

## CHAPTER 63

### NUISANCES

#### Sections:

- 63.1 Defining Nuisances.
- 63.2 Nuisances Prohibited.
- 63.3 Depositing Rubbish.
- 63.4 Notice to Abate Nuisance.
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- 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 and trees infested with Emerald Ash Borer (Ord. 981 06-16-14).
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 Definitions.
- 64.2 Nuisances Prohibited.
- 64.3 Property Maintenance Tiers.
- 64.4 Exceptions.
- 64.5 Permit Required.
- 64.6 Notice to Abate.
- 64.7 Contents of Notice to Abate.
- 64.8 Method of Service.
- 64.9 Request for Hearing and Appeal.
- 64.10 Abatement by Municipality.
- 64.11 Collection of the Cost of Abatement.

**SEC. 64.1 DEFINITIONS.**

1. Bremer County Weed Commissioner. The individual designated to oversee and administer Bremer County's noxious weed control program.
2. City Administrator. The chief administrative officer of the City of Waverly.
3. Code Enforcement Official. The individual designated to administer the health and nuisance code and responsible for the enforcement of the regulations imposed by this chapter.
4. Leisure Services Director. The chief administrative officer of the Leisure Services Department of the City of Waverly.
5. Nuisance. A property in violation of the assigned "Property Maintenance Tier" as defined in this chapter.
7. Noxious Weed. Any weed defined as noxious by Chapter 317 of the Iowa Code, Chapter 58 of the Iowa Department of Agriculture and Land Stewardship Administrative Code or any weed defined as noxious by the Bremer County Weed Commissioner.

**SEC. 64.2 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. 64.3 PROPERTY MAINTENANCE TIERS.** The Property Maintenance Tiers are assigned to properties by the Code Enforcement Officer and Leisure Services Director or their designee. The Property Maintenance Tiers are described as follows:

1. Tier 1. All properties developed upon and described as having a residential, commercial, or industrial use. All described properties must maintain all grasses and/or weeds to a height of eight (8) inches or less and must be kept free of all noxious weeds.
2. Tier 2. All undeveloped properties zoned as residential, commercial, or industrial that do not directly abut developed properties, or developed properties with an approved Property Maintenance Tier 2 permit. All described properties must maintain all grasses and/or weeds to an approximate height of twenty-four (24) inches or less and be kept free of noxious weeds. All described properties abutting developed properties must maintain a five (5) foot buffer area keeping grasses and/or weeds to a height of eight (8) inches or less.
3. Tier 3. All properties described as agricultural in use, designated for stormwater detention/retention, parks and open space, urban woodlots, natural reserve and preserve areas, prairie grass and wildflower areas, wildlife refuges and conservation areas, wetlands and natural waterways, right-of-way ditches inside City limits or properties with an approved Property Maintenance Tier 3 permit. All described properties must be kept free from noxious weeds and volunteer trees, brushes or other vegetation.

**SEC. 64.4 EXCEPTIONS.**

1. All properties with an approved Property Maintenance Tier 2 or Tier 3 permit shall be permitted in the side and rear yards as described by Section 100.2.132. The front yard shall be maintained in compliance with Tier 1.
  - a. Landscaping shall be allowed in all yards.
2. No property, regardless of Property Maintenance Tier, shall restrict the normal use of public alleys, sidewalks, or public rights-of-way in general.
3. No property, regardless of Property Maintenance Tier, shall create or allow to be maintained as a health, safety or fire hazard.
4. Tier 3 properties shall be exempt from maintaining a five (5) foot buffer when abutting Tier 1 or Tier 2 properties.

**SEC. 64.5 PERMIT REQUIRED.** Permits allowing for Property Maintenance Tier 2 and Tier 3 shall be issued by the Code Enforcement Officer. All Tier 3 permits must be reviewed and approved by the Leisure Services Director or their designee. Copies of all permits shall be provided to the Leisure Services Department. The fees for permits shall be established by resolution of the City Council. Appeal of administrative denial shall be made to the City Council. Properties with revoked Property Maintenance Tier 2 or Tier 3 permits shall be ineligible to apply for a Tier 2 or Tier 3 permit for a period of one (1) year.

**SEC. 64.6 NOTICE TO ABATE.** A written notice shall be given to the landowner when it is determined that grasses and/or weeds constitute a nuisance. Said landowner shall have seven (7) days in which to bring the property into compliance with their associated Property Maintenance Tier or to request a hearing before the Code Enforcement Official.

**SEC. 64.7 CONTENTS OF NOTICE TO ABATE.** The notice to abate shall contain:

1. Name of property owner(s) as shown by the County Auditor;
2. The location of the nuisance or condition, identified by address or legal description;
3. A description of what constitutes the nuisance or other condition;
4. A statement of the act or acts necessary to abate the nuisance or condition;
5. A reasonable time within which to complete the abatement;
6. 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. 64.8 METHOD OF SERVICE.** The notice to abate shall be caused to be served by the Bremer County Sheriff, upon the named person(s) or entities in the manner provided by law for the personal service of original notices or by certified mail delivered to the property owner.

**SEC. 64.9 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 the hearing officer finds that a nuisance or prohibited condition exists, they 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 by the City Administrator at a time and place fixed by the Code Enforcement Officer in consultation with the appealing party. The findings of the City Administrator 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. 64.10 ABATEMENT BY MUNICIPALITY.** If, after due notice, the property remains out of compliance with its Property Maintenance Tier, the city or its contractor(s) shall cut the grasses and/or weeds. If the property has a Property Maintenance Tier 2 or Tier 3 permit, that permit shall be revoked and the property will revert to Tier 1.

**SEC. 64.11 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 the time stated in the notice, 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.

(Former Chapter 64 Repealed and Replaced by Ordinance 1110 – Published on 08/23/22)



CHAPTER 65ABANDONED MOTOR VEHICLESSections:

- 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. Law Enforcement Officials shall make a reasonable effort to determine the owner's name and current address of a domestic animal running at large within the City. If the owner of a domestic animal cannot be determined refer to Section 67.3(3). If the owner of a domestic animal is determined refer to Section 67.3(4).
3. Any person appearing within five 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 a City approved facility, have such animal released.
4. Owners of a domestic animal shall be notified in person or writing that, upon payment of the fees described in subsection (3), the domestic animal shall be returned. In the event of such notice, the seven-day period shall commence from the date of written notice.
5. If such domestic animal is not claimed within five days from the date of impounding or, if applicable, seven days 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 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 68DRY RUN WATERWAYSections:

- 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 1000 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. (Ord. 1015 11/29/16)
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 on private property within the dry run channel constitutes a threat to the health and safety of the citizens of this city, and is a nuisance. (Ord. 1015 11/29/16)

**SEC. 68.6 DUTY OF OWNER.** It shall be the duty of owners of private 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.  
(Ord. 1015 11/29/16)

**SEC. 68.7 NOTICE TO ABATE.** Upon discovery of any foreign object or vegetation with a dimension exceeding 12 inches on private property 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 Municipal Infraction and the city may at its option abate the nuisance and direct assessment of the costs against the violator and/or pursue prosecution therefore. (Ord. 1015 11/29/16)

**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 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 to have committed a Municipal Infraction punishable under Chapter 23 of the Municipal Code.

(Ordinance 1015 – Published on 11/29/16)

**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 and Prohibited Material Disposal.  
(Amended per Ordinance 1157, Passed 12/02/2024 and Published 12/10/2024)
- 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: (Amended by Ordinance 1135, Published 12/19/2023)

1. "Commercial premises" means any premises not defined as 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 each unit of 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.
8. "Container" means a garbage can or dumpster owned, issued and maintained by the City of Waverly.
9. "Sharps Waste" is a form of biomedical waste composed of used "sharps", which includes any device or object used to puncture or lacerate the skin. Sharps waste is classified as biohazardous waste and must be carefully handled. Common medical materials treated as sharps waste are hypodermic needles, disposable scalpels and blades, contaminated glass and certain plastics, and guidewires used in surgery.

**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:

(Amended by Ordinance 1135, Published 12/19/2023)

1. Collections from residential premises shall be weekly or bi-weekly depending on plan selected.
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 their 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. Location of containers shall be placed out-of-doors at some easily accessible place.
  - a. Containers from residential premises shall be placed within 18 inches of the curb or alley with the short metal bar facing the street for collection. Containers must be separated by at least three feet and should be placed at least 6 feet away from any permanent structures.

It shall be the responsibility of the homeowner to have the container(s) out by 7:00 a.m. on the scheduled collection day. The container(s) may be placed out for collection after 6:00 p.m. on the day preceding the scheduled collection day. Containers must be removed not later than 8:00 p.m. on the day of collection.

- b. Commercial: Refer to Section 69.5 Commercial Containers and Provisions.

(Amended per Ordinance 1157, Passed 12/02/2024 and Published 12/10/2024)

- 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. Disposed of at the City's Yard Waste Facility.
  - c. Placed in approved bags and set out for collection by the City during specified yard waste collection days in the spring and fall.
  - d. Burned on the premises provided a permit to burn was obtained from the City and the burning does not create a nuisance contrary to Chapter 63 of the Waverly Municipal Code.

**SEC. 69.4 CONTAINER SPECIFICATIONS.** Containers shall be issued by the City of Waverly. (Amended by Ordinance 1135, Published 12/19/2023)

- 1. All solid waste and recyclables shall be placed in containers issued by the City of Waverly. (Ord. 1059 4/9/19)
- 2. Containers designed to serve residential premises shall be either 35-gallons or 65-gallons or 95-gallons in capacity.

Multi-unit residential properties will be assessed by the Public Works Department to determine if individual containers or a dumpster will be assigned.

- 3. Extra garbage weighing less than fifty pounds and in a disposable bag manufactured for solid waste (33 gallons or less) may be placed on top of a City-issued container with a garbage tag attached.

4. 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 public works location. Large bulky items may be collected curbside by scheduling a special pick-up with the Public Works Department. Fees apply for special pick-ups and for disposal of bulky items.

#### **SEC. 69.5 COMMERCIAL CONTAINERS AND PROVISIONS.**

1. Solid waste and recycling containers shall be issued by the City to commercial refuse customers upon request of the owner. (Ord. 1059 4/9/19)
  - a. Commercial premises requiring containers 12 cubic yards or greater may arrange for service by a private hauler under the provisions of Section 69.8.
2. Maintenance and replacement of containers shall occur as deemed necessary by the Public Works Director.
3. Container/Dumpster Placement & Access:
  - a. Owner shall be responsible for the provision of a suitable hard-surfaced site for the placement of the refuse container/dumpster. The site must be accessible by the refuse truck.
  - b. Owner shall be responsible for containing/securing the refuse container/dumpster. Enclosures are recommended and must be a minimum of 10 feet by 13 feet and shall be constructed in a location which provides access for the commercial refuse truck. New enclosure designs must be reviewed for serviceability and approved by the Director.
  - c. Owner shall ensure unobstructed access to and from the container/dumpster site. This includes removal of obstructions including snow and ice accumulation. The City will not be responsible for missed service due to obstructions blocking the container/dumpster site.

(Amended per Ordinance 1157, Passed 12/02/2024 and Published 12/10/2024)

4. Container/Dumpster Use:

- a. The container/dumpster shall be in the possession and control of the owner. The owner agrees to hold harmless and indemnify the City against all claims, lawsuits, and any other liability for bodily injury to persons or damage to property arising out of the possession or use of the equipment.
- b. Owner shall be responsible for the cleanliness and safekeeping of the container/dumpster, and is responsible for any, and all damage from the time the equipment is delivered until it is returned. This includes but is not limited to fire, theft, vandalism, negligence, graffiti, natural disaster, or other activity which causes damage.
- c. Owner is responsible for the entire contents of the container/dumpster until the container/dumpster contents are accepted without protest by the disposal facility. If any contents are not permitted or rejected by any City, County, State or Federal agency, all associated fees, penalties, fines or actions taken by the disposal facility will be the owner's sole responsibility. Costs associated include but are not limited to cleanup, monitoring, legal fees, penalties, or any other charges associated with unauthorized material disposal. Materials may also be returned to the owner at the owner's expense.
- d. Owner shall not overfill or pile trash next to the container/dumpster.
- e. Cardboard dumpsters are intended only for clean cardboard. Any other items are banned.

(Amended per Ordinance 1157, Passed 12/02/2024 and Published 12/10/2024)

5. Owner waives all claims for property damage or other loss, bodily injury or claim against the City, owing to or arising out of the delivery, removal or replacement of the container/dumpster. The owner similarly agrees to hold harmless the City against all loss or liability from risks or claims arising from container/dumpster location or placement.

(Amended per Ordinance 1157, Passed 12/02/2024 and Published 12/10/2024)

**SEC. 69.6 HAZARDOUS AND PROHIBITED 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. Sharps waste.
5. Combustible materials or other materials which may present a special hazard to collection personnel, equipment or the general public.
6. Animal carcasses.
7. Yard Waste.
8. Appliances.
9. Fluorescent light fixtures (with or without ballasts and tubes).
10. Tires.
11. Heavy Construction materials.
12. Paint (with the exception of water-based paint that has been dried).

All hazardous/prohibited materials as specified by this section shall be transferred by the owner to a legal place of safe and sanitary disposal.

(Amended per Ordinance 1157, Passed 12/02/2024 and Published 12/10/2024)

**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 and recyclables 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 issued by the City in which case said person must first apply for and receive a permit to do so from the City. (Ord. 1059 4/9/19)



2. All construction, 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. 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.
4. All solid waste collected by private haulers shall be disposed of at a legal 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".

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

1. A monthly fee for City-issued containers as determined by 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. Residential premises without a City-issued container shall be charged a monthly base fee as determined by the City Council. Residential premises exempt from a City-issued container are:
  - a. Apartment Units
  - b. Vacant Homes
    - i. Homes for Sale
    - ii. Extended Leave of Absence

Vacant homes will be exempted upon returning the City-issued container and paying an administrative service fee.

2. The monthly fee to be charged and collected from each owner of a "commercial premise" as defined in Section 69.2 shall be dependent on the quantity, type of refuse, pickup location, and frequency of collection.

3. Commercial premises without a City-issued container shall be charged a monthly base fee as determined by the City Council.
4. 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.

There shall be assessed a monthly 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 Landfill.
6. Solid Waste Collection Service Charges:

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		Rates
Garbage Tag	Per 33 gallons of garbage and/or 50 lbs max.	\$ 2.50
RAR35	35-gal Fee (bi-weekly city recycling container)	\$ 3.50
RAR65	65-gal Fee (bi-weekly city recycling container)	\$ 3.50
RAR95	95-gal Fee (bi-weekly city recycling container)	\$ 5.55
RA01	Base Rate	\$ 11.00
RA355M	35-gal Fee (bi-weekly city refuse container, tag required for extra garbage)	\$ 14.55
RA35	35-gal Fee (city refuse container, tag required for extra garbage)	\$ 18.00
RA65	65-gal Fee (city refuse container, tag required for extra garbage)	\$ 27.20

**PERMANENT DUMPSTERS:**

Accounting Code	Dumpster Size				New 2023 Monthly Rate	Previous Monthly Rate	Change
		*Monthly Dumpster Fee	**Monthly Volume Charges	***Monthly Trip Fees			
<b>1 Time / week pickup:</b>							
R0.5C1	0.5 cy	\$ 5.00	\$ 13.00	\$ 21.67	\$ 39.67	\$35.10	\$ 4.57
R2CY1	2 cy	\$ 12.50	\$ 52.00	\$ 21.67	\$ 86.17	\$97.80	\$ (11.63)
R4CY1	4 cy	\$ 14.50	\$ 104.00	\$ 21.67	\$ 140.17	\$138.60	\$ 1.57
R6CY1	6 cy	\$ 16.50	\$ 156.00	\$ 21.67	\$ 194.17	\$179.40	\$ 14.77
<b>2 Times / week pickup:</b>							
R0.5C2	0.5 cy	\$ 5.00	\$ 26.00	\$ 43.33	\$ 74.33	\$59.10	\$ 15.23
R2CY2	2 cy	\$ 12.50	\$ 104.00	\$ 43.33	\$ 159.83	\$138.60	\$ 21.23
R4CY2	4 cy	\$ 14.50	\$ 208.00	\$ 43.33	\$ 265.83	\$265.20	\$ 0.63
R6CY2	6 cy	\$ 16.50	\$ 312.00	\$ 43.33	\$ 371.83	\$351.80	\$ 20.03
<b>3 Times / week pickup:</b>							
R2CY3	2 cy	\$ 12.50	\$ 156.00	\$ 65.00	\$ 233.50	\$179.40	\$ 54.10
R4CY3	4 cy	\$ 14.50	\$ 312.00	\$ 65.00	\$ 391.50	\$391.80	\$ (0.30)
R6CY3	6 cy	\$ 16.50	\$ 468.00	\$ 65.00	\$ 549.50	\$519.20	\$ 30.30
<b>4 Times / week pickup:</b>							
R2CY4	2 cy	\$ 12.50	\$ 208.00	\$ 86.67	\$ 307.17	\$265.20	\$ 41.97
R4CY4	4 cy	\$ 14.50	\$ 416.00	\$ 86.67	\$ 517.17	\$518.40	\$ (1.23)
R6CY4	6 cy	\$ 16.50	\$ 624.00	\$ 86.67	\$ 727.17	\$686.60	\$ 40.57
<b>5 Times / week pickup:</b>							
R2CY5	2 cy	\$ 12.50	\$ 260.00	\$ 108.33	\$ 380.83	\$316.00	\$ 64.83
R4CY5	4 cy	\$ 14.50	\$ 520.00	\$ 108.33	\$ 642.83	\$645.00	\$ (2.17)
R6CY5	6 cy	\$ 16.50	\$ 780.00	\$ 108.33	\$ 904.83	\$854.00	\$ 50.83

\*Fee based on the size of dumpster.

\*\*Volume of the dumpster multiplied by the number of times emptied per week, multiplied by 52 (weeks per year) divided by 12 multiplied by \$8 (CY fee) to give monthly rate

\*\*\*Number of scheduled trips per week multiplied by 52 (weeks per year) divided by 12 multiplied by \$5 (trip fee) to give monthly rate.

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Yard waste brush, trees and logs shall be accepted only from residents of the City of Waverly and commercial haulers serving Waverly residents. The following fees will apply to commercial haulers only:

Brush and small trees.....	\$ 2.50 /cy
Trees/Logs > 12-inches dia.....	\$ 4.00 /cy

Special or extra pickups and temporary dumpsters shall be billed as follows:

	Rate
Drop-Off Charge.....	\$ 25.00
Trip Charge.....	\$ 25.00
Regular Material.....	\$ 20.00 /cy
Shingles.....	\$ 100.00 /cy

**DUMPSTER RENTAL & CORRUGATION CARDBOARD:**

RA 14	2 cy	Rental Only	
RA 15	4 cy	Rental Only	
RA 16	6 cy	Rental Only	
RA 18	Loose Corrugation	1 day / week	
R2CY1C	2 cy Corrugation	1 day / week	
R4CY1C	4 cy Corrugation	1 day / week	
R6CY1C	6 cy Corrugation	1 day / week	
RA 21	Loose Corrugation	2 days / week	
R2CY2C	2 cy Corrugation	2 days / week	
R4CY2C	4 cy Corrugation	2 days / week	
R6CY2C	6 cy Corrugation	2 days / week	

New 2023 Rate	Previous Monthly Rate
\$ 12.50	\$ 8.25
\$ 14.50	\$ 14.50
\$ 16.50	\$ 16.50
\$ 21.67	\$ 19.00
\$ 34.17	\$ 24.00
\$ 36.17	\$ 48.00
\$ 38.17	\$ 72.00
\$ 43.33	\$ 36.00
\$ 55.83	\$ 48.00
\$ 57.83	\$ 96.00
\$ 59.83	\$ 144.00

(Ordinance 1118 03/28/2023)

**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.

(Replaced Chapter 69 Amended by Ordinance 1012 – Published on 3/29/16)  
(Amended Chapter 69 by Ordinance 1157; Passed on 12/02/2024 – Published on 12/10/2024)

**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**

**Sections:**

- 71.1 Purpose
- 71.2 Definitions
- 71.3 Prohibitions
- 71.4 Exemptions
- 71.5 Permits
- 71.6 General Conditions
- 71.7 Limitations
- 71.8 Authority to Extinguish
- 71.9 Penalties

**SEC. 71.1 PURPOSE.** The purpose of this Ordinance 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 Ordinance 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 limbs, bark branches, flowers, etc.) which is produced on the property as a part of yard and garden development and maintenance.
4. "Clean Dry Wood" is defined as tree limbs, bark, or branches that have been allowed to dry to a point where it is easily combustible without creating undue amounts of smoke plus other wood products free of glue, paint, varnish, stain, and preservatives.
5. "Recreational Fires" means fires for cooking, heating, camping, recreation or bonfires using clean dry wood or charcoal.
6. "Burn Barrel" means any barrel, drum, trash container, or other container not specifically designed to house a fire.



**SEC. 71.3 PROHIBITIONS.** No person shall allow, cause, or permit open burning of combustible materials or yard waste except as provided in the exemptions contained in this Ordinance. No person shall burn any material in a burn barrel.

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

1. Recreational fires no greater than four feet in diameter shall be permitted.
2. Prairie grass or wildflower areas that require annual burnoffs. These areas may be burned by permit following notification to the City. Each burn event requires a permit.
3. Burning of yard waste on lots over one-half acre by permit issued by the City of Waverly. A new permit is required prior to initial burning of yard waste and in the case of a change in property ownership or a change in size of parcel.
4. Burning by Government. Open burning of combustible material by the government unit for public benefit shall be permitted when supervised by the Fire Department.
5. Variances from rules. Any person wishing to conduct open burning of materials not exempted shall make written application delivered to the City Administrator or their designee for variance to allow burning of materials. Variance may be granted by the City Administrator or their designee only upon a finding of special or emergency circumstances. If variance is granted a permit shall be issued specifying the time and manner in which the burning shall be allowed.

**SEC. 71.5 PERMITS.** Permits allowing open burning of yard wastes as provided by this Ordinance shall be issued by the Waverly Zoning Office except for emergency permits issued by the City Administrator or their designee. Applications for burn permits shall be available at the Zoning Office or the City Clerk's Office. Copies of all permits shall be provided to the Police Department and Fire Department. Three types of permits shall be available:

1. Permits authorizing burning yard wastes on lots over one-half acre.
2. Permits authorizing burning prairie grass or wild flower areas.
3. Permits authorizing emergency burns.

The fees for permits shall be established by resolution of the City Council.

Appeal from Administrative denial of a burn permit shall be made to the City Council.

**SEC. 71.6 GENERAL CONDITIONS.** (For Open Burning)

1. The Fire Chief, County or State may prohibit any or all open burning when atmospheric conditions or local circumstances make such fires hazardous or a nuisance.
2. Attendance of Open Fires. Open fires shall be constantly attended by an adult person until such fire is extinguished. This person shall have a hose connected to the water supply, or other fire-extinguishing equipment readily available for use.
3. Authority to Investigate. The City shall have authority to enter onto private property to investigate and determine if violations of this Ordinance exist, or to extinguish fires as provided by Section 71.8 of this Ordinance.
4. Hours. Open burning may only be performed between the hours of 9:00 a.m. and sundown. At sundown, all fires must be completely extinguished so that no burning embers remain or smoke or gas emit there from. These time restrictions shall not apply to recreational fires.

**SEC. 71.7 LIMITATIONS.** 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 except by a Government agency for public benefit shall not be conducted on City streets, alleys, or any other City property.
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.
6. Open burning permits may be denied or revoked based on a violation of this Ordinance.

**SEC. 71.8 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.

**SEC. 71.9 PENALTIES.** Violation of this Ordinance shall constitute a simple misdemeanor or a municipal infraction subjecting violators to appropriate criminal or civil penalties.

**CHAPTER 72**  
**URBAN CHICKENS**

**Sections:**

- 72.1 Purpose.
- 72.2 Definitions.
- 72.3 Where Permitted.
- 72.4 Enclosure Requirements.
- 72.5 Number of Chickens Permitted.
- 72.6 Permit Requirements.

**Sec. 72.1 Purpose.** The purpose of this chapter is to protect the health, safety and welfare of the citizens within the City by allowing a process by which a property owner may keep a limited number of domesticated chickens on their property while observing minimum property standards.

**Sec. 72.2 Definitions.** Definitions used in this chapter.

1. Chicken shall mean a member of the subspecies *Gallus gallus domesticus*, a domesticated fowl.
2. Urban chicken shall mean a chicken kept on a permitted tract of land pursuant to a permit issued under this Chapter.
3. Coop shall mean a cage, enclosure or building used for housing and protecting chickens from weather and predators.
4. Pen shall mean an enclosure for chickens which allows freedom of movement but also prevents escape.
5. Permittee shall mean an applicant who has been granted a permit to raise, harbor or keep chickens pursuant to this Chapter.

**Sec. 72.3 Where Permitted.** Notwithstanding the provisions of this section, the keeping of domestic chickens (sub species *gallus gallus domesticus*), except roosters, shall be permitted in single family residential properties so long as such keeping is in compliance with this subsection and all other applicable City ordinances. (Ordinance 1102 – Published on 5/24/22)

**Sec. 72.4 Enclosure Requirements.** The following criteria shall be considered a minimum form of compliance for the City to consider issuing a permit allowing for the presence of any particular chickens unless allowing such chickens would endanger the health, safety, peace, quiet, comfort, enjoyment of, or otherwise become a public nuisance to nearby residents or occupants or places of business:

1. Chickens must be confined in a coop, fowl house, or mobile coop, known as a chicken tractor, not less than 18 inches in height. In addition to be confined within a coop, a fenced pen area at a size outlined below shall be maintained. Chickens must be kept within the 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.
3. The coop or fowl house must be used for chickens only and must be well ventilated.
4. The coop, the fowl house, or the fenced pen area shall have a minimum of four (4) square feet of floor area for each chicken but shall not be any larger than twelve (12) square feet of area for each chicken. The coop, fowl house, or fenced pen area shall be a minimum of twenty-five (25) feet from any neighboring dwelling property line. Chicken tractors shall be a minimum of ten (10) twenty-five (25) feet from any property line at all times. In the event a zoning or other ordinance requires a greater distance, the more restrictive regulations shall apply.
5. Any coop, fowl house, or fenced pen area must be well drained so there is no accumulation of moisture.
6. 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 twenty four (24) hours.
7. In addition to the coop, fowl house, or fenced pen area, the permittee shall be responsible for sufficiently confining chickens to the permitted property and prevent chickens from entering upon any adjacent property.
8. All chicken feed shall be stored in rodent-proof containers.
9. All such chickens must be hens; no roosters are permitted.
10. The City shall not be liable for injury or death of chickens caused by dogs, cats, or other animals, domestic or wild, whether such animals are licensed by the City or not. Further, injury or death of a chicken caused by an animal is not, in and of itself, sufficient grounds for the City to determine that the animal is a vicious animal pursuant to this Code of Ordinances. Any dead chicken shall be disposed of immediately upon discovering said dead chicken in a manner so as to not cause a nuisance pursuant to this Code of Ordinances.
11. Slaughtering of chickens or selling of eggs are forbidden
12. An owner or possessor of animals on property that is newly annexed or rezoned to a residential classification has ninety (90) days from the date of annexation or rezoning to bring the property into compliance required by this section.

13. A violation of this subsection is a municipal infraction as provided in this Code of Ordinances.

**Sec. 72.5 Number of Chickens Permitted.**

1. No more than four (4) chickens shall be kept or maintained per property at any time.

**Sec. 72.6 Permit Requirements.** No person shall keep any chickens unless they possess a City of Waverly permit issued by the City Administrator or their designee.

- 1. Fee. The fee for such permit shall be thirty (\$30) dollars.
- 2. Permits will be granted for one (1) three (3) years valid from January 1 through until December 31 and shall not be pro-rated for partial year three years from the application year.
  - a. Permits may be purchased at any time during the year but will be valid only through December 31.
  - b. Property owner shall notify the City upon discontinuance of housing chickens.
    - i. As part of discontinuing of housing chickens on the property, the pen and coop areas shall be cleaned in a timely manner so as to not provide a nuisance to neighboring property owners.
  - c. Fees shall not be refunded if the property owner removes the chickens from the premises.
  - d. The permit may be suspended or revoked by the City Administrator or their designee upon hearing and finding evidence that the permittee has violated the conditions of the permit and listed in this Section of the Code. All chickens must be removed from the premises and disposed of in accordance with public health practices upon revocation of the permit. There will be no refund of the permit fee. All associated costs of removal of the chickens shall be assessed back to the property owner.
  - e. By the granting of the permit to raise chickens and the application thereof, the permittee authorizes that the City or its agents have the right to go onto permittee’s property any time for the limited purpose of inspection of the premises to ensure that all applicable conditions have been met.

(Ordinance 975- Published on 02-17-14)

**Chapter 73- Reserved**