

# NUISANCES AND ANIMAL CONTROL

## TABLE OF CONTENTS

CHAPTER 50 — NUISANCE ABATEMENT PROCEDURE.....	251
CHAPTER 51 — JUNK AND JUNK VEHICLES .....	257
CHAPTER 52 — DRUG PARAPHERNALIA.....	259
CHAPTER 55 — ANIMAL PROTECTION AND CONTROL .....	275
CHAPTER 56 — LICENSING OF DOGS AND CATS.....	281
CHAPTER 57 — DANGEROUS AND VICIOUS ANIMALS.....	285

## CHAPTER 50

# NUISANCE ABATEMENT PROCEDURE

50.01 Definition of Nuisance  
50.02 Nuisances Enumerated  
50.03 Other Conditions  
50.04 Nuisances Prohibited  
50.05 Nuisance Abatement  
50.06 Notice to Abate: Contents  
50.07 Method of Service

50.08 Request for Hearing  
50.09 Abatement in Emergency  
50.10 Abatement by City  
50.11 Collection of Costs  
50.12 Installment Payment of Cost of Abatement  
50.13 Failure to Abate

**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 62.09)

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 and Grass. Dense growth of all weeds, vines, brush, grass or other vegetation within the City shall be cut on a periodic basis so that the height is never greater than eight (8) inches in height.

*(Ord. 561 – Mar. 11 Supp.)*

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 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.

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. Drug Paraphernalia (See Chapter 52)
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 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.

*(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 letter, sent by certified mail to the property owner, or delivered by a City employee.

*(Ord. 467 - Mar. 03 Supp.)*

*(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, 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.

**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.

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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:

A. Any vehicle legally placed in storage with the County Treasurer or which is unlicensed and which has any of the following characteristics:

(1) Broken Glass. Any vehicle with a broken or cracked windshield, window, headlight or tail light, or any other cracked or broken glass.

(2) Broken, Loose or Missing Part. Any vehicle with a broken, loose or missing fender, door, bumper, hood, steering wheel or trunk lid.

(3) Habitat for Nuisance Animals or Insects. Any vehicle which has become the habitat for rats, mice, or snakes, or any other vermin or insects.

(4) Flammable Fuel. Any vehicle which contains gasoline or any other flammable fuel.

(5) Inoperable. Any motor vehicle which lacks an engine or two or more wheels or other parts, rendering said motor vehicle inoperable.

(6) Defective or Obsolete Condition. Any other vehicle which, because of its defective or obsolete condition, constitutes a threat to the public health and safety.

As set forth herein, the term "unlicensed" shall include, but is not limited to, an unregistered vehicle (and which is not lawfully unregistered) or a vehicle that is required to, but does not, have a



license plate on the front and/or rear of the vehicle. Mere licensing of such vehicle shall not constitute a defense to the finding that the vehicle is a junk vehicle.

OR,

B. Any vehicle which cannot be lawfully operated on a public highway due to one or more of the following characteristics:

(1) Inoperable. Any motor vehicle which lacks an engine, two or more wheels or other parts.

(2) 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.

*(Ord. 568 – Mar. 11 Supp.)*

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, excepting 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 a garage or other enclosed structure.

**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])*

## CHAPTER 52

# DRUG PARAPHERNALIA

52.01 Purpose

52.02 Controlled Substance Defined

52.03 Drug Paraphernalia Defined

52.04 Determining Factors

52.05 Possession of Drug Paraphernalia

52.06 Manufacture, Delivery or Offering For Sale

52.07 Nuisance

**52.01 PURPOSE.** The purpose of this chapter is to prohibit the use, possession with intent to use, manufacture and delivery of drug paraphernalia as defined herein.

**52.02 CONTROLLED SUBSTANCE DEFINED.** The term “controlled substance” as used in this chapter is defined as the term “controlled substance” is defined in the Uniform Controlled Substance Act, Chapter 124 of the Code of Iowa, as it now exists or is hereafter amended.

**52.03 DRUG PARAPHERNALIA DEFINED.** The term “drug paraphernalia” as used in this chapter means all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, concealing, containing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the Uniform Controlled Substances Act, Chapter 124 of the Code of Iowa. It includes, but is not limited to:

1. Growing Kits. Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.
2. Processing Kits. Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.
3. Isomerization Devices. Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance.
4. Testing Equipment. Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances.

5. Scales. Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances.
6. Diluents. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose or lactose, used, intended for use, or designed for use in cutting controlled substances.
7. Separators - Sifters. Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana.
8. Mixing Devices. Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances.
9. Containers. Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances.
10. Storage Containers. Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances.
11. Injecting Devices. Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body.
12. Ingesting-Inhaling Device. Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing heroin, marijuana, cocaine, hashish, or hashish oil into the human body, such as:
  - A. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
  - B. Water pipes;
  - C. Carburetion tubes and devices;
  - D. Smoking and carburetion masks;
  - E. Roach clips, meaning objects used to hold burning materials, such as a marijuana cigarette that has become too small or too short to be held in the hand;
  - F. Miniature cocaine spoons and cocaine vials;
  - G. Chamber pipes;
  - H. Carburetor pipes;

- I. Electric pipes;
- J. Air driven pipes;
- K. Chillums;
- L. Bongs;
- M. Ice pipes or chillers.

**52.04 DETERMINING FACTORS.** In determining whether an object is drug paraphernalia for the purpose of enforcing this chapter, the following factors should be considered in addition to all other logically relevant factors:

1. **Statements.** Statements by an owner or by anyone in control of the object concerning its use.
2. **Prior Convictions.** Prior convictions, if any, of an owner, or of anyone in control of the object under any State or Federal law relating to any controlled substance.
3. **Proximity To Violation.** The proximity of the object, in time and space, to a direct violation of the Uniform Controlled Substance Act, Chapter 124 of the Code of Iowa.
4. **Proximity To Substances.** The proximity of the object to controlled substances.
5. **Residue.** The existence of any residue of controlled substances on the object.
6. **Evidence of Intent.** Direct or circumstantial evidence of the intent of an owner or of anyone in control of the object, to deliver it to persons who, he or she knows or should reasonably know, intend to use the object to facilitate a violation of the Uniform Controlled Substances Act, Chapter 124 of the Code of Iowa.
7. **Innocence of an Owner.** The innocence of an owner, or of anyone in control of the object, as to a direct violation of the Uniform Controlled Substances Act, Chapter 124 of the Code of Iowa, should not prevent a finding that the object is intended for use or designed for use as drug paraphernalia.
8. **Instructions.** Instructions, oral or written, provided with the object concerning its use.
9. **Descriptive Materials.** Descriptive materials accompanying the object which explain or depict its use.
10. **Advertising.** National and local advertising concerning its use.

11. Displayed. The manner in which the object is displayed for sale.
12. Licensed Distributor or Dealer. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.
13. Sales Ratios. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise.
14. Legitimate Uses. The existence and scope of legitimate uses for the object in the community.
15. Expert Testimony. Expert testimony concerning its use.

**52.05 POSSESSION OF DRUG PARAPHERNALIA.** It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of the Uniform Controlled Substance Act, Chapter 124 of the Code of Iowa.

**52.06 MANUFACTURE, DELIVERY OR OFFERING FOR SALE.** It is unlawful for any person to deliver, possess with intent to deliver, manufacture with intent to deliver, or offer for sale drug paraphernalia, intending that the drug paraphernalia will be used, or knowing, or under circumstances where one reasonably should know that it will be used, or knowing that it is designed for use to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of the Uniform Controlled Substances Act, Chapter 124 of the Code of Iowa.

**52.07 NUISANCE.** Violation of this chapter shall constitute a nuisance which may be abated in the manner provided in Chapter 50 of this Code of Ordinances, or in the alternative may be abated by injunction in the Iowa District Court.

[The next page is 275]

## CHAPTER 55

# ANIMAL PROTECTION AND CONTROL

55.01 Definitions	55.10 Limited Number of Animals Allowed
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 Leash Requirements	55.16 Persons Authorized to Contact Animal Rescue League for Animal Impoundment
55.08 Damage or Interference	55.17 Unhealthful or Unsanitary Conditions
55.09 Annoyance or Disturbance	

**55.01 DEFINITIONS.** The following terms are defined for use in this chapter.

1. "Animal" means a nonhuman vertebrate.  
*(Code of Iowa, Sec. 717B.1)*
2. "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.
3. "Livestock" means an animal belonging to the bovine, caprine, equine, ovine or porcine species; farm deer, as defined in Section 481A.1 of the Code of Iowa; ostriches, rheas, emus or poultry.  
*(Code of Iowa, Sec. 717.1)*
4. "Owner" means any person owning, keeping, sheltering or harboring an animal.

**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 or except in compliance with the City's zoning regulations.

**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 LEASH REQUIREMENTS.** All animals at liberty and off the owner's property are to be on a leash at all times. If the animal is on the owner's property and "apparently" or "obviously" under the owner's control, the animal is not required to be on a leash and cannot be picked up for not being on a leash.

**55.08 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.

**55.09 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 or persons by frequent and habitual howling, yelping, barking, or otherwise; or, by running after or chasing persons, bicycles, automobiles or other vehicles.

**55.10 LIMITED NUMBER OF ANIMALS ALLOWED.** It is unlawful, except for a licensed kennel or pet shop, veterinary hospital or animal grooming shop, for an owner to harbor or house on the owner's premises more than three (3) dogs or cats, or any combination thereof, over the age of six (6) months. Permission may be granted by City Council for additional dog(s)/cat(s) upon receipt of written request and proper documentation for therapy usage.

*(Ord. 563 - Mar. 11 Supp.)*

**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.** When a local board of health receives information that any person has been bitten by an animal or that a dog or animal is suspected of having rabies, the board shall apprehend and impound the animal for ten days. The board may humanely destroy the animal at the end of the ten days. If such animal is returned to its owner, the owner shall pay the cost of impoundment. Police service dogs or horses are exempt from such confinement.

*(Ord. 444 – Sep. 01 Supp.)*

*(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 by the County Animal Rescue League, 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 given in not less than two days to the owner, if known. 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 does not redeem the animal within seven days of the date of notice, or if the owner cannot be located within seven days, the animal may be humanely destroyed or otherwise disposed of in accordance with law.

*(Code of Iowa, Sec. 351.37, 351.41)*

**55.15 IMPOUNDING COSTS.** Impounding costs shall be as established by the Animal Rescue League, and there shall also be a pickup charge, in an amount set by resolution of the Council, paid to the City for each animal impounded.

**55.16 PERSONS AUTHORIZED TO CONTACT ANIMAL RESCUE LEAGUE FOR ANIMAL IMPOUNDMENT.** Only the City Hall and City Police Department are authorized to contact the Animal Rescue League for animal impoundment. Persons not authorized to contact the Rescue League will be responsible for the cost incurred when the Rescue League comes to make the animal pickup.



**55.17 UNHEALTHFUL OR UNSANITARY CONDITIONS.**

1. An owner shall keep all structures, pens, coops or yards wherein animals are confined clean, devoid of vermin and free of odors arising from feces.
2. No owner or walker of any animal shall permit the animal to discharge feces upon any public or private property, other than the property of the owner of the animal. The owner or walker shall be deemed to permit the animal's discharge of feces if the owner does not immediately thereafter take steps to remove and clean up the feces from the property.
3. All feces removed as aforesaid shall be placed in an airtight container and shall be stored in a sanitary manner in an appropriate refuse container until it is removed pursuant to refuse collection procedures or otherwise disposed of in a sanitary manner.
4. An owner may, as an alternative to subsection 3 above, collect the feces and turn it under the surface of the owner's soil in any manner that prevents odor or collection of vermin.

[The next page is 281]

## CHAPTER 56

### LICENSING OF DOGS AND CATS

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 and Cats  
56.09 Kennel Dogs

#### 56.01 ANNUAL LICENSE REQUIRED.

1. Every owner of a dog or cat over the age of six (6) months shall procure a license from City Hall on or before the first day of April of each year. *(Ord. 484 - Oct. 04 Supp.)*
2. Such license may be procured after April 1 and at any time for a dog or cat 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 or cat for which a license is required shall apply to City Hall on forms provided. *(Ord. 484 - Oct. 04 Supp.)*
4. The form of the application shall state the breed, sex, age, color, markings, and name, if any, of the dog or cat, 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 or cat shall be revaccinated.
5. All licenses shall expire on April 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 of five dollars (\$5.00) 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 provide 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 City record book, 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 or cat for which issued. A license issued for one dog or cat

shall not be transferable to another dog or cat. Upon the expiration of the license the owner shall remove said tag from the dog or cat.

*(Ord. 484 – Oct. 04 Supp.)*

**56.05 LICENSE RECORDS.** City Hall 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 or cat as specified in the application, together with the name of the owner of the dog or cat.
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 or cat shall be revaccinated.
4. The amount of all fees paid.
5. Such other data as may be required by law.

*(Ord. 484 – Oct. 04 Supp.)*

**56.06 IMMUNIZATION.** Before a license is issued, the owner shall furnish a veterinarian's certificate showing that the dog or cat for which the license is sought has been vaccinated against rabies, and that the vaccination does not expire within six (6) months from the effective date of the license. A tag showing evidence of proper vaccination shall at all times be attached to the collar of the dog or cat.

**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 one dollar (\$1.00) and the Clerk shall enter in the license record the new number assigned.

*(Ord. 484 – Oct. 04 Supp.)*

**56.08 TRANSFERS OF LICENSED DOGS AND CATS.** Upon transfer of a licensed dog or cat into the City, the owner shall surrender the original license tag to City Hall. The Clerk shall preserve the surrendered tag and, without a license fee, issue a new license tag.

*(Ord. 484 – Oct. 04 Supp.)*

**56.09 KENNEL DOGS.** Kennel dogs 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. The keeping of three or more dogs for breeding purposes shall constitute a kennel business. Dog kennels are considered a business, not a home occupation, and shall be allowed only in properly zoned business districts.

[The next page is 285]

## CHAPTER 57

# DANGEROUS AND VICIOUS ANIMALS

57.01 Definitions

57.02 Vicious Dogs

57.03 Keeping of Dangerous Animals Prohibited

57.04 Seizure, Impoundment and Disposition of Dangerous  
Animals

57.05 Keeping of Vicious Animals Prohibited

57.06 Seizure, Impoundment and Disposition of Vicious Animals

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

1. "Dangerous animal" means (a) any animal which is not naturally tame or gentle, and which is of a wild nature or disposition, and which is capable of killing, inflicting serious injury upon or causing disease among human beings or domestic animals and having known tendencies as a species to do so; (b) any animal declared to be dangerous by the Board of Health or the Mayor or appropriate designee; and (c) the following animals, which are deemed to be dangerous animals per se:

- A. Lions, tigers, jaguars, leopards, cougars, lynx and bobcats;
- B. Wolves, coyotes and foxes;
- C. Badgers, wolverines, weasels, skunk and mink;
- D. Raccoons;
- E. Bears;
- F. Monkeys and chimpanzees;
- G. Bats;
- H. Alligators and crocodiles;
- I. Scorpions;
- J. Snakes that are venomous, or constrictors;
- K. Gila monsters.

2. "Vicious animal" means any animal, except for a dangerous animal per se, as listed above, that has bitten or clawed a person or persons while running at large and the attack was unprovoked, or any animal that has exhibited vicious propensities in present or past conduct, including such that said animal (a) has bitten or clawed a person or persons on two separate occasions within a 12-month period; or (b) did bite or claw once causing puncture injuries breaking the skin of a person; or (c) could not be or was not in fact controlled or restrained by the

owner at the time of the attack to prevent the occurrence; or (d) has attacked any domestic animal or fowl on three separate occasions within a 12-month period.

3. "Vicious dog" means any dog 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 to otherwise endanger their safety.

**57.02 VICIOUS DOGS.** Notwithstanding any other provision of this chapter or of Chapter 55, no person owning, possessing, harboring or having the care of a vicious dog shall permit such animal to go unconfined upon the premises of such person and shall not permit the dog to go beyond the premises unless the dog is securely leashed and muzzled, and no person may maintain more than one (1) dog deemed as vicious on his or her property.

1. A vicious dog is unconfined unless the dog is:
  - A. Securely confined in a dwelling house; or
  - B. Completely enclosed in a locked, enclosed fence, pen or other structure having a height of at least six (6) feet. Such pen or structure must have secure sides which are imbedded into the ground, and the floor of said pen must be of concrete or similar material, and it must have a secure, attached top in addition to securely imbedded sides.
2. A vicious dog is not required to be muzzled when shown in an American Kennel Club Show or a show sanctioned by the American Kennel Club or when securely confined in a private vehicle and inaccessible to persons other than those within the vehicle.
3. An application to license a vicious dog pursuant to Chapter 56 of this Code of Ordinances must include:
  - A. An insurance policy or a certificate of insurance issued by an insurance company licensed to do business in the State, providing personal liability insurance coverage as in a homeowner's policy, with a minimum liability amount of \$250,000 for the injury or death of any person, for damage to property of others and for acts of negligence by the owner or agent in the negligent keeping of such dog.
  - B. The insurance policy or certificate of insurance shall provide that it cannot be canceled or terminated until ten (10) days' notice by registered mail of such cancellation or termination

shall have been received by the Clerk or designee. The insurance premium must be paid for one year in advance and proof of payment provided to the City Clerk.

C. The cancellation or other termination of any insurance policy issued in compliance with this section shall automatically revoke and terminate the licenses unless another policy complying with this section shall be provided and in effect at the time of such cancellation or termination. The Clerk shall immediately issue written notification of the revocation of the certificate and all licenses issued under Chapter 56. Upon said notification being presented to the dog owner, the dog deemed as vicious must be removed from the City limits within 24 hours or the dog shall be impounded by City of Colfax officials.

D. Each year the license for a dog deemed as vicious is renewed, a hearing in front of the City Council must be scheduled to allow for members of the community and neighborhood to provide input for the Council's consideration as to why the license should or should not be renewed.

E. A license renewal for a dog deemed as vicious must be approved by a majority vote of the City Council.

*(Ord. 458 - Mar. 03 Supp.)*

**57.03 KEEPING OF DANGEROUS ANIMALS PROHIBITED.** No person shall keep, shelter or harbor any dangerous animal as a pet, or act as a temporary custodian for such animal, or keep, shelter or harbor such animal for any other purpose or in any other capacity within the City except in the following circumstances:

1. The keeping of dangerous animals in a public zoo, bona fide educational or medical institution, humane society or museum where they are kept as live specimens for the public to view or for the purpose of instruction, research or study.
2. The keeping of dangerous animals for exhibition to the public by a bona fide traveling circus, carnival, exhibit or show.
3. The keeping of dangerous animals in a bona fide, licensed veterinary hospital for treatment.
4. The keeping of dangerous animals by a wildlife rescue organization with appropriate permit from the State Department of Natural Resources.

5. Any dangerous animals under the jurisdiction of and in the possession of the Iowa Department of Natural Resources, pursuant to Chapters 481A and 481B of the Code of Iowa.

**57.04 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 persons or property, such animal may, in the discretion of the chief humane officer or Police Chief, 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 it have a duty to notify the owner of such animal prior to its destruction.

2. Upon the complaint of any individual that a person is keeping, sheltering or harboring a dangerous animal per se on premises in the City, the chief humane officer shall cause the matter to be investigated and if after investigation, the facts indicate that the person named in the complaint is keeping, sheltering or harboring a dangerous animal per se in the City, the chief humane officer shall order the person named in the complaint to safely remove such animal from the City, permanently place the animal with an organization or group allowed to possess dangerous animals, or destroy the animal, within three (3) days of the receipt of such an order. Such order shall be contained in a notice to remove the dangerous animal, which notice shall be given in writing to the person keeping, sheltering or harboring the dangerous animal, and shall be served personally or by certified mail. Such order and notice to remove the dangerous animal shall not be required where such dangerous animal has previously caused serious physical harm or death to any person, in which case the chief humane 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.

3. The order to remove a dangerous animal issued by the chief humane officer may be appealed to the Council. In order to appeal such order, written notice of appeal must be filed with the Clerk within three (3) days after receipt of the order contained in the notice to remove the dangerous animal. Failure to file such written notice of appeal shall constitute a waiver of the right to appeal the order of the chief humane officer.

4. The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the Clerk. The hearing of such appeal shall be scheduled within seven (7) days of the receipt of the notice of appeal. The hearing may be continued for good cause. After such hearing, the Council may affirm or reverse the order of the chief humane officer. Such determination shall be contained in a written decision and shall be filed with the Clerk within three (3) days after the hearing or any continued session thereof.

5. If the Council affirms the action of the chief humane officer, the Council shall order in its written decision that the person owning, sheltering, harboring or keeping such dangerous animal remove such animal from the City, permanently place such animal with an organization or group allowed to possess dangerous animals, or destroy it. The decision and order shall immediately be served upon the person against whom rendered in the same manner as the notice of removal. If the original order of the chief humane officer is not appealed and is not complied with within three (3) days or the order of the Council after appeal is not complied with within three (3) days of its issuance, the chief humane officer or designee is authorized to seize and impound such dangerous animal. An animal so seized shall be impounded for a period of seven (7) days. If at the end of the impoundment period, the person against whom the decision and order of the chief humane officer or Council was issued has not petitioned the District Court for a review of said order, the chief humane officer shall cause the animal to be disposed of by sale, permanently place such animal with an organization or group allowed to possess dangerous animals or destroy such animal in a humane manner. Failure to comply with an order of the chief humane officer issued pursuant hereto and not appealed, or of the Council after appeal, constitutes a violation of this Code of Ordinances.

**57.05 KEEPING OF VICIOUS ANIMALS PROHIBITED.** No person shall keep, shelter or harbor for any reason within the City a vicious animal as defined in this chapter, except in the following circumstances:

1. Animals under the control of a law enforcement or military agency.
2. The keeping of guard dogs; however, guard dogs must be kept within a structure or fixed enclosure at all times, and any guard dog found at large may be processed as a vicious animal pursuant to the provisions of Section 57.06. Any premises guarded by a guard dog shall be prominently posted with a sign containing the wording "Guard Dog," "Vicious Dog" or words of similar import, and the owner of such



premises shall inform the Police Chief that a guard dog is on duty at said premises.

#### **57.06 SEIZURE, IMPOUNDMENT AND DISPOSITION OF VICIOUS ANIMALS.**

1. The chief humane officer or designee, 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 Mayor or designee. The person owning, keeping, sheltering or harboring the animal in question shall be given not less than seventy-two (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 state 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 Mayor or designee determines that an animal is vicious, the Mayor or designee shall order the person owning, sheltering or harboring or keeping the animal to remove it from the City, or to cause it to be destroyed in a humane manner. The order shall immediately be served upon the person against whom issued in the same manner as the notice of hearing. If the order is not complied with within three (3) days of its issuance, the Mayor or designee is authorized to seize and impound the animal. An animal so seized shall be impounded for a period of seven (7) days. If at the end of the impoundment period, the person against whom the order of the Mayor or designee was issued has not appealed such order to the Council, the Mayor or designee shall cause the animal to be destroyed.

3. The order to remove or destroy a vicious animal issued by the Mayor or designee may be appealed to the Council. In order to appeal such order, written notice of appeal must be filed with the Clerk within three (3) days of receipt of the order to remove or destroy the vicious animal. Failure to file such written notice of appeal shall constitute a waiver of the right to appeal the order of the Mayor or designee.

4. The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the Clerk. The hearing of such appeal shall be scheduled within seven (7) days of the receipt of notice of appeal. The hearing may be continued for good

cause. After the hearing, the Council may affirm or reverse the order of the Mayor or designee. Such determination shall be contained in a written decision and shall be filed with the Clerk within three days after the hearing or any continued session thereof.

5. If the Council affirms the action of the Mayor or designee, the Council shall order in its written decision that the person owning, sheltering, harboring or keeping such vicious animal shall remove such animal from the City or cause it to be destroyed in a humane manner. The decision and order shall immediately be served upon the person against whom rendered in the same manner as the order to remove or destroy. If the original order of the Mayor or designee is not appealed and is not complied with within three days, or the order of the Council after appeal is not complied with within three days of its issuance, the chief humane officer or designee is authorized to seize and impound such vicious animal. An animal so seized shall be impounded for a period of seven days. If at the end of the impoundment period, the person against whom the decision and order of the Mayor or designee and/or the Council was issued has not petitioned the County District Court for a review of the order, the Mayor or designee shall cause the animal to be destroyed in a humane manner.

6. Failure to comply with an order of the Mayor or designee issued pursuant hereto and not appealed, or of the Council after appeal, shall constitute a violation of this Code of Ordinances.

7. 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 chief humane officer or designee may immediately destroy it.

8. 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, such impoundment or quarantine shall be paid by the City.

[The next page is 315]