

CHAPTER 31

NUISANCES

SUBCHAPTER 1

GENERAL PROVISIONS

31.01 NUISANCES. "Nuisance" means whatever is injurious to health, indecent or offensive to the senses or an obstruction to the free use of property so as essentially to interfere with the comfortable enjoyment of life or property.

(Code of Iowa, Sec. 657.1)

31.02 DEFINITIONS.

The following are declared to be nuisances:

1. **Offensive Smells.** The erecting, continuing or using of any building or other place for the exercise of any trade, employment or manufacture, which, by occasioning noxious exhalations, offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort or property of individuals or the public.
(Code of Iowa, Sec. 657.2 [1])
2. **Filth or Noisome Substance.** The causing or suffering any offal, filth or noisome substance to be collected or to remain in any place to the prejudice of others.
(Code of Iowa, Sec. 657.2 [2])
3. **Water Pollution.** The corrupting or rendering unwholesome or impure the water of any river, stream or pond, or unlawfully diverting the same from its natural course or state, to the injury or prejudice of others.
(Code of Iowa, Sec. 657.2 [4])
4. **Blocking Public and Private Ways.** The obstructing or encumbering by fences, buildings or otherwise the public roads, private ways, streets, alleys, commons, landing places or burying grounds.
(Code of Iowa, Sec. 657.2 [5])

5. Real or personal property kept or used for the purpose kept for the purpose of prostitution and lewdness, gambling houses, places resorted to by persons participating in criminal gang activity prohibited by the Code of Iowa, Chapter 723A, or places resorted to by persons using controlled substances as defined in Code of Iowa Section 124.401, subsection 5 in violation of law, or houses where drunkenness, quarreling, fighting, or breaches of the peace are carried on or permitted to the disturbance of others.

(Code of Iowa, Sec. 657.2 [6])

6. Billboards. Billboards, signboards and advertising signs, whether erected and constructed on public or private property, which so obstruct and impair the view of any portion or part of a public street, avenue, highway, boulevard or alley or of a railroad or street railway track as to render dangerous the use thereof.

(Code of Iowa, Sec. 657.2 [7])

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

(Code of Iowa, Sec. 657.2 [8])

8. Storing of Inflammable Material. The depositing or storing of inflammable junk, such as old rags, rope, cordage, rubber, bones, and paper, by dealers in such articles within the fire limits of the City, unless it be in a building of fireproof construction.

(Code of Iowa, Sec. 657.2 [9])

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

(Code of Iowa, Sec. 657.2 [10])

10. Weeds, Brush. Dense growth of all weeds, vines, brush or other vegetation in the City so as to constitute a health, safety or fire hazard.

(Code of Iowa, Sec. 657.2 [11])

11. Dutch Elm Disease. Trees infected with Dutch elm disease or oak wilt.

(Code of Iowa, Sec. 657.2 [12])

12. Obstructing View at Intersections. All trees, hedges, fences, billboards or other obstructions which prevent persons from having a clear view of traffic approaching an intersection from cross streets in sufficient time to bring a motor vehicle driven at a reasonable speed to a full stop before the intersection is reached.

13. Damaged Vehicles. The storage of damaged vehicles, as defined in Subchapter 2 of this Chapter.

14. Junk or Abandoned Vehicles. The storage of junk or abandoned vehicles, as defined in Subchapter 3 of this Chapter.
15. Sewage. The discharge or exposure of sewage, garbage, or any other organic waste matter into or on any public place.
16. Poison. The deposit of any poisonous material or thing on any premises, so as to allow access to it by any animal or person.
17. Stagnant Water. Stagnant water likely to afford breeding places for mosquitoes.
18. Any sign or sign structure which is structurally unsafe, or constitutes a hazard to safety or health by reason of its location, inadequate maintenance or dilapidation, or is not kept in good repair, or is capable of causing electric shocks to persons likely to come in contact with it, or which obstructs free ingress or egress from a required door, window, fire escape or other required exit way.
19. Signs accessible to the general public containing statements, words, or pictures of an obscene or pornographic character.
20. Depositing or permitting to be deposited dirt, debris, or other sedimentation resultant from grading, construction, demolition, or repair activities.
 - A. Onto public rights of way in amounts which could cause a danger to public health, safety or welfare; or
 - B. Into public storm sewers or drainage ways in amounts which could cause an obstruction to the flow of same; or
 - C. Into a public stream, river or lake in amounts which could cause pollution of same.
21. Residential or non-residential structures, the condition of which constitutes a hazard to safety or to health as determined by the building official or his or her designee.
22. Unoccupied buildings or sheds found to be frequently open or accessible and vacated for more than six months.
23. Discharge of water upon or under public streets or sidewalks by reason of faulty water service.
24. Noise Pollution. Any sound which disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans as defined in Subchapter 5 of this Chapter.

25. Litter. Any decomposable or non-decomposable solid or other waste material as defined in Subchapter 4 of this Chapter.
26. Dense growth of all weeds, grass, vines, brush or other vegetation in the City so as to constitute a health, safety or fire hazard, or which otherwise constitute a nuisance under this chapter. For purposes of this paragraph, all growths of grass or weeds in excess of six inches (6") in height shall be deemed to be a nuisance. Exempt from this paragraph are growths used primarily for educational and/or research purposes, so long as the growths are controlled.
27. Accumulation of rubbish or trash and rank growth of weeds or other vegetation and plants tending to harbor vermin and/or rodents, or which are otherwise conducive to hazard.
28. Snow and Ice left Standing on Sidewalks. All snow and ice not removed from public sidewalks forty-eight (48) hours after the snow and ice have ceased being deposited thereon from one continuous event.
29. Tree Limbs. All tree limbs that are less than eight (8) feet above the surface of any public sidewalk or are less than fourteen (14) feet above the traveled way of any public street.
30. Structures damaged by Fire or Decay. All buildings, walls and other structures which have been damaged by fire, decay or otherwise to an extent exceeding one-half (1/2) of their original value and which are so situated as to endanger the safety of the public.
31. Accumulations in the open of parked, stored, discarded, or disused machinery; unlicensed, unregistered or inoperable vehicles; household appliances; automobile or other vehicle bodies, parts, or components thereof, or any material parked, stored, discarded, or disused in a manner conducive to the harboring of rats, mice, snakes, or vermin, or to fire, health, or safety hazards from such accumulation of other material or from the rank growth of vegetation among the items so accumulated. Except that this Section shall not apply with regard to any vehicle in an enclosed building or so located upon the premises as not to be readily visible from any public place or from any surrounding private property. This paragraph shall further not apply with regard to any vehicle on the premises of a business enterprise operated in a lawful place, other than in a residential district, and operated in a lawful manner, when the keeping or maintenance of such vehicle is necessary to the operation of such business enterprise; nor to a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the City or any other public agency or entity.

32. Permitting or allowing the illumination of flood lights, yard lights or similar lights to be focused in such a fashion so as to encroach upon the peaceful enjoyment of neighboring property.
33. Vehicles parked on a lawn or parking surface not in compliance with Section 41.89 of this City Code.
34. All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public.
35. Loose, overhanging objects or accumulations of ice or snow, which by reason of location above ground level constitute a danger of falling on persons in the vicinity thereof.
36. Obstructing View of Approaches. All trees, hedges, fences, billboards or other obstructions, whether natural or man-made, including moveable objects, which hinder persons from having an adequate view of traffic so as to prevent them from the safe and prudent ingress and egress to or from a public street. All trees, hedges, fences, billboards or other obstructions, whether natural or man-made, including moveable objects, which hinder persons from having an adequate view of traffic so as to prevent them from the continued safe travel on a public street.
37. Obstructing View of Streets. All trees, hedges, fences, billboards or other obstructions, whether natural or man-made, including moveable objects, which materially impede persons from having an adequate view of the public street for the safe and prudent ingress and egress to or from a public street. All trees, hedges, fences, billboards or other obstructions, whether natural or man-made, including moveable objects, which materially impede persons from having an adequate view of the public street for the safe travel on a public street.
38. Fireworks. All use or display of fireworks except as permitted by law or this code.
39. Failure to install any improvement required by any portion of this City Code, or other law or agreement.
40. 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.
41. Cottonwood Trees. Cotton-bearing cottonwood trees and all other cotton-bearing poplar trees.

31.03 NUISANCES PROHIBITED. The creation, causation, or maintenance of a nuisance as defined in this Code of Ordinances is strictly prohibited.

31.04 NUISANCE ABATEMENT. Whenever the Mayor or other authorized municipal officer finds that a nuisance exists, the officer shall cause to be served upon the property owner a written notice to abate the nuisance within a reasonable time after notice.

31.05 NOTICE TO ABATE. The notice to abate shall contain:

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

1. Description of Nuisance. A description of what constitutes the nuisance or other condition.
2. Location of Nuisance. The location of the nuisance or condition.
3. Acts Necessary to Abate. A statement of the act or acts necessary to abate the nuisance or condition.
4. Reasonable Time. A reasonable time within which to complete the abatement.
5. Assessment of City Costs. A statement that if the nuisance or condition is not abated as directed and no request for hearing is made within the time prescribed, the City will abate it and assess the costs against such person.

31.06 METHOD OF SERVICE. The notice may be in the form of an ordinance or sent by certified mail to the property owner.

31.07 REQUEST FOR HEARING. Any person ordered to abate a nuisance may have a hearing with the City Administrator as to whether a nuisance exists. A request for a hearing must be made in writing and delivered to the Clerk within the time stated in the notice, or it will be conclusively presumed that a nuisance exists and it must be abated as ordered. The hearing will be before the City Administrator at a time and place fixed by the City Administrator. The findings of the City Administrator shall be conclusive and, if a nuisance is found to exist, it shall be ordered abated within a reasonable time under the circumstances.

31.08 ABATEMENT IN EMERGENCY. If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance or condition, the City may perform any action which may be required under this Chapter without prior notice. The City shall assess the costs as provided in Section 31.10 after notice to the property owner under the applicable provisions of this Subchapter and hearing as provided in Section 31.07.

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

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

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

31.10 COLLECTION OF COSTS. The Clerk shall send a statement of the total expense incurred, by certified mail to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within thirty (30) days after the statement was sent, the 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.

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

31.11 INSTALLMENT PAYMENT OF COST OF ABATEMENT. If the amount expended to abate the nuisance or condition exceeds one hundred (100) dollars, the City shall permit the assessment to be paid in up to ten (10) annual installments, to be paid in the same manner and with the same interest as benefited property.

(Code of Iowa, Sec. 364.13)

31.12 INTERFERENCE WITH ENFORCEMENT. Any person who shall interfere in any way with the enforcement provision of this Chapter may be charged with a municipal infraction as outlined in Chapter 7 of this Code.

31.13 FAILURE TO ABATE. Any person causing or maintaining a nuisance who shall fail or refuse to abate or remove the same within the reasonable time required and specified in the notice to abate shall be in violation of this Code and may be charged with a municipal infraction as outlined in Chapter 7 of this Code.

(Code of Iowa, Sec. 364.22)

31.14 SAVING CLAUSE. In the event any word, phrase, sentence, paragraph or section contained in this Chapter shall be held to be invalid, unlawful, or unconstitutional for any reason, then it is hereby declared that the remaining such portions and provisions of this ordinance would remain in full force and effect.

SUBCHAPTER 2**DAMAGED VEHICLES**

31.15 DEFINITIONS. A vehicle means and includes any device in, upon, or by which a person or property is or may be transported or drawn upon a highway or street, excepting devices moved by human power or used exclusively upon stationary rails or tracks, and shall include, without limitation, motor vehicles, bus, motor home, automobile, truck, trailer, motorcycle, tractor, wagon or any combination thereof. A damaged or inoperable vehicle means any one of the following characteristics:

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

12. Any vehicle which is not equipped with a part or mechanism, the lack of which renders the vehicle inoperable.
13. Any vehicle that appears to be dismantled or partially dismantled, which cannot be made operable without the addition or replacement of vital parts or mechanisms.
14. Any vehicle or partially dismantled vehicle on private property outside of an enclosed building that has not been operated on a public roadway within the previous 180 days or more.

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

31.17 EXCEPTIONS. The provisions of this Chapter shall not apply:

1. To damaged vehicles kept on private property stored entirely within an enclosed building within an enclosed building, or
2. To damaged vehicles kept on private property in a GC or LI District under the Zoning Ordinance by a person licensed as an authorized vehicle recycler under the provisions of the Code of Iowa, Chapter 321H, when storage thereof is permitted under the certificate of occupancy issued for the private property involved.
3. Restoration of Vehicles. A person may restore one "vehicle, which would otherwise constitute a damaged or inoperable vehicle on private property under the following conditions:
 - A. The owner of the vehicle shall register the vehicle with the City Clerk by obtaining a "Vehicle Restoration Permit" from the City Clerk. The City Clerk is authorized to issue a Vehicle Restoration Permit only if the owner of a vehicle meets the following conditions:
 - i. Submits a completed and signed application form containing the name and address of the owner of the vehicle and the address of the private property on which the vehicle is to be stored and restored, together with the make, model, year and description of the vehicle, including its vehicle identification number. In addition, the applicant shall submit evidence satisfactory to the City Clerk that the vehicle will be appropriately covered during any period of outdoor storage.
 - ii. Provides proof of liability insurance for said vehicle;
 - iii. Pays a fee of fifty dollars (\$50.00).

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

31.18 NOTICE TO ABATE. Whenever the City Administrator or other authorized municipal officer, including a peace officer, finds that a damaged vehicle is stored on private property in violation of this Subchapter, the officer shall cause a written notice to abate to be served upon the owner of the private property involved as shown by the records of the Polk County Auditor. A copy of the notice to abate shall be served upon the owner of the damaged vehicle if such owner is different than the owner of the private property involved and his or her identity can be readily ascertained.

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

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

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

31.21 REQUEST FOR HEARING AND APPEAL. The owner of the private property involved may have a hearing before a hearing officer as to whether a nuisance or prohibited condition exists. A request for hearing must be made in writing and must be delivered to the Chief of Police within ten (10) days from the date of receipt of the notice or it will be conclusively presumed that a nuisance or prohibited condition exists and that it must be abated as ordered.

At the conclusion of the hearing, the hearing officer shall render a written decision as to whether a nuisance or prohibited condition exists. If the hearing officer finds that a nuisance or prohibited condition exists, the hearing officer must order it abated within an additional time which must be reasonable under the circumstances. An appeal from this decision may be had by immediately filing a written notice with the hearing officer. This appeal will be heard before the City Council at a time and place fixed by the Council. The findings of the Council shall be conclusive and, if a nuisance or prohibited condition is found to exist, it shall be ordered abated within a time reasonable under the circumstances.

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

1. Remove the damaged vehicle to a lawful place of storage; or
2. Repair the damaged vehicle to remove all defects that cause the vehicle to violate the provisions of this Subchapter.

31.23 ABATEMENT BY CITY. If the owner of private property upon which a damaged vehicle is found neglects or fails to remove or repair the same as required by Section 31.21 of this Subchapter within ten (10) days after receipt of the notice to abate, or such other time as may be fixed on hearing or appeal, the Chief of Police shall abate such nuisance by causing the damaged vehicle to be impounded. The Chief of Police shall keep an accurate account of the expenses incurred. The itemized expense account shall be filed with the City Administrator who shall cause such expense to be paid by the City.

SUBCHAPTER 3**ABANDONED VEHICLES**

31.24 DEFINITIONS. For use in this Chapter the following terms are defined:

1. "Abandoned Vehicle": means any of the following:
(Code of Iowa, Sec. 321.89 [1] [b])
 - A. A vehicle that has been left unattended on public property for more than twenty-four (24) hours and lacks current registration plates, or two or more wheels or other parts which renders the vehicle inoperable, or
 - B. A vehicle that has remained illegally on public property for more than twenty-four (24) 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 person in control of the property for more than twenty-four (24) hours, or
 - D. A vehicle that has been legally impounded by order of the Chief of Police and has not been reclaimed for a period of ten (10) days, or
 - E. Any vehicle parked on a street or highway and determined by the Chief of Police to create a hazard to other vehicle traffic.
2. "Inoperable Vehicle": means any vehicle which lacks an engine or two or more wheels or other structural part which renders the vehicle inoperable.

31.25 REMOVAL OF ABANDONED VEHICLES. The Police Chief may remove and impound any abandoned vehicle whether in operable or totally inoperable condition. Impoundment shall be in any City-owned garage or area, or in any privately owned public garage or area designated by the Council.

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

31.26 NOTICE BY MAIL. The Police Chief shall notify, by certified mail within twenty (20) days of having taken possession of any abandoned operable vehicle, the last known registered owner of the motor vehicle and all lienholders of record, and any known claimants to the vehicle or personal property found in the vehicle, addressed to their last known address 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 serial number of the vehicle, describe the personal property found in the vehicle, set forth the location of the facility where it is being held, and inform the owner and any lienholders of their right to reclaim the vehicle within twenty-one (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 the costs of the notice required by this Chapter. 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. The notice shall further state that such failure to reclaim is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher. The notice shall also state that any person claiming rightful possession of the vehicle or property or of the assessment of fees and charges may ask for an evidentiary hearing before the Chief of Police to contest the matter. If the persons receiving the notice do not request a hearing or exercise their rights, they shall have no further right, title, claim or interest in or to such vehicle, as provided by law.

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

31.27 NOTIFICATION IN NEWSPAPER. 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 this City shall be made by the Police Chief and multiple listings may be included in said notice if they are subject to the same time limits, and the same information as prescribed for mailed notice shall be included in the publication.

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

31.28 EXTENSION OF TIME. The owner or any lienholder may, by written request delivered to the Police Chief prior to the expiration of the twenty-one (21) day reclaiming period, obtain an additional fourteen (14) days within which the vehicle may be reclaimed.

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

31.29 FEES FOR IMPOUNDMENT. The amount of towing charges, and the rate of storage charges by privately owned garages shall be reasonable and subject to review by the Council.

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

31.30 DISPOSAL OF OPERABLE VEHICLES. If an abandoned vehicle that is operable has not been reclaimed as provided by Section 31.25, the Police Chief shall make a determination as to whether or not the vehicle should be sold for use upon the highways. If the vehicle is not sold for use upon the highways, it shall be sold for junk, or demolished and sold as scrap. The Police Chief shall sell the vehicle at public auction. Any abandoned vehicle which lacks an engine or two or more wheels or another part that renders the vehicle totally inoperable may dispose of the vehicle to a demolisher for junk after complying with the notification procedures and without 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 Police Chief, and is entitled to register the vehicle and receive a certificate of title if sold for use upon the 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 titling of the vehicle is permitted.

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

31.31 DISPOSAL OF INOPERABLE ABANDONED VEHICLES. Inoperable abandoned vehicles shall be disposed of as follows:

1. Disposal by City. Any inoperable abandoned vehicle or any such inoperable vehicle left on private property by other than the owner or person in charge of the private property shall be disposed of by the Chief of Police to a demolisher unless the Chief deems it practicable to sell it as provided in Section 31.29. A sale to a demolisher shall not require the notification procedures or public auction, but the Police Chief shall endeavor to obtain as much compensation as possible to defray any costs to the City.

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

2. Disposal by Other Persons. A person or this City or other unit of government upon whose property or in whose possession is found any abandoned vehicle, or any person being the owner of a vehicle whose title certificate is faulty, lost or destroyed, may, without notification procedures, dispose of such vehicle if it lacks an engine, or two (2) or more wheels, or other structural part which renders the vehicle inoperable, to a demolisher for junk without the title.

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

31.32 PROCEEDS FROM SALES. Proceeds from the sale of any abandoned vehicle shall apply to the cost of towing, preserving, inspecting, storing and notification required, in accordance with law. Any balance shall be held for the owner of the vehicle or entitled lien holder for ninety (90) days, and then shall be deposited in the road use tax fund of the Iowa Department of Transportation. Where the sale of any vehicle fails to realize the amount necessary to meet costs, the Police Chief shall apply for reimbursement from the road use tax fund.

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

31.33 DUTIES OF DEMOLISHER. Any demolisher who purchases or otherwise acquires an abandoned vehicle for junk shall junk, scrap, wreck, dismantle or otherwise demolish such a vehicle. When a demolisher acquires a vehicle under Section 31.30(2), the demolisher shall apply to the Police Chief for a certificate to demolish the vehicle. The application shall include the name and address of the applicant, the year, make, model and serial number of the vehicle, and shall contain a concise statement of the facts surrounding the matter. The Police Chief shall issue the certificate of authority after following the notification procedure, set forth in Sections 31.25 and 31.26. After the vehicle has been demolished, processed or changed so that it physically is no longer a vehicle, the demolisher shall surrender the auction sales receipt or certificate of authority to dispose of or demolish a vehicle to the state Department of Transportation for cancellation.

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

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

SUBCHAPTER 4**LITTER CONTROL****31.35 DEFINITIONS**

1. "Commercial handbill" means any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper booklet, or any other printed or otherwise reproduced original or copies of any matter of literature:
 - A. Which advertises for sale any merchandise, product, commodity or thing; or
 - B. Which directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interest thereof by sales; or
 - C. Which directs attention to or advertises any meeting, theatrical performance, exhibition, or event of any kind, for which an admission fee is charged for the purpose of private gain or profit; but the terms of this clause shall not apply where an admission is charged or a collection is taken up for the purpose of defraying the expenses incident to such meeting, theatrical performance, exhibition, or event of any kind, when either of the same is held, given or takes place in connection with the dissemination of information which is not restricted under the ordinary rules of decency, good morals, public peace, safety and good order; provided, that nothing in this clause shall be deemed to authorize the holding, giving or taking place of any meeting, theatrical performance, exhibition or event of any kind, without a license, where such license is or may be required by any law of this state or under any ordinance of the city; or
 - D. Which while containing reading matter other than advertising matter, is predominately and essentially an advertisement, and is distributed or circulated for advertising purposes, or for the private benefit and gain of person so engaged as advertiser or distributor.
2. "Litter" means any decomposable or non-decomposable solid or other waste material.
3. "Noncommercial handbill" means any printed or written matter, any sample, or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper booklet, or any other printed or otherwise reproduced original or copies of any matter of literature not included in the preceding definitions of a commercial handbill or newspaper.
4. "Person" means any person, firm, partnership, association, corporation, company, or organization of any kind.

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

31.36 THROWING OR DISTRIBUTING HANDBILLS IN PUBLIC PLACES.

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

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

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

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

31.40 DISTRIBUTING HANDBILLS AT PRIVATE PREMISES

1. No person shall throw, deposit, or distribute any commercial or noncommercial handbill in or upon private premises which are inhabited, except by handing or transmitting any such handbill directly to the owner, occupant, or other person then present in or upon such private premises.
2. However, in cases of inhabited premises which are not posted, such person, unless requested by anyone upon such premises not to do so, may place or deposit any such handbill in or upon such inhabited private premises, if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or sidewalks, streets, or other public places, and except that mailboxes may not be so used when so prohibited by federal postal law or regulations.
3. Exemption for mail and newspapers. The provisions of this section shall not apply to the distribution of mail by the United States, nor to newspapers (as defined herein)

except that newspapers shall be placed on private property in such a manner as to prevent their being carried or deposited by the elements upon any street, sidewalk, or other public place or upon private property.

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

31.42 CLEARING OF LITTER FROM PRIVATE PROPERTY BY CITY

1. Notice to remove. The City Administrator is hereby authorized and empowered to notify the owner of any open or vacant private property within the city or the agent of such owner to properly dispose of litter located on such owner's property. Such notice shall be by certified mail addressed to the owner at his or her last known address.
2. Action upon noncompliance. Upon the failure, neglect or refusal of any owner or agent so notified, to properly dispose of litter within a time set by the City Administrator or his or her designee, after receipt of written notice provided for in subsection 1 of this section 31.41, or within this set time after the date of such notice, in the event the notice is returned to the city because of inability to make delivery thereof, provided the notice was properly addressed to the last known address of such owner or agent, the City Administrator is hereby authorized and empowered to pay for the disposing of such litter or to order its disposal by the City.
3. Assessment of costs, schedule of assessments, notice to property owners, adoption of schedule of assessments, certificate for collection and allocation of costs. When the city has effected the removal of litter from private property or has paid for its removal, the actual cost of removal of such litter shall be paid by the owner of the property and shall be assessed against such property and collected by the City in any manner provided by law.

SUBCHAPTER 5**NOISE POLLUTION****31.43 DEFINITIONS**

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

10. "Motorboat". Any vessel which operates on water and which is propelled by a motor, including, but not limited to, boats, barges, amphibious craft, water ski towing devices and hover craft.
11. "Motorcycle". Any motor vehicle having a saddle or seat for the use of the rider and designed to travel on not more than three wheels in contact with the ground. The term shall include motorized bicycles and motor scooters.
12. "Motor vehicle". Any motor-operated vehicle licensed for use on the public highways, but not including a motorcycle.
13. "Noise". Any sound which disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.
14. "Noise disturbance". Any sound which endangers or injures the welfare, safety or health of a human being, or disturbs a reasonable person of normal sensitivities, or devalues or injures personal or real property.
15. "Noise sensitive activities". Activities which should be conducted under conditions of exceptional quiet including, but not limited to, operation of schools, libraries open to the public and churches.
16. "Noise sensitive area". Any area designated by the City Council for the purpose of ensuring exceptional quiet and clearly posted with "Noise Sensitive Area" signs, because of the noise sensitive activities conducted therein.
17. "Person". Any person, firm, partnership, corporation, association, company, organization.
18. "Powered model vehicle". Any self-propelled airborne, waterborne, or landborne model plane, vessel, or vehicle, which is not designed to carry persons, including but not limited to, any model airplane, boat, car or rocket.
19. "Public right-of-way". Any street, avenue, boulevard, highway, sidewalk, or alley or similar place which is owned or controlled by a governmental entity.
20. "Public space". Any real property, including any structure thereon, which is owned or controlled by a governmental entity.
21. "Pure tone". Any sound which can be distinctly heard as a single pitch or a set of single pitches.

22. "Real property boundary". An imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intra-building real property divisions.
23. "Receiving land use". For the purposes of this subchapter, the use or occupancy of the property which receives the transmissions of sound as hereinafter defined.
24. "Recreational vehicle". Any race car, motorcycle, snowmobile, or any other motorized vehicle equipped for use in racing or other recreational events or uses off of public right-of-way on public or private property.
25. "Residential". Any property on which is located a building or structure used wholly or partially for living or sleeping purposes.
26. "RMS sound pressure". The square root of the time averaged square of the sound pressure, denoted P_{rms} .
27. "Sound". An oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that cause compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.
28. "Sound equipment". Any radio, record player, stereo, television, tape deck or player, loud speakers, amplifier, sound truck or other device for producing, reproducing, or amplifying sounds.
29. "Sound level". The weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B, or C as specified in American National Standards Institute specifications for sound level meters (ANSI S1.4-1971, or the latest approved revision thereof). If the frequency weighting employed is not indicated, the A-weighting shall apply.
30. "Sound level meter". An instrument which includes a microphone, amplifier, RMS detector, integrator or time average, output or display meter, and weighting networks used to measure sound pressure levels, which complies with American National Standards Institute Standard 1.4-1971.
31. "Sound pressure". The instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as produced by sound energy.

32. "Sound pressure level". 20 times the logarithm to the base 10 of the ratio of the RMS sound pressure to the reference pressure of 20 micronewtons per square meter (20×10^{-6} N/m²). The sound pressure level is denoted L_p or SPL and is expressed in decibels.
33. "Used" or "occupied". For the purposes of this subchapter, where it appears, either word shall be deemed to include the words "intended, designed, or arranged to be used or occupied".

31.44 EXCEPTIONS TO THIS SUBCHAPTER.

The provisions of this subchapter shall not apply to:

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

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

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

1. Maximum permissible sound levels. With the exception of sound levels elsewhere specifically authorized or allowed in this subchapter, the following are the maximum permissible sound levels allowed at or within the real property boundary of a receiving land use:

(1) TABLE 1. SOUND LEVELS BY RECEIVING LAND USE

Zoning Category of receiving land-use	Time	Sound Level Limit, dBA
R-1, R-1A, R-2, R-3 Residential	7 A.M. to 10 P.M. 10 P.M. to 7 A.M.	60 50
C-1, C-2	At all times	65
M-1	At all times	75
Noise Sensitive Area	At all times	55

- For the purposes of this subchapter, sound levels in excess of the dBA listed in Table 1 above shall be deemed a violation.
- Correction for character of sound. For any source of sound which emits a pure tone, the maximum sound level limits set forth hereinabove shall be reduced by 5 dBA.

2. The provisions of this section shall not apply to:

- A. Activities covered by the following sections: 31.46 (Emergency signaling devices); 31.49 (Amplified sound); 31.50 (Motorized vehicles); 31.51 (Construction); 31.52 (Stationary non-emergency signaling devices); 31.57 (Noise covered by sound variance).
- B. The operation of the following domestic power tools of equipment between the hours of 7:00 A.M. and 10:00 P.M.
- C. Electrical power tools actually being used for their intended purpose.
- D. Motor-powered, muffler-equipped lawn, garden and tree trimming equipment actually being used for their intended purpose.

3. Immediate Threat

- A. The City Administrator or his/her designee shall order an immediate halt to any sound that exposes any person, except those specifically exempted by this Chapter, to continuous sound levels in excess of those shown in Table 2 or to impulsive sound levels in excess of those shown in Table 3. If the sound has not abated within a reasonable length of time following issuance of such an order, the City Administrator may apply to the appropriate court for an injunction to replace the order or may treat the violation in the manner of other code violations.
- B. No order under section 31.45 (3a) hereof shall be issued if the only person exposed to sound levels in excess of those listed in Tables 2 and 3 are exposed as a result of (1) trespass, (2) invitation upon private property by the person causing or permitting the sound, or (3) employment by the person or contractor of the person causing or permitting the sound.
- C. Any person subject to an order as described herein this subsection and issued by the City Administrator or his/her designee shall comply with such order until (1) the sound is brought into compliance with the order as determined by the City Administrator; or (2) a judicial order has superseded such order.

TABLE 2. CONTINUOUS SOUND LEVELS WHICH POSE AN IMMEDIATE THREAT TO HEALTH AND WELFARE (MEASURED AT 50 FEET)

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

- **Correction for Character of Sound.** For any source of sound which emits a pure tone, the maximum sound level limits set forth hereinabove shall be reduced by 5 dBA.
- **Varying Sound Level.** Where the sound level (dBA) varies over the measuring period, the equivalent A-weighted (average) sound level (L_{eq}) shall be determined by figuring the time and intensity levels for time periods set out in Tables 2 and 3.

TABLE 3: IMPULSIVE SOUND LEVELS WHICH POSE AN IMMEDIATE THREAT TO HEALTH AND WELFARE (MEASURED AT 50 FEET)

Sound Level Limit (dB)	Number of repetitions per 24 hour period
140	1
130	10
120	100

31.47 EMERGENCY SIGNALING DEVICES.

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

31.48 SPECIFIC ACTIVITIES PROHIBITED.

1. Sales by "hawking or barking". No person shall offer for sale or sell anything by shouting or raised voice within any residential or commercial area in the city.
2. Loading and unloading. No person shall so load, unload, open, close or handle boxes, crates, containers, building materials, garbage cans, or similar objects between the hours of 7:00 P.M. and 7:00 A.M. the following morning as to create a noise disturbance across a residential real property boundary or within a noise sensitive area. This section shall not apply to activities covered by Section 31.50.
3. Vehicle or motorboat repairs and testing. No person shall repair, rebuild, modify, or test any motor vehicle, motorcycle, or motorboat in such a manner as to cause a noise disturbance across a residential real property boundary or outdoors within a noise sensitive area.

31.49 MUSICAL INSTRUMENTS AND SIMILAR DEVICES. No person shall operate, play or permit the operation or playing of any drum, musical instrument or similar device which produces sound in such a manner as to create a noise disturbance across a residential real property boundary as defined in section 31.45 above, or outdoors within a noise sensitive area.

31.50 REGULATION OF SOUND EQUIPMENT AND SOUND AMPLIFYING EQUIPMENT.

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

2. Fees. A separate permit shall be required for each type of activity described hereinbelow, and permits shall be nontransferable. The permit shall be conspicuously displayed on or immediately adjacent to the sound equipment. A nonrefundable fee for sound equipment permits shall be paid as follows:
 - A. Permits for one day or less- \$20.00
 - B. Permits for over one day through one week- \$40.00
 - C. Permits over one week through one year- \$75.00
 - D. No fee shall be required for any sound equipment permit issued to the city of Windsor Heights, state of Iowa, or the federal government or a governmental subdivision or agency.
3. Information required. Applications for permits required herein shall be made in writing to the City Administrator, accompanied by the required permit fee and the following information:
 - A. Type of permit requested;
 - B. Name and address of applicant;
 - C. The purpose for which the sound equipment will be used;
 - D. The location where the sound equipment will be used;
 - E. The number of days of use and proposed hours of operation of the sound equipment;
 - F. A general description of the sound equipment, including the license number of any motor vehicle upon which it is to be operated;
 - G. The proposed sound pressure level output of the sound equipment, including:
 - i. Type B permits. The approximate decibel output measured in dBA(A)'s at a distance of 100 feet from the sound equipment.

- ii. Type A, C, D and E permits. The address of the residence nearest the sound equipment, the approximate decibel output measured in dB(A)'s at the real property boundary of the private residence nearest the sound equipment, and the decibel output measured in dB(A)'s at a distance of 50 feet from the sound equipment. If the application contains the required information and is accompanied by the required fee, and the proposed use of the sound equipment complies with the standards and other requirements of this section and all other applicable laws and ordinances, the zoning enforcement officer shall issue the appropriate permit.

4. Application standards.

- A. Type A permit--general standards. A type A permit may be issued for sound equipment emitting music or human speech registering not more than 60 dB(A)'s when measured at the real property boundary of the private residence alleging a noise disturbance when known, or at the real property boundary of the private residence nearest the sound equipment, and registering not more than 100 dB(A)'s at a distance of 50 feet from the sound equipment. Sound equipment permitted under a Type A permit may be used only in areas of the city zoned for nonresidential use and only between the hours of 9:00 A.M. and 11:00 P.M.
- B. Type B permit--sound trucks--general standards. Sound trucks may be operated only under a type B permit. A type B permit may be issued for sound equipment mounted upon a motor vehicle and intended for use upon city streets provided that the sound equipment emits only music or human speech registering not more than 80 dB(A)'s when measured at a distance of 100 feet from the sound equipment. Sound equipment permitted under a type B permit may be used only in nonresidential areas from 9:00 A.M. to 9:00 P.M.
- C. Type C permit--parks--general standards. A type C permit may be used for sound equipment emitting music or human speech registering not more than 50 dB(A)'s when measured at the real property boundary of the private residence alleging a noise disturbance when known, or at the real property boundary of the private residence nearest the sound equipment, and registering not more than 100 dB(A)'s when measured at a distance of 50 feet from the sound equipment. Sound equipment permitted under a type C permit may be used only in public parks owned and operated by the city, or public grounds owned and operated by another governmental body, from 10:00 A.M. to 11:00 P.M. for events authorized and approved by the city or other body having jurisdiction over the park or public grounds.

- D. Type D permit--school grounds--general standards. A type D permit may be issued for sound equipment emitting music or human speech registering not more than 50 dB(A)'s when measured at the real property boundary of the private residence alleging a noise disturbance when known, or at the real property boundary of the private residence nearest the sound equipment, and registering not more than 100 dB(A)'s when measured at a distance of 50 feet from the sound equipment. Sound equipment permitted under a type D permit may be used only on school grounds, or in conjunction with a school sponsored activity, from 10:00 A.M. to 11:00 P.M. for events authorized and approved by the school authorities having jurisdiction of the grounds.
- E. Type E permit--residential events--general standards. A type E permit may be issued for sound equipment emitting music or human speech registering not more than 50 dB(A)'s when measured at the real property boundary of the private residence alleging a noise disturbance when known, or at the real property boundary of the private residence nearest the sound equipment, and registering not more than 100 dB(A)'s when measured at a distance of 50 feet from the sound equipment. Sound equipment permitted under a type E permit may be used only pursuant to a permitted street closing, from 10:00 a.m. to 11:00 p.m.
5. Commercial advertising--sound equipment prohibited. No sound equipment shall be permitted to be used on public streets or public places, or in any building or upon any premises if the sound therefrom may be plainly audible from any public street or public place within the city, when any such use is for commercial advertising purposes or for the purpose of attracting the attention of the public to any building or structure for monetary gain.

31.51 MOTORIZED VEHICLES.

1. This section applies to the total noise from a vehicle or combination of vehicles and shall not be construed as limited or precluding the enforcement of any other provisions of this code relating to motor vehicle mufflers or noise control.
2. No person shall operate the engine providing motive power, or an auxiliary engine, of a motor vehicle with a manufacturer's gross vehicle weight rating of 10,000 pounds or more for a period longer than 20 minutes while such vehicle is standing and located within 150 feet of property zoned and used for residential purposes except where such vehicle is standing within a completely enclosed building and does not create a noise disturbance across a real property boundary as defined in this subchapter. This section shall not apply to delivery or pickup vehicles that require the operation of the engine to unload or load their vending loads.

3. No person shall operate within the speed limits specified in this section either a motor vehicle, or a combination of vehicles of a type subject to registration, at any time or under any condition of grade, load, acceleration or deceleration in such manner as to exceed the noise limit listed herein below for the category of motor vehicle, based on the legal speed limit, posted or not, of the road or way on which operate, such noise to be measured at a distance of no more than 50 feet from the center line of travel under test procedures established herein section 31.50 of this Chapter. In the event the distance of the measuring instrument from centerline of travel is less than 50 feet, such listed noise limits shall be corrected to reflect the equivalent noise limits for the actual distance.

Noise Limit in Relation to Legal Speed Limit		
<u>Type of Vehicle</u>	<u>Below 35 MPH</u>	<u>Over 35 MPH</u>
Any motor vehicle with a manufacturer's gross vehicle weight rating of 10,000 lbs.or more and any combination of vehicles towed by such motor vehicle.	88 dB(A)	92 dB(A)
Any motorcycle	82 dB(A)	86 dB(A)
Any other motor vehicle and any combination of motor vehicles towed by such motor vehicle	76 dB(A)	82 dB(A)

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

6. No person shall modify the exhaust system of a motor vehicle or motorcycle by installation of a muffler cutout or bypass, and no person shall operate a motor vehicle or motorcycle which has been so modified. A motor vehicle so operated shall be deemed equipped with a muffler which emits excessive and unusual noise and which is not in good working order.
7. No person shall operate a recreational vehicle or permit the operation of one or more recreational vehicles individually or in a group or in an organized racing event, on public or private property in such a manner that the sound level resulting from such operation exceeds: 73 dBA for any total of three minutes in any continuous one hour period, or exceeds 90 dBA for any period of time during such operation. Sound levels which exceed the limits herein described at the real property boundary of the receiving land use shall be deemed a noise disturbance.
8. Notwithstanding other provisions of this subchapter, no person shall permit the conducting of any part of an organized racing event which involves contest between or among recreational vehicles on public or private property between the hours of 10:30 P.M. and 10:00 A.M. the following morning.

31.52 CONSTRUCTION.

1. No person shall operate or permit the operation of any tools or equipment in construction, drilling or demolition work, or in preventive maintenance work for public service utilities:
 - A. Between the hours of 10:00 P.M. and 7:00 A.M., in any manner which creates a noise disturbance as defined in this subchapter across a residential real property boundary or within a noise sensitive area.
 - B. At any other time, in any manner which creates a noise disturbance across a residential real property boundary or within a noise sensitive area; for purposes of this subparagraph, a sound level at or across a residential real property boundary in excess of an L_{eq} of 85 dBA shall be deemed a noise disturbance.
2. The terms of this section shall not apply to:
 - A. Emergency work or repair work performed by or for governmental entities or public service utilities.
 - B. The use of domestic power tools or equipment subject to other provisions of this subchapter

31.53 STATIONARY NON-EMERGENCY SIGNALING DEVICES.

1. No person shall operate or permit the sounding of any stationary bell, chime, siren, whistle or similar device, intended primarily for non-emergency purposes, from any place, for more than one minute in any hourly period.
2. Devices used in conjunction with places of religious worship shall be exempt from the operation of this section.
3. Exemptions for sound sources covered by this section, but not exempted herein Section 31.52 of this Chapter, may be granted under the procedure set forth in Section 31.49 of this Chapter.

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

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

31.56 POWERS AND DUTIES OF THE NOISE CONTROL DIVISION; ENFORCEMENT.

1. The noise control program established by this subchapter shall be implemented, administered, and enforced by the City Administrator and police departments.
2. The provisions of this subchapter which prohibit the making, continuing, or causing the making or continuing across a real property boundary or within a noise sensitive area, shall be enforced upon receipt of complaint made or filed with city officials by a person disturbed by such noise disturbance or by direction of the chief of police or his or her designee. Certification by an official charged with enforcement of provisions of his subchapter that such complaint was made shall be sufficient to establish the fact of such complaint.

3. To implement and enforce this subchapter the City Administrator shall have the additional power to:
 - A. Conduct research, monitoring, and other studies related to sound.
 - B. Conduct programs of public education regarding the causes, effects and general methods of abatement and control of noise, as well as the actions prohibited by this subchapter and the procedures for reporting violations.
 - C. Coordinate the noise control activities of all municipal departments.
 - D. Review public and private projects, including those subject to mandatory review or approval by other departments, for compliance with this subchapter, if these projects are likely to cause sounds in violation of this subchapter.
 - E. Upon presentation of proper credentials, enter and inspect any private property or place, and inspect any report or records at any reasonable time when granted permission by the owner or by some other person with apparent authority to act for the owner.
 - F. Issue sound variances pursuant to the provisions of this subchapter.
 - G. Prepare recommendations for consideration by the city council, after publication of notice and public hearing, for establishing the boundaries of noise sensitive areas.

31.57 DEPARTMENT ACTIONS. All departments and agencies of the city shall carry out their programs in furtherance of the policy of this subchapter.

31.58 SOUND VARIANCES--APPLICATION.

1. Any person desiring to exceed the permitted sound levels set out in this subchapter, may apply to the City for a variance from such regulations.
2. All applicants for such variances shall apply in writing to the City Administrator. Such application shall be submitted at least 60 days prior to the proposed date for the need of the variance.

3. All variance applications shall contain the following information:
 - A. The name and address of the applicant.
 - B.
 - C. If the application is made on behalf of an organization, the name and address of that organization.
 - D. The name and phone number of a contact person;
 - E. The proposed date(s) of the event for which a variance is required.
 - F. A description of the event and its potential cause for excessive noise;
 - G. The times the event will generate excessive noise; and
 - H. Information which would demonstrate that bringing the source of sound or activity for which the sound variance is sought, into compliance, would constitute an unreasonable hardship on the applicant, on the community, or on other persons. (An application for a variance shall be submitted to the City Administrator accompanied by a nonrefundable fee of \$100.00 to cover the cost of processing the application.
4. Upon receipt of an application for a sound variance, the City Administrator or his or her designee, shall determine what property interests may be affected by the grant of a variance, including, but not limited to:
 - A. The occupants of surrounding single family or duplex residences located in an area that includes the next two homes in any direction, or those within 100 feet of the noise source, whichever is less; or
 - B. The owner or manager of multiple residence structures, including hotels, within such areas.
5. If the City Administrator receives written statements from 25% or more occupants who claim to be adversely affected by allowance of the sound variance, the City Administrator shall schedule a hearing to consider the application for a variance.

31.59 SOUND VARIANCES--HEARING. Upon receipt from the City Administrator that 25% or more property owners or occupants have given cause why the variance should not be granted, the City Administrator shall schedule a hearing and shall send by the regular U.S. Postal Service, a notice of the time, date and location of the hearing to the applicant and all property owners previously notified.

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

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

31.62 SOUND VARIANCE RIGHT OF APPEAL HEARING OFFICER'S DECISION. The decision of the City Administrator may be appealed to the city council by the applicant for a variance, or any impacted resident, provided that such entity or person files a written notice of appeal with the city clerk's office within seven days of the City Administrator's decision. Failure to file a written notice of appeal within such period shall be deemed a waiver of the right to appeal the decision of the City Administrator to the city council.

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