muzzled or otherwise securely restrained.

D. If it is determined by the City Manager or law enforcement officer that probable cause exists to believe the dog in question poses an immediate threat to public safety, then the animal control officer or law enforcement officer may seize and impound the dog pending the hearing to be held pursuant to this chapter. The owner or keeper of the dog shall be liable to the City for the costs and expenses of keeping the dog if the dog is later determined to be potentially vicious. When a dog has been impounded and it is not contrary to public safety, the animal control officer shall permit the animal to be confined at the owner's expense in a City-approved kennel or veterinary facility.

57.03 NOTIFICATION OF STATUS OF POTENTIALLY VICIOUS DOG. The owner shall immediately notify the City Manager when a dog which has been classified as potentially vicious:

1. Is loose or unconfined;
2. Has bitten a human being or attacked another animal;
3. Is sold or given away, or dies; or
4. Is moved to another address.

Prior to a potentially vicious dog being sold or given away, the owner shall provide the name, address and telephone number of the new owner to the City Manager. The new owner shall comply with all the requirements of this chapter.

57.04 EXCEPTIONS TO CLASSIFICATION. No dog may be declared potentially vicious if:

1. Any injury or damage was sustained by a person who, at the time of the injury or damage was sustained, was committing a willful trespass or other tort upon premises occupied by the owner or keeper of the dog, or was teasing, tormenting, abusing, or assaulting the dog, or was committing or attempting to commit a crime;

2. The dog was protecting or defending a person within the immediate vicinity of the dog from an unjustified attack or assault; or
3. The injury or damage was sustained by a person or a domestic animal, which at the time of the injury or damage was sustained, was teasing, tormenting, abusing or assaulting the dog.

No dog may be declared potentially vicious if the injury or damage to a domestic animal was sustained while the dog was working as a hunting dog, herding dog or predator control dog on the property of, or under the control of, its owner or keeper, and the damage or injury was to a species or type of domestic animal appropriate to the work of the dog.

57.05 DISPOSITION OF POTENTIALLY VICIOUS DOG.

1. A potentially vicious dog shall be properly licensed and vaccinated. The potentially vicious designation shall be included in the registration records of the dog. The City may charge a potentially vicious dog fee in addition to the regular licensing fee to provide for the increased costs of maintaining the records of the dog.
2. A potentially vicious dog, while on the owner's property, shall at all times be kept indoors or in a securely fenced yard from which the dog cannot escape and into which children cannot trespass. A potentially vicious animal may be off the owner's premises only if restrained by a substantial leash, of appropriate length, and if the dog is under the control of a responsible adult and is humanely muzzled.
3. If a potentially vicious dog dies, or is sold, transferred or permanently removed from the City, the owner of the dog shall notify the health services department of the changed condition and new location of the dog in writing within two (2) working days.

57.06 PENALTY. A person who violates an order of the City Manager entered pursuant to the terms of this chapter shall be guilty of a simple misdemeanor.

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