

CHAPTER 50

NUISANCE ABATEMENT PROCEDURE

50.01 Definition of Nuisance
50.02 Nuisances Enumerated
50.03 Nuisances Prohibited
50.04 Nuisance Abatement

50.05 Abatement of Nuisance by Written Notice
50.06 Municipal Infraction Abatement Procedure
50.07 Termination of Rental Certificate

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 that 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. **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.
4. **Blocking Public and Private Ways.** Obstructing or encumbering, by trees, hedges, fences, billboards, buildings, or other obstructions (including moveable objects), the public roads, private ways, streets, alleys, commons, landing places, or burying grounds. All obstructions, whether natural or manmade, which hinder persons from having an adequate view of traffic so as to prevent them from the continued safe travel on a public street.
5. **Prostitution; Gambling; Gang Activity.** Real or personal property kept for the purpose of prostitution and lewdness; unlawful gambling; 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 *Code of Iowa* Section 124.101, subsection 5, in violation of law, or real or personal property where drunkenness, quarreling, fighting or breaches of the peace are carried on or permitted to the disturbance of others.
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.
7. **Obstructing Air Traffic.** Any object or structure 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.

8. Storing of Flammable Material. Depositing or storing of flammable material, including (but not limited to) 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.

9. Air Pollution. Emission of dense smoke, noxious fumes, or fly ash.

10. 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, or which otherwise constitute a nuisance under this chapter. For purposes of this subsection, all growths of grass or weeds in excess of six inches (6") in height shall be deemed to be a nuisance. Exempt from this subsection are growths used primarily for educational and/or research purposes, so long as the growths are controlled. Also exempt from this subsection is ornamental grass.

11. Diseased or Damaged Trees or Plant Materials. Any dead, diseased, or damaged trees or plant materials, which may harbor serious insect or disease pests or diseases injurious to other trees or plant materials, or any healthy tree in such a state of deterioration that any part of such tree is likely to fall and damage property or cause injury to persons.

12. Damaged Vehicles. The storage of damaged vehicles, as defined in Chapter 51 of this Code of Ordinances.

13. Junk or Abandoned Vehicles. The storage of junk or abandoned vehicles, as defined in Chapter 52 of this Code of Ordinances.

14. Sewage. The discharge or exposure of sewage, garbage, or any other organic waste matter into or on any public place.

15. Poison. The deposit of any poisonous material or thing on any premises, so as to allow access to it by any animal or person.

16. Stagnant Water. Breeding places for mosquitoes, to include stagnant water in fish ponds, swimming pools, tires, open barrels, and other devices holding water.

17. Unsafe Signs. Any sign or sign structure which is structurally unsafe, or constitutes a hazard to safety or health by reason of its location, inadequate maintenance or dilapidation, or is not kept in good repair, or is capable of causing electric shocks to persons likely to come in contact with it, or which obstructs free ingress or egress from a required door, window, fire escape, or other required exit.

18. Obscene Signs. Signs accessible to the general public containing statements, words, or pictures of an obscene or pornographic character.

19. Construction Debris. Depositing or permitting to be deposited dirt, debris, or other sedimentation resultant from grading, construction, demolition, or repair activities:

A. Onto public rights-of-way in amounts which could cause a danger to public health, safety, or welfare; or

B. Into public storm sewers or drainage ways in amounts which could cause an obstruction to the flow of same; or

- C. Into a public stream, river, or lake in amounts which could cause pollution of same.
20. Dangerous Structures. Residential or nonresidential structures, the condition of which constitutes a hazard to safety or to health as determined by the Building Official.
21. Vacant Buildings or Sheds. Unoccupied buildings or sheds found to be frequently open or accessible and vacated for more than six months.
22. Faulty Water Service. Discharge of water upon or under public streets or sidewalks by reason of faulty water service.
23. Noise Pollution. Any sound which disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans as defined in Chapter 54 of this Code of Ordinances.
24. Litter. Any decomposable or non-decomposable solid or other waste material as defined in Chapter 53 of this Code of Ordinances.
25. Hazardous Accumulations. Accumulation of rubbish or trash and rank growth of weeds or other vegetation and plants tending to harbor vermin and/or rodents, or which are otherwise conducive to hazard.
26. Snow and Ice on Sidewalks. All snow and ice not removed from public sidewalks forty-eight (48) hours after the snow and ice have ceased being deposited thereon from one continuous event.
27. Tree Limbs. All tree limbs which are less than eight (8) feet above the surface of any public sidewalk or which are less than fourteen (14) feet above the traveled way of any public street.
28. Structures Damaged by Fire or Decay. All buildings, walls, and other structures which have been damaged by fire, decay, or otherwise to an extent exceeding half of their original value and which are so situated as to endanger the safety of the public.
29. Open Accumulation of Inoperable Vehicles, Machinery, or Appliances. Accumulation in the open of parked, stored, discarded, or disused machinery; unlicensed, unregistered or damaged or inoperable vehicle; household appliance; automobile or other vehicle body, parts, or components thereof, or any material parked, stored, discarded, or disused in a manner conducive to the harboring of rats, mice, snakes, or vermin, or to fire, health, or safety hazards from such accumulation of other material or from the rank growth of vegetation among the items so accumulated. This subsection does not apply to any vehicle in an enclosed building or so located upon the premises as not to be readily visible from any public place or from any surrounding private property. This subsection also does not apply with regard to any vehicle on the premises of a business enterprise operated in a lawful place, other than in a residential district, and operated in a lawful manner, when the keeping or maintenance of such vehicle is necessary to the operation of such business enterprise; or to a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the City or any other public agency or entity.
30. Floodlights. Permitting or allowing the illumination of floodlights, yard lights, or similar lights to be focused in such a fashion so as to encroach upon the peaceful enjoyment of neighboring property.

31. Vehicles on Lawns. Vehicles parked on a lawn or parking surface not in compliance with Section 174.08 of this Code of Ordinances.
32. Dangerous Machinery. All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public.
33. Loose Overhanging Objects. Loose, overhanging objects or accumulations of ice or snow, which by reason of location above ground level constitute a danger of falling on persons in the vicinity thereof.
34. Fireworks. All use or display of fireworks except as permitted by law or this Code of Ordinances. The use of illegal fireworks will be deemed an immediate nuisance and shall be subject to enforcement by municipal infraction.
35. Required Improvements. Failure to install any improvement required by any portion of this Code or Ordinance, or other law or agreement.
36. Abandoned Appliances. Abandoning or otherwise leaving unattended any refrigerator, ice box, or similar container, with doors that may become locked or fastened, which are outside of enclosed buildings and may become accessible to children or others, or allowing any such refrigerator, ice box, or similar container, to remain outside of enclosed buildings on premises in the person's possession or control, abandoned or unattended and so accessible to children or others.
37. Cottonwood Trees. The planting of cotton-bearing cottonwood trees and all other cotton-bearing poplar trees.
38. Nuisance Houses. Houses that require more than one police response to the same location or address within a 180-day period, during which police response an officer makes a determination that something at or on the location or address is injurious to health, indecent, or unreasonably offensive to the senses, or is an obstruction to the free use of property, essentially interfering unreasonably with the comfortable enjoyment of life or property.

50.03 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)

50.04 NUISANCE ABATEMENT. Whenever any authorized municipal officer finds that a nuisance exists, such officer has the authority to determine on a case-by-case basis whether to utilize the nuisance abatement procedure described in Section 50.05 of this chapter or the municipal infraction procedure referred to in Section 50.06. With regard to the nuisance enumerated in Section 50.02(38) (Nuisance Houses), property owners will be notified after the first determination by a police officer that conditions exist posing a nuisance and that a second determination of this kind will immediately constitute the failure to abate a nuisance as outlined in Section 50.05(8), subjecting the property owner to applicable fines.

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

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

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

1. Contents of Notice to Property Owner. The notice to abate shall contain:

- A. Description of Nuisance. A description of what constitutes the nuisance.
 - B. Location of Nuisance. The location of the nuisance.
 - C. Acts Necessary to Abate. A statement of the act or acts necessary to abate the nuisance.
 - D. Reasonable Time. A reasonable time within which to complete the abatement.
 - E. Assessment of City Costs. A statement that if the nuisance or condition is not abated as directed and no request for hearing is made within the time prescribed, the City will abate it and assess any and all costs associated with such effort, including (but not limited to) collection costs, against the property owner.
2. Method of Service. The notice may be in the form of an ordinance or sent by certified mail to the property owner.
(Code of Iowa, Sec. 364.12[3h])
 3. Request for Hearing. Any person ordered to abate a nuisance may have a hearing with the Council as to whether a nuisance exists. A request for a hearing must be made in writing and delivered to the Clerk within the time stated in the notice, or it will be conclusively presumed that a nuisance exists and it must be abated as ordered. The hearing will be before the Council at a time and place fixed by the Council. The findings of the Council shall be conclusive and, if a nuisance is found to exist, it shall be ordered abated within a reasonable time under the circumstances.
 4. Abatement in Emergency. If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance or condition, the City may perform any action that may be required under this chapter without prior notice. The City shall assess the costs as provided in subsection 6 of this section after notice to the property owner under the applicable provisions of subsection 1 and 2, and the hearing as provided in subsection 3.
(Code of Iowa, Sec. 364.12[3h])
 5. Abatement by City. If the person notified to abate a nuisance or condition neglects or fails to abate as directed, the City may perform the required action to abate, keeping an accurate account of the expense incurred. The itemized expense account shall be filed with the Clerk, who shall pay such expenses on behalf of the City.
(Code of Iowa, Sec. 364.12[3h])
 6. Collection of Costs. The Clerk shall send a statement of the total expense incurred, by certified mail, to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within 30 days after the statement was sent, the Clerk may retain attorneys and/or private collection agents for the purpose of collecting any default in payment of any fine or penalty or installment of that fine or penalty. Any fees or costs incurred by the City with respect to attorneys or private collection agents retained under this subsection shall be charged to the offender.
(Code of Iowa, Sec. 364.12[3h])
 7. Installment Payment of Cost of Abatement. If the amount expended to abate the nuisance or condition exceeds five hundred dollars (\$500.00), 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)

8. Failure to Abate. Any person causing or maintaining a nuisance who shall fail or refuse to abate or remove the same within the reasonable time required and specified in the notice to abate is in violation of this Code of Ordinances.

50.06 MUNICIPAL INFRACTION ABATEMENT PROCEDURE. In lieu of the abatement procedures set forth in Section 50.05, the requirements of this chapter may be enforced under the procedures applicable to municipal infractions as set forth in Chapter 4 of this Code of Ordinances.

50.07 TERMINATION OF RENTAL CERTIFICATE. Rental certificates shall automatically terminate and become null and void upon issuance of a nuisance abatement notice that is related, in any way, to property to which a rental certificate applies. The owner of any such rental property shall be required to register the property again, including the complete inspection process, as provided in Chapter 156 of this Code of Ordinances. Failure to obtain a valid rental certificate is a municipal infraction.

[The next page is 337]

CHAPTER 51

DAMAGED OR INOPERABLE VEHICLES

51.01 Definitions

51.02 Damaged or Inoperable Vehicle a Nuisance

51.03 Exceptions

51.04 Notice to Abate

51.05 Contents of Notice

51.06 Method of Service

51.07 Request for Hearing and Appeal

51.08 Duty of Owner to Abate

51.09 Abatement by City

51.01 DEFINITIONS. “Vehicle” means and includes 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, without limitation, motor vehicle, bus, motor home, automobile, truck, trailer, motorcycle, tractor, wagon or any combination thereof. A damaged or inoperable vehicle means any one of the above vehicles which is not licensed for the current year as required by law or which exhibits any one of the following characteristics:

1. It is not equipped with one or more operable headlamps as required by *Code of Iowa*, Section 321.385.
2. It is not equipped with one or more operable rear lamps when required by *Code of Iowa*, Section 321.387.
3. It is not equipped with operable brakes when required by *Code of Iowa*, Section 321.430 and 321.431.
4. It is not equipped with a muffler in good working order as required by *Code of Iowa*, Section 321.436.
5. It is not equipped with a windshield and one or more windows as required by *Code of Iowa*, Sections 321.438 and 321.444.
6. Any vehicle which is not equipped with tires or when the tires attached to the vehicle do not meet the requirements of *Code of Iowa*, Section 321.440.
7. Any vehicle or part of a vehicle with a broken or loose fender, door, bumper, hood, wheel, steering wheel, trunk top or tailpipe, all of which combined render its value less than 50% of the official *Kelley Blue Book* value.
8. Any vehicle which is lacking an engine or one or more wheels or other structural or part which renders such vehicle inoperable.
9. Any vehicle or part of a vehicle which has become a habitat for rats, mice or snakes or any other vermin or insects.
10. Any vehicle or part of a vehicle which, because of its defective condition, constitutes a threat to the public health and safety.
11. Any vehicle that is not capable of moving in both forward and reverse gears.
12. Any vehicle which is not equipped with a part or mechanism, the lack of which renders the vehicle inoperable.

13. Any vehicle that appears to be dismantled or partially dismantled, which cannot be made operable without the addition or replacement of vital parts or mechanisms.

14. Any vehicle or partially dismantled vehicle on private property outside of an enclosed building that has not been operated on a public roadway within the previous 180 days or more.

51.02 DAMAGED OR INOPERABLE VEHICLE A NUISANCE. The City hereby declares that the parking or storage of damaged vehicles on private property within the corporate limits of the City, where not authorized by law, is a nuisance because the same is injurious to health, indecent, and offensive to the senses, and is an obstruction to the free use of property, so as essentially to interfere with the comfortable enjoyment of life and property.

51.03 EXCEPTIONS. The provisions of this chapter do not apply to:

1. Storage in Buildings. Damaged or inoperable vehicles kept on private property stored entirely within an enclosed building; or

2. On Premises of Licensed Vehicle Recycler. Damaged vehicles kept on private property in a GC or LI District under the Zoning Ordinance by a person licensed as an authorized vehicle recycler under the provisions of the *Code of Iowa*, Chapter 321H, when storage thereof is permitted under the certificate of occupancy issued for the private property involved.

3. Restoration. A single vehicle which is being restored, which would otherwise constitute a damaged or inoperable vehicle on private property, under the following conditions:

A. The owner of the vehicle shall register the vehicle with the City Clerk by obtaining a Vehicle Restoration Permit from the City Clerk. The City Clerk is authorized to issue a Vehicle Restoration Permit only if the owner of a vehicle meets the following conditions:

(1) Submits a completed and signed application form containing the name and address of the owner of the vehicle and the address of the private property on which the vehicle is to be stored and restored, together with the make, model, year, and description of the vehicle, including its vehicle identification number. In addition, the applicant shall submit evidence satisfactory to the City Clerk that the vehicle will be appropriately covered during any period of outdoor storage.

(2) Provides proof of liability insurance for said vehicle.

(3) Pays a fee of fifty dollars (\$50.00).

B. A Vehicle Restoration Permit shall be valid for a period of one year from the date of issuance and may be renewable for a second one-year period if the applicant meets the conditions as provided herein. Only one permit may be issued per property; the maximum period permitted by the City for restoring an antique or classic vehicle which would otherwise constitute a damaged or inoperable vehicle is two years.

51.04 NOTICE TO ABATE. Whenever the City Administrator or other authorized municipal officer, including a peace officer, finds that a damaged vehicle is stored on private property in violation of this chapter, the officer shall cause a written notice to abate to be

served upon the owner of the private property as shown by the records of the Polk County Auditor. A copy of the notice to abate shall be served upon the owner of the damaged vehicle if such owner is different than the owner of the private property involved and his or her identity can be readily ascertained.

51.05 CONTENTS OF NOTICE. The notice to abate shall contain:

1. The name and mailing address of the owner of the private property involved.
2. The local address of the property involved if different than the mailing address of the owner.
3. A brief description of the property, including street address, involved.
4. The date on which the condition or conditions were noted.
5. A description of each damaged vehicle observed, the name and address of the owner thereof, if known, and the condition or conditions observed.
6. A statement that each damaged vehicle must be removed or repaired within ten (10) days from the date of receipt of the notice to abate.
7. A statement that the owner has a right to a hearing before the Chief of Police by filing a written request therefor with such officer within ten (10) days from the date of receipt of the notice to abate.
8. A statement that if the damaged vehicle is not removed or repaired as directed, and no request for hearing is made within the time prescribed, the City will remove the damaged vehicle and assess the costs thereof to the owner of the private property involved.

51.06 METHOD OF SERVICE. The notice to abate shall be served upon the owner of the private property, and the owner of the damaged or inoperable vehicle, if different than the owner of the private property involved and if his or her identity can be readily ascertained, by personal service, or by certified mail, return receipt requested.

51.07 REQUEST FOR HEARING AND APPEAL. The owner of the private property of record may request a hearing before a hearing officer to determine whether a nuisance or prohibited condition exists. A request for hearing must be made in writing and must be delivered to the Chief of Police within ten (10) days from the date of receipt of the notice or it will be conclusively presumed that a nuisance or prohibited condition exists and that it must be abated as ordered. At the conclusion of the hearing, the hearing officer shall render a written decision as to whether a nuisance or prohibited condition exists. If the hearing officer finds that a nuisance or prohibited condition exists, the hearing officer must order it abated within an additional time which must be reasonable under the circumstances. An appeal from this decision may be had by immediately filing a written notice with the hearing officer. This appeal will be heard before the City Council at a time and place fixed by the Council. The findings of the Council shall be conclusive and, if a nuisance or prohibited condition is found to exist, it shall be ordered abated within a time reasonable under the circumstances.

51.08 DUTY OF OWNER TO ABATE. The owner of private property upon which a damaged vehicle is found must, within ten (10) days after receipt of the notice to abate or such other time as may be fixed on hearing or appeal:

1. Remove the damaged vehicle to a lawful place of storage; or

2. Repair the damaged vehicle to remove all defects which cause the vehicle to violate the provisions of this chapter.

51.09 ABATEMENT BY CITY. If the owner of private property upon which a damaged vehicle is found neglects or fails to remove or repair the same as required by Section 51.08 of this chapter within ten (10) days after receipt of the notice to abate, or such other time as may be fixed on hearing or appeal, the Chief of Police shall abate such nuisance by causing the damaged or inoperable vehicle to be impounded. The Chief of Police shall keep an accurate account of the expenses incurred. The itemized expense account shall be filed with the City Administrator who shall cause such expense to be paid by the City.

[The next page is 345]

CHAPTER 52

ABANDONED VEHICLES

52.01 Definitions

52.02 Authority to Take Possession of Abandoned Vehicles

52.03 Notice by Mail

52.04 Notification in Newspaper

52.05 Fees for Impoundment

52.06 Disposal of Abandoned Vehicles

52.07 Disposal of Totally Inoperable Vehicles

52.08 Proceeds from Sales

52.09 Duties of Demolisher

52.10 Bids for Towing and Storage

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

(Code of Iowa, Sec. 321.89[1] & Sec. 321.90)

1. “Abandoned vehicle” means any of the following:
 - A. A vehicle that has been left unattended on public property for more than twenty-four (24) hours and lacks current registration plates or two or more wheels or other parts which renders the vehicle totally inoperable.
 - B. A vehicle that has remained illegally on public property for more than 24 hours.
 - C. A vehicle that has been unlawfully parked or placed on private property without the consent of the owner or person in control of the property for more than 24 hours.
 - D. A vehicle that has been legally impounded by order of a police authority and has not been reclaimed for a period of ten (10) days. However, a police authority may declare the vehicle abandoned within the ten-day period by commencing the notification process.
 - E. Any vehicle parked on the highway determined by a police authority to create a hazard to other vehicle traffic.
 - F. A vehicle that has been impounded pursuant to Section 321J.4B of the *Code of Iowa* by order of the court and whose owner has not paid the impoundment fees after notification by the person or agency responsible for carrying out the impoundment order.
2. “Demolisher” means a person licensed under Chapter 321H of the *Code of Iowa* whose business it is to convert a vehicle to junk, processed scrap or scrap metal, or otherwise to wreck, or dismantle vehicles.
3. “Garage keeper” means any operator of a parking place or establishment, motor vehicle storage facility, or establishment for the servicing, repair, or maintenance of motor vehicles.
4. “Police authority” means the Iowa State Patrol or any law enforcement agency of a county or city.

52.02 AUTHORITY TO TAKE POSSESSION OF ABANDONED VEHICLES. A police authority, upon the authority’s own initiative or upon the request of any other authority having the duties of control of highways or traffic, shall take into custody an abandoned vehicle on public property and may take into custody any abandoned vehicle on private property. The police authority may employ its own personnel, equipment, and facilities or

hire a private entity, equipment, and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles. A property owner or other person in control of private property may employ a private entity that is a garage keeper to dispose of an abandoned vehicle, and the private entity may take into custody the abandoned vehicle without a police authority's initiative. If a police authority employs a private entity to dispose of abandoned vehicles, the police authority shall provide the private entity with the names and addresses of the registered owners, all lienholders of record, and any other known claimant to the vehicle or the personal property found in the vehicle.

(Code of Iowa, Sec. 321.89[2])

52.03 NOTICE BY MAIL. The police authority or private entity that takes into custody an abandoned vehicle shall notify, within twenty (20) days, by certified mail, the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to the parties' last known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall describe the year, make, model and vehicle identification number of the vehicle, describe the personal property found in the vehicle, set forth the location of the facility where the vehicle is being held, and inform the persons receiving the notice of their right to reclaim the vehicle and personal property within ten (10) days after the effective date of the notice upon payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody and upon payment of the costs of the notice. The notice shall also state that the failure of the owner, lienholders or claimants to exercise their right to reclaim the vehicle or personal property within the time provided shall be deemed a waiver by the owner, lienholders and claimants of all right, title, claim and interest in the vehicle or personal property and that failure to reclaim the vehicle or personal property is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher and to disposal of the personal property by sale or destruction. If the abandoned vehicle was taken into custody by a private entity without a police authority's initiative, the notice shall state that the private entity may claim a garage keeper's lien as described in Section 321.90 of the *Code of Iowa*, and may proceed to sell or dispose of the vehicle. If the abandoned vehicle was taken into custody by a police authority or by a private entity hired by a police authority, the notice shall state that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or property by the police authority or private entity or of the assessment of fees and charges provided by this section may ask for an evidentiary hearing before the police authority to contest those matters. If the persons receiving notice do not ask for a hearing or exercise their right to reclaim the vehicle or personal property within the ten-day reclaiming period, the owner, lienholders or claimants shall no longer have any right, title, claim, or interest in or to the vehicle or the personal property. A court in any case in law or equity shall not recognize any right, title, claim, or interest of the owner, lienholders or claimants after the expiration of the ten-day reclaiming period.

(Code of Iowa, Sec. 321.89[3a])

52.04 NOTIFICATION IN NEWSPAPER. If it is impossible to determine with reasonable certainty the identity and addresses of the last registered owner and all lienholders, notice by one publication in one newspaper of general circulation in the area where the vehicle was abandoned shall be sufficient to meet all requirements of notice under Section 52.03. The published notice may contain multiple listings of abandoned vehicles and personal property but shall be published within the same time requirements and contain the same information as prescribed for mailed notice in Section 52.03.

(Code of Iowa, Sec. 321.89[3b])

52.05 FEES FOR IMPOUNDMENT. The owner, lienholder, or claimant shall pay all fees, fines, and costs associated with the impoundment, including those established by the storage facility; whereupon, the vehicle shall be released.

(Code of Iowa, Sec. 321.89[3a])

52.06 DISPOSAL OF ABANDONED VEHICLES. If an abandoned vehicle has not been reclaimed as provided herein, the police authority or private entity shall make a determination as to whether or not the motor vehicle should be sold for use upon the highways, and shall dispose of the motor vehicle in accordance with State law.

(Code of Iowa, Sec. 321.89[4])

52.07 DISPOSAL OF TOTALLY INOPERABLE VEHICLES. The City or any person upon whose property or in whose possession is found any abandoned motor vehicle, or any person being the owner of a motor vehicle whose title certificate is faulty, lost or destroyed, may dispose of such motor vehicle to a demolisher for junk, without a title and without notification procedures, if such motor vehicle lacks an engine or two or more wheels or other structural part which renders the vehicle totally inoperable. The police authority shall give the applicant a certificate of authority. The applicant shall then apply to the County Treasurer for a junking certificate and shall surrender the certificate of authority in lieu of the certificate of title.

(Code of Iowa, Sec. 321.90[2e])

52.08 PROCEEDS FROM SALES. Proceeds from the sale of any abandoned vehicle shall be applied to the expense of auction, cost of towing, preserving, storing, and notification required, in accordance with State law. Any balance shall be held for the owner of the motor vehicle or entitled lienholder for ninety (90) days, and then shall be deposited in the State Road Use Tax Fund. Where the sale of any vehicle fails to realize the amount necessary to meet costs the police authority shall apply for reimbursement from the Department of Transportation.

(Code of Iowa, Sec. 321.89[4])

52.09 DUTIES OF DEMOLISHER. Any demolisher who purchases or otherwise acquires an abandoned motor vehicle for junk shall junk, scrap, wreck, dismantle, or otherwise demolish such motor vehicle. A demolisher shall not junk, scrap, wreck, dismantle, or demolish a vehicle until the demolisher has obtained the junking certificate issued for the vehicle.

(Code of Iowa, Sec. 321.90[3a])

52.10 BIDS FOR TOWING AND STORAGE. At least once each year, the Council may take bids from privately owned garages for schedules of fees for towing and storing impounded vehicles or vehicles taken up because of illegal parking. Thereupon, the Council shall designate such of the bidders as shall be geographically located to tow and store such vehicles at a minimum cost in the event City facilities are not available for towing or storing vehicles to be impounded. The Chief of Police is hereby authorized to direct the public garage designated by the Council as aforesaid and located nearest to such vehicle to tow and store the same until disposed of as provided in this chapter. Such garage is hereby authorized to retain such vehicle until the fees for towing and storage on the basis of its bid shall be paid.

[The next page is 351]

CHAPTER 53

LITTER CONTROL

53.01 Definitions

53.02 Throwing or Distributing Handbills in Public Places

53.03 Posting Notices Prohibited

53.04 Placing Handbills on Vehicles

53.05 Depositing Handbills on Vacant Premises

53.06 Distributing Handbills at Private Premises

53.07 Owner to Maintain Premises Free of Litter

53.08 Clearing of Litter From Private Property by City

53.01 DEFINITIONS. The following terms are defined as used in this chapter:

1. “Commercial handbill” means any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper booklet, or any other printed or otherwise reproduced original or copies of any matter of literature which:

A. Advertises for sale any merchandise, product, commodity, or thing; or

B. Directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interest thereof by sales; or

C. Directs attention to or advertises any meeting, theatrical performance, exhibition, or event of any kind for which an admission fee is charged for the purpose of private gain or profit, but the terms of this clause do not apply where an admission is charged or a collection is taken up for the purpose of defraying the expenses incident to such meeting, theatrical performance, exhibition or event of any kind when the same is held, given, or takes place in connection with the dissemination of information which is not restricted under the ordinary rules of decency, good morals, public peace, safety and good order; provided, nothing in this clause shall be deemed to authorize the holding, giving, or taking place of any meeting, theatrical performance, exhibition, or event of any kind without a license, where such license is or may be required by any law of the State or under any ordinance of the City; or

D. While containing reading matter other than advertising matter, is predominately and essentially an advertisement, and is distributed or circulated for advertising purposes, or for the private benefit and gain of person so engaged as advertiser or distributor.

2. “Litter” means any decomposable or non-decomposable solid or other waste material.

3. “Noncommercial handbill” means any printed or written matter, any sample, or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper booklet, or any other printed or otherwise reproduced original or copies of any matter of literature not included in the preceding definitions of a commercial handbill or newspaper.

4. “Person” means any person, firm, partnership, association, corporation, company, or organization of any kind.

5. “Vehicle” means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks.

53.02 THROWING OR DISTRIBUTING HANDBILLS IN PUBLIC PLACES.

1. No person shall throw or deposit, or cause to be thrown or deposited, any commercial or noncommercial handbill in or upon any sidewalk, street or other public place within the City.
2. If handbills become deposited upon any public place, the person distributing or causing distribution of such handbills shall remove them the same day.

53.03 POSTING NOTICES PROHIBITED. No person shall post or affix any notice, poster, or other paper or device, calculated to attract the attention of the public, to any lamppost, public utility pole, shade tree upon any public property, or public structure or building, except as may be authorized or required by law.

53.04 PLACING HANDBILLS ON VEHICLES. No person shall place any commercial or noncommercial handbill in or upon any vehicle not owned or controlled by said person.

53.05 DEPOSITING HANDBILLS ON VACANT PREMISES. No person shall throw or deposit any commercial or noncommercial handbill in or upon any private premises, whether owned by such person or not, which are temporarily or continuously uninhabited or vacant. Nothing herein provided shall prevent the owner or person in control of such property from properly and securely storing such materials thereon.

53.06 DISTRIBUTING HANDBILLS AT PRIVATE PREMISES.

1. No person shall throw, deposit, or distribute any commercial or noncommercial handbill in or upon private premises which are inhabited, except by handing or transmitting any such handbill directly to the owner, occupant, or other person then present in or upon such private premises.
2. However, in cases of inhabited premises which are not posted, such person, unless requested by anyone upon such premises not to do so, may place or deposit any such handbill in or upon such inhabited private premises, if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or sidewalks, streets, or other public places, and except that mailboxes may not be so used when so prohibited by federal postal law or regulations.
3. The provisions of this section do not apply to the distribution of mail by the United States or to newspapers except that newspapers shall be placed on private property in such a manner as to prevent their being carried or deposited by the elements upon any street, sidewalk, or other public place or upon private property.

53.07 OWNER TO MAINTAIN PREMISES FREE OF LITTER. The owner or person in control of any private property shall at all times maintain the premises free of litter; provided, however, this section does not prohibit the storage of litter in authorized private receptacles for collection.

53.08 CLEARING OF LITTER FROM PRIVATE PROPERTY BY CITY.

1. Notice to Remove. The City Administrator is hereby authorized and empowered to notify the owner of any open or vacant private property within the City or the agent of such owner to properly dispose of litter located on such owner's property. Such notice shall be by certified mail addressed to the owner at his or her last known address.

2. Action upon Noncompliance. Upon the failure, neglect, or refusal of any owner or agent so notified, to properly dispose of litter within a time set by the City Administrator, after receipt of written notice provided for in subsection 1 of this section, or within this set time after the date of such notice, in the event the notice is returned to the City because of inability to make delivery thereof, provided the notice was properly addressed to the last known address of such owner or agent, the City Administrator is hereby authorized and empowered to pay for the disposing of such litter or to order its disposal by the City.
3. Assessment and Allocation of Costs. When the City has effected the removal of litter from private property or has paid for its removal, the actual cost of removal of such litter shall be paid by the owner of the property and shall be assessed against such property and collected by the City in any manner provided by law.

[The next page is 357]

CHAPTER 54

NOISE POLLUTION

54.01 Definitions	54.11 Stationary Non-Emergency Signaling Devices
54.02 Exceptions	54.12 Animals and Birds
54.03 Noise Disturbance Prohibited	54.13 Places of Public Entertainment
54.04 Maximum Permissible Sound Levels by Receiving Land Use; Immediate Threat	54.14 Powers and Duties of the Noise Control Division
54.05 Emergency Signaling Devices	54.15 Department Actions
54.06 Specific Activities Prohibited	54.16 Sound Variances; Application
54.07 Musical Instruments and Similar Devices	54.17 Sound Variances; Hearing
54.08 Regulation of Sound Equipment and Sound Amplifying Equipment	54.18 Sound Variances; Conduct of Hearing
54.09 Motorized Vehicles	54.19 Adverse Impact
54.10 Construction	54.20 Sound Variance; Right to Appeal
	54.21 Sound Variance Appeal Process

54.01 DEFINITIONS. The following terms are defined as used in this chapter:

1. “Ambient sound level” means the noise associated with a given environment, exclusive of a particular noise being tested, being usually a composite of sounds from many sources near and far, exclusive of intruding noises from isolated identifiable sources.
2. “A-weighted sound level” means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level is designated dB(a) or dBa.
3. “Construction” means any site preparation, assembly, erection, substantial repair, alteration, or similar action, for or of public or private right-of-way, structures, utilities or similar property.
4. “Decibel (dB)” means a logarithmic and dimensionless unit of measure often used in describing the amplitude of sound, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals (20 micronewtons per square meter).
5. “Demolition” means any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces, or similar property.
6. “Emergency” means any occurrence or set of circumstances involving actual or imminent physical or psychological trauma or property damage which demands immediate action.
7. “Emergency work” means any work performed for the purpose of alleviating or resolving an emergency.
8. “Equivalent A-weighted sound level (L_{eq})” means the constant sound level that, in a given situation and time period, conveys the same sound energy as the actual time-varying A-weighted sound. For the purpose of this chapter, a time period of one hour shall be used, unless the likely duration or intensity of the sound being measured makes a shorter time period reasonable.
9. “Impulsive sound” means sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop force impacts, and the discharge of firearms.

10. “Motorboat” means any vessel which operates on water and which is propelled by a motor, including, but not limited to, boats, barges, amphibious craft, water ski towing devices and hovercraft.
11. “Motorcycle” means any motor vehicle having a saddle or seat for the use of the rider and designed to travel on not more than three wheels in contact with the ground. The term includes motorized bicycles and motor scooters.
12. “Motor vehicle” means any motor-operated vehicle licensed for use on the public highways, but not including a motorcycle.
13. “Noise” means any sound which disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.
14. “Noise disturbance” means any sound which endangers or injures the welfare, safety, or health of a human being, or disturbs a reasonable person of normal sensitivities, or devalues or injures personal or real property.
15. “Noise sensitive activities” means activities which should be conducted under conditions of exceptional quiet including, but not limited to, operation of schools, libraries open to the public, and churches.
16. “Noise sensitive area” means any area designated by the City Council for the purpose of ensuring exceptional quiet and clearly posted with “Noise Sensitive Area” signs, because of the noise sensitive activities conducted therein.
17. “Powered model vehicle” means any self-propelled airborne, waterborne, or land borne model plane, vessel, or vehicle, which is not designed to carry persons, including (but not limited to) any model airplane, boat, car, or rocket.
18. “Public right-of-way” means any street, avenue, boulevard, highway, sidewalk, or alley or similar place which is owned or controlled by a governmental entity.
19. “Public space” means any real property, including any structure thereon, which is owned or controlled by a governmental entity.
20. “Pure tone” means any sound which can be distinctly heard as a single pitch or a set of single pitches.
21. “Real property boundary” means an imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intra-building real property divisions.
22. “Receiving land use” means, for the purposes of this chapter, the use or occupancy of the property which receives the transmissions of sound as hereinafter defined.
23. “Recreational vehicle” means any racecar, motorcycle, snowmobile, or any other motorized vehicle equipped for use in racing or other recreational events or uses off of public right-of-way on public or private property.
24. “Residential” means any property on which is located a building or structure used wholly or partially for living or sleeping purposes.
25. “RMS sound pressure” means the square root of the time averaged square of the sound pressure, denoted P_{rms} .

26. "Sound" means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that cause compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity, and frequency.

27. "Sound equipment" means any radio, record player, stereo, television, tape deck or player, loud speakers, amplifier, sound truck or other device for producing, reproducing, or amplifying sounds.

28. "Sound level" means the weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B, or C as specified in American National Standards Institute specifications for sound level meters (ANSI S1.4-1971, or the latest approved revision thereof). If the frequency weighting employed is not indicated, the A-weighting shall apply.

29. "Sound level meter" means an instrument which includes a microphone, amplifier, RMS detector, integrator or time average, output or display meter, and weighting networks used to measure sound pressure levels, which complies with American National Standards Institute Standard 1.4-1971.

30. "Sound pressure" means the instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as produced by sound energy.

31. "Sound pressure level" means 20 times the logarithm to the base 10 of the ratio of the RMS sound pressure to the reference pressure of 20 micronewtons per square meter (20×10^{-6} N/m²). The sound pressure level is denoted L_p or SPL and is expressed in decibels.

32. "Used" and "occupied," when used in this chapter, both shall be deemed to include the words "intended, designed, or arranged to be used or occupied."

54.02 EXCEPTIONS. The provisions of this chapter do not apply to:

1. The emission of sound for the purpose of alerting persons to the existence of an emergency.
2. The emission of sound in the performance of emergency work.
3. Noncommercial public speaking and public assembly activities conducted on any private property, public space, or public right-of-way.
4. The emission of sound in the legal discharge of weapons or in fireworks displays licensed by the City.
5. The emission of sound in the operation of snow removal equipment.
6. Parades or processions for which a parade permit has been issued by the City.

54.03 NOISE DISTURBANCE PROHIBITED. No person shall make, continue, or cause to be made or continued, except as permitted, any noise disturbance, as defined in this chapter, or any noise in excess of the limits for such noise established in this chapter.

54.04 MAXIMUM PERMISSIBLE SOUND LEVELS BY RECEIVING LAND USE; IMMEDIATE THREAT.

1. Maximum Permissible Sound Levels. With the exception of sound levels elsewhere specifically authorized or allowed in this chapter, the following are the

maximum permissible sound levels allowed at or within the real property boundary of a receiving land use:

Table 1. Sound Levels by Receiving Land Use

Zoning Category of Receiving Land Use	Time	Sound Level Limit, dBa
R-1, R-2, R-3, R-4 Residential	7:00 a.m. to 10:00 p.m.	60
	10:00 p.m. to 7:00 a.m.	50
TC, CC, GC, UC	at all times	65
LI	7:00 a.m. to 10:00 p.m.	65
	10:00 p.m. to 7:00 a.m.	55
Noise Sensitive Areas	at all times	55

- A. Violation. For the purposes of this chapter, sound levels in excess of the dBa listed in Table 1 above shall be deemed a violation.
 - B. Correction for Character of Sound. For any source of sound which emits a pure tone, the maximum sound level limits set forth above shall be reduced by 5 dBa.
2. The provisions of this section do not apply to:
- A. Activities covered by the following sections: 54.05 (Emergency Signaling Devices); 54.08 (Amplified Sound); 54.09 (Motorized Vehicles); 54.10 (Construction); 54.11 (Stationary Non-Emergency Signaling Devices); and 54.16 (Noise Covered by Sound Variance).
 - B. The operation of the following domestic power tools of equipment between the hours of 7:00 a.m. and 10:00 p.m.
 - (1) Electrical power tools actually being used for their intended purpose.
 - (2) Motor-powered, muffler-equipped lawn, garden and tree trimming equipment actually being used for their intended purpose.
3. Immediate Threats.
- A. The City Administrator shall order an immediate halt to any sound that exposes any person, except those specifically exempted by this chapter, to continuous sound levels in excess of those shown in Table 2 or to impulsive sound levels in excess of those shown in Table 3. If the sound has not abated within a reasonable length of time following issuance of such an order, the City Administrator may apply to the appropriate court for an injunction to replace the order or may treat the violation in the manner of other Code violations.
 - B. No order under paragraph A hereof shall be issued if the only person exposed to sound levels in excess of those listed in Tables 2 and 3 is exposed as a result of (i) trespass, (ii) invitation upon private property by the person causing or permitting the sound, or (iii) employment by the person or contractor of the person causing or permitting the sound.
 - C. Any person subject to an order issued pursuant to paragraph A hereof shall comply with such order until: (i) the sound is brought into compliance with the order as determined by the City Administrator; or (ii) a judicial order has superseded such order.

**Table 2. Continuous Sound Levels that
Pose an Immediate Threat to Health and Welfare
(Measured at 50 Feet)**

Sound Level Limit (dBA)	Duration
90	24 hours
93	12 hours
96	6 hours
99	3 hours
102	1.5 hours
105	45 minutes
108	22 minutes

D. Correction for Character of Sound. For any source of sound which emits a pure tone, the maximum sound level limits set forth hereinabove shall be reduced by 5 dBA.

E. Varying Sound Level. Where the sound level (dBA) varies over the measuring period, the equivalent A-weighted (average) sound level (L_{eq}) shall be determined by figuring the time and intensity levels for time periods set out in Tables 2 and 3.

**Table 3. Impulsive Sound Levels that
Pose an Immediate Threat To Health and Welfare
(Measured at 50 Feet)**

Sound Level Limit (Db)	Number of Repetitions Per 24-Hour Period
140	1
130	10
120	100

54.05 EMERGENCY SIGNALING DEVICES.

1. No person shall operate or permit the intentional sounding outdoors of any fire, burglar, or civil defense alarm, siren, whistle or similar stationary emergency signaling device, except for emergency purposes or for testing, as provided for in this section.
2. Testing of a stationary signaling device shall occur at the same time of day each time the test is performed, but not before 9:00 a.m. or after 4:00 p.m. Any such testing shall use only the minimum cycle test time. In no case shall test times exceed 60 seconds.

54.06 SPECIFIC ACTIVITIES PROHIBITED.

1. Sales by “Hawking” or “Barking.” No person shall offer for sale or sell anything by shouting or raised voice within any residential or commercial area in the City.
2. Loading and Unloading. No person shall so load, unload, open, close or handle boxes, crates, containers, building materials, garbage cans, or similar objects between the hours of 7:00 p.m. and 7:00 a.m. the following morning as to create a noise disturbance across a residential real property boundary or within a noise sensitive area. This section shall not apply to activities covered by Section 54.09.

3. Vehicle or Motorboat Repairs and Testing. No person shall repair, rebuild, modify, or test any motor vehicle, motorcycle, or motorboat in such a manner as to cause a noise disturbance across a residential real property boundary or outdoors within a noise sensitive area.

54.07 MUSICAL INSTRUMENTS AND SIMILAR DEVICES. No person shall operate, play, or permit the operation or playing of any drum, musical instrument, or similar device which produces sound in such a manner as to create a noise disturbance across a residential real property boundary as defined herein, or outdoors within a noise sensitive area.

54.08 REGULATION OF SOUND EQUIPMENT AND SOUND AMPLIFYING EQUIPMENT.

1. Sound Equipment Restricted. Except for activities open to the public and for which a permit has been issued by the City under this section, no person shall so operate, play, or permit the operation or playing of any sound equipment:
 - A. As to create a noise disturbance across a residential real property boundary or outdoors within a noise sensitive area.
 - B. As to create a noise disturbance 50 feet from the device, when operated in or on a motor vehicle on a public right-of-way or public space, or in a boat on public waters.
2. Permit Required. No person shall, use, operate, or cause to be used or operated any sound equipment upon the public streets or in any building or upon any premises, public or private, if the sound therefrom is plainly audible from any public street or public place within the City, unless said person:
 - A. First obtains a permit in accordance with this section;
 - B. Complies with the conditions imposed by the permit, including the maximum permitted sound level shown therein;
 - C. Complies with all other applicable provisions of this Code of Ordinances.
3. Exclusions. Sound equipment shall not include:
 - A. Equipment used for public health and safety purposes;
 - B. Church or clock carillons, bells or chimes;
 - C. Automobile radios, tape decks or players, or other standard automobile equipment used or intended for the use and enjoyment of the occupants, provided the sound emitting therefrom is not audible for more than 50 feet from the vehicle.
 - D. Recorded music used in a nonresidential district in conjunction with a civil or religious celebration;
 - E. Unamplified live music provided, sponsored, or funded, in whole or in part, by a governmental entity.
 - F. Mobile radio or telephone signaling devices.
4. Fees. A separate permit shall be required for each type of activity described below, and permits shall be nontransferable. The permit shall be conspicuously

displayed on or immediately adjacent to the sound equipment. A nonrefundable fee for sound equipment permits shall be paid as follows:

- A. Permits for one day or less \$ 20.00
- B. Permits for over one day through one week..... \$ 40.00
- C. Permits over one week through one year \$ 75.00

No fee shall be required for any sound equipment permit issued to the City, State, or federal government or a governmental subdivision or agency.

5. Information Required. Applications for permits required herein shall be made in writing to the City Administrator, accompanied by the required permit fee and the following information:

- A. Type of permit requested;
- B. Name and address of applicant;
- C. The purpose for which the sound equipment will be used;
- D. The location where the sound equipment will be used;
- E. The number of days of use and proposed hours of operation of the sound equipment;
- F. A general description of the sound equipment, including the license number of any motor vehicle upon which it is to be operated;
- G. The proposed sound pressure level output of the sound equipment, including:
 - (1) Type B Permits. The approximate decibel output measured in dB(a)s at a distance of 100 feet from the sound equipment.
 - (2) Type A, C, D and E Permits. The address of the residence nearest the sound equipment, the approximate decibel output measured in dB(a)s at the real property boundary of the private residence nearest the sound equipment, and the decibel output measured in dB(a)s at a distance of 50 feet from the sound equipment. If the application contains the required information and is accompanied by the required fee, and the proposed use of the sound equipment complies with the standards and other requirements of this section and all other applicable laws and ordinances, the zoning enforcement officer shall issue the appropriate permit.

6. Application Standards.

- A. Type A Permit – General Standards. A type A permit may be issued for sound equipment emitting music or human speech registering not more than 60 dB(a)s when measured at the real property boundary of the private residence alleging a noise disturbance when known, or at the real property boundary of the private residence nearest the sound equipment, and registering not more than 100 dB(a)s at a distance of 50 feet from the sound equipment. Sound equipment permitted under a Type A permit may be used only in areas of the City zoned for nonresidential use and only between the hours of 9:00 a.m. and 11:00 p.m.

- B. Type B Permit; Sound Trucks – General Standards. Sound trucks may be operated only under a type B permit. A type B permit may be issued for sound equipment mounted upon a motor vehicle and intended for use upon City streets provided that the sound equipment emits only music or human speech registering not more than 80 dB(a)s when measured at a distance of 100 feet from the sound equipment. Sound equipment permitted under a type B permit may be used only in nonresidential areas from 9:00 a.m. to 9:00 p.m.
- C. Type C Permit; Parks – General Standards. A type C permit may be used for sound equipment emitting music or human speech registering not more than 50 dB(a)s when measured at the real property boundary of the private residence alleging a noise disturbance when known, or at the real property boundary of the private residence nearest the sound equipment, and registering not more than 100 dB(a)s when measured at a distance of 50 feet from the sound equipment. Sound equipment permitted under a type C permit may be used only in public parks owned and operated by the City, or public grounds owned and operated by another governmental body, from 10:00 a.m. to 11:00 p.m. for events authorized and approved by the City or other body having jurisdiction over the park or public grounds.
- D. Type D Permit; School Grounds – General Standards. A type D permit may be issued for sound equipment emitting music or human speech registering not more than 50 dB(a)s when measured at the real property boundary of the private residence alleging a noise disturbance when known, or at the real property boundary of the private residence nearest the sound equipment, and registering not more than 100 dB(a)s when measured at a distance of 50 feet from the sound equipment. Sound equipment permitted under a type D permit may be used only on school grounds, or in conjunction with a school sponsored activity, from 10:00 a.m. to 11:00 p.m. for events authorized and approved by the school authorities having jurisdiction of the grounds.
- E. Type E Permit; Residential Events – General Standards. A type E permit may be issued for sound equipment emitting music or human speech registering not more than 50 dB(a)s when measured at the real property boundary of the private residence alleging a noise disturbance when known, or at the real property boundary of the private residence nearest the sound equipment, and registering not more than 100 dB(a)s when measured at a distance of 50 feet from the sound equipment. Sound equipment permitted under a type E permit may be used only pursuant to a permitted street closing, from 10:00 a.m. to 11:00 p.m.
7. Commercial Advertising; Sound Equipment Prohibited. No sound equipment shall be permitted to be used on public streets or public places, or in any building or upon any premises if the sound therefrom may be plainly audible from any public street or public place within the city, when any such use is for commercial advertising purposes or for the purpose of attracting the attention of the public to any building or structure for monetary gain.

54.09 MOTORIZED VEHICLES.

1. This section applies to the total noise from a vehicle or combination of vehicles and shall not be construed as limited or precluding the enforcement of any other provisions of this code relating to motor vehicle mufflers or noise control.
2. No person shall operate the engine providing motive power, or an auxiliary engine, of a motor vehicle with a manufacturer’s gross vehicle weight rating of 10,000 pounds or more for a period longer than 20 minutes while such vehicle is standing and located within 150 feet of property zoned and used for residential purposes except where such vehicle is standing within a completely enclosed building and does not create a noise disturbance across a real property boundary as defined in this chapter. This section shall not apply to deliver or pickup vehicles that require the operation of the engine to unload or load their vending loads.
3. No person shall operate within the speed limits specified in this section either a motor vehicle, or a combination of vehicles of a type subject to registration, at any time or under any condition of grade, load, acceleration or deceleration in such manner as to exceed the noise limit listed herein below for the category of motor vehicle, based on the legal speed limit, posted or not, of the road or way on which operate, such noise to be measured at a distance of no more than 50 feet from the centerline of travel under test procedures established by subsection 4 of this section. In the event the distance of the measuring instrument from centerline of travel is less than 50 feet, such listed noise limits shall be corrected to reflect the equivalent noise limits for the actual distance.

Noise Limit in Relation to Legal Speed Limit

Type of Vehicle	Below 35 MPH	Over 35 MPH
Any motor vehicle with a manufacturer’s gross vehicle weight rating of 10,000 pounds or more and any combination of vehicles towed by such motor vehicle.	88 dB(a)	92 dB(a)
Any motorcycle	82 dB(a)	86 dB(a)
Any other motor vehicle and any combination of motor vehicles towed by such motor vehicle	76 dB(a)	82 dB(a)

4. The measurement of sound or noise shall be made with a sound level meter meeting the standards prescribed by the American National Standards Institute or its successor body. The instrument shall be maintained in calibration and good working order. Octave band corrections may be employed in meeting the response specification. A calibration check shall be made of the system at the time of any noise measurement. Measurements recorded shall be taken so as to provide a proper representation of the noise source. The microphone during measurement shall be positioned so as not to create any unnatural enhancement or diminution of the measured noise. A windscreen for the microphone shall be used when required. Traffic, aircraft and other transportation noise sources and other background noises shall not be considered in taking measurements except where such background noise interferes with the primary noise being measured.
5. Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke. No person shall use a muffler cutout, bypass, or similar device upon a motor vehicle on a highway.

6. No person shall modify the exhaust system of a motor vehicle or motorcycle by installation of a muffler cutout or bypass, and no person shall operate a motor vehicle or motorcycle which has been so modified. A motor vehicle so operated shall be deemed equipped with a muffler which emits excessive and unusual noise and which is not in good working order.

7. No person shall operate a recreational vehicle or permit the operation of one or more recreational vehicles individually or in a group or in an organized racing event, on public or private property in such a manner that the sound level resulting from such operation exceeds: 73 dBA for any total of three minutes in any continuous one-hour period, or exceeds 90 dBA for any period of time during such operation. Sound levels which exceed the limits herein described at the real property boundary of the receiving land use shall be deemed a noise disturbance.

8. Notwithstanding other provisions of this chapter, no person shall permit the conducting of any part of an organized racing event which involves contest between or among recreational vehicles on public or private property between the hours of 10:30 p.m. and 10:00 a.m. the following morning.

54.10 CONSTRUCTION.

1. No person shall operate or permit the operation of any tools or equipment in construction, drilling or demolition work, or in preventive maintenance work for public service utilities:

A. Between the hours of 10:00 p.m. and 7:00 a.m., in any manner which creates a noise disturbance as defined in this chapter across a residential real property boundary or within a noise sensitive area.

B. At any other time, in any manner which creates a noise disturbance across a residential real property boundary or within a noise sensitive area; for purposes of this paragraph, a sound level at or across a residential real property boundary in excess of an L_{eq} of 85 dBA shall be deemed a noise disturbance.

2. The terms of this section do not apply to:

A. Emergency work or repair work performed by or for governmental entities or public service utilities.

B. The use of domestic power tools or equipment subject to other provisions of this chapter.

54.11 STATIONARY NON-EMERGENCY SIGNALING DEVICES.

1. No person shall operate or permit the sounding of any stationary bell, chime, siren, whistle, or similar device, intended primarily for non-emergency purposes, from any place, for more than one minute in any hourly period.

2. Devices used in conjunction with places of religious worship are exempt from the operation of this section.

3. Exemptions for sound sources covered by this section, but not exempted herein may be granted under the procedure set forth in Section 54.08 of this chapter.

54.12 ANIMALS AND BIRDS. No person shall own, possess, or harbor any animal or bird which frequently or for continued duration emits sounds native to the species which are a noise disturbance across a residential real property boundary, or within a noise sensitive area.

54.13 PLACES OF PUBLIC ENTERTAINMENT. No person shall operate, play, or permit the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier, or similar device which produces, reproduces, or amplifies sound in any place of public entertainment at a sound level greater than 90 dBa as read by the slow response on a sound level meter at any point therein that is normally occupied by a customer, unless a conspicuous and legible sign is located outside such place, near each public entrance, stating: *WARNING: SOUND LEVELS WITHIN MAY CAUSE PERMANENT HEARING IMPAIRMENT.*

54.14 POWERS AND DUTIES OF THE NOISE CONTROL DIVISION.

1. The noise control program established by this chapter shall be implemented, administered, and enforced by the City Administrator and police departments.
2. The provisions of this chapter which prohibit the making, continuing, or causing the making or continuing across a real property boundary or within a noise sensitive area, shall be enforced upon receipt of complaint made or filed with City officials by a person disturbed by such noise disturbance or by direction of the Chief of Police. Certification by an official charged with enforcement of provisions of this chapter that such complaint was made shall be sufficient to establish the fact of such complaint.
3. To implement and enforce this chapter, the City Administrator shall have the additional power to:
 - A. Conduct research, monitoring, and other studies related to sound.
 - B. Conduct programs of public education regarding the causes, effects, and general methods of abatement and control of noise, as well as the actions prohibited by this chapter and the procedures for reporting violations.
 - C. Coordinate the noise control activities of all municipal departments.
 - D. Review public and private projects, including those subject to mandatory review or approval by other departments, for compliance with this chapter, if these projects are likely to cause sounds in violation of this chapter.
 - E. Upon presentation of proper credentials, enter and inspect any private property or place, and inspect any report or records at any reasonable time when granted permission by the owner or by some other person with apparent authority to act for the owner.
 - F. Issue sound variances pursuant to the provisions of this chapter.
 - G. Prepare recommendations for consideration by the City Council, after publication of notice and public hearing, for establishing the boundaries of noise sensitive areas.

54.15 DEPARTMENT ACTIONS. All departments and agencies of the City shall carry out their programs in furtherance of the policy of this chapter.

54.16 SOUND VARIANCES; APPLICATION.

1. Any person desiring to exceed the permitted sound levels set out in this chapter may apply to the City for a variance from such regulations.
2. All applicants for such variances shall apply in writing to the City Administrator. Such application shall be submitted at least 60 days prior to the proposed date of the need for the variance.
3. All variance applications shall contain the following information:
 - A. The name and address of the applicant.
 - B. If the application is made on behalf of an organization, the name and address of that organization.
 - C. The name and phone number of a contact person.
 - D. The proposed dates of the event for which a variance is required.
 - E. A description of the event and its potential cause for excessive noise.
 - F. The times the event will generate excessive noise.
 - G. Information which would demonstrate that bringing the source of sound or activity for which the sound variance is sought, into compliance, would constitute an unreasonable hardship on the applicant, on the community, or on other persons.
4. An application for a variance shall be submitted to the City Administrator accompanied by a nonrefundable fee of \$100.00 to cover the cost of processing the application.
5. Upon receipt of an application for a sound variance, the City Administrator shall determine what property interests may be affected by the grant of a variance, including, but not limited to:
 - A. The occupants of surrounding single-family or duplex residences located in an area that includes the next two homes in any direction, or those within 100 feet of the noise source, whichever is less; or
 - B. The owner or manager of multiple residence structures, including hotels.
6. The City Administrator shall notify such property owners or occupants as identified in subsection 5 above, in writing, and delivered by the U.S. Postal Service, ordinary mail, of the application for a sound variance and give ten days to the affected property owners or occupants to give written cause why the variance should not be granted. Additionally, the City Administrator shall cause a notice of variance application to be published in a local publication.
7. If the City Administrator receives written statements from 25% or more occupants who claim to be adversely affected by allowance of the sound variance, the City Administrator shall schedule a hearing to consider the application for a variance.

54.17 SOUND VARIANCES; HEARING. Upon receipt from the City Administrator that 25% or more property owners or occupants have given cause why the variance should not be granted, the City Administrator shall schedule a hearing and shall send by the regular U.S.

Postal Service, a notice of the time, date, and location of the hearing to the applicant and all property owners previously notified.

54.18 SOUND VARIANCES; CONDUCT OF HEARING. The variance hearing shall be conducted before the City Administrator not less than twenty business days, excluding Saturdays, Sundays, and City holidays, from the proposed date for the variance. The sole issue before the City Administrator shall be whether the grant of the variance shall create an adverse impact on the health, safety, and welfare of persons or property affected. The applicant for a variance shall carry the burden of establishing that an adverse impact shall not be created by the grant of a variance. In the event the City Administrator determines there will be an adverse impact, then the variance shall not be granted and the reasons therefor shall be in writing and delivered to the applicant and filed with the City. In the event the City Administrator determines that an adverse impact will not be created, then the variance shall be granted subject to those limitations set out by the City Administrator. The proceedings at the administrative hearing shall be tape recorded by the City Administrator. Such tape recording shall serve as the official record of the administrative hearing for appeal purposes. The City Administrator shall retain all such tape recordings until the time for filing a notice of appeal has expired. Should a notice of appeal be timely filed, the City Administrator shall retain the tape-recorded record of the administrative hearing until the appeal has been acted upon by the Council.

54.19 ADVERSE IMPACT. “Adverse impact” means such a state of facts as would lead a person of ordinary care and prudence to conclude that the economic, entertainment, and philanthropic benefits to the community do not reasonably outweigh the quiet use and enjoyment of the affected property.

54.20 SOUND VARIANCE; RIGHT TO APPEAL. The decision of the City Administrator may be appealed to the Council by the applicant for a variance, or any impacted resident, provided that such entity or person files a written notice of appeal with the Clerk’s office within seven days of the City Administrator’s decision. Failure to file a written notice of appeal within such period shall be deemed a waiver of the right to appeal the decision of the City Administrator to the Council.

54.21 SOUND VARIANCE APPEAL PROCESS. The appeal shall be considered and a decision rendered by the Council within 14 days of the filing of the written notice of appeal. The time for considering the appeal may be extended for good cause. The appeal process shall consist of a review by the Council of the transcript of the tape-recorded record of the earlier administrative hearing. No additional evidence may be presented as a part of the appeal. The sole issue before the Council shall be whether the decision of the City Administrator was supported by sufficient evidence. The decision of the Council is final.

[The next page is 381]

CHAPTER 55

ANIMAL PROTECTION AND CONTROL

55.01 Definitions	55.17 Delinquent Fee List
55.02 Pets; Types and Numbers of Animals Permitted	55.18 Public Hearing; Delinquent Fee List
55.03 Enclosures	55.19 Vaccination of Dogs and Cats
55.04 Offenses	55.20 Issuance of License and License Tag
55.05 Seizure and Impounding	55.21 Display of License Tag
55.06 Notice to Owner of Licensed Animal	55.22 Duplicate License Tag
55.07 Disposition of Impounded Animals	55.23 Duplicate License Tag Fee
55.08 Impoundment Fee	55.24 Transfer of License or License Tag Prohibited
55.09 Animal Neglect	55.25 Expiration of License and License Tag
55.10 Livestock Neglect	55.26 Trapping
55.11 Livestock	55.27 Quarantine for a Minimum Period of 14 Days
55.12 Annual License Required	55.28 Requirements When Animal Has Bitten a Person
55.13 Exceptions to License Requirements	55.29 Report of Person Whose Animal Has Been Bitten
55.14 Applications for Licenses	55.30 Fees
55.15 License Fees	55.31 Pet Awards Prohibited
55.16 Delinquency	55.32 Indoor Pets

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 living creature, not human, and being either domestic or wild.
3. “Animal Control Officer” means a person designated by the City to perform such duties involving animal control and to have authority to enforce this chapter and Chapter 56 of this Code of Ordinances.
4. “Animal pound or shelter” means any premises, either designated by or contracted for by the Council, for the proper care of impounded animals held under the authority of this chapter.
5. “At large” means an animal off the premises of the owner. An animal properly licensed as required by this chapter shall not be deemed at large if such animal:
 - A. Is confined within a suitable enclosure under the control of a competent person, or
 - B. Is confined within a motor vehicle under the control of a competent person, or
 - C. Is under the control of a person competent to restrain and control the animal, either by leash, cord, chain, or other similar restraint not more than ten (10) feet in length, or properly restrained within a motor vehicle, or
 - D. Is properly housed in a veterinary hospital or licensed kennel, pet shop, or City designated animal pound.
6. “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.
7. "Cat" means all members of the *Felis Domestica* species, male or female, altered or unaltered.
 8. "Competent person" means a person of such maturity as to be able to exercise control over a dog or cat.
 9. "Dog" means and includes members of the canine species, male or female, altered or unaltered.
 10. "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.
 11. "Game" means a "game of chance" or "game of skill" as defined in Section 99B.1 of the *Code of Iowa*.
 12. "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*)
 13. "Owner" means any person or persons, firm, association or corporation, owning, keeping, paying the license for, or harboring a dog, cat, horse, or other animal.

55.02 PETS; TYPES AND NUMBERS OF ANIMALS PERMITTED. The following animals may be owned as pets under the following conditions:

1. Dogs not to exceed three in number and cats not to exceed three in number at or in a residential dwelling, which dogs and cats are owned and maintained in compliance with the provisions of this chapter relating to such animals.
2. Rabbits not to exceed three in number at or in a residential dwelling, and which must be maintained in a hutch or other type of enclosure.
3. Domestic poultry and fowl; that is, poultry and fowl ordinarily raised for production of eggs or meat, not to exceed two in number considered together at or in a residential dwelling and maintained at all times in a pen and/or coup.
4. Vietnamese Pot Bellied Pigs, Asian Pot Bellied Pigs or pot bellied pigs not to exceed two in number of the types considered together at or in a residential dwelling.
5. The young produced by any pets permitted herein may be maintained at or in a residential dwelling with the parent animals for a period of approximately eight weeks but in no case longer than ten weeks.

55.03 ENCLOSURES. Any enclosure, pen, coup, or hutch in which pets are maintained shall be cleaned at least every other day or oftener if deemed advisable or necessary by a

health officer or the Chief of Police. Said enclosures shall be located at a minimum of twenty-five (25) feet from a neighboring residential dwelling. No animal may be enclosed or fenced in the front yard of a residential dwelling.

55.04 OFFENSES. No owner of any dog, cat, or other animal (or any person having control or responsibility thereof) shall:

1. Allow or permit such animal to run at large.
2. Allow or permit such animal to urinate or defecate on private property without the express consent of the owner of such property.
3. Fail to pick up and dispose of any feces deposited by such animal on private property without the express consent of the owner thereof.
4. Allow or permit such animal to urinate or defecate on public property, including, but not limited to, public property located between curb lines of public streets and adjacent property lines and public property located within parks.
5. Fail to pick up and dispose of any feces deposited by such animal on public property.
6. Allow or permit such animal to pass upon public or private property thereby causing damages to or interference with such property.
7. Allow or permit a dog to cause annoyance or disturbance to any person by frequent and habitual barking, howling, or yelping.
8. Allow or permit an animal to run after, chase, or attack any person or vehicle or place any person in reasonable fear of attack or injury.
9. Keep, shelter, or harbor any unlicensed animal.
10. Keep, shelter, or harbor any animal without a license tag attached to its collar or harness as required by this chapter.
11. Keep, shelter, or harbor any animal with an expired license tag attached to its collar or harness.
12. Keep, shelter, or harbor any unvaccinated animal.
13. Keep, shelter, or harbor any animal without a vaccination tag attached to its collar or harness as required by law.
14. Keep, shelter, or harbor any animal with an expired vaccination tag attached to its collar or harness.
15. Allow or permit such animal to destroy or damage property other than the property of the owner of such animal.
16. Abandon any animal within the corporate limits of the City.

55.05 SEIZURE AND IMPOUNDING. Any animal found in violation of the provisions of Section 55.04 of this chapter may be seized and impounded. It is the duty of the Chief of Police or the duly appointed Animal Control Officer of the City to cause any animal in violation of this chapter to be seized and impounded.

55.06 NOTICE TO OWNER OF LICENSED ANIMAL. The owner of any animal licensed in accordance with the provisions of this chapter which has been seized and

impounded shall be notified of such seizure and impounding within three (3) business days thereof by such person and in such manner as the City Council may direct by resolution.

55.07 DISPOSITION OF IMPOUNDED ANIMALS. The owner of any animal licensed in accordance with the provisions of this chapter which has been seized and impounded may obtain the release of such animal by the payment of the impoundment fee and the reasonable cost of food and care for such animal during the period of impoundment. Any such animal not released to its owner within three (3) days of the date of notice to such owner may be transferred to a designated humane society or animal shelter facility. The owner of any unlicensed or unvaccinated animal which has been seized and impounded may obtain the release of such animal, upon proper identification of the owner and the animal, by obtaining a license for such animal in accordance with the provisions of this chapter and by the payment of the impoundment fee and the reasonable cost of food and care for such animal during the period of impoundment.

55.08 IMPOUNDMENT FEE. An impoundment fee shall be charged on all impounded animals. Such impoundment fees may be established by the Council based on the recidivism of the same animal and increasing on successive impoundments. Animals properly licensed to an owner within the City shall receive a \$25.00 discount on impoundment fees. Information regarding fees is located in Section 55.30 of this chapter.

55.09 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)

55.10 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)

55.11 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.

55.12 ANNUAL LICENSE REQUIRED. The owners of all dogs and cats six (6) months of age or older shall annually obtain a license therefor as hereinafter provided. Every owner of a dog or cat under the age of six months on January 1 of any year shall apply for an annual license for each such dog or cat on or before the first day of the first month after each such dog or cat reaches the age of six months.

55.13 EXCEPTIONS TO LICENSE REQUIREMENTS. The requirements for licensing dogs and cats shall not apply to such animals if one or more of the following situations apply:

1. In transit through the City only.
2. First 30 days of residency by the owner.
3. Housed in a veterinary hospital.

4. Housed temporarily in an animal grooming shop.
5. Housed in a licensed kennel.
6. Housed in an accredited institution for research purposes only.

55.14 APPLICATIONS FOR LICENSES. The owner of a dog or cat for which a license is required shall, on the first day of January of each year, apply to the City Clerk for a license for each such dog or cat. Applications made on or after April 1 of that year shall be delinquent. An application for an annual license for a dog or cat which is under the age of six months on January 1 of any year shall be delinquent if made on or after the first day of the sixth month after such dog or cat reaches the age of six months. Applications for licenses shall be in writing on forms provided by the City Clerk, and shall state the breed, sex, age, color, markings, and name, if any, of the dog or cat, the address at which the owner regularly keeps, shelters or harbors the dog or cat, and the name and address of the owner, and be signed by said owner. Such 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 re-vaccinated. Such application shall be accompanied by a certificate of vaccination issued by a licensed veterinarian showing that the dog or cat described in the application has been vaccinated against rabies.

55.15 LICENSE FEES. An application for an annual license for a dog or cat shall be accompanied by the required annual license fee. Information regarding license fees is located in Section 55.30 of this chapter.

55.16 DELINQUENCY. All license fees for dogs and cats become delinquent on April 1 of the year in which they are due and payable, and a penalty of double the original license fee shall be added to each unpaid license on and after said date.

55.17 DELINQUENT FEE LIST. The City Clerk may, in the Clerk's discretion or at the request of the City Council, prepare and submit to the Council a delinquent fee list which shall show the following:

1. The name and residence address of each person within the City who is the owner of a dog or cat which is not licensed in accordance with the provisions of this chapter for the current year and the amount of fees, including delinquency fees, due from such owner.
2. The name and residence address of each person within the City who licensed a dog or cat in accordance with the provisions of this chapter in the previous year which is not licensed in accordance with the provisions of this chapter for the current year and the amount of fees, including delinquency fees, due from such owner.

The foregoing list shall not include any owner who, upon the death, transfer of ownership, or disappearance for more than 60 days of any dog or cat, within 10 days of such event, notifies the City Clerk of such event and surrenders the license and license tag, if available, issued to the owner.

55.18 PUBLIC HEARING; DELINQUENT FEE LIST. Upon submission of the delinquent fee list to the Council, the Council may by resolution fix a date, time, and place for a public hearing thereon. The Clerk shall mail a written notice of such public hearing to the owner of each dog or cat which appears on such list by ordinary mail at least ten (10) days prior to the date fixed for such public hearing. The notice shall state the date, time, and place of such public hearing and shall advise the owner of each dog or cat which appears on such

list that he or she may appear at such hearing and show cause why the delinquent fees shown thereon for each such dog or cat should not be paid. After such public hearing, the Council shall enforce such fees by any legal means permitted under this Code or release obligation for payment of fees if sufficient cause is shown for nonpayment.

55.19 VACCINATION OF DOGS AND CATS. All dogs and cats over the age of six (6) months shall be inoculated for the prevention of rabies and the owner of said animal shall obtain and return a certificate as evidence of said anti-rabies inoculation by a licensed veterinarian. The certificate shall show that the vaccination is current at the effective date of the dog or cat license.

55.20 ISSUANCE OF LICENSE AND LICENSE TAG. Upon receipt of an application for an annual license for a dog or cat in accordance with the provisions of this chapter, and the payment of all fees applicable thereto, the City Clerk shall issue to the owner a dog or cat license and a dog or cat license tag. The dog or cat license shall state the number of the license, the name and residence address of the owner of the dog or cat, and a description of the dog or cat. The dog or cat license tag shall state the number of the license and the year for which it is issued.

55.21 DISPLAY OF LICENSE TAG. Upon issuance of the license tag, the owner of the dog or cat shall cause the license tag to be securely fastened to a collar or harness which shall be worn by the dog or cat for which the license tag is issued.

55.22 DUPLICATE LICENSE TAG. Upon proof by the owner of a dog or cat that a license tag issued to such dog or cat in accordance with the provisions of this chapter has been lost or destroyed, the City Clerk shall issue a duplicate tag to the owner of such dog or cat. Such duplicate license tag shall be securely fastened to the collar or harness of such dog or cat in accordance with the provisions of this chapter.

55.23 DUPLICATE LICENSE TAG FEE. A duplicate license tag fee of \$1.00 shall be charged for all duplicate license tags.

55.24 TRANSFER OF LICENSE OR LICENSE TAG PROHIBITED. No license or license tag issued in accordance with the provisions of this chapter shall be transferred to any other person or dog or cat.

55.25 EXPIRATION OF LICENSE AND LICENSE TAG. All licenses and license tags issued in accordance with the provisions of this Chapter shall expire on January 1 of the year following the year for which they were issued.

55.26 TRAPPING. It is unlawful for any person to place out of doors on public or private property any trap, snare, or other device that is designed to entrap or capture any animal or fowl without the permission of the Chief of Police. In any proceeding charging the violation of this section, a prima facie presumption shall exist that the owner of said trap, snare, or other device was the person placing the same.

55.27 QUARANTINE FOR A MINIMUM PERIOD OF 14 DAYS.

1. It shall be the duty of the Chief of Police to order the owner of any animal which has bitten a person or another animal, or of any animal suspected of being infected with rabies, to confine such animal for a period of fourteen (14) days at the animal shelter, a veterinary clinic, or a registered kennel.

2. Notwithstanding subsection 1 of this section, the Animal Control Officer may allow a dog or cat or any other animal to remain in quarantine for that period on the property of the owner so long as the dog or cat or any other animal is confined there and is out of contact with members of the public or other animals during the quarantine period when the dog, cat, or any other animal:

- A. Has a current certificate of inoculation for rabies; and
- B. Is properly licensed, in the case of dogs; and
- C. Has properly displayed all required tags; and
- D. Has not previously bitten a person; and
- E. The owner has suitable and secure quarters in which to isolate the animal.

Home quarantine shall not be allowed where there is a reasonable belief that the animal's condition, or circumstances including consideration of the nature or severity of the bite, require observation at the animal shelter, a veterinary clinic, or a registered kennel, or where the animal does not remain in quarantine in the manner prescribed by the animal control officer for the 14-day period.

55.28 REQUIREMENTS WHEN ANIMAL HAS BITTEN A PERSON. The owner of an animal shall report at once to the Police Department the fact that his or her animal has bitten or attacked a person or domestic animal, and all persons having knowledge of such fact shall report the same to the Police Department. Any person claiming to have been bitten by an animal must go in person to the Police Department or to a physician to show proof of a bite if deemed necessary by the director of public health. Children claiming to have been bitten by an animal must be accompanied by a parent or legal guardian.

55.29 REPORT OF PERSON WHOSE ANIMAL HAS BEEN BITTEN. Every person owning or having possession, custody, or control of an animal which is known to have been bitten by an animal infected with rabies shall immediately report this fact to the Police Department and shall have the exposed animal placed in isolation and quarantine as provided by this Code.

55.30 FEES. Fees for animal control activities are adopted by the Council periodically by resolution. Information about these fees is available from the City Clerk's office.

55.31 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.

As used in this section "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.

55.32 INDOOR PETS. Gerbils, hamsters, guinea pigs, mice, birds, non-venomous and non-constrictive snakes and other similar animals normally maintained as pets in an enclosure inside a residential dwelling are not subject to the provisions of this chapter unless provided otherwise by this Code of Ordinances.

[The next page is 393]

CHAPTER 56

DANGEROUS DOGS

56.01 Definitions

56.02 Determination of a Potentially Dangerous Dog

56.03 Determination of a Dangerous Dog

56.04 Exceptions

56.05 Potentially Dangerous Dog or Dangerous Dog Declaration Requirements

56.06 Registration or Licensing Requirements

56.07 Responsibility of Owners

56.01 DEFINITIONS. For purposes of this chapter, the following terms are defined:

1. "Dangerous dog" means any dog that:
 - A. Without provocation, causes a serious injury to a person or domestic animal; or
 - B. Has been designated as a potentially dangerous dog and engages in behavior that poses a threat to public safety as described in subsection 8 of this section or serious injury as defined in subsection 9.
2. "Impound" means to take a potentially dangerous dog or dangerous dog into custody by the Animal Control Authority or the organization authorized to enforce this chapter.
3. "Owner" means any person possessing, harboring, keeping, having an interest in, or having control or custody of a dog.
4. "Pet safety course" means a course, preapproved by the Animal Control Officer or the organization authorized to enforce this chapter, consisting of (but not limited to) instruction in safe management of dogs.
5. "Potentially dangerous dog" means a dog that may reasonably be assumed to pose a threat to public safety as demonstrated by any of the following behaviors:
 - A. Without provocation, causes an injury to a person or domestic animal on public or private property that is less severe than a serious injury;
 - B. Without provocation, chases or approaches a person, a domestic animal or a wheeled conveyance upon the streets, sidewalks, or any public or private property, in an apparent attitude of attack; or has a known propensity, tendency, or disposition to attack, causing injury or otherwise threatening the safety of humans or domestic animals;
 - C. Without provocation, acts in a highly aggressive manner within a fenced yard or enclosure and appears, to a reasonable adult, able to jump over or escape;
 - D. Acts in a highly aggressive manner within a fenced yard/enclosure and appears to a reasonable person able to jump over or escape.
6. "Proper enclosure" of potentially dangerous and dangerous dogs requires:
 - A. Potentially dangerous and dangerous dogs shall be securely confined within an occupied house or residence or in a securely enclosed and locked pen or kennel, except when leashed as provided in this section or caged for

transportation. Also, when a dangerous dog is not securely confined or caged for transportation a muzzle shall be placed on the dog.

B. A pen or kennel must have secure sides and a secure top attached to the sides or, in lieu of a top, walls at least six feet in height and at least six feet taller than any internal structure. A pen or kennel must have a secure bottom, floor or foundation attached to the sides of the pen or kennel, or the sides of the pen or kennel must be embedded in the ground no less than two feet so as to prevent digging under the sides of the pen or kennel by the confined potentially dangerous dog or dangerous dog.

C. All pens, kennels, or structures erected to house a potentially dangerous dog or dangerous dog must comply with all zoning and building regulations in their jurisdictions. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition.

D. All pens or kennels designed, constructed, or used to confine potentially dangerous and dangerous dogs must be locked with a key or combination lock when such animals are within the structure.

E. No potentially dangerous or dangerous dog may be kept on a porch, patio, or in any part of a house or structure that would allow the potentially dangerous or dangerous dog to exit such building on its own volition.

F. No potentially dangerous dog or dangerous dog may be tied or leashed to inanimate objects such as trees, posts, buildings, or any other object or structure.

7. "Proper leashing" of potentially dangerous dogs and dangerous dogs requires that potentially dangerous dogs and dangerous dogs shall not be permitted to go outside a proper enclosure as defined in subsection 6 unless secured on a leash no longer than six (6) feet in length that is under the actual physical control of a person eighteen (18) years of age or older who has the physical ability to restrain the dog. Also, when a dangerous dog is not securely confined or caged for transportation, a muzzle shall be placed on the dog.

8. "Provocation" means that the threat, injury, or damage caused by the dog was sustained by a person who, at the time, was willfully trespassing upon the premises occupied by the owner of the dog, or the person was tormenting, abusing, or assaulting the dog, or was committing or attempting to commit a crime.

9. "Serious injury" means any physical injury incurred by a dog that results in a major bone fracture, muscle tears, disfiguring lacerations or requires multiple sutures or corrective surgery or cosmetic surgery.

56.02 DETERMINATION OF A POTENTIALLY DANGEROUS DOG.

1. After an investigation, the Animal Control Officer or the organization authorized to enforce this chapter is authorized to make a declaration that a dog is potentially dangerous based on the factors listed in subsection 56.01(5) of this chapter and will notify the owner of the dog in writing by certified mail or personal service or posting in a conspicuous place at the last known residence of the owner of the dog.

2. Upon notice, the owner of the dog declared potentially dangerous may, within three (3) business days, file a written appeal in this jurisdiction seeking review of the declaration. However, during an appeal the owner of the dog shall properly confine or

properly leash the dog and provide proof of liability insurance in accordance with this chapter.

3. If a written appeal is filed, the owner of the dog declared dangerous will be given no less than three (3) days' (business or otherwise) written notice of the date, time, and location of the hearing.
4. Following notice to the owner of the dog, if the Animal Control Officer or the organization authorized to enforce this chapter has reasonable cause to believe that a dog is a potentially dangerous dog which may pose a threat to public safety, or if the owner has not provided proof of liability insurance, the dog will be impounded, pending disposition of an appeal or until the dog owner has fulfilled the requirements of a potentially dangerous dog declaration. However, if after 30 days from the date of notice the owner of the dog has not completed the requirements, the dog shall be impounded and destroyed in a humane manner.
5. Any dog that is under impoundment or quarantine at the animal shelter and is declared a potentially dangerous dog will not be returned to the owner pending disposition of an appeal or until the owner completes all of the requirements of subsection 56.06(1), except paragraph H of said subsection, which must be completed within 30 days from the date of notice.
6. The owner of the dog shall be liable for the costs of impounding and keeping of the dog.

56.03 DETERMINATION OF A DANGEROUS DOG.

1. After an investigation the Animal Control Officer or the organization authorized to enforce this chapter is authorized to make a declaration that a dog is dangerous based on the factors listed in subsection 56.01(1) and will notify the owner of the dog in writing by certified mail or personal service or posting in a conspicuous place at the last known residence of the owner of the dog.
2. Upon notice, the owner of the dog declared dangerous may, within three (3) business days, file a written appeal seeking review of the determination. However, during an appeal the owner of the dog shall properly confine or properly leash the dog and show proof of liability insurance in accordance with this chapter.
3. If a written appeal is filed, the owner of the dog declared dangerous will be given no less than three (3) days' (business or otherwise) written notice of the date, time, and location of the hearing.
4. Following notice to the owner of the dog, if the Animal Control Officer or the organization authorized to enforce this chapter has reasonable cause to believe the dog to be a dangerous dog which may pose a threat to public safety, or if the owner has not provided proof of liability insurance, the dog will be impounded, pending disposition of an appeal or until the dog owner has fulfilled the requirements of a dangerous dog declaration. However, if after 30 days after the date of notice the owner of the dog has not completed the requirements, the dog shall be impounded and destroyed in a humane manner.
5. Any dog that is under impoundment or quarantine at the animal shelter and is declared a dangerous dog will not be returned to the owner pending disposition of an appeal or until the owner completes all of the requirements of subsection 56.06(1), except paragraph H of said subsection, which must be completed within 30 days from the date of notice, and subsection 56.06(2).

6. The owner of the dog shall be liable for the costs of impounding and keeping the dog if the dog is determined to be a dangerous dog.

56.04 EXCEPTIONS. No dog shall be declared a dangerous or potentially dangerous dog if:

1. The dog was used by a law enforcement or military official for legitimate law enforcement or military purposes.
2. The dog was protecting or defending a human, offspring, or another animal, within the immediate vicinity of the dog, from an attack or assault.

56.05 POTENTIALLY DANGEROUS DOG OR DANGEROUS DOG DECLARATION REQUIREMENTS.

1. If the Animal Control Officer or the organization authorized to enforce this chapter declares that a dog is a potentially dangerous dog, the owner of the dog shall comply with the provisions of subsections 56.01(6) and (7) and subsection 56.06(1) of this chapter.
2. If the Animal Control Officer or the organization authorized to enforce this chapter declares that a dog is a dangerous dog, the owner of the dog shall comply with the provisions of subsections 56.01(6) and (7) and Section 56.06 of this chapter.
3. Following notice to the owner of the dog, if the Animal Control Officer or the organization authorized to enforce this chapter has reasonable cause to believe the dog to be a dangerous dog and may pose a threat to public safety, or if the owner has not provided proof of liability insurance, the dog will be impounded, pending disposition of an appeal or until the dog owner has fulfilled the requirements of a dangerous dog declaration. However, if after 30 days from the date of notice the owner of the dog has not completed the requirements, the dog shall be destroyed in a humane manner.
4. If after the notice of declaration a potentially dangerous dog or a dangerous dog is found improperly confined or leashed more than once, the dog will be impounded and destroyed in a humane manner.
5. If after the notice of declaration the liability insurance on a potentially dangerous dog or dangerous dog is found to be invalid more than twice, the dog will be impounded and destroyed in a humane manner.
6. The owner of the dog shall be liable for the costs of impounding and keeping the potentially dangerous dog or dangerous dog whether or not the dog is reclaimed.

56.06 REGISTRATION OR LICENSING REQUIREMENTS.

1. The Animal Control Officer or the organization authorized to enforce this chapter will issue a certificate of registration or license to the owner of a potentially dangerous dog if the owner establishes to the satisfaction of the Animal Control Officer or other authority that:
 - A. The owner of the potentially dangerous dog is 18 years of age or older and has the physical ability to control the dog.
 - B. The owner of the potentially dangerous dog presents a certificate of insurance issued by an insurance company licensed to do business in this State, providing personal liability insurance coverage as in a homeowner's policy, with a minimum liability amount of \$1,000,000.00 for the injury or

death of any person, for damage to property of others and for acts of negligence by the owner or his or her agents, in the keeping or owning of such potentially dangerous dog. The certificate shall require notice to the City, in conformity with general City standards for certificates of insurance, if the underlying policy of insurance is cancelled for any reason. In lieu of such a certificate, a copy of a current homeowner's policy designating these requirements shall be sufficient proof of insurance for purposes of this subsection. If a certificate of insurance or policy is not immediately available, a binder indicating the coverage may be accepted for up to 30 days subsequent to the determination that a dog is potentially dangerous; however, if after 30 days a certificate of insurance or a policy has not been submitted or the insurance coverage is cancelled, the dog shall be deemed unregistered or unlicensed and subject to immediate impoundment.

C. The potentially dangerous dog has a current rabies vaccination at the owner's expense.

D. The owner has a proper enclosure to prevent the entry of any person or animal and the escape of said potentially dangerous dog as described in subsection 56.01(6).

E. The potentially dangerous dog has been spayed or neutered at the owner's expense.

F. The potentially dangerous dog has been implanted with a microchip containing owner identification information at the owner's expense. The microchip information must be registered with the Animal Control Officer or the organization authorized to enforce this chapter.

G. The potentially dangerous dog has been photographed for identification purposes.

H. The potentially dangerous dog owner shall satisfactorily complete a pet safety course preapproved by the Animal Control Officer at the dog owner's expense.

2. The Animal Control Officer or the organization authorized to enforce this chapter will issue a certificate of registration or license to the owner of a dangerous dog if the owner, in addition to satisfying the requirements for registration or licensing of a potentially dangerous dog pursuant to subsection 1 of this section, establishes to the satisfaction of the Animal Control Authority that:

A. The owner will maintain the dangerous dog exclusively on the owner's property except for medical treatment or examination.

B. The owner of the dangerous dog has posted on the premises a clearly visible written warning sign that there is a dangerous dog on the property with a conspicuous warning symbol that informs children of the presence of a dangerous dog. The sign shall be very visible from the public roadway or 50 feet, whichever is less.

3. If any dog previously determined to be a potentially dangerous dog has not exhibited any of the behaviors specified in Section 56.01(5) within twelve (12) months since the date of the potentially dangerous dog determination, then that dog is eligible for a review of the determination with the potential for lifting the requirements of this section; provided, however, that same dog may again be declared

a dangerous or potentially dangerous dog if it again exhibits any of the specified behaviors. Such a review shall be completed by a review committee appointed by the City Council consisting of a minimum of three people including a member of the public, a dog professional, and an Animal Control Director or his/her designee.

56.07 RESPONSIBILITY OF OWNERS. It is unlawful to:

1. Keep a dog determined to be dangerous or potentially dangerous without a valid certificate of registration issued under Section 56.06 of this chapter.
2. Permit a potentially dangerous dog to be outside a proper enclosure unless the potentially dangerous dog is properly leashed as defined in Section 56.01 of this chapter.
3. Fail to maintain a dangerous dog exclusively on the owner's property as required except for medical treatment or examination, or permit a dangerous dog to be outside of proper confinement without being properly leashed and muzzled or caged for transportation. When removed from the owner's property for medical treatment or examination, the dangerous dog shall be caged or under the control of a responsible person as defined in Section 56.01, muzzled and restrained with a substantial leash not exceeding six (6) feet in length. The muzzle shall be made in a manner that will not cause injury to the dog or obscure its vision or interfere with its respiration but shall prevent it from biting any human being or animal.
4. Permit a dangerous or potentially dangerous dog to be tied or leashed to inanimate objects such as trees, posts, buildings, or any other object or structure.
5. Fail to notify law enforcement or the Animal Control Officer immediately in person or by telephone upon escape if a dangerous or potentially dangerous dog is on the loose, is unconfined, has attacked another domestic animal, or has attacked a human being.
6. Fail to notify, within three business days, the Animal Control Officer or the organization authorized to enforce this chapter of a change of address or telephone number of the owner of the dangerous or potentially dangerous dog.
7. Fail to notify, within three business days, the Animal Control Officer or the organization authorized to enforce this chapter if the dangerous or potentially dangerous dog has died and the whereabouts of the dead dog.
8. Fail to notify, within one business day, the Animal Control Officer or the organization authorized to enforce this chapter with the name, address, and telephone number of a new owner of the dangerous or potentially dangerous dog if the dog has been sold or has been given away.
9. Fail to surrender a dangerous dog or potentially dangerous dog to the Animal Control Officer or the organization authorized to enforce this chapter for impoundment and confinement, pending a disposition of the case when there is a reason to believe that the dangerous dog or potentially dangerous dog may pose a threat to public safety.

[The next page is 405]

CHAPTER 57

ILLEGAL OR DANGEROUS ANIMALS

57.01 Definitions

57.02 Keeping of Illegal Animals Prohibited

57.03 Seizure, Impoundment, and Disposition of Illegal Animals

57.04 Exemption

57.05 Keeping of Dangerous Animals Prohibited

57.06 Seizure, Impoundment, and Disposition of Dangerous Animals

57.01 DEFINITIONS. Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms, for the purpose of this chapter, have the meanings in this section:

1. "Illegal animal" means: (i) 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, maiming, or causing disease among, human beings or domestic animals and having known tendencies as a species to do so; (ii) any animal declared to be illegal by the board of health or the Mayor; (iii) the following animals which shall be deemed to be illegal animals per se:

- A. Lions, tigers, jaguars, leopards, cougars, lynx and bobcats;
- B. Wolves, coyotes and foxes;
- C. Badgers, wolverines, weasels, skunks and mink;
- D. Raccoons;
- E. Bears;
- F. Monkeys and chimpanzees;
- G. Bats;
- H. Alligators and crocodiles;
- I. Elephants;
- J. Tarantula spiders and scorpions;
- K. Snakes that are venomous or constrictors;
- L. Gila monsters;
- M. Apes, baboons and macaques;
- N. Opossums

2. "Dangerous animal" means any animal, except for an illegal animal per se, as listed above, that has bitten or clawed a person or persons without provocation while running at large, or any animal that has exhibited vicious propensities in present or past conduct, including any animal which: (i) has bitten a person or persons on two separate occasions within a 12-month period; (ii) did bite once causing injuries above the shoulders of a person; (iii) could not be controlled or restrained by the owner at the time of the attack to prevent the occurrence; (iv) has attacked or bitten any domestic animal or fowl on two separate occasions within a 12-month period; or (v)

has been found to possess such a propensity by a majority of the City Council, after notice and hearing.

57.02 KEEPING OF ILLEGAL ANIMALS PROHIBITED. No person shall own, keep, shelter, or harbor any illegal animal or act as a temporary custodian for such animal, or keep for any other purpose or in any other capacity within the City any illegal animal, except in the following circumstances:

1. The keeping of illegal 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 illegal animals for exhibition to the public by a circus, carnival, exhibit, or show.
3. The keeping of illegal animals in a bona fide, licensed veterinary hospital for treatment.
4. The keeping of illegal animals by a wildlife rescue organization with appropriate permit from the Iowa Department of Natural Resources.
5. Any illegal 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*.
6. Any illegal animal exempted pursuant to Section 57.04 of this chapter.

57.03 SEIZURE, IMPOUNDMENT, AND DISPOSITION OF ILLEGAL ANIMALS.

1. In the event that an illegal animal is found at large and unattended upon public property, or the property of someone other than its owner, thereby creating a hazard to person or property, such animal may, in the discretion of the Chief of Police or the Chief's designee, be destroyed. The City shall be under no duty to attempt the confinement or capture of an illegal 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 an illegal animal on premises in the City, the Chief of Police 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 an illegal animal in the City, the Chief of Police shall order the person named in the complaint safely to remove such animal from the City, permanently place the animal with an organization or group allowed under Section 57.02 of this chapter to possess illegal animals, or destroy the animal, within three days of the receipt of such order. Such order shall be contained in a notice to remove the illegal animal, which notice shall be given in writing to the person keeping, sheltering, or harboring the animal and shall be served personally or by certified mail. Such order and notice to remove the illegal animal shall not be required where such animal has previously caused serious physical harm or death to any person in which case the Chief of Police shall cause the animal to be immediately seized and impounded or killed if seizure and impoundment are not possible without risk of serious physical injury or death to any person.
3. The order to remove an illegal animal issued by the Chief of Police may be appealed to the City Administrator. In order to appeal such order, written notice of appeal must be filed with the City Administrator within three days after receipt of the order contained in the notice to remove the illegal animal. Failure to file such written

notice of appeal shall constitute a waiver of right to appeal the order of the Chief of Police.

4. The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the City Administrator. The hearing of such appeal shall be scheduled within seven days of the receipt of notice of appeal. After such hearing, the City Administrator may affirm or reverse the order of the Chief of Police. Such determination shall be contained in a written decision and shall be filed with the City Administrator within three days after the hearing, or any continued session thereof.

5. If the City Administrator affirms the action of the Chief of Police, the City Administrator shall order in its written decision that the individual or entity owning, sheltering, harboring, or keeping such illegal animal, remove such animal from the City, permanently place such animal with an organization or group allowed under Section 57.02 of this chapter to possess illegal animals, or destroy it. The decision and order shall immediately be served upon the person or entity against whom rendered in the same manner as the notice of removal. If the original order of the Chief of Police is not appealed and is not complied with within three days, or the order of the City Administrator after appeal is not complied with within three days of its issuance, the Chief of Police is authorized to seize and impound such illegal animal or kill the animal if seizure and impoundment is not possible without risk of serious physical injury or death to any person. An animal which is seized shall be impounded for a period of seven days. If at the end of the impoundment period the individual or entity against whom the decision and order of the City Administrator was issued has not petitioned the Polk County District Court for a review of said order, the City Administrator shall cause the animal to be disposed of by sale, permanently place such animal with an organization or group allowed under Section 57.02 of this chapter to possess such animals, or destroy such animal in a humane manner. Failure to comply with an order issued pursuant to this chapter shall constitute a misdemeanor offense.

57.04 EXEMPTION.

1. Any person owning or keeping an illegal animal as of February 1, 1985, may obtain an exemption, allowing that person to continue to keep such animal by complying with the provisions of this section.

2. A person owning or keeping an illegal animal as of February 1, 1985, in order to obtain an exemption, must register such animal with the City Clerk prior to March 31, 1985. The animal must be re-registered each year subsequent thereto until the animal dies or is otherwise removed from the City.

3. The person shall provide the City Clerk with:

- A. His or her name and address;
- B. The address where the animal is kept;
- C. A description of the animal;
- D. A description of the method of containing or controlling the animal at that location; and
- E. Evidence of the existence of a certificate or policy of insurance in an amount not less than \$100,000.00, providing liability coverage for all

damages or injuries which might arise to any person as a result of the keeping of such animal.

F. Certification from a licensed doctor of veterinary medicine that the animal is healthy and is not infected with rabies or any disease dangerous to humans.

4. As a condition of exemption, the owner or keeper of the illegal animal must sign an agreement, provided by the City Clerk, indemnifying the City and agreeing to defend it and hold it harmless from all claims for damages, indemnity, or contributions arising as a result of the keeping or ownership of such animal.

5. All illegal animals, not exempted by the provisions of this section, must be removed from the City of Windsor Heights prior to March 31, 1985.

6. If any owner or keeper of an animal exempted pursuant to the provision of this section shall fail to re-register the animal in any subsequent year, the City may proceed to have the animal removed or destroyed pursuant to this chapter.

57.05 KEEPING OF DANGEROUS ANIMALS PROHIBITED. No person shall own, keep, shelter, or harbor for any reason within the City a dangerous animal so defined herein, 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 dangerous animal pursuant to the provisions of Sections 57.05 and 57.06 of this chapter. Any premises guarded by a guard dog shall be prominently posted with a sign containing the wording "guard dog," "dangerous dog," or words of similar import, and the owner of such premises shall inform the Chief of Police that a guard dog is on duty at said premises.

57.06 SEIZURE, IMPOUNDMENT, AND DISPOSITION OF DANGEROUS ANIMALS.

1. The Chief of Police, in his or her discretion or upon receipt of a complaint alleging that a particular animal is a dangerous animal as defined herein, may initiate proceedings to declare such animal a dangerous animal. If the owner contests said designation, a hearing on the matter shall be conducted by the City Administrator. The person owning, keeping, sheltering, or harboring the animal in question shall be given not less than 72 hours' written notice of the time and place of said hearing. Said notice shall set forth the description of the animal in question and the basis for the allegation of dangerousness. The notice shall also set forth that if the animal is determined to be dangerous, the owner may be required to license and confine the animal as required by this chapter. The notice shall be served upon any adult residing at the premises where the animal is located or may be posted on those premises if no adult is present to accept service.

2. If, after hearing, the City Administrator determines an animal is a dangerous animal, or a dangerous animal held in violation of this chapter as set out in the notice of hearing, the City Administrator shall order the person owning, sheltering, harboring, or keeping the animal to license and confine the animal as required by this chapter, or remove it from the City. The order shall immediately be served upon the individual or entity against whom issued in the same manner as the notice of hearing.

If the order is not complied with within three days of its issuance, the City Administrator is authorized to seize and impound the animal. An animal so seized shall be impounded for a period of seven days. If at the end of the impoundment period, the person against whom the order of the City Administrator was issued has not appealed such order to the City Council, or has not complied with the order, the City Administrator shall cause the animal or animals to be destroyed.

3. The order to license, confine, or remove a dangerous animal from the City issued by the City Administrator may be appealed to the City Council. In order to appeal such order, written notice of appeal must be filed with the City Administrator within three days after receipt of the order. Failure to file such written notice of appeal shall constitute a waiver of right to appeal the order of the City Administrator.

4. The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the City Administrator. The hearing of such appeal shall be scheduled within twenty (20) days of the receipt of notice of appeal. The hearing may be continued for good cause. After such hearing, the City Council may affirm or reverse the order of the City Administrator. Such determination shall be contained in a written decision and shall be filed with the City Administrator within three days after the hearing, or any continued session thereof. The hearing shall be confined to the record made before the City Administrator, the arguments of the parties or their representatives, any additional evidence which was not available at the time of the hearing before the City Administrator, and any other information the City Council deems necessary.

5. If the City Council affirms the action of the City Administrator, the City Council shall order in its written decision that the person owning, sheltering, harboring, or keeping such dangerous animal shall license and confine said animal as required by this chapter or remove such animal from the City. The decision and order shall immediately be served upon the person or entity against whom rendered in the same manner as the notice set out in subsection 1 of this section. If the original order of the City Administrator is not appealed and is not complied with within three days or the order of the City Council after appeal is not complied with within three days of its issuance, the Chief of Police is authorized to seize and impound such dangerous 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 City Administrator or the City Council was issued has not petitioned the Polk County District Court for a review of said order or has not complied with the order, the City Administrator shall cause the animal to be destroyed in a humane manner.

6. Failure to comply with an order of the City Administrator issued pursuant hereto and not appealed, or of the City Council after appeal, is a misdemeanor.

7. Any animal which is alleged to be dangerous 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 dangerous. If the animal is not determined to be dangerous, all costs shall be paid by the City except costs attributable to initial confinement prior to notice or costs of any required quarantine which shall nonetheless be paid by the owner.

[The next page is 431]