

CHAPTER 50

NUISANCE ABATEMENT PROCEDURE

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

(Code of Iowa, Sec. 657.1)

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

(Code of Iowa, Sec. 657.2)

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

health, safety, or fire hazard exists when growth on any portion of a lot or parcel is in excess of eight (8) inches in height.

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

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

12. Disorderly Houses and Premises. It is unlawful for any person to permit prostitution and lewdness, gambling houses, places resorted to by persons participating in criminal gang activity, drunkenness, quarreling, fighting, profane, indecent or obscene language or conduct or loud, disagreeable noises to the disturbance of the neighborhood or general public upon any premises owned by or in possession of such person.

13. Diseased Animals. All diseased animals running at large or maintained in the City limits. **(See also Chapter 55.)**

14. Animal Carcasses. Carcasses of animals not disposed of within 24 hours after death as provided by law.

15. Private Dump. Accumulation of refuse or the maintenance of a private dump in violation of City ordinances. **(See also Section 105.08.)**

16. Pollution by Sewage or Industrial Wastes. The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, chemicals, creamery or industrial wastes or other substances. **(See also Chapters 97 and 100.)**

17. Snow and Ice on Sidewalks. All snow and ice not removed from public sidewalks forty-eight hours after the snow and ice has ceased being deposited thereon. **(See also Section 136.03.)**

18. Obstructions at Intersections. All trees, hedges, billboards, or other obstructions which prevent persons from having a clear view of traffic approaching an intersection from cross streets in sufficient time to bring a motor vehicle driven at a reasonable speed to a full stop before the intersection is reached. **(See also Section 62.06.)**

19. Trees or Shrubbery Impeding Traffic or Use of Fire Hydrant. All trees and shrubbery permitted to grow into the public right-of-way in such a manner that they impede or are hazardous to vehicular or pedestrian traffic or interfere with use of a fire hydrant.

20. Dangerous Buildings. All buildings, walls and other structures which are structurally unsafe, constitute a fire hazard or are otherwise dangerous to human life, constituting a hazard to self-safety, health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard or abandonment; however, repair to, modification of, or demolition of unsafe or dangerous buildings or structures shall be made pursuant to the procedures set out in Chapter 145.

21. **Dangerous Substances.** All explosives, flammable liquids and other dangerous substances stored in any manner or in any amount other than that provided by Fire Code.
22. **Fireworks.** All use or display of fireworks except as provided by Fire Code.
23. **Excavations and Obstructions.** Obstructions and excavations affecting the ordinary use by the public of streets, alleys, sidewalks or public grounds except under such conditions as are permitted by the Council. **(See also Section 135.09.)**
24. **Junk Yards.** All junk yard operations. **(See also Chapter 123.)**
25. **Abandoned Vehicles.** All abandoned vehicles which are not currently licensed, operable, and moveable without third party assistance. **(See also Chapter 80.)**
26. **Snow and Ice on City Right-of-Way.** Placing snow and ice on City ROW, roadways or thoroughfares following removal unless the ROW is immediately adjacent to the landowner. **(See also Section 135.13.)**
27. **Maintenance of Parking or Terrace.** Failure to maintain parking or terrace. **(See also Section 135.11.)**

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

1. **Junk and Junk Vehicles (See Chapter 51)**
2. **Dangerous and Dilapidated Structures (See Chapter 145)**
3. **Drug Paraphernalia (See Chapter 47)**
4. **Storage and Disposal of Solid Waste (See Chapter 105)**
5. **Trees, Shrubs and Other Plants (See Chapter 151)**
6. **Building and Construction Regulations (See Chapter 155)**

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

(Code of Iowa, Sec. 657.3)

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

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

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

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

1. Contents of Notice. 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 and Fines. 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 may abate it and assess the costs (and/or implement fines set by the Council) against such person.
2. Method of Service. The notice may be in the form of an ordinance or sent by certified mail to the property owner.
(*Code of Iowa, Sec. 364.12[3h]*)
3. Request for Hearing. Any person ordered to abate a nuisance may have a hearing with the Council as to whether a nuisance exists. A request for a hearing must be made in writing and delivered to the Clerk within the time stated in the notice, or it will be conclusively presumed that a nuisance exists and it must be abated as ordered. The hearing will be before the Council at a time and place fixed by the Council. The findings of the Council shall be conclusive and, if a nuisance is found to exist, it shall be ordered abated within a reasonable time under the circumstances.
4. Abatement in Emergency. If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance or condition, the City may perform any action which may be required under this chapter without prior notice. The City shall assess the costs as provided in subsection 6 of this section after notice to the property owner under the applicable provisions of subsection 1 and 2, and the hearing as provided in subsection 3.
(*Code of Iowa, Sec. 364.12[3h]*)
5. Abatement by City. If the person notified to abate a nuisance or condition neglects or fails to abate as directed, the City may perform the required action to abate, keeping an accurate account of the expense incurred. The itemized expense account shall be filed with the Clerk who shall pay such expenses on behalf of the City.
(*Code of Iowa, Sec. 364.12[3h]*)
6. Collection of Costs. The Clerk shall send a statement of the total expense incurred by certified mail to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one

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

month, the Clerk shall certify the costs to the County Treasurer and such costs shall then be collected with, and in the same manner, as general property taxes.

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

7. Installment Payment of Cost of Abatement. If the amount expended to abate the nuisance or condition exceeds one hundred dollars (\$100.00), the City may permit the assessment to be paid in up to ten (10) annual installments, to be paid in the same manner and with the same interest rates provided for assessments against benefited property under State law.

(Code of Iowa, Sec. 364.13)

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

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

50.08 AUTHORITY TO CITE VIOLATIONS. Fire officials acting under the authority of Chapter 100 of the *Code of Iowa* may issue citations in accordance to Chapter 805 of the *Code of Iowa*, for violations of State and/or local fire safety regulations.

(Code of Iowa, Sec. 100.41)

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CHAPTER 51

JUNK AND JUNK VEHICLES

51.01 Definitions

51.02 Junk and Junk Vehicles Prohibited

51.03 Junk and Junk Vehicles a Nuisance

51.04 Exceptions

51.05 Notice to Abate

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

1. “Junk” means all old or scrap copper, brass, lead, or any other non-ferrous metal; old or discarded rope, rags, batteries, paper, trash, rubber, debris, waste or used lumber, or salvaged wood; dismantled vehicles, machinery and appliances or parts of such vehicles, machinery or appliances; iron, steel or other old or scrap ferrous materials; old or discarded glass, tinware, plastic or old or discarded household goods or hardware. Neatly stacked firewood located on a side yard or a rear yard is not considered junk.

2. “Junk vehicle” means any vehicle legally placed in storage with the County Treasurer or unlicensed and which has any of the following characteristics:

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

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

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

D. Flammable Fuel. Any vehicle which contains gasoline or any other flammable fuel.

E. Inoperable. Any motor vehicle which lacks an engine or two or more wheels or other structural parts, rendering said motor vehicle totally inoperable, or which cannot be moved under its own power or has not been used as an operating vehicle for a period of thirty (30) days or more.

F. Defective or Obsolete Condition. Any other vehicle which, because of its defective or obsolete condition, in any other way constitutes a threat to the public health and safety.

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

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

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

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

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

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

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

51.05 NOTICE TO ABATE. Upon discovery of any junk or junk vehicle located upon private property in violation of Section 51.03, the City shall within five (5) days initiate abatement procedures as outlined in Chapter 50 of this Code of Ordinances.

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

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CHAPTER 55

ANIMAL PROTECTION AND CONTROL

55.01 Definitions	55.10 Vicious Dogs
55.02 Animal Neglect	55.11 Rabies Vaccination
55.03 Livestock Neglect	55.12 Owner's Duty
55.04 Abandonment of Cats and Dogs	55.13 Confinement
55.05 Livestock	55.14 At Large: Impoundment
55.06 At Large Prohibited	55.15 Disposition of Animals
55.07 Damage or Interference	55.16 Impounding Costs
55.08 Annoyance or Disturbance	55.17 Pet Awards Prohibited
55.09 Prohibition of Unhealthy, Unsanitary Conditions	

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

1. "Advertise" means to present a commercial message in any medium including but not limited to print, radio, television, sign, display, label, tag or articulation.
2. "Animal" means a nonhuman vertebrate.
(*Code of Iowa, Sec. 717B.1*)
3. "At large" means off the premises of the owner and not under the control of a competent person, restrained within a motor vehicle, or housed in a veterinary hospital or kennel.
4. "Business" means any enterprise relating to any of the following:
 - A. The sale or offer for sale of goods or services.
 - B. A recruitment for employment or membership in an organization.
 - C. A solicitation to make an investment.
 - D. An amusement or entertainment activity.
5. "Fair" means any of the following:
 - A. The annual fair and exposition held by the Iowa State Fair Board pursuant to Chapter 173 of the *Code of Iowa* or any fair event conducted by a fair under the provisions of Chapter 174 of the *Code of Iowa*.
 - B. An exhibition of agricultural or manufactured products.
 - C. An event for operation of amusement rides or devices or concession booths.
6. "Game" means a "game of chance" or "game of skill" as defined in Section 99B.1 of the *Code of Iowa*.
7. "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*)
8. "Owner" means any person owning, keeping, sheltering or harboring an animal.

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

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

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

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

(Code of Iowa, Sec. 717.2)

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

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

55.05 LIVESTOCK. It is unlawful for a person to keep livestock within the City except by written consent of the Council or except in compliance with the City's zoning regulations.

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

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

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

55.09 PROHIBITION OF UNHEALTHY, UNSANITARY CONDITIONS.

1. An owner shall keep all structures, pens, coops or yards wherein animals are confined clean, devoid of vermin and free of odors arising from urine and/or feces.

2. No owner or walker of any animal shall permit the animal to discharge feces upon any public or private property other than the property of the owner of the animal. The owner or walker shall be deemed to permit the animal's discharge of feces if the owner does not immediately thereafter take steps to remove and clean up the feces from the property.

3. All feces removed as aforesaid shall be placed in an airtight container until it is removed pursuant to refuse collection procedures or otherwise disposed of in a sanitary manner.

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

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

(Code of Iowa, Sec. 351.33)

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

(Code of Iowa, Sec. 351.38)

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

(Code of Iowa, Sec. 351.39)

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

55.15 DISPOSITION OF ANIMALS.

1. When an animal has been apprehended and impounded, written notice shall be provided to the owner within two (2) days after impoundment, if the owner's name and current address can reasonably be determined by accessing a tag or other device that is on or part of the animal. Impounded animals may be recovered by the owner upon payment of impounding costs, and if an unvaccinated dog, by having it immediately vaccinated. If the owner fails to redeem the animal within seven (7) days from the date that the notice is mailed, or if the owner cannot be located within seven days, the animal shall be disposed of in accordance with law or destroyed by euthanasia.

(Code of Iowa, Sec. 351.37, 351.41)

2. Upon the determination by the Police Chief that a dog is vicious under the provisions of Section 55.10, the Police Chief shall so notify the owner of the determination and the provisions of this chapter. The Police Chief shall also determine whether the vicious dog should be destroyed and so notify the owner. In the event the Police Chief determines the vicious dog is to be destroyed, the Police Chief shall order the sanitary disposal of the dog and the cost of any confinement, veterinary services and the disposal fee shall be paid by the owner.

55.16 IMPOUNDING COSTS. Impounding costs are established by resolution of the Council.

55.17 PET AWARDS PROHIBITED.

(Code of Iowa, Ch. 717.E)

1. Prohibition. It is unlawful for any person to award a pet or advertise that a pet may be awarded as any of the following:

- A. A prize for participating in a game.
- B. A prize for participating in a fair.
- C. An inducement or condition for visiting a place of business or attending an event sponsored by a business.
- D. An inducement or condition for executing a contract which includes provisions unrelated to the ownership, care or disposition of the pet.

2. Exceptions. This section does not apply to any of the following:

- A. A pet shop licensed pursuant to Section 162.5 of the *Code of Iowa* if the award of a pet is provided in connection with the sale of a pet on the premises of the pet shop.
- B. Youth programs associated with 4-H Clubs; Future Farmers of America; the Izaak Walton League of America; or organizations associated with outdoor recreation, hunting or fishing, including but not limited to the Iowa Sportsmen's Federation.

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CHAPTER 56

DOG AND CAT LICENSE REQUIRED

56.01 Annual License Required
56.02 License Fees

56.03 License Tags
56.04 Penalty

56.01 ANNUAL LICENSE REQUIRED. The owner of every dog or cat six (6) months old or over shall annually obtain a license as provided by this chapter.

1. Licenses will only be issued by a licensed veterinarian approved by the City of Le Mars.
2. Said license application shall contain the name and address of the animal owner, and the name, color, sex and breed of the animal. The application will also list the date of the dog's last rabies vaccination.
3. Licenses will be issued annually, and will be for one- or three-year period. Licenses will be available for purchase throughout the year. A one-year license will be delinquent one year and one month after purchase. A three-year license will be delinquent three years and one month after purchase.
4. Current vaccination of the dogs and cats shall be required prior to or as part of licensing process.

56.02 LICENSE FEES. The annual licensing fees will be set by resolution of the Council. The license may be purchased for one year or three years. If issued for three years, then a new tag will be issued each year at no cost on proof of current vaccination.

56.03 LICENSE TAGS. At the time the annual dog license is executed, and the fee paid, the owner will be issued a metal dog tag. Said tag will be affixed to a collar of that dog and shall be worn at all times. The dog tag will have imprinted on it a unique number which will identify the dog and its owner. Cat owners will be issued a tag and will bear the burden of proof to show the animal is licensed, if not worn by the cat at all times.

56.04 PENALTY. Any person violating this chapter of the Code of Ordinances shall be subject to standard penalty and boarding costs, determined by Council resolution.