

## **CHAPTER 63**

### **NUISANCES**

#### **Sections:**

- 63.1 Defining Nuisances.
- 63.2 Nuisances Prohibited.
- 63.3 Depositing Rubbish.
- 63.4 Notice to Abate Nuisance.
- 63.5 Contents of Notice to Abate.
- 63.6 Method of Service.
- 63.7 Request for Hearing and Appeal.
- 63.8 Abatement by Municipality.
- 63.9 Collection of the Cost of Abatement.
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**SEC. 63.1 DEFINING NUISANCES.** The term "nuisance" shall mean whatever is injurious to health, indecent, or offensive to the senses or an obstacle to the free use of property so as essentially to interfere with the comfortable enjoyment of life or property. Nuisances are declared to be, but not limited to, the following:

1. All dogs, cats, goats, horses, cattle, swine, fowl, or other domestic animals running at large within the city limits.
2. All pools or ponds of stagnant water.
3. A carcass of any kind of dead animal not disposed of within twenty-four (24) hours after its death.
4. Dense growth of all vines, brush, or other vegetation in the city so as to constitute a health, safety, or fire hazard.
5. The corrupting or rendering unwholesome or impure the water of any river, creek, pond or ground water, or unlawfully diverting the same from its natural course to the injury or prejudice of others.
6. Accumulations of refuse or solid waste as defined in Chapter 69 of this code and further defined as "any solid waste or junk stored on the property (i.e., items of decomposing lumber, junk vehicles, tires, yard waste, household appliances, housing materials, scrap metal, solid waste, debris and garbage placed and/or stored on the property."

7. Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities.
8. Abandoned Appliances. Abandoning or otherwise leaving unattended any refrigerator, ice box, or similar container, with doors that may become locked, outside of buildings and accessible to children, or allowing any such refrigerator, ice box, or similar container, to remain outside of buildings on premises in the person's possession or control, abandoned or unattended and so accessible to children.
9. Storing of Inflammable Junk. The depositing or storing of inflammable junk, such as old rags, rope, cordage, rubber, bones and paper, by dealers in such articles within the city, unless it be in a building of fireproof construction.
10. All obscene pictures, books, pamphlets, magazines and newspapers.
11. All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame, and bawdy houses.
12. The public use of profane or obscene language.
13. The burning of leaves, debris, or other materials upon a public street, sidewalk or other such public places.
14. All diseased animals running at large.
15. Trees infected with Dutch Elm Disease.
16. All trees, hedges, billboards or other obstructions which prevent persons from having a clear view of any portion or part of a public street, road, highway, alley or railroad track so as to endanger the safety of the public.
17. All buildings, walls and other structures which have been damaged by fire, decay or otherwise to an extent exceeding one-half their original value, and which are so situated so as to endanger the safety of the public.
18. All unnecessary noises and vibrations that are unreasonably disturbing to the public.
19. Obstructions and excavations affecting the ordinary use by the public of streets, alleys, sidewalks or public grounds, except under such conditions as are provided for by this code.
20. Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather or an obstruction of traffic and the free use of the streets or sidewalks.

21. All explosives, inflammable liquids and other dangerous substances stored in any manner or in any amount other than that provided for by this code.
22. All use or display of fireworks except as provided by this code.
23. Weeds in violation of Chapter 64 of this code.
24. Abandoned or junked vehicles in violation of Chapters 65 and 66 of this code.

**SEC. 63.2 NUISANCES PROHIBITED.** The creation or maintenance of a nuisance is hereby prohibited, and a nuisance, public or private, may be abated in the manner provided in this chapter.

**SEC. 63.3 DEPOSITING RUBBISH.** Depositing rubbish or blocking the dry run as prohibited of Chapter 68 of this code.

**SEC. 63.4 NOTICE TO ABATE NUISANCE.** Whenever the mayor or other municipal officer finds that a nuisance exists, he shall cause to be served upon the owner, agent, or occupant of the property on which the nuisance is located, or upon the person causing or maintaining the nuisance, a written notice to abate or to request a hearing as provided for in this chapter.

**SEC. 63.5 CONTENTS OF NOTICE TO ABATE.** The notice to abate shall contain:

1. A description of what constitutes the nuisance or other condition;
2. The location of the nuisance or condition;
3. A statement of the act or acts necessary to abate the nuisance or condition;
4. A reasonable time within which to complete the abatement;
5. A statement that if the nuisance or condition is not abated as directed and no request for a hearing is made within the time prescribed, the city will abate it and assess the costs against the person to whom the notice was sent.

**SEC. 63.6 METHOD OF SERVICE.** The notice to abate shall be caused to be served by the police chief, upon the named person in the manner provided by law for the personal service of original notices or by certified mail delivered to the property owner.

**SEC. 63.7 REQUEST FOR HEARING AND APPEAL.** Any person ordered to abate a nuisance or condition may have a hearing with the officer ordering the abatement as to whether the prohibited condition exists. A request for hearing must be made in writing and delivered to the officer ordering the abatement within the time stated in the notice, or it will be conclusively presumed that a nuisance or prohibited condition exists, and 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 he finds that a nuisance or prohibited condition exists, he 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.

**SEC. 63.8 ABATEMENT BY MUNICIPALITY.** 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 city clerk who shall pay such expenses on behalf of the municipality.

**SEC. 63.9 COLLECTION OF THE COST OF ABATEMENT.** The city clerk shall mail a statement of the total expense incurred to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one (1) month, the city clerk shall certify the costs to the county auditor and it shall then be collected with, and in the same manner, as general property taxes.

**SEC. 63.10 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 to abate the nuisance or condition without prior notice. The city shall assess the costs in the manner set out in this chapter, after notice to the property owner under the applicable provision of Sections 63.4 and 63.5 and hearing as provided in Section 63.7.

**CHAPTER 64****WEEDS****Sections:**

- 64.1 When a Nuisance.
- 64.2 Opportunity to Abate.
- 64.3 Request for Hearing.
- 64.4 Abatement.
- 64.5 Fees.

**SEC. 64.1 WHEN A NUISANCE.** Whenever an officer of the city government determines that grasses and/or weeds within 300 feet of established buildings are more than twelve inches high, those grasses and weeds shall constitute a public nuisance.

**SEC. 64.2 OPPORTUNITY TO ABATE.** A written notice or a verbal notice shall be given to the landowner when it is determined that weeds and grasses constitute a nuisance. Said landowner shall have seven (7) days in which to cut the weeds and grasses or to request a hearing before the city officer giving notice.

**SEC. 64.3 REQUEST FOR HEARING.** The landowner may request a hearing before the officer giving notice by either verbal or written request addressed to the said officer. The said officer may in his discretion deny an appeal of the hearing to the city council.

**SEC. 64.4 ABATEMENT.** If, after due notice, any weeds and/or grasses have not been cut, the city or its contractor(s) shall cut the weeds and/or grasses.

**SEC. 64.5 FEES.** The city shall bill the landowner for the costs incurred by the city in cutting the grass or weeds and administrative costs as are reasonably assignable to providing for notice and hearing in accordance with a fee schedule set by the city council by resolution. Fees not collected within 60 days of billing may be certified by the city administrator to the county treasurer and assessed against the property served and collected into manner of property taxes.

**CHAPTER 65**

**ABANDONED MOTOR VEHICLES**

**Sections:**

- 65.1 Purpose.
- 65.2 Definitions.
- 65.3 Authority to Take Possession of Abandoned Vehicles.
- 65.4 Notification of Owner and Lienholders.
- 65.5 Auction of Abandoned Vehicles.
- 65.6 Storage Charge.

**SEC. 65.1 PURPOSE.** The purpose of this chapter is to protect the health, safety and welfare of the citizens and safety of property in the city by providing for removal and disposal of abandoned motor vehicles.

**SEC. 65.2 DEFINITIONS.** Definitions used in this chapter.

1. The term "abandoned vehicle" means any of the following:
  - a. A vehicle that has been left unattended on public property for more than 48 hours and lacks current registration plates, or two or more wheels, or other parts which renders the vehicle totally inoperable; or
  - b. A vehicle that has remained illegally on public property, excluding public parking lots for more than 48 hours; or
  - c. A vehicle that has been unlawfully parked on private property or has been placed on private property without the consent of the owner or persons in control of the property for more than 24 hours; or
  - d. A vehicle that has been legally impounded by order of the city police and has not been reclaimed for a period of 10 days; or
  - e. Any vehicle parked on a street determined by the city police to create a hazard to other vehicle travel;
  - f. However, a vehicle shall not be considered abandoned for a period of 15 days, if its owner or operator is unable to move the vehicle and notifies city

police authorities responsible for the geographical location of the vehicle, and requests assistance in the removal of the vehicle.

2. The term "demolisher" means any city or public agency organized for the disposal of solid waste, or any person whose business it is to convert a vehicle to junk, process scrap or scrap metal, or otherwise to wreck or dismantle vehicles.

**SEC. 65.3 AUTHORITY TO TAKE POSSESSION OF ABANDONED VEHICLES.** City police may, and on the request of any other authority having the duties of control of the highways or traffic, shall take into custody any abandoned vehicle on public property and may take into custody any abandoned vehicle on private property. The city police may employ its own personnel, equipment and facilities, or hire other personnel, equipment and facilities for the purpose of removing, preserving, storing or disposing of abandoned vehicles.

**SEC. 65.4 NOTIFICATION OF OWNERS AND LIENHOLDERS.**

1. City police taking into custody an abandoned vehicle shall notify, within 20 days, by certified mail the last known registered owner of the vehicle, and all lienholders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to their 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 V.I.N. 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 reclaim the vehicle and personal property within 21 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 notice required pursuant to this subsection. The notice shall also state that the failure of the owner or lienholders to exercise their right to reclaim the vehicle within the time provided shall be deemed a waiver by the owner and all lienholders of all right, title, claim and interest in the vehicle and that failure to reclaim the vehicle is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher. 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 city police or of the assessment of fees and charges provided by this section may ask for an evidentiary hearing before the police chief to contest these matters. If the persons receiving the notice do not ask for a hearing or exercise their right to reclaim the vehicle within the 21 day reclaiming period, the owner and lienholders shall no longer have any right, title, claim or interest in or to the vehicle. No court in any case in law or equity shall recognize any right, title, or interest of the owner and lienholders after the expiration of the 21 day reclaiming period.

2. If the identity of the last registered owner cannot be determined, or if the registration contains no address for the owner, or if it is impossible to determine with reasonable certainty the identity and addresses of 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 this section. The published notice may contain multiple listings of abandoned motor vehicles but shall be published within the same time requirements and contain the same information as prescribed for mailed notice in subsection (1) of this section.
3. The owner or any lienholders may, by written request deliver to the city police chief prior to the expiration of the 21 day reclaiming period, obtain an additional 14 days within which the vehicle may be reclaimed.

**SEC. 65.5 AUCTION OF ABANDONED VEHICLES.** If an abandoned vehicle has not been reclaimed as provided in Section 65.4, the police chief shall make a determination as to whether or not the vehicle shall be sold for use upon streets and highways. If the vehicle is not sold for use upon the streets and highways, it shall be sold without public auction for junk or demolished and sold as scrap after complying with the notification procedures enumerated in Section 65.4. If the police chief determines the vehicle is suitable for use upon streets and highways then city police shall sell the vehicle at public auction. The purchaser of the vehicle takes title free and clear of all liens and claims of ownership, shall receive a sales receipt from the city police, and is entitled to register the vehicle and receive a Certificate of Title if sold for use upon the streets and highways. However, if the vehicle is sold or disposed of to a demolisher for junk, the sales receipt by itself is sufficient title, only for purposes of transferring the vehicle to the demolisher for demolition, wrecking or dismantling and, when so transferred, no further title of the vehicle is permitted.

From the proceeds of the sale of an abandoned vehicle, city police shall reimburse the city for the expenses of the auction, the costs of towing, preserving and storing which resulted from placing the abandoned vehicle in custody, all notice and publication costs incurred pursuant to Section 65.4, the cost of inspection and any other costs incurred, except costs of bookkeeping and other administrative costs. Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or entitled lienholder for 90 days, and shall then 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 chief shall apply for reimbursement from the state road use tax fund as provided by law.

**SEC. 65.6 STORAGE CHARGE.** A storage charge in an amount established by resolution of the city council shall accrue to any abandoned vehicle taken into custody under this chapter and stored upon city property.

CHAPTER 66

JUNK MOTOR VEHICLES

**Sections:**

- 66.1 Purpose.
- 66.2 Definitions.
- 66.3 Authority to Take Possession of Junk Motor Vehicles.
- 66.4 Notification to Owner and Lienholders.
- 66.5 Auction or Disposal of Junk Motor Vehicles.
- 66.6 Junk Motor Vehicles a Nuisance.
- 66.7 Notice to Abate.
- 66.8 Duty of Owner of Junk motor Vehicle to Remove or Repair.
- 66.9 Abatement.
- 66.10 Cost of Abatement.
- 66.11 Hearing, Appeal.
- 66.12 Penalties.

**SEC. 66.1 PURPOSE.** The purpose of this chapter is to protect the health, safety and welfare of the citizens, and storage of junk motor vehicles, except in places authorized.

**SEC. DEFINITIONS.** Definitions used in this chapter:

1. The term "junk motor vehicle" shall mean any motor vehicle stored within the corporate limits of Waverly, Iowa, not regularly operated on the public streets, and which possesses any one of the following characteristics:
  - a. A broken or cracked windshield, window, headlight, tail light, or any other cracked or broken glass;
  - b. A broken or loose fender, door, bumper, hood, trunk top, door handle, or decorative piece;
  - c. Lacks an engine, one or more wheels, or other structural part which renders the vehicle inoperable;
  - d. A chassis which has become the habitat of rats, mice or any other vermin or insects;

- e. Which contains gasoline or any other flammable fuel;
  - f. Which, because of its defective or obsolete condition, in any way constitutes a threat to public health and safety;
  - g. However, a motor vehicle shall not be considered a "junk motor vehicle" for the purpose of this chapter if stored:
    - (1) Within a garage or other enclosed structure;
    - (2) At an auto salvage yard or junk yard duly licensed by the city or state;  
or
    - (3) At a commercial auto repair facility for a period less than 60 days.
2. The term "demolisher" means any city or public agency organized for the disposal of solid waste, or any person whose business it is to convert a vehicle to junk, process scrap or scrap metal, or otherwise to wreck or dismantle vehicles.

**SEC. 66.3 AUTHORITY TO TAKE POSSESSION OF JUNK MOTOR VEHICLES.** City police are authorized to take into custody any junk motor vehicle found upon public or private property as provided in this chapter. City police may employ its own personnel, equipment and facilities, or hire other personnel, equipment and facilities for the purpose of removing, preserving, storing or disposing of junk motor vehicles.

**SEC. 66.4 NOTIFICATION OF OWNER AND LIENHOLDERS.**

1. Upon the city police taking into custody a junk motor vehicle, the police chief shall make a determination as to whether the vehicle should be sold at public auction or disposed of through a demolisher. City police shall notify by certified mail, the last known registered owner of the vehicle and all lienholders of record, addressed to their last known addresses of record, that:
- a. The junk motor vehicle has been taken into custody.
  - b. The vehicle is to be sold at public auction, the date and location of the auction. If the vehicle is to be disposed of to a demolisher, the date upon which the vehicle will be sold to the demolisher.

- c. The person receiving the notice shall have a right to reclaim the vehicle prior to its sale or disposal on payment to the city of all towing, preservation and storage charges resulting in placing the vehicle in custody, and upon payment of the costs of notices required pursuant to this chapter.
  - d. Failure of the owner or lienholders to exercise their right to reclaim the vehicle prior to sale or disposal, will be deemed a waiver by the owner or lienholders of any right, title, claim or interest in the vehicle and shall be deemed consent to the sale or disposal of the vehicle.
2. If the identity of the last registered owner cannot be determined or the registration contains no address for the owner, or if it is impossible to determine with reasonable certainty the identity and addresses of lienholders, notice by one publication in one newspaper of general circulation in the area where the junk vehicle was taken into custody shall be sufficient to meet all requirements of notice under this section.

**SEC. 66.5 AUCTION OR DISPOSAL OF JUNK MOTOR VEHICLES.** If the junk motor vehicle has not been reclaimed as provided in Section 66.4 of this chapter, it shall be sold at public auction or sold to a demolisher for junk as provided in the notice. Such auction, sale or disposal shall not take place prior to 10 days following mailing of the notice to the owner and lienholders as provided in Section 66.4. In the event the vehicle is sold for junk to a demolisher, no notice of sale shall be required, except the notice provided to owners and lienholders in Section 66.4. In the event the vehicle is sold at public auction, notice of the time and place of auction shall be published one time in one newspaper of general circulation in the city, not less than 10 days prior to the auction. The purchaser of the junk motor vehicle takes title free and clear of all liens and claims of ownership, and shall receive a sales receipt from the city police is entitled to register the vehicle and receive a Certificate of Title, if sold for use upon the streets and highways. However, if the vehicle is sold to a demolisher for junk, the sales receipt by itself is sufficient title only for purposes of transferring the vehicle to the demolisher for demolition, and when so transferred no further title to the vehicle is permitted. The proceeds from the sale of junk motor vehicles shall be the sole property of the city of Waverly, Iowa.

**SEC. 66.6 JUNK MOTOR VEHICLES A NUISANCE.** It is hereby declared that storage within the corporate limits of a junk motor vehicle, on private property owned or controlled by the owner of the vehicle, constitutes a threat to the health and safety of the citizens, and is a nuisance.

**SEC. 66.7 NOTICE TO ABATE.** Upon discovery of any junk motor vehicle stored upon public or private property within the corporate limits of the City of Waverly, Iowa.

1. The motor vehicle is a junk motor vehicle and constitutes a nuisance under the provisions of this chapter.
2. The owner must remove or repair the motor vehicle within 10 days, in accordance with Section 66.8 of this chapter or request a hearing, as provided in Section 66.11 of this chapter.
3. Failure to remove or repair the motor vehicle or request a hearing within the time prescribed will cause the person to be guilty of a misdemeanor and the city may, at its option, abate the nuisance by removing and disposing of the junk motor vehicle and direct assessment of the costs against the violator and/or pursue prosecution therefor.

**SEC. 66.8 DUTY OF OWNER OF JUNK MOTOR VEHICLES TO REMOVE OR REPAIR.**

The owner of a junk motor vehicle as defined in this chapter must, within 10 days after receipt of written notice from the police chief, remove the junk motor vehicle to a garage or other enclosed structure, to an auto salvage yard or junk yard duly licensed by the city or state, or to a lawful place of storage outside the city limits, or repair the defects which cause the motor vehicle to violate the provisions of this chapter, including licensing if the motor vehicle is not currently licensed.

**SEC. 66.9 ABATEMENT.** If the owner of a junk motor vehicle shall fail to remove or repair the vehicle in accordance with the terms of Section 66.8 herein, or request a hearing within the time as provided by Section 66.11 of this chapter, the city police shall abate such nuisance by causing the junk motor vehicle to be removed and impounded, sold and disposed of as provided in Section 66.5 of this chapter.

**SEC. 66.10 COST OF ABATEMENT.** All costs of taking possession of a junk motor vehicle and selling and disposing of the same under this chapter shall be charged to the owner of the vehicle. These costs shall include costs of towing, preservation and storage of the vehicle, and all costs of inspection, notices and publication. The clerk shall mail the statement of the total expense incurred to the vehicle owner who has failed to abide by the Notice to Abate. If the amount shown by the statement is not paid within one month, the clerk shall certify the costs to the county auditor, and the same shall be collected with and in the same manner as general property taxes.

**SEC. 66.11 HEARING, APPEAL.** Any person ordered to abate a nuisance or condition under this chapter may have a hearing with the city administrator to determine whether a nuisance or prohibited condition exists.

1. Request for hearing must be made in writing and delivered to the city administrator within the time stated in the notice or it will be conclusively presumed that the nuisance or prohibited condition exists and must be abated as ordered.
2. At the conclusion of the hearing, the city administrator shall render a written decision as to whether a nuisance or prohibited condition exists. If he finds that a nuisance or prohibited condition does exist, he must order it abated within an additional 48 hours. An appeal from this written notice of such appeal within the additional 48 hours granted for abatement. The appeal will be heard before the city council at a time and date fixed by the council. Findings of the council shall be conclusive and if a nuisance or prohibited condition is found to exist, it shall be ordered abated within an additional 48 hours.

**SEC. 66.12 PENALTIES.** Anyone failing to remove or repair any junk motor vehicle stored on public or private property following notice by the city police as provided in Section 66.4 of this chapter, shall be guilty of a misdemeanor, and upon conviction, shall be subject to imprisonment of not to exceed 30 days, or a fine not exceeding \$100.00.

**CHAPTER 67**

**DOMESTIC ANIMAL CONTROL**

**Sections:**

- 67.1 Definitions.
- 67.2 Domestic Animals Disturbing the Peace.
- 67.3 Domestic Animals Running At Large--Impoundment.
- 67.4 Report of Fees and Expenses.
- 67.5 Penalty.
- 67.6 Horses Prohibited in Parks.
- 67.7 Cruelty to Animals.
- 67.8 Disposal of Dead Animals.
- 67.9 Dangerous Animals and Dogs.

**SEC. 67.1 DEFINITIONS.**

1. "Domestic animal" means any animal owned by a citizen as a pet, for profit, or for any other purpose.
2. "At large" refers to any domestic animals running otherwise upon the premises of its owner when the domestic animal is not attached to a leash held by a competent person, restrained within a motor vehicle or in an animal hospital or kennel.
3. "Owner" includes any person, firm or corporation owning, harboring, sheltering or keeping a domestic animal.

**SEC. 67.2 DOMESTIC ANIMALS DISTURBING THE PEACE.**

1. It is unlawful for an owner of a domestic animal to allow or permit such domestic animal to run at large within the city.
2. It is unlawful for an owner of a domestic animal to allow or permit such domestic animal to pass upon the premises of another thereby causing damage to, or interference with, the premises.

3. It is unlawful for an owner of a domestic animal to allow or permit such domestic animal to cause serious annoyances 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.

**SEC. 67.3 DOMESTIC ANIMALS RUNNING AT LARGE--IMPOUNDMENT.**

1. Any domestic animal found at large in violation of this chapter shall be seized and impounded at the owner's expense.
2. Any person appearing within seven days after the impounding of any domestic animal shall, upon proper identification and upon payment to the police chief of a fee as set by city council resolution, plus board and upkeep to be paid to the veterinarian clinic, have such animal released.
3. Owners of a licensed domestic animal shall be notified in writing that, upon payment of the fees described in subsection (2), the domestic animal shall be returned. In the event of such notice, the seven-day period shall commence from the date of written notice.
4. If such domestic animal is not claimed within seven days from the date of impounding or, if applicable, from the date of written notice, they shall be disposed of in a humane manner.

**SEC. 67.4 REPORT OF FEES AND EXPENSES.** The police chief shall report to the city council all fees imposed and collected and all expenses incurred pursuant to the provisions of this chapter. The net proceeds, if any, shall be deposited into the general fund of the city treasury.

**SEC. 67.5 PENALTY.**

1. Any person who keeps or harbors any domestic animal or fowl and allows the animal or fowl to run at large within the city is guilty of a misdemeanor.
2. Any person who keeps or harbors within the city such bothersome animals, fowls or insects as barking dogs, cattle, horses, swine, sheep, chickens, ducks or bees which tend to disrupt the peace and good order of the community is guilty of a misdemeanor.

**SEC. 67.6 HORSES PROHIBITED IN PARKS.** No person, firm or corporation shall cause any horse to enter onto or across any public park or cemetery within the city without obtaining prior approval from the city council.

**SEC. 67.7 CRUELTY TO ANIMALS.** No person shall torture, torment, mutilate, cruelly beat, cruelly kill any animal, or unnecessarily fail to provide the same with proper food, shelter or protection from the weather, or drive or work the same when unfit for labor, or cruelly abandon the same or cause the same to be cruelly carried on any vehicle or otherwise; or to commit any other act or omission by which unjustifiable pain, distress, suffering or death is caused or permitted to any animal or animals, whether maliciously, willfully or negligently.

**SEC. 67.8 DISPOSAL OF DEAD ANIMALS.** The owner of any dead animal, within the city, who fails, neglects or refuses to properly bury or dispose of the same within twenty-four hours after having notice thereof, is guilty of a misdemeanor.

**SEC. 67.9(1) DEFINITIONS.**

(a) Dangerous Animal Means

- (1) Any animal or species of animal which is not naturally tame or gentle, and which is of a wild nature or disposition, and which is capable of killing, inflicting serious injury upon, or causing disease among, human beings or domestic animals and having tendencies as a species to do so; or
- (2) Any animal declared to be dangerous by the City Council or the Animal Control Officer; or
- (3) The following animals shall be deemed dangerous animals, but not limited to: lions, tigers, jaguars, leopards, cougars, lynx, ocelots and bobcats; black bears, polar bears, and grizzly bears; crocodiles and alligators; all venomous and constricting snakes; wolves and foxes; badgers, wolverines and weasels. A ferret shall not be deemed a dangerous animal.

(b) Dangerous Dog Means

- (1) Any dog over the age of 6 months with a known propensity, tendency, or disposition to attack unprovoked, to cause injury to, or to otherwise endanger the safety of humans or other domestic animals; or
- (2) Any dog which attacks a human being or other domestic animal without provocation; or
- (3) Any dog declared to be dangerous by the City Council or an Animal Control Officer.

- (c) Guard Dog shall mean any dog trained or used to protect persons or property by attacking or threatening to attack any person found within the area patrolled by the dog and that is either securely enclosed within that area at all times or under the continuous control of a trained handler.
- (d) Animal Control Officer shall mean the Waverly Police Chief or a Waverly Police Officer designated by the Chief to perform the duties of Animal Control Officer for the purpose of this Chapter.

**SEC. 67.9(2) KEEPING OF DANGEROUS ANIMALS PROHIBITED.**

- (a) No person shall keep, shelter, or harbor as a pet, guard, or for other purpose, within the city, a dangerous animal as defined herein, except as provided in 67.9(2)(b).
- (b) The prohibition contained in 67.9(2)(a) shall not apply to the keeping of dangerous animals in the following circumstances:
  - (1) The keeping of bulls for farm purposes in a U-1 Unclassified District; or A-1 Agricultural District.
  - (2) The keeping of dangerous animals in a bona fide, licensed veterinary hospital for treatment;
  - (3) Any dangerous animals under the jurisdiction of and in the possession of the Iowa Conservation Commission, pursuant to Chapters 109 and 109A of the Iowa Code.

**SEC. 67.9(3) REGULATION OF KEEPING OF DANGEROUS ANIMALS.**

- (a) Every person, firm or corporation owning, keeping, sheltering or harboring a dangerous animal pursuant to 67.9(2)(b) shall report such fact, in writing to the Animal Control Office.
- (b) Every person, firm, or corporation keeping, sheltering or harboring a dangerous animal shall at all times keep such animal securely confined within a cage or enclosure.
- (c) Every person, firm or corporation owning, keeping or harboring a poisonous, dangerous animal shall be required to keep ten doses of anti-venom on hand and current at all times.

- (d) It shall be the owner's responsibility to notify the Animal Control Officer immediately in the event that a dangerous animal has escaped and is at large.
- (e) 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 life or property, such animal, may in the discretion of the Animal Control Officer, be destroyed if it cannot be confined or captured. The City of Waverly 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.
- (f) Order to Remove. In the event the Animal Control Officer determines that a dangerous animal is being kept, sheltered, or harbored by any individual or entity in violation of the provision of this chapter, the Animal Control Officer may in his/her discretion have such individual or entity prosecuted for such violation, and or he/she may order such individual or entity to remove such dangerous animal from the city to destroy it. Such order shall be contained in a notice to remove dangerous animal, which notice shall be given in writing, directed to such individual or entity, and delivered personally or by certified mail. Such order of the Animal Control Officer shall be appealable to the City Council, which may affirm or reverse such order, and the notice shall so state.
- (g) Appeal. Any individual or entity desiring to appeal an order issued by the Animal Control Officer pursuant to 67.9(3)(g) to the City Council, may do so by filing a written appeal seven days after receipt of the notice to remove dangerous animal. The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the City Clerk. The hearing of such appeal shall be scheduled within thirty days of the receipt of notice of appeal. After such hearing, the City 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 City Clerk within twenty days after the hearing, or any continued session thereof.
- (h) If the City Council affirms the action of the Animal Control Officer, the City Council shall also order in its written decision that the individual or entity 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 or entity against whom rendered in the same manner as the notice of removal. If the order is not complied with in seven 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 days. If at the end of the impoundment period, the individual or entity against whom the decision an order of City Council was issued has not petitioned the Bremer County District Court for a review of the order, the Animal Control Officer shall cause the animal to be disposed of by sale or

destroyed in a humane manner. Failure to comply with an order of the City Council issued pursuant thereto shall constitute a misdemeanor, and be punishable by a fine of not less than fifty dollars (\$50.00).

- (i) Every order of the City Council issued pursuant to the provision of this section shall set forth the language of subsection 67.9(3)(h) hereof.

**SEC. 67.9(4) KEEPING OF DANGEROUS DOGS PROHIBITED.**

- (a) No person shall keep, shelter or harbor as a pet, within the city, a dangerous dog as defined in Section 67.9(1)(b).
- (b) A dangerous dog is "at large" if such dangerous dog is not securely confined indoors or confined in a securely enclosed and locked pen or structure upon the premises of the owner of such dog. Such dog may only be kept as set out above if the owner is waiting an appeal or a decision of the City Council to determine if the dog is a dangerous dog under the terms of this ordinance.
- (c) In the event that a dangerous dog 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 life or property, such dangerous dog, may in the discretion of the Animal Control Officer, be destroyed if it cannot be confined or captured. The City of Waverly shall be under no duty to attempt the confinement or capture of a dangerous dog found at large, nor shall it have a duty to notify the owner of such dangerous dog prior to its destruction.
- (d) Order to Remove. In the event the Animal Control Officer determines that a dangerous dog is being kept, sheltered or harbored by any individual or entity in violation of the provisions of this chapter, the Animal Control Officer may in his/her discretion have such individual or entity prosecuted for such violation, and he or she may order such individual or entity to remove such dangerous dog from the city or destroy it. Such which notice shall be given in writing, directed to such individual or entity, and delivered personally or by certified mail. Such order of the Animal Control Officer shall be appealable to the City Council, which may affirm or reverse such order, and the notice shall so state.
- (e) Appeal. Any individual or entity desiring to appeal an order issued by the Animal Control Officer to the City Council, may do so by filing a written appeal seven days after receipt of the notice to remove the dangerous dog. The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the City Clerk. The hearing of such appeal shall be scheduled within thirty days of the receipt of notice of appeal. After such hearing, the City 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 City Clerk within twenty days after the hearing, or any continued session thereof.

- (f) If the City Council affirms the action of the Animal Control Officer, the City Council shall also order in its written decision that the individual or entity 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 or entity against whom rendered in the same manner as the notice of removal. If the order is not complied with in seven 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 days. If at the end of the impoundment period, the individual or entity against whom the decision and order of the City Council was issued has not petitioned the Bremer County District Court for a review of the order, the Animal Control Officer shall cause the animal to be disposed of by sale or destroyed in a humane manner. Failure to comply with an order of the City Council issued pursuant thereto shall constitute a misdemeanor, and be punishable by a fine of not less than fifty dollars (\$50.00).
  
- (g) During the appeal process, if the owner does not have a securely enclosed and locked pen, the owner shall confine the dangerous dog within the owner's residence, at a veterinarian hospital or at a kennel. This confinement shall be at the owner's expense.

**SEC. 67.9(5) EXCEPTIONS: GUARD DOGS.** The prohibition contained in this article shall not apply to keeping of guard dogs. However, guard dogs must be kept within a structure or a fenced enclosure at all times, and any guard dog found at large may be processed as a dangerous animal pursuant to the provisions of this article. Any premises shall inform the Animal Control Officer or Police Department, in writing, that a guard dog is on duty at the premises. It shall be the owner's responsibility to notify the Police Department immediately when a guard dog has escaped and is running at large.

**CHAPTER 68****DRY RUN WATERWAY****Sections:**

- 68.1 Background.
- 68.2 Purpose.
- 68.3 Definitions.
- 68.4 Prohibited Activities.
- 68.5 Impediments Within the Dry Run Channel a Nuisance.
- 68.6 Duty of Owner.
- 68.7 Notice to Abate.
- 68.8 Duty of City.
- 68.9 Abatement.
- 68.10 Cost of Abatement.
- 68.11 Hearing, Appeal.
- 68.12 Penalties.

**SEC. 68.1 BACKGROUND.** The dry run waterway conveys storm water from a large portion of the City of Waverly to the Cedar River. It is subject to periodic flooding, which has resulted in major property damage and loss of life. The city has expended large sums of public money for flood control projects to minimize flooding in the dry run area, including construction of a retention basin to control discharging waters into the dry run.

**SEC. 68.2 PURPOSE.** The purpose of this chapter is to protect the safety of the citizens and property in the city by prohibiting conditions which might interfere with the efficient conveyance of flood waters through the dry run and to promote the health and sanitation of the community by prohibiting conditions causing standing water conducive to breeding insects. It is recognized that this chapter is not a solution to flooding of the dry run.

**SEC. 68.3 DEFINITIONS.**

1. The term "dry run" as used in this chapter shall mean natural waterways extending through the west part of Waverly and more specifically defined as the south branch and the north branch as follows:

- a. South Branch. The natural waterway extending west from the Cedar River from approximately Seventh Avenue Southwest on west to its point of intersection with Fourth Street Southwest (Highway 218) between Seventh Avenue Southwest and Eighth Avenue Southwest.
  - b. North Branch. The natural waterway extending west from the Cedar River at approximately Seventh Avenue Southwest on north and west to its points of beginning; in the Willow Lawn area, approximately 500 feet west of Twenty-fourth Street Northwest immediately north of Third Avenue Northwest; and north of Fifth Avenue Northwest, at its point of intersection with Twentieth Street Northwest.
2. The term "Dry Run Channel" includes all areas within the boundaries which confine water to its channel throughout the entire width when the dry run waterway is carrying its maximum quantity of water.
  3. The term "foreign object" as used in this chapter shall mean any object or thing, except vegetation, located in the dry run channel that is not a structural part of the channel.

**SEC. 68.4 PROHIBITED ACTIVITIES.** No person shall engage in any of the following activities within the dry run channel:

1. Deposit any garbage, trash, refuse or foreign object or materials of any kind into the channel;
2. Plant any trees, shrubs or other growing objects within the dry run channel;
3. Deposit any dirt or fill in the dry run channel or alter the channel in any manner, without the prior written consent of the city administrator of the City of Waverly.
4. Erect any structure or other improvement within or across the dry run channel without the prior written consent of the city administrator of the City of Waverly.

**SEC. 68.5 IMPEDIMENTS WITHIN THE DRY RUN CHANNEL A NUISANCE.** It is hereby declared that the existence of any foreign objects or vegetation with any dimension exceeding 12 inches within the dry run channel constitutes a threat to the health and safety of the citizens of this city, and is a nuisance.

**SEC. 68.6 DUTY OF OWNER.** It shall be the duty of owners of property in the dry run channel to:

1. Remove any foreign object from that portion of the dry run channel belonging to the property owner;
2. Trim any vegetation growing within the channel, including grass, weeds, shrubs and trees, so such vegetation shall not exceed a height of 12 inches.
3. Abate a nuisance existing in the dry run channel upon a receipt of a notice to abate as provided in Section 68.7 of this chapter.

**SEC. 68.7 NOTICE TO ABATE.** Upon discovery of any foreign object or vegetation with a dimension exceeding 12 inches within the dry run channel, the Public Works Director shall notify by certified mail the owner of that portion of the channel upon which such foreign object or vegetation is located, that:

1. The foreign object or vegetation constitutes a nuisance within the provisions of this chapter;
2. The owner must remove any foreign object cited in the notice within 48 hours and trim any vegetation cited in the notice within five (5) days, or request a hearing, as provided in Section 68.11 of this chapter;
3. Failure to remove the cited foreign object or trim the cited vegetation, or request a hearing within the time prescribed, will cause the person to be guilty of a misdemeanor and the city may at its option abate the nuisance and direct assessment of the costs against the violator and/or pursue prosecution therefore.

**SEC. 68.8 DUTY OF CITY.** The public works department of the city shall have the duty to check the entire dry run channel at least two (2) times each calendar year, for violations of this chapter.

**SEC. 68.9 ABATEMENT.** If the owner of property within the dry run channel shall fail to remove foreign objects or trim vegetation in violation of this chapter upon notification by the Public Works Director, as provided in Section 68.7, or request a hearing as provided in Section 68.10, the public works department of the city of shall abate such nuisance by removing the foreign object and trimming the vegetation which violates this chapter.

**SEC. 68.10 COST OF ABATEMENT.** All costs of removing foreign objects or trimming vegetation in violation of this chapter after notification per Section 68.7 shall be charged to the owner of the property from which the object or vegetation was removed. If city personnel abate the nuisance, these costs shall include all costs of notification and the

actual labor and equipment costs of removal. If the city contracts another party to abate the nuisance, the costs shall include costs of notification and the actual costs of such service billed to the city. The clerk shall mail a statement of the total expense incurred 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 auditor and it shall be collected with and in the same manner as general property taxes.

**SEC. 68.11 HEARING, APPEAL.** Any person ordered to abate a nuisance or condition under this chapter may have a hearing with the city administrator as to whether a nuisance or prohibited condition exists. A request for a hearing must be made in writing and delivered to the city administrator within the time stated in the notice or it will be conclusively presumed that a nuisance or prohibited condition exists and it must be abated as ordered.

1. At the conclusion of the hearing, the city administrator shall render a written decision as to whether a nuisance or prohibited condition exists. If he finds that a nuisance or prohibited condition exists, he must order it abated within an additional 48 hours. An appeal from this decision may be had by filing within 48 hours a written notice of appeal with the city administrator. 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 an additional 48 hours.

**SEC. 68.12 PENALTIES.** Anyone disposing of foreign objects into the dry run channel in violation of this chapter, or anyone failing to remove foreign objects or trim vegetation in violation of this chapter, following notice by the city administrator as provided in Section 68.7 herein, shall be deemed guilty of a misdemeanor and, upon conviction shall be subject to imprisonment not to exceed thirty (30) days or a fine not to exceed \$100.00.

**CHAPTER 69**

**SOLID WASTE**

**Sections:**

- 69.1 Chapter Purpose.
- 69.2 Definitions.
- 69.3 Collection.
- 69.4 Container Specifications.
- 69.5 Commercial Containers, Provisions and Fees.
- 69.6 Hazardous Material Disposal.
- 69.7 Littering Prohibited.
- 69.8 Hauling Permit Required.
- 69.9 Hazardous Accumulations Prohibited.
- 69.10 Solid Waste Fund.
- 69.11 Collection Service Charges--Designated.
- 69.12 Collection Service Charges--Exemptions.
- 69.13 Collection Service Fee Provisions.
- 69.14 Delinquent Accounts-Special Assessment Procedure.
- 69.15 Violation--Penalty.

**SEC. 69.1 CHAPTER PURPOSE.** The purpose of this chapter is to protect the health and safety of the city by eliminating unhealthy and unsightly conditions caused by the deposit and accumulation of solid waste.

**SEC. 69.2 DEFINITIONS.** For the purpose of this chapter, the following definitions shall apply:

1. "Commercial premises" means any premises not defined as a residential premises.
2. "Director" means the Public Works Director of the city, who shall have responsibility for administering and enforcing the provisions of this chapter.
3. "Owner", in addition to the record title holder, includes any person residing in, renting, leasing, occupying, operating or transacting business in any premises, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.

4. "Person" includes any individual, firm, corporation, partnership, trust and any other organized group or government.
5. "Residential premises" means and includes single-family dwellings and multiple-family dwellings.
6. "Solid Waste" includes, but is not limited to, the following: Useless, unwanted or discarded materials resulting from commercial, industrial, domestic and agricultural operations and other normal community activities. Wastes which are solid or semisolid containing insufficient liquid to be free-flowing are considered to be solid waste, and shall include garbage, rubbish, ashes and other residue of incineration.
7. "Yard Wastes" means organic debris (e.g. grass clippings, leaves, tree limbs, bark, branches, flowers, etc.) which is produced as part of yard and garden development and maintenance.

**SEC. 69.3 COLLECTION.** The department of public works shall provide mandatory solid waste collection services for and on behalf of the city by removing solid waste from residential and commercial premises subject to the following conditions:

1. Collections from residential premises shall normally be made not less than once per week.
2. Collections from commercial premises shall be made not less than once a week, but the director is authorized and empowered to change or alter the schedule of any commercial premises as the director, at his or her discretion, deems necessary.
  - a. Collections from commercial premises serviced by private haulers under Section 69.8 shall be made not less than twice per month.
3. Containers shall be placed out-of-doors at some easily accessible place. Containers from residential premises shall be placed at the curb or alley for collection unless the occupant, for good cause shown, makes other mutually agreeable arrangements with the public works department. The provision of such containers and the placement thereof for collection shall be the responsibility of the owners of the premises to be served.
4. Separation of Yard Wastes Required. All yard wastes shall be separated by the owner or occupant from all other garbage and refuse accumulated on the premises and shall be disposed of by one or more of the following methods:
  - a. Composted on the premises.

- b. Removed to an area that shall be provided by the city for such purpose.
  - c. Placed in approved bags and set out for collection by the city.
  - d. Burned on the premises provided the burning does not create a nuisance contrary to Chapter 63 of the Waverly Municipal Code.
5. Location of Containers. Containers storing solid wastes awaiting collection shall be placed at the curb or alley line by the owner or occupant of the premises served. Bagged yard wastes shall be placed 3 to 6 feet from other solid wastes awaiting collection.

**SEC. 69.4 CONTAINER SPECIFICATIONS.** Containers shall be waterproof, ratproof and fitted with a tight lid. The containers shall have handles, bails or other suitable lifting devices or features. They shall be of lightweight and sturdy construction. Galvanized iron and similar metal containers, rubber or fiberglass containers and plastic containers which do not become brittle in cold weather may be used. Disposable bags manufactured for solid waste disposal shall be acceptable.

- 1. All solid waste shall be placed in suitable containers as above defined; however, the quantity of solid waste placed in the containers shall not exceed fifty pounds per container.
- 2. Containers designed to serve residential premises shall not be more than thirty-three gallons in capacity nor shall any such containers be less than ten gallons in nominal capacity, except where only one container is used, in which case the container may be less than ten gallons in capacity.
- 3. All solid waste shall be placed in suitable containers as above defined; however, it shall not be necessary to place books, boxes, magazines or newspapers in containers provided they are securely tied in bundles or completely contained in disposable boxes not larger than twenty-four by twenty-four by thirty-six inches and not weighing more than fifty pounds.
- 4. Baskets, boxes and noncomplying solid waste containers shall be considered disposable refuse and shall be removed by the city collection crews if they are the proper size and otherwise acceptable for collection, or shall be left uncollected if they are larger than the allowable size or unacceptable for collection.
- 5. Large bulky items that cannot be reduced to fit approved containers, including but not limited to furniture and appliances shall be delivered by the owner of residential premises to a designated location at the public works department yard at 412 First Avenue Southeast in the city, for collection. Large bulky items will not be collected

at residential premises except by special arrangement with the department of public works, in which event a fee as established by resolution of the city council will be charged for each collection.

**SEC. 69.5 COMMERCIAL CONTAINERS, PROVISIONS AND FEES.**

1. Containers shall be supplied by the city to commercial refuse customers upon request therefore by the owner.
  - a. Commercial premises requiring containers greater than 12 cubic yards may arrange for service by a private hauler under the provisions of Section 69.8.
2. Said containers shall be leased from the city, by the owner at a minimum monthly rate set by resolution of the city council.
3. Said containers shall be maintained, replaced by, and remain the property of the city.
4. Maintenance and replacement of containers shall occur as deemed necessary by the Public Works Director; and the container rental rate shall be subject to review and change at the same time and in the same fashion as that for minimum collection services charges.

**SEC. 69.6 HAZARDOUS MATERIAL DISPOSAL.** No person shall deposit or cause to be deposited in any solid waste container, or on any premises, public or private, any of the following hazardous materials:

1. Explosive materials.
2. Volatile or inflammable materials or any waste containing such.
3. Drugs, poison, acids or chemicals in such quantity as to create a health or safety hazard.
4. Combustible materials or other materials which may present a special hazard to collection personnel, equipment or the general public.
5. All hazardous materials as specified by this section shall be transferred by the owner to a place of safe and sanitary disposal, as prescribed by the Public Works Director.

**SEC. 69.7 LITTERING PROHIBITED.** No person shall throw, rake, deposit, place, drop or spill litter, waste material or foreign material upon the streets, sidewalks or other public

right-of-ways within the city except as provided in Section 69.4.

**SEC. 69.8 HAULING PERMIT REQUIRED.**

1. No person shall engage in the activity of removing or hauling residential or commercial solid waste from the premises of others for a fee or other consideration, except that resulting from construction and demolition activities, or serving containers and equipment not supplied by the City in which case said person must first apply for and receive a permit to do so from the city.
2. All construction and demolition and commercial hauling permits shall be issued by the public works department and shall bear thereupon any restrictions regarding hauling and deposition of said waste.
3. Said persons making application for said permit shall pay a license fee as established by resolution of the city council. This fee shall be non refundable.
4. The application may be denied and issued permits may be revoked indefinitely at any time if the bearer is determined to have violated the stipulations thereupon or any other provisions of this chapter.
5. All solid waste collected by private haulers shall be disposed of at the Bremer County Landfill.

**SEC. 69.9 HAZARDOUS ACCUMULATIONS PROHIBITED.** It is unlawful for any person to accumulate or cause to be accumulated on any premises, improved or vacant, public or private, such quantities of solid waste, either contained or not, that shall be deemed by the provisions of this code to constitute a health, safety, sanitation or fire hazard.

## **SEC. 69.10 SOLID WASTE FUND.**

1. The City Finance Director shall keep a ledger to be known as the "solid waste fund". There shall be placed to the credit of that fund all monies accrued and on hand from solid waste collection service charges. Additionally, all receipts and all expenses incurred relative to the operations of the solid waste enterprise shall be deposited to and paid from the "solid waste fund" with the exception of Section 69.10 (2).
2. Solid Waste Sinking Fund. The city finance director shall keep a ledger to be known as the "solid waste sinking fund". There shall be placed to the credit of that fund all monies accrued and on hand specified theretofore. The purpose of said fund is to provide for funded depreciation replacement of solid waste trucks and packers. The city council shall provide in each year's budget for money transfers from the solid waste fund to the solid waste sinking fund amounts as reasonably expected to allow for the cash replacement of said equipment as required.

## **SEC. 69.11 COLLECTION SERVICE CHARGES--DESIGNATED.**

1. A monthly fee in an amount to be determined by resolution of the city council shall be charged by the city and collected from each family unit or owner of a "residential premise" as defined in Section 69.2.
2. The monthly fee to be charged and collected from each owner of a "commercial premise" as defined in Section 69.2 shall be negotiated by the Public Works Director and shall be dependent on the quantity, type of refuse, pickup location, frequency of collection and time spent at the commercial premises. In no event shall the monthly fee be less than a minimum monthly fee as determined by resolution of the city council. The fee charged commercial premises may be adjusted by the director from time to time, to cause commercial fees to be consistent with residential fees.
3. The charges or fees shall be in payment for the collection and disposal of solid waste. The charges shall be billed on a monthly basis and shall be collected through the office of the finance director at the same time and in the same manner as the municipal utility's bills are collected.
4. There shall be assessed a delinquency penalty of one and a half percent (1.5%) for all solid waste fees not paid to the city in accordance with the payment procedure as set forth in the Waverly Municipal Utility Tariff.
5. Commercial premises receiving service from private haulers under Section 69.8 shall pay disposal and service fees to the private hauler. Fees shall be as follows:

- a. Disposal Fee - Shall be a fee based on volume or weight tickets issued at the time of disposal at the Bremer County Landfill according to fees established by Bremer County.

Service Fee - Shall be a monthly service fee equal to 10% of the collection fee charged by the private hauler (not including equipment and rental fees).

#### **SEC. 69.12 COLLECTION SERVICE CHARGES--EXEMPTIONS FOR STORAGE BUILDINGS.**

Buildings used solely for storage even though having separate electric or water utility connections may be exempted from solid waste collection charge upon the owner or renter of said premise filing an affidavit with the City certifying that the premise is used only for storage purposes and does not generate any solid waste. After the discontinuance of solid waste collection charges with this certification, any premise found to be generating solid waste or any such owner or renter found to be in violation of any State or City regulations regarding the disposal of solid waste shall be billed retroactively for all monthly solid waste charges to the time that the certification was filed.

**SEC. 69.13 COLLECTION SERVICE FEE PROVISIONS.** The collection of solid waste as provided by this chapter and the maintenance of the availability of such services, whether or not such service is used regularly or at all by the owner of such premises, is declared a benefit to the premises at least equal to the monthly charges specified pursuant to this chapter and in case of failure to pay the monthly charge when billed, as heretofore provided, then the monthly charge shall be assessed against the property benefited in the manner provided by and for special assessments, and in accordance with the present State Code of Iowa.

#### **SEC. 69.14 DELINQUENT ACCOUNTS--SPECIAL ASSESSMENT PROCEDURE.**

1. At least annually the accounting department shall prepare a "delinquent list" of persons failing to pay the monthly charge required by this chapter, listing the premises for which the service was rendered and the amount due therefrom.
2. Resolutions shall thereupon be prepared assessing the delinquent charges to the properties so benefited. Such resolution, properly passed by the council, shall be certified as provided by law in cases of special assessments for collection in the same manner as general taxes.
3. In the case of the delinquency on the part of renters, lessors, etc., the accounting department shall pursue all legal avenues available to secure collection of delinquent solid waste fees, in accordance with and as provided for in this chapter.

**SEC. 69.15 VIOLATION--PENALTY.** Any person violating any of the provisions in this chapter, except those requiring the payment of fees for collection services, shall upon conviction be punished as provided in this code.

CHAPTER 70

HAZARDOUS SUBSTANCES

**Sections:**

- 70.1 Purpose.
- 70.2 Definitions.
- 70.3 Clean Up Required.
- 70.4 Notifications.

**SEC. 70.1 PURPOSE.** In order to reduce the danger to public health, safety and welfare from the spills of hazardous substances these regulations are promulgated to establish responsibility for the removal and clean up of spills within the city limits.

**SEC. 70.2 DEFINITIONS.** For the purpose of this chapter these words have the following meanings:

1. "Hazardous substance" means any substance as defined in the current Code of Iowa.
2. "Hazardous waste" means those wastes which are included by the definition in the current Code of Iowa.
3. "Hazardous condition" means the same as set out in the current Code of Iowa.
4. "Responsible person" means the party, whether the owner, agent, lessor, or tenant, in charge of the hazardous substance or hazardous wastes being stored, processed, or handled, or the owner or bailee transporting hazardous wastes or substances whether on public ways or grounds or on private property where the spill would cause danger to the public or to any person or to the environment.
5. "Clean up" means the removal of the hazardous wastes or substances to a place where the waste will not cause any danger to persons or the environment, in accordance with state rules therefor or the treatment of the material as defined herein to eliminate the hazardous condition, including the restoration of the area to a general good appearance without noticeable odor as far as practicable.

6. "Treatment" means a method, technique, or process, including neutralization, designed to change the physical, hazardous substance so as to neutralize it or to render the substance nonhazardous, safer for transport, amendable for recovery, amendable for storage, or to reduce it in volume. Treatment includes any activity or processing designed to change the physical form or chemical composition of hazardous substance to render it nonhazardous.

**SEC. 70.3 CLEAN UP REQUIRED.** Whenever a hazardous condition is created by the deposit, injection, dumping, spilling, leaking or placing of a hazardous waste or substance, so that the hazardous substance or waste or a constituent of the hazardous waste or substance may enter the environment or be emitted into the air or discharged into any waters, including ground waters, the responsible person shall cause the condition to be remedied by a clean up, as defined in the preceding section, as rapidly as feasible to an acceptable, safe condition. The costs of clean up shall be borne by the responsible person. If the responsible person does not cause the clean up to begin in a reasonable time in relation to the hazard and circumstances of the incident, the city may, by an authorized officer, give reasonable notice, based on the character of the hazardous condition, said notice setting a deadline for accomplishing the clean up or that the city will proceed to procure clean up services and bill the responsible person. If the bill for those service is not paid within thirty (30) days the city attorney shall proceed to obtain payment by all legal means. If the cost of the clean up is beyond the capacity of the city to finance it, the authorized officer shall report to the council and immediately seek any state or federal funds available for said clean up.

**SEC. 70.4 NOTIFICATIONS.** The first city officer or employee who arrives at the scene of an incident involving hazardous substances, if not a peace officer, shall notify the police department which shall notify the proper state office in the manner established by the state.

## **CHAPTER 71**

## **OPEN BURNING**

### **OPEN BURNING**

#### **Sections:**

- 71.1 Purpose
- 71.2 Definitions.
- 71.3 Prohibitions.
- 71.4 Exemptions.
- 71.5 Limitations.
- 71.6 Authority to Extinguish.

**SEC. 71.1 PURPOSE.** The purpose of the Chapter is to reduce the danger to public health, safety and welfare from uncontrolled open burning of materials within the City Limits by adoption of the following regulations.

**SEC. 71.2 DEFINITIONS.** For the purpose of this Chapter these words shall have the following meanings:

1. "Person" includes any individual, firm, corporation, partnership, trust or any other organized group.
2. "Combustible Material" is any material that will take fire and burn including, rubbish, trash, or discarded materials from commercial, industrial, domestic or agricultural operations or other normal community activities. "Combustible material" for the purpose of this Ordinance shall not include "yard wastes".
3. "Yard Wastes" means organic debris (e.g. grass clippings, leaves, tree limb, bark branches, flowers, etc.) which is produced as a part of yard and garden development and maintenance.

**SEC. 71.3 PROHIBITIONS.** No person shall allow, cause or permit open burning of combustible materials except as provided in the exemptions contained in this ordinance.

**SEC. 71.4 EXEMPTIONS.** The following open burning of combustible materials shall be permitted:

1. Recreational fires. Open fires for cooking, heating, camping, recreation or bonfires shall be permitted.
2. Burning by Government. Open burning of combustible material by a government unit for public benefit shall be permitted when supervised by the Fire Department.
3. Government burning site. Open burning of designated yard waste and only those combustible materials in compliance with regulations established by the City Council and the State of Iowa is allowable at a burning site operated by the City.
4. Variances from rules. Any person wishing to conduct open burning of materials not exempted shall make written application delivered to the City Administrator for variance to allow burning of materials. Variance may be granted by the City Council only upon a finding of special/emergency circumstances. If variance is granted burning shall be conducted at a time and in a manner specifically allowed by the City.

**SEC. 71.5 LIMITATIONS UPON OPEN BURNING.** Open burning of materials within the City shall be limited as follows:

1. Open burning of materials shall not cause a nuisance as defined at Chapter 455B of the Iowa Code.
2. Open burning of materials shall not cause a nuisance as defined at Chapter 63 of the Waverly Municipal Code.
3. Open burning of materials shall not be conducted on City streets or alleys.
4. Open burning of materials shall not take place so close to any building or structure so as to constitute a danger to the building or structure.
5. Open burning of materials shall not be conducted when weather conditions including wind or dry conditions constitute a risk of spread of fire.

**SEC. 71.6 AUTHORITY TO EXTINGUISH.** The City of Waverly through its Public Works Department, Fire Department, or Police Department is authorized to prohibit or immediately extinguish any open burning occurring within the City that is deemed by City Officials to violate prohibitions of this Ordinance or to constitute an emergency or a danger to the safety of persons or property within the City.

## **CHAPTER 72**

### **Fee For Connection to the Water and Sewer Utilities**

#### **Sections:**

- 72.1 Boundaries of the Northeast Waverly Water Connection District.
- 72.2 Boundaries of the Northeast Waverly.
- 73.3 Sanitary Sewer Utility Connection Fee.
- 73.4 Water Utility Connection Fee.

**SEC. 72.1 District Boundaries.** The Northeast Waverly Water and Sewer Connection Districts are hereby established for the purpose of collection within each said district of a fee from those property owners who shall make application to connect their properties to the water or sewer utilities of the City.

- (a) **District Boundaries.** The boundaries of the Northeast Waverly Water connection District shall be as follows:

Hind's Addition; Hind's 2<sup>nd</sup> Addition; Cedar Lane Acres Additions; Murphy's Additions and Replats; Fairholm Addition; Section 27-92-14 SE-SE (East of River); Section 34-92-14 NE=NE (East of River), SE-NE East of River); Section 26-92-14; SW-SW SE-SW, SW-SE, SE-SE; Section 35-92-14; NW-NW, NE-NW, SW-NW North of River), SE-NW(North of River, NW-NE, NE-NE, SE-NE, SW-NE (East of River), NW-SE (East of River), NE-SE, SW-SE (East of River-Exc. S. Fr. Pt. Aud. Lot 12); Auditor's Plat of SE 1/4-Section 35-92-14 (Lots 1-11 & N. Fr. Pt. Of Lot 12 & Middle Fr. Pt. Of Lot 12);Section 36-92-14; NW-NW, NE-NW, SE-NW, SW-NW, NW-SW, NE-SW, SE-SW, SW-SW, Lots 1-4 SW1/4; Section 1-91-14(N49.5 Acres of NW 1/4 Ex. S 266' of N. 758.4' of W.408.48'; Section 2-91-14 (Lots 1 & 2 and parcel Adjacent to South in NE Corner of NE 1/4).

**SEC. 72.2 District Boundaries.** The Boundaries of the Northeast Waverly Sewer Connection District shall be as follows:

Hind's Addition; Hind's 2<sup>nd</sup> Addition; Cedar Lane Acres Additions; Murphy's Additions and Replats; Fairholm Addition; Section 27-92-14 SE-SE (East of River) Section 34-92-14; NE-NE(East of River),

## **RESERVED CHAPTER 73**