

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 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 that, 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, that so obstruct and impair the view of any portion or part of a public street, avenue, highway, boulevard or alley or of a railroad or street railway track as to render dangerous the use thereof. **(See also Section 62.06)**
7. **Storing of Flammable Junk.** Depositing or storing of flammable junk, such as old rags, rope, cordage, rubber, bones and paper, by dealers in such articles within the fire limits of the City, unless in a building of fireproof construction. **(See also Chapter 51)**
8. **Air Pollution.** Emission of dense smoke, noxious fumes, or fly ash.
9. **Weeds, Brush.** Dense growth of all weeds, vines, brush, or other vegetation in the City so as to constitute a health, safety, or fire hazard.

10. Dutch Elm Disease. Trees infected with Dutch elm disease. **(See also Chapter 151)**
11. Airport Air Space. Any object or structure hereafter erected within one thousand (1,000) feet of the limits of any municipal or regularly established airport or landing place, which may endanger or obstruct aerial navigation including take-off and landing, unless such object or structure constitutes a proper use or enjoyment of the land on which the same is located.
12. Houses of Ill Fame. Houses of ill fame, kept for the purpose of prostitution and lewdness; gambling houses; places resorted to by persons participating in criminal gang activity prohibited by Chapter 723A of the *Code of Iowa* or places resorted to by persons using controlled substances, as defined in Section 124.101 of the *Code of Iowa*, in violation of law, or houses where drunkenness, quarreling, fighting or breaches of the peace are carried on or permitted to the disturbance of others.
13. Drainage. Effluent from a septic tank or drainfield or ponding of polluted water over an overloaded or non-operating drainfield or to a waterway or the ground surface.
14. Abandoned Wells. All abandoned wells and cisterns not securely covered or secured from public use.
15. Signs Over Sidewalks. Any sign, marquee or awning which is in an unsafe condition or which overhangs any sidewalk less than seven (7) feet above the sidewalk surface; or any advertisements or signs affixed to any building, wall, fence, sidewalk, street or other private or public property without permission of the owner thereof. **(See also Section 136.12)**
16. Unauthorized Traffic Control Devices. All unauthorized signs, signals, markings or devices which purport to be or may be mistaken as official traffic control devices placed or maintained upon or in view of any public highway or railway crossing.
17. Limbs Over Sidewalks. All limbs of trees which project over a public sidewalk less than eight (8) feet above the surface thereof or less than fifteen (15) feet above the surface of a public street. **(See also Section 151.03)**
18. Abandoned Refrigerators. All abandoned refrigerators or iceboxes from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside by pushing only with the strength of a small child. **(See also Section 41.08)**
19. Excavations and Openings. All open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley or sidewalks.

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

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

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

(Code of Iowa, Sec. 657.3)

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

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

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

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

1. Contents of Notice to Property Owner. The notice to abate shall contain: [†]
 - A. Description of Nuisance. A description of what constitutes the nuisance.
 - B. Location of Nuisance. The location of the nuisance.
 - C. Acts Necessary to Abate. A statement of the act or acts necessary to abate the nuisance.
 - D. Reasonable Time. A reasonable time within which to complete the abatement.
 - E. Assessment of City Costs. A statement that if the nuisance or condition is not abated as directed and no request for hearing is made within the time prescribed, the City will abate it and assess the costs against the property owner.
2. Method of Service. The notice may be in the form of an ordinance or sent by certified mail to the property owner.
(Code of Iowa, Sec. 364.12[3h])
3. Request for Hearing. Any person ordered to abate a nuisance may have a hearing with the Council as to whether a nuisance exists. A request for a hearing must be made in writing and delivered to the Clerk within the time stated in the notice, or it will be conclusively presumed that a nuisance exists and it must be abated as ordered. The hearing will be before the Council at a time and place fixed by the Council. The findings of the Council shall be conclusive and, if a nuisance is found to exist, it shall be ordered abated within a reasonable time under the circumstances.
4. Abatement in Emergency. If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance or condition, the City may perform any action 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

[†] **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.

property owner under the applicable provisions of Subsection 1 and 2, and the hearing as provided in subsection 3.

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

5. Abatement by City. If the person notified to abate a nuisance or condition neglects or fails to abate as directed, the City may perform the required action to abate, keeping an accurate account of the expense incurred. The itemized expense account shall be filed with the Clerk, who shall pay such expenses on behalf of the City.

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

6. Collection of Costs. The Clerk shall send a statement of the total expense incurred by certified mail to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one month, the Clerk shall certify the costs to the County Treasurer and such costs shall then be collected with, and in the same manner as, general property taxes.

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

7. Installment Payment of Cost of Abatement. If the amount expended to abate the nuisance or condition exceeds \$500.00, the City may permit the assessment to be paid in up to 10 annual installments, to be paid in the same manner and with the same interest rates provided for assessments against benefited property under State law.

(Code of Iowa, Sec. 364.13)

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

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

50.08 ADULT ESTABLISHMENTS.

1. As used in this section, “adult establishment” means any business that provides nude or topless dancing or operates any other adult-oriented business.

2. A public safety nuisance exists when it is established by clear and convincing evidence that an owner, manager, employee, contemporaneous patron, or guest of an adult establishment commits any of the following acts either on the premises or in any parking lots or areas, including but not limited to public rights-of-way, adjacent to the premises:

A. Unlawfully discharges a firearm or uses an offensive weapon, as defined in Section 724.1 of the *Code of Iowa*, regardless of whether it inflicts injury or death.

B. Assaults another person with a dangerous weapon as defined in Section 702.7 of the *Code of Iowa* resulting in injury or death.

C. Engages in a riot as defined in Section 723.1 of the *Code of Iowa* on three or more dates within a 12-month period to which the police respond and disperse a crowd. The participants need not be the same persons for each incident.

3. When the City Attorney believes a serious threat to the public safety exists, the City Attorney or any other attorney on behalf of the City Attorney, may file a suit in equity in the district court without bond seeking abatement of the public safety nuisance arising from an adult establishment.

(Code of Iowa, Sec. 657.12)

(Section 5.08 – Ord. 184 – Dec. 24 Supp.)

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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 having 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 that has become the habitat for rats, mice, snakes, or any other vermin or insects.

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

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

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

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

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

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

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

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

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

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

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

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

CHAPTER 52

NOISE POLLUTION

52.01 Purpose
52.02 Definitions
52.03 General Prohibition

52.04 Exemptions and Exceptions
52.05 Enforcement
52.06 Penalties

52.01 PURPOSE. It is the purpose of this chapter to protect, preserve, and promote the health, safety, welfare, peace, and quiet of the citizens of the City through the reduction, control, and prevention of loud and raucous noise, or any noise which unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of reasonable persons of ordinary sensitivity.

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

1. “Emergency” means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage demanding immediate attention.
2. “Emergency work” means any work made necessary to restore property to a safe condition following a public calamity, work to restore public utilities, or work required to protect persons or property from an imminent danger.
3. “Emergency vehicle” means a motor vehicle used in response to a public calamity or to protect persons or property from imminent danger.
4. “Noise sensitive area” means an area that includes, but not limited to, a posted area where a school, hospital, nursing home, church, court, public library, or similar institution is located.
5. “Person” means any individual, firm, association, partnership, joint venture, or corporation.
6. “Public right-of-way” means any street, avenue, boulevard, highway, sidewalk, alley, or similar place normally accessible to the public which is owned or controlled by a government entity.
7. “Public space” means any real property or structures on real property, owned by a government entity and normally accessible to the public including, but not limited to, parks and other recreational areas.
8. “Residential area” means any real property which contains a structure or building in which one or more persons reside, provided that the structure or building is properly zoned, or is legally nonconforming, for residential use in accordance with the terms and maps of the City zoning ordinance.
9. “Weekday” means Monday commencing at 12:00 a.m. until Friday at 11:59 p.m.
10. “Weekend” means Saturday commencing at 12:00 a.m. until Sunday at 11:59 p.m.
11. “Zoning designations” means the residential, commercial, and industrial categories of land use.

52.03 GENERAL PROHIBITION.

1. No person shall make, continue, or cause to be made or continued:
 - A. Any loud, irritating, vexing, disturbing, or unreasonable sound which causes distress, annoyance, discomfort, or injury to or which interferes with the comfort or repose of any reasonable person of ordinary nervous sensibilities in the vicinity or hearing thereof, or any sound which endangers or injures the safety or health of humans or animals, or any sound which interferes with the physical well-being of humans or animals, or any sound which endangers or injures person or real property;
 - B. Any noise measured in excess of 75 Dba for any residential zoned property and non-residentially zoned property between the hours of 11:00 p.m. and 5:00 a.m.
2. Factors for determining whether a sound is unreasonably loud and raucous include, but are not limited to, the following:
 - A. The duration of the sound.
 - B. The time of day or night the sound occurs.
 - C. The land use, nature, and zoning of the area from which the sound emanates and the area where it is received or perceived.
 - D. Whether the sound is recurrent, intermittent, or constant.
 - E. Results of police sound level testing at the location of complaint.

52.04 EXEMPTION AND EXCEPTIONS.

1. The following is a list of sounds exempt from the above provisions at all times:
 - A. Sound produced by any governmental body, or the representatives, agents, employees, contractors, or subcontractors, in the performance of a governmental function, including work performed by or for public or private utilities.
 - B. The emission of sound in the performance of emergency work, including snow removal and maintenance of trees.
 - C. The emission of sound from outdoor school and playground activities. Reasonable activities conducted on public playgrounds and public or private school grounds, which are conducted in accordance with the manner in which such spaces are generally used including, but not limited to, school athletic and school entertainment events.
 - D. Cement sawing or freshly poured concrete street, alley, sidewalk, or road surface.
2. The following exemptions to the above provisions shall only apply to the activities listed below between the hours of 5:00 a.m. to 11:00 p.m.:
 - A. The emission of sound through the un-amplified human voice.
 - B. The emission or sound from the use of lawn and garden equipment and chainsaws.

C. The activity, operation, or noise source emanates from an operation or activity (including by way of example only, but not limited to, construction, reconstruction, remodeling, and rebuilding of any structure or place in conformity with applicable provisions of this Code and State law) that cannot be reasonably done in an alternative manner, time, or place so as to otherwise comply with this chapter.

D. The emission or sound from testing an emergency signal device. In no case shall the test time exceed five minutes. Testing of the emergency signaling system shall not occur more than once in each calendar month.

52.05 ENFORCEMENT. The Police Department shall have primary responsibility for the enforcement of the noise regulations contained herein. Nothing in this chapter shall prevent the Police Department from obtaining voluntary compliance by way of warning, notice, or education. If a person's conduct would otherwise violate this chapter and consists of speech or communication; of a gathering with others to hear or observe speech or communication; or of a gathering with others to picket or otherwise express in a non-violent manner a position on social, economic, political, or religious questions; the person must be ordered to, and have the opportunity to, move, disperse, or otherwise remedy the violation prior to arrest or a citation being issued.

52.06 PENALTIES. A person who violates a provision of this chapter is guilty of a simple misdemeanor, which is punishable by a fine not to exceed \$500.00. Each occurrence of a violation, or, in the case of continuous violations, each day a violation occurs or continues, constitutes a separate offense, and may be punished separately.

(Chapter 52 – Ord. 196 – Nov. 25 Supp.)

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CHAPTER 55

ANIMAL PROTECTION AND CONTROL

55.01 Definitions	55.10 Rabies Vaccination
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55.03 Livestock Neglect	55.12 Confinement
55.04 Abandonment of Cats and Dogs	55.13 At Large: Impoundment
55.05 Livestock	55.14 Disposition of Animals
55.06 At Large Prohibited	55.15 Ownership of Dogs and Cats
55.07 Damage or Interference	55.16 Pet Awards Prohibited
55.08 Annoyance or Disturbance	55.17 Tampering With A Rabies Vaccination Tag
55.09 Releasing or Molesting Animals	55.18 Tampering With An Electronic Handling Device

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.

(Code of Iowa, Sec. 717E.1)

2. "Animal" means a nonhuman vertebrate.

(Code of Iowa, Sec. 717B.1)

3. "Animal shelter" means a facility which is used to house or contain dogs or cats, or both, and which is owned, operated, or maintained by an incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection, and humane treatment of such animals.

(Code of Iowa, Sec. 162.2)

4. "At large" means off the premises of the owner and not under the control of a competent person, restrained within a motor vehicle, or housed in a veterinary hospital or kennel.

5. "Business" means any enterprise relating to any of the following:

(Code of Iowa, Sec. 717E.1)

- A. The sale or offer for sale of goods or services.
- B. A recruitment for employment or membership in an organization.
- C. A solicitation to make an investment.
- D. An amusement or entertainment activity.

6. "Commercial establishment" means an animal shelter, boarding kennel, commercial breeder, commercial kennel, dealer, pet shop, pound, public auction, or research facility.

(Code of Iowa, Sec. 717.B1)

7. "Fair" means any of the following:

(Code of Iowa, Sec. 717E.1)

- 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.
8. “Game” means a “game of chance” or “game of skill” as defined in Section 99B.1 of the *Code of Iowa*.
(*Code of Iowa, Sec. 717E.1*)
9. “Injury” means an animal’s disfigurement; the impairment of an animal’s health; or an impairment to the functioning of an animal’s limb or organ, or the loss of an animal’s limb or organ.
(*Code of Iowa, Sec. 717.B1*)
10. “Livestock” means an animal belonging to the bovine, caprine, equine, ovine or porcine species, ostriches, rheas, and emus; farm deer (as defined in Section 170.1 of the *Code of Iowa*); or poultry.
(*Code of Iowa, Sec. 717.1*)
11. “Owner” means any person owning, keeping, sheltering, or harboring an animal.
12. “Pet” means a living dog, cat, or an animal normally maintained in a small tank or cage in or near a residence, including but not limited to a rabbit, gerbil, hamster, mouse, parrot, canary, mynah, finch, tropical fish, goldfish, snake, turtle, gecko, or iguana.
(*Code of Iowa, Sec. 717E.1*)
13. “Pound” means a facility for the prevention of cruelty to animals operated by the State, a municipal corporation, or other political subdivision of the State for the purpose of impounding or harboring seized stray, homeless, abandoned, or unwanted dogs, cats, or other animals; or a facility operated for such a purpose under a contract with any municipal corporation or incorporated society.
(*Code of Iowa, Sec. 162.2*)
14. “Research facility” means any school or college of medicine, veterinary medicine, pharmacy, dentistry, or osteopathic medicine, or hospital, diagnostic or research laboratories, or other educational or scientific establishment situated in the State concerned with the investigation of, or instruction concerning the structure or function of living organisms, the cause, prevention, control, or cure of diseases or abnormal conditions of human beings or animals.
(*Code of Iowa, Sec. 162.2*)
15. “Veterinarian” means a veterinarian licensed pursuant to Chapter 169 of the *Code of Iowa* who practices veterinary medicine in the State.
(*Code of Iowa, Sec. 717.B1*)
(*Section 55.01 – Ord. 149 – May 22 Supp.*)

55.02 ANIMAL NEGLECT.

1. It is unlawful for a person who owns or has custody of an animal and confines that animal to fail to provide the animal with any of the following conditions for the animal’s welfare:
(*Code of Iowa, Sec. 717B.3*)

A. Access to food in an amount and quality reasonably sufficient to satisfy the animal's basic nutrition level to the extent that the animal's health or life is endangered.

B. Access to a supply of potable water in an amount reasonably sufficient to satisfy the animal's basic hydration level to the extent that the animal's health or life is endangered. Access to snow or ice does not satisfy this requirement.

C. Sanitary conditions free from excessive animal waste or the overcrowding of animals to the extent that the animal's health or life is endangered.

D. Ventilated shelter reasonably sufficient to provide adequate protection from the elements and weather conditions suitable for the age, species, and physical condition of the animal so as to maintain the animal in a state of good health to the extent that the animal's health or life is endangered. The shelter must protect the animal from wind, rain, snow, or sun and have adequate bedding to provide reasonable protection against cold and dampness. A shelter may include a residence, garage, barn, shed, or doghouse.

E. Grooming, to the extent it is reasonably necessary to prevent adverse health effects or suffering.

F. Veterinary care deemed necessary by a reasonably prudent person to relieve an animal's distress from any of the following:

(1) A condition caused by failing to provide for the animal's welfare as described in this section.

(2) An injury or illness suffered by the animal causing the animal to suffer prolonged pain and suffering.

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

A. A person operating a commercial establishment under a valid authorization issued or renewed under Section 162.2A of the *Code of Iowa*, or a person acting under the direction or supervision of that person, if all of the following apply:

(1) The animal, as described in Subsection 1, was maintained as part of the commercial establishment's operation.

(2) In providing conditions for the welfare of the animal, as described in Subsection 1, the person complied with the standard of care requirements provided in Section 162.10A[1] of the *Code of Iowa*, including any applicable rules adopted by the Department of Agriculture and Land Stewardship applying to: (i) a State licensee or registrant operating pursuant to Section 162.10A[2a] or [2b] of the *Code of Iowa*; or (ii) a permittee operating pursuant to Section 162.10A[2c] of the *Code of Iowa*.

B. A research facility if the research facility has been issued or renewed a valid authorization by the Department of Agriculture and Land Stewardship pursuant to Chapter 162 of the *Code of Iowa*, and performs functions within the scope of accepted practices and disciplines associated with the research facility.

(Section 55.02 – Ord. 149 – May 22 Supp.)

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 that 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. It is unlawful for a person who owns or has custody of a cat or dog to relinquish all rights in and duties to care for the cat or dog. This section does not apply to any of the following:

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

1. The delivery of a cat or dog to another person who will accept ownership and custody of the cat or dog.
2. The delivery of a cat or dog to an animal shelter or that has been issued or renewed a valid authorization by the Department of Agriculture and Land Stewardship under Chapter 162 of the *Code of Iowa*.
3. A person who relinquishes custody of a cat at a location in which the person does not hold a legal or equitable interest, if previously the person had taken custody of the cat at the same location and provided for the cat's sterilization by a veterinarian.

(Section 55.04 – Ord. 149 – May 22 Supp.)

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. The owner shall be fined in the amount of \$100 for the first offense, \$250 for second offense, \$500 for the third offense and all subsequent offenses. These fines will be applied whether or not such animal is seized and impounded.

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 or persons by frequent and habitual howling, yelping, barking, or otherwise; or, by running after or chasing persons, bicycles, automobiles or other vehicles. The owner shall be fined in the amount of \$100 for the first offense, \$250 for second offense, \$500 for the third offense and all subsequent offenses. These fines will be applied whether or not such animal is seized and impounded.

55.09 RELEASING OR MOLESTING ANIMALS. Any person except the owner of a domestic animal or an authorized agent who willfully opens any door or gate on any private premises or unleashes such domestic animal for the purpose of enticing or enabling such animal to be at large is in violation of the provisions of this chapter. It is unlawful for any person to willfully molest, provoke or mistreat any domestic animal while it is confined on its owner's premises.

55.10 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)

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

(Code of Iowa, Sec. 351.38)

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

(Code of Iowa, Sec. 351.39)

55.13 AT LARGE: IMPOUNDMENT. Animals found at large in violation of this chapter shall be seized and impounded by the Police Department, 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. Fees for impoundment are set by resolution of the Council.

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

(Code of Iowa, Sec. 351.37, 351.41)

55.15 OWNERSHIP OF DOGS AND CATS. Any person who feeds or harbors any dog or cat shall be considered the owner of such dog or cat, as defined herein, and shall be subject to the requirements of this chapter.

55.16 PET AWARDS PROHIBITED.

(Code of Iowa, Ch. 717E)

1. Prohibition. It is unlawful for any person to award a pet or advertise that a pet may be awarded as any of the following:
 - A. A prize for participating in a game.
 - B. A prize for participating in a fair.

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

55.17 TAMPERING WITH A RABIES VACCINATION TAG. It is unlawful to tamper with a rabies vaccination tag.

(Code of Iowa, Sec. 351.45)

- 1. A person commits the offense of tampering with a rabies vaccination tag if all of the following apply:
 - A. The person knowingly removes, damages, or destroys a rabies vaccination tag as described in Section 351.35 of the *Code of Iowa*.
 - B. The rabies vaccination tag is attached to a collar worn by a dog, including as provided in Sections 351.25 and 351.26 of the *Code of Iowa*.
- 2. This section shall not apply to an act taken by any of the following:
 - A. The owner of the dog, an agent of the owner, or a person authorized to take action by the owner.
 - B. A peace officer.
 - C. A veterinarian.
 - D. An animal shelter or pound.

(Section 55.17 – Ord. 149 – May 22 Supp.)

55.18 TAMPERING WITH AN ELECTRONIC HANDLING DEVICE. It is unlawful to tamper with an electronic handling device.

(Code of Iowa, Sec. 351.46)

- 1. A person commits the offense of tampering with an electronic handling device if all of the following apply:
 - A. The person knowingly removes, disables, or destroys an electronic device designed and used to maintain custody or control of the dog or modify the dog's behavior.
 - B. The electronic device is attached to or worn by the dog or attached to an item worn by the dog, including (but not limited to) a collar, harness, or vest.
- 2. This section shall not apply to an act taken by any of the following:
 - A. The owner of the dog, an agent of the owner, or a person authorized to take action by the owner.

- B. A peace officer.
- C. A veterinarian.
- D. An animal shelter or pound.

(Section 55.18 – Ord. 149 – May 22 Supp.)

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CHAPTER 56

DANGEROUS AND VICIOUS ANIMALS

56.01 Definitions

56.02 Keeping of Dangerous Animals Prohibited

56.03 Seizure, Impoundment and Disposition of Dangerous Animals

56.04 Keeping of Vicious Animals Prohibited

56.05 Seizure, Impoundment and Disposition of Vicious Animals

56.06 Insurance

56.07 Scheduled Offenses and Fines

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

1. “Animal” means every wild, tame or domestic member of the animal kingdom other than the genus and species *Homo sapiens*.
2. “Animal control officer” means the Police Chief of the City.
3. “At large” means off the premises of the owner, unless:
 - A. The animal is on a leash, cord, chain or similar restraint not more than six (6) feet in length and under the control of the person; or
 - B. The animal is within a motor vehicle; or
 - C. The animal is housed within a veterinary hospital, licensed kennel, pet shop or animal shelter; or
 - D. The animal is at heel.
4. “Dangerous animal” means:
 - A. Badgers, wolverines, weasels, mink and other Mustelids (except ferrets);
 - B. Black widow spiders and scorpions;
 - C. Raccoons, opossums and skunks.
5. “Dog” means and includes members of the canine species, male or female, whether neutered or not.
6. “Owner” has the same meaning given in Chapter 55.
7. “Pet shop” means any person engaged in the business of breeding, buying, selling or boarding animals of any species, except the operation of a kennel, agriculture or wildlife pursuits.
8. “Vicious animal” means any animal, except for a dangerous animal per se, as listed above, that has bitten or clawed a person or persons while running at large and the attack was unprovoked, or any animal that has exhibited vicious propensities in present or past conduct, including such that said animal (a) has bitten or clawed a person or persons on two separate occasions within a twelve-month period; or (b) did bite or claw once causing injuries above the shoulders of a person; or (c) could not be controlled or restrained by the owner at the time of the attack to prevent the occurrence; or (d) has attacked any domestic animal or fowl on two separate occasions within a twelve-month period, or which has been found to possess such propensities by the Council, after hearing.

56.02 KEEPING OF DANGEROUS ANIMALS PROHIBITED. No person shall keep, shelter or harbor any dangerous animal as a pet, or act as a custodian for such animal, temporarily or otherwise, or keep such animal for any purpose or in any capacity within the City.

56.03 SEIZURE, IMPOUNDMENT AND DISPOSITION OF DANGEROUS ANIMALS.

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

2. Upon the written complaint of any individual that a person is keeping, sheltering or harboring a dangerous animal on premises in the City, the animal control officer shall cause the matter to be investigated and if after investigation, the facts indicate that the person named in the complaint is keeping, sheltering or harboring a dangerous animal in the City, the animal control officer shall order the person named in the complaint to safely remove such animal from the City or destroy the animal, within three (3) days of the receipt of such order. Such order shall be contained in a notice to remove the dangerous animal, which notice shall be given in writing to the person keeping, sheltering or harboring the dangerous animal, and shall be served personally or by certified mail. Such order and notice to remove the dangerous animal shall not be required where such dangerous animal has previously caused serious physical harm or death to any person, in which case the animal control officer shall cause the animal to be immediately seized and impounded or killed if seizure and impoundment are not possible without risk of serious physical harm or death to any person.

3. The order to remove a dangerous animal issued by the animal control officer may be appealed to the Council. In order to appeal such order, written notice of appeal must be filed with the Clerk within three (3) days after receipt of the order contained in the notice to remove the dangerous animal. Failure to file such written notice of appeal shall constitute a waiver of right to appeal the order of the animal control officer. After one attack by a dangerous animal, the Police Chief shall inform the Council by a special session, at the pet owners expense, before being able to deem the animal dangerous.

4. The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the Clerk. The hearing of such appeal shall be scheduled within seven (7) days of the receipt of notice of appeal. After one attack by a dangerous animal, the Police Chief shall inform the Council by a special session, at the pet owners expense, before being able to deem the animal dangerous. After such hearing, the Council may affirm or reverse the order of the animal control officer. Such determination shall be contained in a written decision and shall be filed with the Clerk within three (3) days after the hearing or any continued session thereof.

5. If the Council affirms the action of the animal control officer, the Council shall order in its written decision that the person owning, sheltering, harboring or keeping such dangerous animal remove such animal from the City or destroy it. The decision and order shall immediately be served upon the person against whom rendered in the

same manner as the notice of removal. If the original order of the animal control officer is not appealed and is not complied with within three (3) days of its issuance, the animal control officer is authorized to seize and impound such dangerous animal. An animal so seized shall be impounded for a period of seven (7) days. If at the end of the impoundment period, the person against whom the decision and order of the Council was issued has not petitioned the District Court for a review of said order, the City shall cause the animal to be disposed of by sale or destroy such animal in a humane manner. Failure to comply with an order of the City issued pursuant hereto constitutes a misdemeanor offense.

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

1. Animals under the control of a law enforcement or military agency.
2. The keeping of guard dogs; however, guard dogs must be kept within a structure or fixed enclosure at all times, and any guard dog found at large may be processed as a vicious animal pursuant to the provisions of Section 56.05. Any premises guarded by a guard dog shall be prominently posted with a sign containing the wording "Guard Dog," "Vicious Dog" or words of similar import, and the owner of such premises shall inform the Police Chief that a guard dog is on duty at said premises.

56.05 SEIZURE, IMPOUNDMENT AND DISPOSITION OF VICIOUS ANIMALS.

1. The animal control officer or designee, in his or her discretion or upon receipt of a complaint alleging that a particular animal is a vicious animal, may initiate proceedings to declare such animal a vicious animal. A hearing on the matter shall be conducted by the Council. The person owning, keeping, sheltering or harboring the animal in question shall be given not less than seventy-two (72) hours' written notice of the time and place of said hearing. Said notice shall set forth the description of the animal in question and the basis for the allegation of viciousness. The notice shall state that if the animal is determined to be vicious, the owner will be required to remove it from the City or allow it to be destroyed. The notice shall be served upon any adult residing at the premises where the animal is located, or may be posted on those premises if no adult is present to accept service.
2. If, after hearing, the Council determines that an animal is vicious, the Council shall order the person owning, sheltering or harboring or keeping the animal to remove it from the City or to cause it to be destroyed in a humane manner. The order shall immediately be served upon the person against whom issued in the same manner as the notice of hearing. If the order is not complied with within three (3) days of its issuance, the animal control officer is authorized to seize and impound the animal. An animal so seized shall be impounded for a period of seven (7) days. If at the end of the impoundment period, the person against whom the order of the Council was issued has not petitioned the District Court for a review of such order, the animal control officer shall cause the animal to be destroyed.
3. Failure to comply with an order of the Council issued pursuant hereto shall constitute a misdemeanor offense.
4. Any animal found at large which displays vicious tendencies may be processed as a vicious animal pursuant to the foregoing, unless the animal is so vicious that it cannot be safely apprehended, in which case the animal control officer may

immediately destroy it or unless its ownership is not ascertainable, in which case the animal control officer may destroy it after three (3) days of impoundment.

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

56.06 INSURANCE. Every person keeping or maintaining a guard dog as provided in this chapter, shall accompany any application or display upon request by the animal control officer a certificate of insurance from an insurance company authorized to do business in the State with coverage of at least one hundred fifty thousand dollars (\$150,000.00) combined single limit liability for bodily injury. Such certificate of insurance shall provide that no cancellation of the insurance will be made unless then (10) days' written notice is first given to the Clerk. Failure to provide or display such certificate of insurance shall immediately cause the applicant, licensee or owner of such animal to lose the exemption status as provided in this chapter.

56.07 SCHEDULED OFFENSES AND FINES. The scheduled fine fixed for violation of this chapter is \$50.00. Violations by persons who elect not to pay the scheduled fine set forth in this section or otherwise fail to appear on or before the appearance date shall constitute misdemeanors. Each day a violation occurs shall constitute a separate offense.

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CHAPTER 58

URBAN CHICKENS

58.01 Definitions	58.07 Feed and Storage
58.02 Permit Required	58.08 Waste Storage and Removal
58.03 Number and Type of Chickens Allowed	58.09 Unlawful Acts
58.04 Zoning Districts Allowed	58.10 Disclaimer
58.05 Non-Commercial Use Only	58.11 Nuisances
58.06 Enclosures and Related Items	

58.01 DEFINITIONS.

1. “Chicken” means a member of the subspecies *Gallus gallus domesticus*, a domesticated fowl.
2. “Urban chicken” means a chicken kept on a permitted tract of land pursuant to a permit issued under this chapter.
3. “Permitting officer” means the Police Chief.
4. “Tract of land” means a property or a zoned lot that has one single-family dwelling located on that property or zoned lot.
5. “Single-family dwelling” means any building that contains only one dwelling unit used, intended, rented, leased, let, or hired to be occupied for living purposes.
6. “Permitted tract of land” means the tract of land as identified by the application upon which a permit is granted for keeping chickens pursuant to this chapter.
7. “Permittee” means an applicant who has been granted a permit to raise, harbor, or keep chickens pursuant to this chapter.

58.02 PERMIT REQUIRED.

1. Permit Required. No person shall raise, harbor, or keep chickens within the City without a valid permit obtained from the permitting officer under the provisions of this chapter.
2. Application. In order to obtain a permit, an applicant must submit a completed application on forms provided by the permitting officer and paying all fees required by this chapter. The Urban Chicken Permit shall be valid for three years and may not be sold, transferred, or assigned.
3. Permit Fees. There is no permit fee. There will be a \$15.00 filing fee to obtain a permit.
4. Requirements. The requirements to the receipt of a permit include:
 - A. All requirements of this chapter are met.
 - B. All fees, as may be provided for from time to time by City Council resolution, for the permit are paid in full.
 - C. All judgements in the City’s favor and against the applicant have been paid in full.

- D. The tract of land to be permitted shall contain only one single-family dwelling occupied and used as such by the permittee.
 - E. The applicant has provided notice to the residents of all properties located within a 100-foot radius from the location of the proposed coop of the applicant's intent to obtain a permit.
 - F. Tenant must obtain the landlord's written permission to install a coop.
 - G. Site Plan Showing Space and Placement of Chicken Enclosure. The permitting officer shall issue a permit to keep or maintain chickens in the City only after a site plan showing spacing and placement of chicken enclosure has been submitted and meets the requirements of this section. Drainage system shall be included with design on Urban Chicken Permit.
5. Issuance of Permit. If the permitting officer concludes as a result of the information contained in the application that the requirements for a permit have been met, then the officer shall issue the permit.
6. Denial, Suspension, Revocation, Non-Renewal. The permitting officer or designee may deny, suspend, revoke, or decline to renew any permit issued for any of the following grounds:
- A. False statements on any application or other information or report required by this section to be given by the applicant.
 - B. Failure to pay any application, penalty, re-inspection, or reinstatement fee required by this section or City Council resolution.
 - C. Failure to correct deficiencies noted in notices of violation in the time specified in the notice.
 - D. Failure to comply with the provisions of an approved mitigation or remediation plan by the permitting officer.
 - E. Failure to comply with any provision of this chapter.
7. Notification. A decision to revoke, suspend, deny, or not renew a permit shall be in writing, delivered by ordinary mail or in person to the address indicated on the application. The notification shall specify reasons for the action.
8. Effect of Revocation. When an application for a permit is denied, or when a permit is revoked, the applicant may not re-apply for a new permit for a period of one year from the date of the denial or revocation.
9. Appeals. No permit may be denied, suspended, revoked, or not renewed without notice and an opportunity to be heard given the applicant or holder of the permit. In any instance where the permitting officer has denied, revoked, suspended, or not renewed a permit, the applicant or holder of urban chickens may appeal the decision to the City Council, or designee other than the permitting officer within 10 business days of receipt by the applicant or holder of the permit of the notice of the decision. The applicant or holder of the permit will be given an opportunity for a hearing. The decision of the officer hearing the appeal, or any decision by the permitting officer which is not appealed in accordance with this chapter shall be deemed final action.

58.03 NUMBER AND TYPE OF CHICKENS ALLOWED.

1. The maximum number of chickens allowed is eight per household regardless of how many dwelling units are on the tract.
2. All such chickens must be hens; no roosters are permitted.

58.04 ZONING DISTRICTS ALLOWED. Chickens are permitted only on land located in residential districts as identified on the current Official Zoning Map on file with the City.

58.05 NON-COMMERCIAL USE ONLY. A permit shall not allow the permittee to engage in chicken breeding, sale of eggs and chickens, or fertilizer production for commercial purposes.

58.06 ENCLOSURES AND RELATED ITEMS.

1. Chickens must be confined in a coop or fowl house not less than 18 inches in height or, in the alternative, within a fenced pen area. Chickens must be kept within a coop, the fowl house, or the fenced pen area at all times unless removed for a temporary time for the safety of the chicken.
2. The coop, the fowl house, or the fenced pen area must be of such a design to be reasonably expected to prevent entry by dogs, cats, or other animals and shall be completely enclosed. The coop or fowl house must be used for chickens only and must be well ventilated.
3. The coop, the fowl house, or the fenced pen area shall have a minimum of four square feet of floor area for each chicken but shall not be any larger than 12 square feet of area for each chicken. The coop, fowl house, or fenced pen area shall be a minimum of 25 feet from any habitable structure and a minimum of five feet from the habitable structure on the applicant's property. The location of the coop, fowl house, or fenced pen shall be in the rear yard only.
4. Coops shall be built of solid materials such as wood, metal, or plastic.
5. Any enclosed chicken pen shall consist of sturdy wire fencing. The pen must be covered with wire, aviary netting, or solid roofing.
6. Chickens are not allowed to be free range in a fenced rear yard.
7. Chickens must be kept in an enclosure or fenced pen at all times. Chickens shall be secured within a henhouse or chicken tractor during non-daylight hours.
8. The permittee shall not allow the permittee's chickens to roam off the permitted tract of land. A dog or cat or other domesticated animal which kills a chicken off the permitted tract of land will, for that reason alone, not be considered a dangerous or aggressive animal or the City's responsibility to enforce its animal control provisions.
9. The City shall not be liable for injury or death of chickens caused by dogs, cats, or other animals, domestic or wild. Any dead chicken, not caused by slaughtering, shall be disposed of immediately upon discovering in a manner so as to not cause a nuisance.

58.07 FEED AND STORAGE. Chickens shall be provided with access to feed and clean water at all times. All chicken feed shall be stored in rodent-proof containers.

58.08 WASTE STORAGE AND REMOVAL. Any coop, fowl house, or fenced pen area must be well drained so there is no accumulation of moisture and allows the chickens to have access to dry ground at all times. Any coop, fowl house, or fenced pen area shall be kept clean,

sanitary, and free from accumulation of chicken excrement and objectionable odors. All droppings and body excretions shall be either placed in fly-proof containers and double-bagged in plastic bags or, in the alternative, used as fertilizer on the same property or, with the owner's permission, on other property within the City, so long as the droppings and body excretions are spread and incorporated into the soil within 24 hours.

58.09 UNLAWFUL ACTS.

1. It is unlawful for any person to keep chickens in violation of any provision of this chapter or any other provision of this Code of Ordinances.
2. It is unlawful for any owner, renter, or leaseholder of property to allow chickens to be kept on the property in violation of the provisions of this chapter.
3. No person shall keep chickens inside a single-family dwelling unit, multi-family dwelling unit, or rental unit.
4. No person shall slaughter any chickens within the City.
5. No person shall keep a rooster.
6. No person shall keep chickens on a vacant or uninhabited tract of land.

58.10 DISCLAIMER. An applicant is responsible to determine whether restrictive covenants prohibits keeping chickens on the applicant's property. The issuance of a permit under this chapter does not affect prohibitions contained in restrictive covenants.

58.11 NUISANCES. Any violation of the terms of this chapter that constitutes a health hazard or that interferes with the use or enjoyment of neighboring property is a nuisance and may be abated under the general nuisance abatement provisions of Chapter 50 of this Code of Ordinances.

(Chapter 58 – Ord. 176 – Dec. 24 Supp.)

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