

## TITLE 7

### HEALTH AND WELFARE

#### Chapters:

- 7.04 General Provisions
- 7.08 Rules for Disease Prevention
- 7.12 Nuisances
- 7.16 Unlawful Deposits in Public Places
- 7.28 Garbage and Refuse
- 7.32 Cemetery
- 7.36 Dilapidated Buildings
- 7.40 Abandoned Vehicles
- 7.44 Weeds and Offensive Growth

#### CHAPTER 7.04

#### GENERAL PROVISIONS

#### Sections:

- 7.04.010 Sanitary district established – Area included.
- 7.04.020 Sanitary condition of buildings and premises.
- 7.04.030 Right of health personnel to enter premises.
- 7.04.040 Disposal of offal, garbage or other waste.
- 7.04.050 Disposal by independent hauler.
- 7.04.060 Offensive burning.
- 7.04.070 Violation - Penalty

#### **7.04.010      Sanitary district established – Area included.**

There is established in the city a sanitary district for the collection and disposal of garbage and other such waste material as may become dangerous to the public health or detrimental to the best interests of the community and for the sprinkling, flushing and cleaning of streets. Such sanitary district is declared to comprehend and include all of the territory, land, lots and streets within the city.

#### **7.04.020      Sanitary condition of buildings and premises.**

All persons owning, leasing, occupying or having control of any premises or buildings of any description, together with any alley adjoining thereto, shall at all times keep the same in a clean and wholesome condition, free from filth, stagnant water and other nuisances and all avoidable conditions causing or promoting disease.

#### **7.04.030      Right of health personnel to enter premises.**

The mayor as health officer and law enforcement may enter any building or other place for the purpose of examining, preventing or removing any nuisance, source of filth or cause of sickness.

#### **7.04.040      Disposal of offal, garbage or other waste.**

No offal, garbage or other wastes, including debris, from any creamery, factory, shop, chicken house,

slaughterhouse, tannery, hotel, boardinghouse, restaurant, laundry, meat market or private residence or any other source shall be thrown or deposited upon any lot or land or into any ravine or open ditch, stream, pond or upon any land within the city.

**7.04.050      Disposal by independent hauler.**

Such wastes as in Section 7.04.040 not properly disposed of as garbage and common sewage shall be disposed of by independent refuse haulers, which shall particularly apply to creameries, slaughterhouses, factories and shops.

**7.04.060      Offensive Burning.**

No materials manufactured in whole or in part from wool, rubber, leather or other materials which emit offensive odors during combustion shall be burned without permission of the mayor and no open burning of garbage shall be permitted.

**7.04.070      Liability for violations.**

A violation of this chapter is a municipal infraction and any person violating any of the provisions of this chapter, shall be punished as provided in Chapter 1.12, in the discretion of the court.

**CHAPTER 7.08**

**RULES FOR DISEASE PREVENTION**

**Sections:**

- 7.08.010 Owner or manager of tenement, office, building, factory, hotel or boardinghouse.
- 7.08.020 Open privy vault or cesspool.
- 7.08.030 Sewer drain near water source used for drinking or cooking.
- 7.08.040 Sewer drain emptying into water source used for cooking or into standing water.
- 7.08.050 House offal – Dead animals – Uncovered refuse – Removal of matter from cellar or out-building.
- 7.08.070 No hogs in city.
- 7.08.080 Violation – Penalty.

**7.08.010 Owner or manager of tenement, office, building, factory, hotel or boardinghouse.**

Every owner, keeper or manager of any tenement house, office building, factory, hotel or boardinghouse shall provide the same with a suitable water closet, which shall be kept in a clean and sanitary condition, well-ventilated and free from offensive odors and filth. He shall also keep any of the above-named buildings or houses in a cleanly condition and free from all rubbish, filth, waste and refuse matter.

**7.08.020 Open privy vault or cesspool.**

No privy vault or cesspool shall open into any stream, ditch or drain except common sewers.

**7.08.030 Sewer drain near water source used for drinking or cooking.**

All sewer drains that pass within fifty feet of any source of water used for drinking or culinary purposes shall be water-tight.

**7.08.040 Sewer drain emptying into water source used for cooking or into standing water.**

No sewer drain shall empty into any pond or source of water used for culinary purposes, nor into any standing water within the jurisdiction of this board of health.

**7.08.050 House offal – Dead animals – Uncovered refuse – Removal of matter from cellar our out-building.**

No house offal, nor dead animals of any kind shall be thrown into or upon the streets or alleys, nor left exposed by any person, and no butcher, fish monger or vendor of merchandise of any kind, shall leave any refuse upon the streets of alleys, nor uncovered by earth upon any of the lots of this city; and all putrid and decaying animal and vegetable matter must be removed from all cellars and out-buildings on or before May 1<sup>st</sup> each year.

**7.08.070 No hogs in city.**

No hogs shall be kept within the city limits of the city of Eldon and all cattle yards, barns and stables must be kept clean and free from filth or offensive odors.

**7.08.080 Violation – Penalty.**

A violation of this chapter is a municipal infraction and any person violating any of the provisions of this chapter, shall be punished as provided in Chapter 1.12, in the discretion of the court.

**CHAPTER 7.12**

**NUISANCES**

**Sections:**

- 7.12.010 Definitions.

7.12.020	Examples.
7.12.030	Prohibited.
7.12.040	Notice to abate – Person defined.
7.12.050	Contents of notice to abate.
7.12.060	Method of serving notice.
7.12.070	Abatement by municipality – Payment of expenses.
7.12.080	Collection of cost of abatement.
7.12.090	Request for hearing and appeal.
7.12.100	Hearing decision – Appeal – Findings conclusive.
7.12.110	Abatement in Emergency
7.12-120	Condemnation of Nuisance

### **7.12.010 Definitions**

**JUNK** - is defined as any accumulation of refuse, garbage, debris, demolition materials in or about any premises in the city, including inoperable motor vehicles and machinery. Depositing items so as to resemble a junk yard or salvage yard without a license to do so. Depositing or storing of flammable junk, such as old rags, rope, cordage, rubber, bones and paper by any person, including a dealer in such articles, unless in a building of fire-resistant construction or in a fire proof container, and the storing of all explosives, flammable liquids and other dangerous substances in a dangerous and/or unsafe manner or in a manner other than allowed by law.

Junk means all old or scrap copper, tires, brass, lead, or any other non-ferrous metal; old or discarded rope, rags, batteries, paper, trash, rubber, debris, waste or used lumber, or salvaged wood, dismantled vehicles, machinery and appliances or parts of such vehicles, machinery or appliances; iron, steel or other old scrap ferrous materials; old or discarded glass, tin ware, plastic, or old or discarded household goods or hardware.

### **7.12.020 Examples**

**(This is not an exclusive or exhaustive list of possible nuisances.)**

- A. All diseased animals running at large;
- B. All ponds or pools of stagnant water;
- C. Carcasses of animals not disposed of within twenty-four hours after death as provided by law;
- D. Accumulations of refuse;
- E. The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, creamery or industrial wastes or other substances;
- F. All noxious weeds and other rank growth upon public or private property;
- G. Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities;
- H. The use of a common public drinking cup or roller towel;
- I. The distribution of samples of medicines or drugs unless such samples are placed in the hands of an adult person;
- J. All gambling devices, slot machines and punchboards;
- K. All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame and bawdy houses;
- L. All places where intoxicating liquors are kept for sale, barter or distribution in violation of law, and all liquors, bottles, kegs, pumps, bars and other property kept at and used for maintaining such a place;

- M. Any vehicle used for the transportation of intoxicating liquor, or for promiscuous sexual intercourse, or any other immoral purpose;
- N. All dogs running at large, off the owner's premises and not within the control of the owner;
- O. The public use of profane or obscene language;
- P. All snow and ice not removed from public sidewalks twenty-four hours after the snow and ice has ceased being deposited thereon;
- Q. All trees, hedges, billboards, or other obstructions which prevent persons from having a clear view of traffic approaching an intersection from cross streets in sufficient time to bring a motor vehicle driven at a reasonable speed to a full stop before the intersection is reached;
- R. All limbs of trees which are less than eight feet above the surface of any public sidewalk or street;
- S. All wires which are strung less than fifteen feet above the surface of the ground;
- T. 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 as to endanger the safety of the public;
- U. All explosives, inflammable liquids and other dangerous substances stored in any manner or in any amount other than that provided by ordinance;
- V. All use or display of fireworks except as provided by ordinance;
- W. All unnecessary noises and annoying vibrations;
- X. Obstructions and excavations affecting the ordinary use by the public of streets, alleys, sidewalks or public grounds except under such conditions as are provided by ordinance;
- Y. Any accumulation of refuse, garbage, debris, demolition materials in or about any premises in the city, including inoperable motor vehicles and machinery;
- Z. Keeping or harboring any dog or bitch which disturbs the peace by barking, howling or other obnoxious noise.

**7.12.030 Prohibited.**

The creation or maintenance of a nuisance is prohibited, and a nuisance, public or private, may be abated in the manner provided in this chapter.

**7.12.040 Notice to abate – Person defined.**

Whenever the mayor, or such other officers as provided by law, finds that a nuisance or other prohibited condition exists which is listed in Chapter 7.12, the Mayor or officer shall notify the property owner as shown by the records of the County Auditor to abate the nuisance within ten {10} days after notice.

**7.12.050 Contents of notice to abate.**

The notice to abate shall contain:

- A. An order to abate the nuisance or request a hearing as provided by Sections 7.12.090 and 7.12.100 within ten (10) days;
- B. Location of nuisance if stationary;

- C. Description of what constitutes the nuisance;
- D. Statement of act or acts necessary to abate the nuisance;
- E. Statement that if the nuisance is not abated as directed and no request for hearing is made within the time prescribed, the city will abate it and assess the cost against such person.

**7.12.060 Method of serving notice.**

The notice may be sent by regular mail to the property owner as shown by the records of the County Auditor.

**7.12.070 Abatement by municipality – Payment of expenses.**

If the person so notified neglects or fails to abate the nuisance as directed, the mayor, or other officers initiating the notice, may cause the nuisance to be abated, keeping an accurate account of the expense incurred. The expense account shall be fully itemized, verified and filed with the city clerk. Such expenses shall be paid by the municipality.

**7.12.080 Collection of cost of abatement.**

If the amount expended to abate the nuisance or condition exceeds \$100, the City may permit the assessment to be paid in up to ten annual installments, to be paid in the same manner and at the same rate of interest charged delinquent real estate taxes by the County Treasurer.

**7.12.090 Request for hearing and appeal.**

Any person ordered to abate a nuisance may have a hearing with officer ordering the abatement as to whether a nuisance 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 exists and it must be abated as ordered.

**7.12.100 Hearing decision – Appeal – Findings conclusive.**

At the conclusion of the hearing, the hearing officer shall render a written decision as to whether a nuisance exists. If he finds that a nuisance exists, he must order it abated within an addition 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 is found to exist, it shall be ordered abated within a time reasonable under the circumstances.

**7.12.110 Abatement In Emergency**

If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance or condition, the City may perform any action that may be required under this chapter without prior notice, and assess the costs as provided herein, after notice to the property owner under the applicable provision of this section.

**7.12.120 Condemnation Of Nuisance**

The City may condemn a residential building found to be abandoned and a public nuisance and take title to the property for the public purpose of disposing of the property under Chapter 657A by conveying the property to a private individual for rehabilitation or for demolition and construction of housing.

**CHAPTER 7.16**

**UNLAWFUL DEPOSITS IN PUBLIC PLACES**

**Sections:**

7.16.010 Injurious substance deposit prohibited where.

**7.16.010 Injurious substance deposit prohibited where.**

No person shall throw or deposit upon any street, alley or any other public place in the city, glass bottles, glass, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal or any other debris or any substance likely to injure any person, animal or vehicle upon such street, alley or other public place in the city.

**7.16.011 Abandoned Refrigerators**

Abandoned Refrigerators. No person shall place, or allow to be placed, any discarded, abandoned, unattended or unused refrigerator, ice box or similar container equipped with an air-tight door or lid, snap lock, or other locking device which cannot be released from the inside, in a location accessible to children, outside any building, dwelling, or within an unoccupied or abandoned building or dwelling, or other structure, under such person's control without first removing the door, lid, snap lock, or other locking device from said icebox, refrigerator or similar container. This provision applies equally to the owner of any such refrigerator, icebox or similar container, and to the owner or occupant of the premises where the hazard is permitted to remain.

**CHAPTER 7.28**

**GARBAGE AND REFUSE**

**Sections:**

7.28.010	Purpose.
7.28.020	Definitions.
7.28.030	Approved containers to be used.
7.28.040	Yard waste separation required.
7.28.050	Storage.
7.28.060	Rules and regulations.
7.28.070	Collection.
7.28.080	City shall be sole collection hauler.
7.28.090	Burning of garbage, refuse, rubbish, yard waste and construction and demolition wastes.
7.28.100	Disposal of toxic and hazardous waste.
7.28.110	Collection fees.
7.28.120	Schedule of fees.
7.28.130	Penalty charge.
7.28.140	Fees due.
7.28.150	Delinquent fees.
7.28.160	Violation – Penalty.

**7.28.010 Purpose.**

The purpose of this chapter is to provide for the sanitary disposal of residential and commercial waste, the separation of yard waste from residential and commercial solid waste and the collection thereof, thereby to protect the health, safety and environment that would otherwise result from uncontrolled disposal of waste.

**7.28.020 Definitions.**

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

- A. “Can” means a container for the storage of garbage, refuse or rubbish which is:

1. Provided with a handle and tight-fitting cover;
  2. Substantially made of galvanized materials or other nonrusting material;
  3. Watertight;
  4. Of a size that may be conveniently handled by the collector not to exceed thirty-five gallons;
  5. Rodentproof and verminproof.
- B. “*Commercial-size containers*” with truck lift devices may be approved by the city in lieu of conventional cans where suitable for commercial or large users.
- C. “*Construction and demolition waste*” means waste building materials including wood, plastics, metals and rubbish which result from construction or demolition of structures and buildings.
- D. “*Disposable solid waste container*” means storage devices for garbage other than cans, such as special paper or plastic bags designed for garbage.

#### **7.28.030**

- E. “*Garbage*” means all solid and semi-solid putrescible animal and vegetable waste resulting from the handling, preparing, cooking, storing, serving, consuming of food or material intended for use as food, and all offal, excluding useful industrial byproducts, and shall include all such substances from all public and private establishments and from all residents.
- F. “*Refuse*” means putrescible and nonputrescible wastes, including but not limited to ashes, incinerator ash, incinerator residues, market and industrial wastes, and sweepings.
- G. “*Rubbish*” means nonputrescible solid waste consisting of combustible and noncombustible wastes, such as ashes, paper, cardboard, tin cans, fiberboard, glass, bedding, crockery, or litter of any kind.
- H. “*Toxic and hazardous waste*” means waster materials, including but not limited to poisons, pesticides, herbicides, acids, caustics, pathological wastes, flammable or explosive materials, and similar harmful wastes which require special handling and which must be disposed of in such a manner as to conserve the environment and protect the public health and safety.
- I. “*Yard Waste*” means organic debris including grass clippings, leaves, tree limbs, bark, branches, flowers, weeds and growth which is produced as part of yard and garden development and maintenance.

#### **7.28.030 Approved containers to be used.**

Each person shall provide thirty five gallon cans or approved containers for the storage of garbage, refuse and rubbish accumulating on the premises owned by the person or occupied by the person. Such cans or approved containers shall be kept covered and reasonably clean at all times. They shall be placed for collection at ground level on the property at a point easily accessible to the street or alley from which collection is made. It shall be the duty of the building owner in buildings arranged for more than one family to provide thirty five gallon cans or approved containers for garbage, refuse and rubbish storage and collection. It shall be the duty of the owner or occupant of each building to place the approved can or container for collection by 7:00 a.m. on the scheduled day for collection. Any garbage, refuse, or rubbish which is not placed in an approved can or container, or is not properly stored or contained shall not be collected by the collector, and shall be promptly cleaned up and placed in a proper storage container by the owner or occupant of the premises. In addition, the collector shall not collect additional cans or containers that do not have affixed to them the tag required by Section 7.28.140 of this code.



**7.28.040 Yard waste separation required.**

All yard waste shall be separated by the owner or occupant from all other garbage, refuse and rubbish accumulated on the premises and shall be composted on the premises.

**7.28.050 Storage.**

All garbage must be drained and that accumulating from dwellings must be wrapped in paper, contained in plastic or by some other acceptable means, and placed in a can for collection. All rubbish and refuse shall be placed in a can or a solid waste disposal container for collection.

**7.28.060 Rules and regulations.**

They city council shall by resolution provide the rules and regulations for collections and disposal of garbage, refuse, rubbish and yard wastes including the approval of containers, cans, types of vehicle and manner of transporting.

**7.28.070 Collection.**

All garbage, rubbish and refuse shall be taken from dwellings at least once each week and from public establishments as frequently as the city council may require by the rules and regulations established from time to time by the council. All cans for garbage and disposal solid waste containers for rubbish and refuse shall be kept at ground level at the rear of any residence or business, so as not to be unsightly, to await collection, and in commercial establishments, containers may be stored inside if space is unavailable outside the building provided that access is provided to the collector. The collector shall not collect yard wastes.

**7.28.080 City shall be sole collector hauler.**

A. No person shall collect garbage, refuse, rubbish or yard waste, except his or her own and may haul the same in vehicles owned by themselves or their employees and such self-haulings shall be permissible hereunder; provided, that they transport all such material in a sanitary and unobjectionable manner.

B. No person shall regularly haul for hire, garbage, refuse, rubbish or yard waste in the city, and the city shall be the sole collector of garbage, refuse, rubbish or yard waste from the residences and commercial establishments of the city.

C. Small job contractors are permitted, but shall be limited to haulers, who haul on an individual job basis, for hire, hauling refuse, rubbish or yard waste from either residential or commercial establishments. Such small job contractors shall make application for a license B, small job contractor, for which there shall be an annual fee for the license of ten dollars per year.

**7.28.090 Burning of garbage, refuse, rubbish, yard waste and construction and demolition wastes.**

It is unlawful to burn any garbage in trash containers or any other place within the city. Combustible yard waste may be burned, provided objectionable odors and smoke nuisance does not occur or a fire embargo is not in effect as declared by the fire chief or mayor. Refuse, rubbish, construction and demolition waste, toxic and hazardous waste, shall not be burned within the city without the specific consent of the city council and approval of the fire chief.

**7.28.100 Disposal of toxic and hazardous waste.**

Each person shall dispose of toxic and hazardous waste at a proper state licensed site. The excess accumulation of toxic or hazardous waste is declared a nuisance and shall be punished as provided by law.

**7.28.110**      **Collection of fees.**

The office of the city clerk is authorized and directed to bill for collection charges and collect such service charges for garbage, refuse, and rubbish and disposal in accordance with the rates and procedures for collecting the same established by the city council from time to time.

**7.28.120**      **Schedule of fees.**

There shall be collected by the city for its services in collecting garbage, refuse, and rubbish, the following mandatory charges collected monthly following the period for which the service is rendered to each property owner or occupant which vice is rendered to each property owner or occupant which has a dwelling or commercial structure thereon unless exempted by a permit granted under this chapter and issued by the city council. The charges for collecting garbage, refuse, and rubbish shall be paid by the property owner unless the occupant shall have paid the charge within sixty days of the due date. The schedule of fees for the city collection service is as follows:

- A. For each residence in the city limits with alley or curb pickup, the collection charge for two thirty five gallon cans shall be \$13.00 per month for once a week service. For each residence outside the city limits with alley or curb pickup, the collection charge for two thirty five gallon cans shall be \$17.50 per month for once a week service. For each business in the city limits with alley or curb pickup, the collection charge for two thirty five gallon cans shall be \$14.50 per month for once a week service;
- B. For each apartment with alley or curb pickup, the collection charge for two thirty five gallon cans shall be fifteen dollars per month for once a week service;
- C. For each additional can collected from each residence or apartment already receiving collection service, the charge shall be two dollars for each additional can. For each additional disposable solid waste container of thirty-five gallons or less collected from each residence or apartment, the charge shall be one dollar for each container.
- D. For each commercial establishment without commercial-size containers with truck lift devices, the collection charge shall be for two cans, thirteen dollars per month for once a week service plus three dollars for each additional can and one dollar for each additional disposable solid waste container per collection.
- E. Rates for commercial establishments using commercial-size containers with truck lift devices shall be approved by the city council by resolution based upon weight and volume of the waste collected;
- F. The schedule of fees for collection set forth in subsections A, – and D may be suspended if the occupant or owner of the premises notifies the city clerk that the residence, apartment or commercial establishment will be vacant for one calendar month or more. In such event, the charges provided for collection in subsections A, – and D of this section may be suspended for each full calendar month that a residence, apartment or commercial establishment is vacant. No prorate for partial period of a month will be allowed unless the city clerk is notified in advance of the vacancy.
- G. The city has provided unto each habitable structure in the city, a recycling bin. In the event that such recycling bin needs to be replaced, the same may be purchased from the city at a cost of twelve dollars and only city recycling bins will be collected by the city. Recycling will not be picked up if it is not in a city recycling bin. City recycling bins must remain with the property. If the bins are removed from the property when the inhabitant vacates the property, the cost of the recycling bin shall come out of the deposit.
- H. There shall be a \$10.00 collection fee for each item not permissible in the approved cans.
- I. The schedule of fees for collection set forth for Dumpster Service on a monthly basis. Four yard

dumpster collection fee shall include a \$100.00 deposit plus a \$100.00 monthly fee. Garbage, rubbish and refuse shall be taken from dwellings at least once each week. Six yard dumpster collection fee shall include a \$100.00 deposit plus a \$148.00 monthly fee.

- J. The schedule of fees for collection set forth for Dumpster Service. Four yard dumpster collection fee shall include a \$70.00 deposit plus a \$70.00 collection fee. A contract must be signed. The dumpster will not be delivered until the fees are paid in full.

Six Yard Dumpster collection fee shall include a \$100.00 deposit plus a \$100.00 collection fee. A contract must be signed. The dumpster will not be delivered until the fees are paid in full.

**7.28.130 Penalty charge.**

In addition to the foregoing collection charges, there shall be paid by each owner or occupant with collection and disposal service, a penalty charge of twenty percent of the total amount of the charges to be paid with and at the time of paying for collection and disposal services as provided in this chapter, if said collection fees are not paid on or before the tenth day of the month in which said collection and disposal charge becomes due and payable.

**7.28.140 Fees due.**

Except for the fee set forth in subsection C of Section 7.28.120, all collection and disposal charges shall be due to the City on the first day of the month and shall become delinquent after the tenth of the month. For the fee set forth in subsection C of Section 7.28.120, the occupant or owner of the premises shall purchase in advance a tag issued by the city clerk and shall affix the tag to each additional can or collection set out for collection.

**7.28.150 Delinquent fees.**

If any account for collection and disposal services is not paid within forty five days after the due date, it shall be declared delinquent and the city clerk shall certify to the county treasurer for collection in the same manner as taxes, all such delinquent accounts over three months old on April 1<sup>st</sup> of each year, together with a collection fee of twenty percent of the total amount of the charges to be paid with and at the time of paying for collection and disposal services as provided in this chapter. Such additional collection fee shall be assessed for the city's expenses in certifying the delinquent fees and penalty charges to the county treasurer.

**7.28.160 Violation – Penalty.**

A violation of this chapter is a municipal infraction and any person violating any of the provisions of this chapter, shall be punished as provided in Chapter 1.12, in the discretion of the court.

**CHAPTER 7.32**

**CEMETERY**

**Sections:**

7.32.010	Plat included in chapter.
7.32.020	Ownership, management and control.
7.32.030	Price of lots and Surcharge for Interment.
7.32.040	Interments – Generally.
7.32.050	Interment for remuneration.
7.32.060	Permission for interment.
7.32.070	Certificate of ownership of lot – Form.

7.32.080	Use of terms.
7.32.090	Burial certificates subject to current regulations.
7.32.100	Inheritance of lot – Filing proof.
7.32.110	Use of lots for burial only – Tax exemption – Division of lot by owners.
7.32.120	Sale, transfer or assignment of lot.
7.32.130	Removal of bodies for profit.
7.32.140	Size and placement of monuments.
7.32.150	Work on lots.
7.32.160	Cornerstones.
7.32.170	Mounded graves.
7.32.180	Interment of other than owner of lot or family member.
7.32.190	Opening and closing of graves.
7.32.200	Funerals within grounds of cemetery
7.32.210	Death certificate required for burial.
7.32.220	Change in burial location – Responsibility for error.
7.32.230	Burial of bodies and cremains.
7.32.235	Burial Containers Required; Exception for Cremains.
7.32.240	Reopening graves.
7.32.250	Removal of funeral decorations – When.
7.32.260	Covering graves or monuments.
7.32.270	Burial of other than human beings.
7.32.280	Interment in mausoleum lots.
7.32.290	Mounds on mausoleum graves.
7.32.300	Monuments on mausoleum lots – Lettering.
7.32.310	Sealing caskets in crypt – Charges.
7.32.320	Certificate of ownership required to have grave opened.
7.32.330	Payment for lot and issuance of certificate required to erect monument.
7.32.340	Use of lowering device.
7.32.350	Placing and removal of floral tributes.
7.32.360	Single graves – Transfer.
7.32.370	Trimming or pruning cemetery trees.
7.32.380	Planting or removing trees – Dangerous limbs.
7.32.390	Removal of objectionable plants.
7.32.400	Damaged plants not city’s responsibility.
7.32.410	Flower receptacles.
7.32.420	Protection of cemetery property.
7.32.430	Removal of offensive or injurious objects.
7.32.440	Prohibited decorations.
7.32.450	Enclosures prohibited.
7.32.460	Altering cemetery property.
7.32.470	Payment for work by city.
7.32.480	Cemetery hours.
7.32.490	Visitors.
7.32.500	Children allowed when.
7.32.510	Certain persons – Dogs not allowed.
7.32.520	Damaging cemetery property.
7.32.530	Driving and riding regulations.
7.32.550	Vehicle regulations.
7.32.560	Unlawful deposits on grounds.
7.32.570	Proper conduct required.

**7.32.010      Plat included in chapter.**

All plats of the Eldon Cemetery now in existence or hereinafter prepared, are on file in the office of the city clerk of the city of Eldon and by this reference are made a part of this

**7.32.020 Ownership, management and control.**

The ownership of the Eldon Cemetery is vested in the city, and the management and control of the same is vested in the city, and the management and control of the same is vested in the city council. The mayor and the city clerk shall have charge of all matters pertaining thereto and transact all business with reference thereto, subject to the approval of the city council.

**7.32.030 Price of Lots and Surcharge for Interment.**

The prices of lots in the cemetery shall be five hundred dollars (\$500.00) for each grave space, payable at the time of delivery of the certificate of ownership. This price thus established shall not include opening or closing of the grave. An additional surcharge in the sum of \$75.00 shall be paid to the City at the time of interment and shall be collected on behalf of the City by a licensed funeral home director.

**7.32.040 Interments – Generally.**

No interments shall be made in the city cemetery except in the lots therein belonging to private parties other than as provided in this chapter; and no interments shall be made in any of the private lots in any case where, in order to make the same, any occupied grave will be disturbed; and no cemetery shall be established or made at any other place within the city limits.

**7.32.050 Interment for remuneration.**

Owners of lots or parts of lots shall not allow interments to be made on their lots for remuneration.

**7.32.060 Permission for interment.**

No interment shall be allowed without permission from the mayor and city clerk

**7.32.070 Certificate of ownership of lot – Form.**

To each person purchasing a lot in the city cemetery there shall be issued a certificate of ownership in substantially the following form:

**“CITY OF ELDON, IOWA  
Eldon Cemetery**

No. \_\_\_\_\_

Lot No. \_\_\_\_\_

This is to certify that \_\_\_\_\_ for the consideration of \_\_\_\_\_ dollars, is entitled to hold and use Lot No. \_\_\_\_\_ as designated on the plats of the grounds of the (Eldon Cemetery) as a burial place for the dead. This certificate transferable only on the books of the City Clerk, at the office of the Mayor, in the City of Eldon, at the pleasure of the holder, by the said \_\_\_\_\_ in person, or by \_\_\_\_\_ Attorney, on the surrender of this certificate.

All ordinances, rules and regulations of said city with reference to said cemetery, and all matters in connection therewith, are by this reference made a part hereof the same as if fully re-written herein.

**IN WITNESS WHEREOF**, the said City of Eldon has caused this certificate to be signed by the Mayor and City Clerk of said city.

Dated at Eldon, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

---

Mayor

ATTEST: \_\_\_\_\_  
City Clerk”

**7.32.080 Use of terms.**

“*Lot owner*” means the owner of the burial privileges and right of use, of any burial lot or fractional lot, purchased from the city for a consideration, evidenced by a certificate or written contract for a certificate, or by proved and recognized descent or devise from the original holder of such certificate or contract. “*Ownership*”, “*lot*”, “*owner*”, etc., are in all cases used with similar meaning.

“*Cremains*” means the after product of the cremation of a body.

“*Body*” means all other human remains that do not constitute cremains.

**7.32.090 Burial certificates subject to current regulations.**

All certificates for burial lots shall be made subject to the conditions and limitations and with the privileges specified in the rules and regulations now in force or that may hereafter be adopted by the city council.

**7.32.100 Inheritance of lot – Filing proof.**

Each person is vested with the ownership of his or her lot in fee simple but for the sole purpose of interment, and under the regulations of the city council, on the decease of the owner or part-owner of a lot the heirs or devisees of such decedent are required to file in the office of the city clerk proof of the heirship or proprietorship, for the purpose of being recorded in the proper records of the city with reference to the cemetery. No person will be recognized as owner or part-owner of a lot unless his name appears upon the cemetery book of the city. In case of death of a lot owner when the cemetery lot is disposed of by will, a certified copy of the will must be delivered to the city clerk upon the receipt of which the name or names of the new owner or owners will be registered. Without such proof and record the right of ownership of burial of such person or persons, cannot be recognized by the city council.

**7.32.110 Use of lots for burial only – Tax exemption – Division of lot by owners.**

Lots in the Eldon Cemetery are conveyed by certificate for burial purposes only. They are exempt from taxation and cannot be seized for debt. Neither shall they be mortgaged. Lots or fractional lots as sold will not be divided. When there are joint-owners they may agree between them as to parts of the lot to be used by each, but the city will not undertake to enforce such agreements nor be responsible in any way for the enforcement of the same.

**7.32.120 Sale, transfer or assignment of lot.**

No sale, transfer or assignment of any lot or part of a lot shall be valid without the consent of the mayor or city clerk. No lot owner shall have the right to transfer his lot. Such transfers shall be mere privileges extended in special cases by the city council after careful investigation and the determination by the city council, or by the mayor and city clerk acting for them, that such transfers are proper to be made.

**7.32.130 Removal of bodies for profit.**

The removal by the heirs by a deceased lot owner and his deceased family for profit to themselves is repugnant to the ordinary sense of decency and is absolutely forbidden.

**7.32.140 Size and placement of monuments.**

The size of the monuments on all lots shall be in proper proportion with the lot. All monuments placed within the

cemetery shall have a three foot deep footing to support the monument if the same is a one-piece stone, a four foot deep footing for a two-piece stone and smaller stones shall have a footing of not less than thirty inches deep. All footings and support structures for stones shall be of portland cement and the base supporting structure shall extend six inches horizontally out from the base of the stone.

**7.32.150      Work on lots.**

The city reserves the right to do all work upon lots by its own workmen unless written consent otherwise is given by the mayor and city clerk.

**7.32.160      Cornerstones.**

All lots are marked with cornerstones by the city.

**7.32.170      Mounded graves.**

No grave in the cemetery will be mounded except on the order of the lot owner. No mounds are allowed on the ordinary single graves. When grave mounds become unsightly they must at once be neatly sodded level. All lot owners must keep the graves property filled, and remove all surplus dirt.

**7.32.180      Interment of other than owner of lot or family member.**

All interments in lots shall be restricted to members of the family of the owner of the lot. If an order is given for the interment of a person not a member of the immediate family, permission in writing from the lot owner must be filed with the city clerk and such permission shall not be for remuneration.

**7.32.190      Opening and closing of graves.**

All graves in the Eldon Municipal Cemetery shall be opened and closed under the direction of of a licensed funeral director.

**7.32.200      Funerals within grounds of cemetery.**

Funerals within the grounds will be under the control of the superintendent or custodian of the cemetery or such person as may be acting custodian thereof at that time.

**7.32.210      Death certificate required for burial.**

No burial will be made without a proper death certificate or death permit.

**7.32.220      Change in burial location – Responsibility for error.**

When an undertaker orders the location of a grave, no change of location after interment will be made except at the expense of the lot owner; the city will not be responsible for any mistake occurring from the want of precise and proper instructions as to the exact location of the grave in the lot.

**7.32.230      Burial of bodies and cremains.**

The interment of two bodies in one grave will not be allowed except in cases of mother and infant, or twin children, or two children buried at the same time. The interment of more than two cremains in one grave will not be allowed. The interment of one body and one or more cremains will not be allowed. In the case of the interment of two cremains in one grave, the following rules shall apply:

- A. There shall be a head stone, and there may be a foot stone.
- B. The head stone shall be placed first, and if there is a foot stone, the foot stone must be flush with the ground.

- C. Each cremains shall be placed one foot in from the respective end of the grave.
- D. There shall be no additional charge for the addition of a second set of cremains to the grave. There shall be no restrictions as to the relationship between the two persons whose cremains are placed in the grave.

**7.32.235 Burial Containers Required; Exception for Cremains.**

- A. All interments of bodies shall be made in a casket and placed in a burial container. A burial container shall mean the underground container in which a casket is placed and is of sufficient strength to support earth covering the grave site. A burial container which measures twenty (20) inches by thirty-two (32) inches or less may be constructed of rigid plastic. A burial container, which measures in excess of twenty (20) inches by thirty-two (32) inches shall be constructed of concrete or a minimum of twelve (12) gauge metal. No interment will be permitted in wooden containers.
- B. The burial of cremains is excepted from this section.

**7.32.240 Reopening graves.**

For sanitary reasons graves will not be reopened for inspection except for official investigation.

**7.32.250 Removal of funeral decorations – When.**

As soon as flowers, wreaths, emblems, etc., used at funerals or placed upon graves at other times, become unsightly they will be removed and no responsibility for their protection and maintenance will be assumed. Employees will decline to attempt to find them after being removed. (Ord. 58 §25, 1928).

**7.32.260 Covering graves or monuments.**

No monuments or graves shall be covered with carpets, burlap, cloth, or any other material. During the winter months evergreen may be used. (Ord. 58 §26, 1928).

**7.32.270 Burial of other than human beings.**

No interment of any body other than that of a human being will be permitted.

**7.32.280 Interment in mausoleum lots.**

If interments are to be made in mausoleum lots they must be kept back of the front line of the structure on either side. No interment may be made in front.

**7.32.290 Mounds on mausoleum graves.**

No mounds of any description will be permitted on graves on mausoleum lots.

**7.32.300 Monuments on mausoleum lots – Lettering.**

No monuments may be set on mausoleum lots; grave markers on mausoleum lots must be level with the sod and inscriptions must be sunken letter on the top surface. No raised letters will be permitted.

**7.32.310 Sealing caskets in crypt – Charges.**

Interments in crypts of mausoleums must be made in hermetically sealed caskets or boxes. A reasonable charge will be made for opening, closing and sealing a crypt if done by the city.



**7.32.320 Certificate of ownership required to have grave opened.**

Lot owners or their heirs desiring graves opened will be required to exhibit the certificate for the lot or give other satisfactory evidence of ownership.

**7.32.330 Payment for lot and issuance of certificate required to erect monument.**

No monument or grave marker may be erected on any lot until the lot is fully paid for and certificate issued.

**7.32.340 Use of lowering device.**

Lowering devices may be used at all adult graves where obstructions do not prevent, without extra charge.

**7.32.350 Placing and removal of floral tributes.**

Floral tributes will be removed from graves on April 1<sup>st</sup> of each year and floral tributes may be placed on graves after November 1<sup>st</sup> and May 1<sup>st</sup> of each year

**7.32.360 Single graves – Transfer.**

Bodies interred in single graves remain undisturbed forever unless the owners of the graves order their removal. When a lot is purchased and bodies are transferred to it from a single grave the full price paid for the use of the ground, less removal charges will be credited to the lot

**7.32.370 Trimming or pruning cemetery trees.**

No person shall trim or prune or remove any branches from any tree in the cemetery whether on his lot or not. On request the superintendent will do any pruning needed without charge.

**7.32.380 Planting or removing trees – Dangerous limbs.**

Permission shall first be obtained before planting any shrub or tree and no shrub or tree growing within the cemetery shall be removed without the consent of the city. If any tree, shrub, vine or plant situated in a lot becomes unsightly, dangerous or detrimental, the city shall have the right to remove the same, or such part thereof as may be deemed necessary. The city will use constant care in examining trees and removing those apparently in unsound and dangerous condition or unsound and dangerous limbs and branches of trees, but it expressly disclaims all responsibility for damage either to persons or property resulting from falling trees or parts of trees.

**7.32.390 Removal of objectionable parts.**

Many plants, especially vines, interfere with the proper care of lots and graves and injure the grass. Such plants will be removed when found objectionable.

**7.32.400 Damaged plants not city's responsibility.**

The city will not be responsible for frozen plants or for plants damaged by hail, windstorm, thieves, vandals or other causes beyond its control. (Ord. 58 §40, 1928).

**7.32.410 Flower receptacles.**

Receptacles for cut flowers should be sunk level with the ground, thus insuring the safety of such articles, and facilitating the cutting of the grass from the graves. Lot owners are strongly urged not to place vases upon their lots. Flowers will grow much better in the ground than in any vase.

**7.32.420 Protection of cemetery property.**

The city will take every reasonable precaution to protect all private property of lot and grave owners, properly in the cemetery, from loss or damage, but it distinctly disclaims all responsibility for loss or damage from causes beyond its reasonable control and, especially, from mischief makers; from all acts of providence including especially winds, tornadoes, cyclones, hail, snow and frost whether the damage be direct or collateral.

**7.32.430      Removal of offensive or injurious objects.**

If anything is placed on or in any lot or grave which is offensive, improper or injurious or which violates any rule, it will be removed without notice.

**7.32.440      Prohibited decorations.**

Wooden tablets, metal wreaths, baskets, boxes or miscellaneous objects, shall not be placed upon graves or lots.

**7.32.450      Enclosures prohibited.**

Fences, copings, steps, hedges or other enclosures around or within lots or graves will not be allowed.

**7.32.460      Altering cemetery property.**

The right to alter or change the plants, walks, drives, streets, alleys or unsold vacant lot is reserved to the city.

**7.32.470      Payment for work by the city.**

Payment in advance for work to be done by the city may be required, and the city may refuse to do work for any person in arrears on an account.

**7.32.480      Cemetery hours.**

The Eldon Municipal Cemetery shall be open from sunrise to sunset each day.

**7.32.490      Visitors.**

Visitors will be admitted between the above hours, but must observe all rules. Visitors must keep to the walks and drives and must not cross over, occupy or otherwise trespass upon any lot or grave not their own.

**7.32.500      Children allowed when.**

No children will be admitted unless attended by some person who will be responsible for their conduct. They must not be allowed to run over the lots or graves.

**7.32.510      Certain person – Dogs not allowed.**

Persons or picnic parties with refreshments or liquors will not be admitted. Persons with firearms will not be admitted and no one will be allowed to disturb the quiet and good order of the place. Dogs will not be allowed in the cemetery.

**7.32.520      Damaging cemetery property.**

Picking the flowers wild or cultivated, breaking or injuring any tree, plant or shrub, or in any way injuring any monument, headstone, vault, ornament or other structure or property within the cemetery is prohibited; and will also, under the state law, subject the offender to a severe penalty.

**7.32.530      Driving and riding regulations.**

No riding or driving faster than a walk or slow trot will be allowed and horses must not be left unattended. Driving or riding upon the walks or lots will not be allowed. Vehicles must not be turned in any drive. Horses must not be fed or unharnessed in the grounds.

**7.32.550      Vehicle regulations.**

Automobiles must proceed at slow speed and be kept under complete control at all times. When near horses which exhibit signs of fear the machines must be stopped at once and remain standing until the animals have reached a safe distance. When stopped the emergency brake must be set before the driver leaves his seat. The city reserves the right to exclude vehicles when the grounds are unusually crowded.

**7.32.560      Unlawful deposits on grounds.**

Depositing rubbish or offal of any kind upon the lots, walks or drives is prohibited.

**7.32.570      Proper conduct required.**

Infractions of the rules will be promptly punished, and improper conduct may subject the offender to expulsion from the grounds.

## CHAPTER 7.36

### DILAPIDATED BUILDINGS

#### Sections:

7.36.010	Building official.
7.36.020	Definition of unsafe.
7.36.030	Notice to owner.
7.36.040	Posting of signs.
7.36.050	Right to demolish.
7.36.060	Costs.
7.36.070	Violation – Penalty.

#### **7.36.010**      **Building official.**

The mayor or other designated officer shall be responsible for the enforcement of the ordinance codified in this chapter. The council may either appoint a person to be the building official or designate some other officer to carry out the duties of the building official, and upon enactment of the ordinance codified in this chapter, the mayor is designated the building officer.

#### **7.36.020**      **Definition of unsafe.**

A. All buildings or structures that are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, as specified in this chapter, the city building code or any other ordinance, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in Sections 7.36.030, 7.36.040 and 7.36.050.

B. “*Unsafe building*” means any structure or mobile home meeting any or all of the following criteria:

1. Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property;
2. Whenever any portion of a building, or any member, appurtenance, or ornamentation on the exterior thereof is not so anchored, attached, or fastened in place so as to be capable of resisting a wind pressure of twenty pounds per square foot;
3. Whenever any portion thereof has wracked, warped, buckled, or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction;
4. Whenever the building or structure, or any portion thereof, because of (a) dilapidation, deterioration, or decay; (b) faulty construction; (c) the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay, or inadequacy of its foundation; or (e) any other cause is likely to collapse partially or completely;
5. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose of which it is being used;
6. Whenever the exterior walls or other vertical structural members list, lean, or buckle to such an extent that a

plumb line passing through the center of gravity does not fall inside the middle one-third of the base;

7. Whenever the building structure, exclusive of the foundation, shows thirty-three percent or more damage or deterioration of its supporting member or members, or fifty percent damage or deterioration of its nonsupporting members, or of its enclosing or outside walls or coverings;

8. Whenever the building or structure has been so damaged by fire, wind, earthquake, or flood, or has become so dilapidated or deteriorated as to become (a) an attractive nuisance to children; (b) a harbor for vagrants, criminals, or immoral persons; or as to (c) enable persons to resort thereto for the purpose of committing unlawful or immoral acts;

9. Whenever a building or structure, used or intended to be use for dwelling purposes, because of inadequate maintenance, including lack of paint so as to expose wood to rotting, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air, or sanitation facilities, or otherwise, is determined by the health officer to be unsanitary, unfit for human habitation, or in such condition that is likely to cause sickness or disease;

10. Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections, or heating apparatus, or other cause, is determined by the State Fire Marshal or city fire chief to be a fire hazard;

11. Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence;

12. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

#### **7.36.030 Notice to owner.**

A. The building official or other designated officer shall examine, or cause to be examined, every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the building official shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within forty-eight hours or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within ninety days from the date of notice, unless otherwise stipulated by the building official. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected, and approved by the mayor.

B. Notice shall be served upon the owner by certified mail, with return requested. If the letter is returned as refused or undeliverable, the law considers notice to have been given, and this section is satisfied. Where there is no record of the owner, the notice may be made by an ordinance. This designated period within which the owner or person in charge is required to comply with the order of the mayor or other designated officer shall begin as of the date the owner receives such notice. However, such notice shall, except in cases of immediate danger, state that the person notified may request a hearing before the council concerning the determination that the building be repaired, removed, or demolished, and such request shall be made at least three days before the deadline set in the notice, if less than fifteen days was set, and at least ten days of over twenty-one days was set.

#### **7.36.040 Posting of signs.**

The mayor or other designated officer shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. Mayor, City of Eldon." Such notice shall remain posted until the required repairs, demolition, or removal are completed. Such notice shall not be removed without written permission of the building official and not person shall enter the building except for the purposes of making the required repairs or of demolishing the building.

**7.36.050      Right to demolish.**

In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the city council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the building official to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the council.

**7.36.060      Costs.**

Costs incurred under Section 7.36.050 shall be paid out of the city treasury. Such costs shall be charged to the owner of the premises involved and levied against the land on which the building or structure is located, and shall be collected in the manner provided in Section 364.12(3)(h), Code of Iowa.

**7.36.070      Violation – Penalty.**

A violation of this chapter is a municipal infraction and any person violating any of the provisions of this chapter, shall be punished as provided in Chapter 1.12, in the discretion of the court.

**CHAPTER 7.40**

**ABANDONED VEHICLES**

**Sections:**

7.40.010	Purpose.
7.40.020	Definitions.
7.40.030	Impoundment.
7.40.035	Removal of Abandoned Vehicles
7.40.040	Reclamation – Notice to owner and lien holders.
7.40.050	Extension of reclamation period.
7.40.060	Impoundment fees.
7.40.070	Auction of operable vehicles.
7.40.080	Inoperable abandoned vehicles – Demolition.
7.40.090	Duties of demolisher.
7.40.100	Junk vehicles and machinery a nuisance.
7.40.110	Abatement – Notice.
7.40.120	Duty of owner to remove or repair.
7.40.130	Abatement – Authority – Procedure.
7.40.140	Exceptions.
7.40.150	Violation - Penalty

**7.40.010      Purpose.**

The purpose of this chapter is to protect the health, safety and welfare of the citizens and safety of property of this city by providing for removal of abandoned motor vehicles and the elimination of the open storage of abandoned and junk motor vehicles and machinery except in places authorized. (Ord. 116 §1, 1974).

**7.40.020 Definitions.**

For the purpose of this chapter, the following terms are defined:

A. “*Abandoned vehicle*” means any of the following:

1. A motor vehicle that has been left unattended on public property (streets and public grounds) for more than forty-eight hours and lacks current registration plates or two or more wheels or other structural parts which renders the vehicle totally inoperable;
2. A motor vehicle that has remained illegally on public property for more than fifteen days;
3. A motor 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 hours.
4. A motor vehicle that has been legally impounded by order of the mayor or other designated officer and has not been reclaimed for a period of ten days.
5. Any vehicle parked on street determined by the mayor or other designated officer to create a hazard to other vehicular traffic

**7.40.030 Impoundment.**

The mayor, or other designated officer, may remove and impound any abandoned motor vehicle whether in operable or totally inoperable condition as defined by Section 7.40.020. Impoundment shall be in any city owned garage or area, or in any privately owned public garage or area designated by the city council.

**7.40.035 Removal Of Abandoned Vehicles**

1. The Mayor may, without prior notice or hearing, remove and impound any abandoned vehicle. The Mayor may hire other personnel, equipment, and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles.
2. The impoundment and storage of all vehicles pursuant to this chapter shall be in such areas or places designated by the City Council.
3. When a vehicle is taken into custody and impounded under the provisions of this chapter, the Mayor, shall maintain a record of the vehicle, listing the color, year of manufacture, manufacturer's trade name, body style, vehicle identification number, and license plate and year displayed on the vehicle. The records shall include the date and hour of tow, location towed from, location towed to, person or firm doing the towing, reason for towing, and the name of the officer authorizing the tow.
4. Nothing in this chapter shall govern the procedures of any police officer in taking into custody and impounding any vehicle to be used or proposed to be used as evidence in a criminal case involving crimes other than violations of this chapter.

**7.40.040 Reclamation – Notice to owner and lien holders.**

When a vehicle is taken into custody under the provisions of this chapter or under any provisions of State law, the Mayor shall notify, within three (3) days, by certified mail with five (5) days return receipt, the last known registered owner of the vehicle, 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:

- a. Describe the year, make, model, and serial number of the vehicle.

- b. Describe the personal property found in the vehicle.
  - c. Describe the location of the facility where the vehicle is being held.
  - d. Inform the persons receiving notice:
    - (1) of their right to reclaim the vehicle and personal property within ten (10) days after the effective date of the notice;
    - (2) that the right can be exercised upon payment of all towing, preservation, notice, and storage charges resulting from placing the vehicle in custody;
    - (3) that failure of the owner or lienholders to exercise their right to reclaim the vehicle within the reclaiming period shall be deemed a waiver by the owner and all lienholders of all right, title, claim, and interest in the vehicle;
    - (4) 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.
  - e. State that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or personal property by the Mayor or the assessment of fees and charges provided by this chapter may request a hearing to contest these matters.
  - f. State that a request for a hearing must be in writing and received by the department prior to the expiration of the ten day reclaiming period.
  - g. State that in the event a hearing is requested immediate release of the vehicle may be obtained by posting a cash bond.
5. The owner, lienholders or any person receiving notice may, by written request received by the Mayor prior to the expiration of the ten day reclaiming period, obtain an additional fourteen (14) days within which the vehicle may be reclaimed.
6. Notice by one publication in one newspaper of general circulation in the area where the vehicle was abandoned shall be sufficient to meet the requirements of this chapter. The Published notice may contain multiple listings of abandoned vehicles but shall be published within the same time requirements and shall contain the same information as prescribed for mailed notice in this section. Published notice shall be used if:
- a. the identity of the last registered owner cannot be determined, or
  - b. the registration contains no address for the owner, or
  - c. it is impossible to determine with reasonable certainty the identity and address of all lienholders.
  - d.
7. If the persons receiving notice do not request a hearing or exercise their right to reclaim the vehicle or personal property within the reclaiming period, the owner of the vehicle or owners of the personal property shall no longer have any right, title, claim, or interest in or to the vehicle.
8. No court in any case in law or equity shall recognize any right, title, claim, or interest of the owner and lienholders after the ten day reclaiming period.

**7.40.050      Extension of reclamation period.**

The owner or lien holder may, by written request delivered to the mayor prior to the expiration of the fourteen-day reclaiming period, obtain an additional fourteen days within which the motor vehicle may be reclaimed.

**7.40.060      Impoundment fees.**

- 1. Before the owner or other person lawfully entitled to possession of any vehicle that has been impounded under the provisions of this chapter or any other provision of law may recover such vehicle, such person shall present to the Mayor evidence of such person's identity and right to possession of the vehicle, shall sign a receipt for its return, and shall pay the costs of:
  - a. an impoundment fee
  - b. towing charges



- c. preservation charges
  - d. storage charges
  - e. notice charges
2. The amount of the charges specified in a-e shall be set by the City Council. The notice charges shall be limited to the actual cost.
  3. If a hearing is requested, the owner or person lawfully entitled to possession of the vehicle shall be permitted to secure the immediate release of the vehicle upon posting a cash bond in an amount equal to the sum of:
    - a. the fees required
    - b. the amount of the fine or penalty for each violation for which there is an outstanding or otherwise unsettled traffic violation notice or warrant.

**7.40.070 Auction of operable vehicles.**

If an abandoned motor vehicle which is operable has not been reclaimed as provided by Sections 7.40.040 and 7.40.050, the marshal shall make a determination as to whether or not the motor vehicle should be sold for use upon the highways. If it is to be sold for such use, it shall first be inspected as required by law, have a valid certificate of inspection affixed, and shall then be sold, and title given in accordance with law. Vehicles not sold for use upon the highways shall be sold only in accordance with the restrictions in the state law. The purchaser shall take title as provided for by law, or if sold to a demolisher, no further titling of the motor vehicle shall be permitted. Proceeds from any sales shall apply to the cost of towing, preserving, storing and notification required, in accordance with state law. Any balance shall be disposed of as required by law. 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 as provided by law.

**7.40.080 Inoperable abandoned vehicles – Demolition.**

Any totally inoperable abandoned vehicle, as defined in Section 7.40.020, 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 law enforcement to a demolisher, unless he deems it practicable to sell it as provided in Section 7.40.070. A sale to a demolisher shall not require the notification procedures or public auction, but the law enforcement shall endeavor to obtain as much compensation as possible to defray any costs to the city. A person, firm, corporation, or the city or other unit of government upon whose property or in whose possession is found any abandoned motor vehicle, or any person being the owner of a motor vehicle whose title certificate is faulty, lost or destroyed, may, without notification procedures, dispose of such motor vehicle if it lacks an engine or two or more wheels or other structural part which renders the vehicle totally inoperable, to a demolisher for junk without the title.

**7.40.090 Duties of demolisher.**

Any demolisher who purchases or otherwise acquires an abandoned motor vehicle for junk shall junk, scrap, wreck, dismantle or otherwise demolish such a motor vehicle. When a demolisher acquires a motor vehicle under Sections 7.40.070 and 7.40.080, the demolisher shall apply to the law enforcement 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 motor vehicle. After the motor vehicle has been demolished, processed or changed so that it physically is no longer a motor vehicle, the demolisher shall surrender the auction sales receipt or certificate of authority to dispose of or demolish a motor vehicle to the State Department of Public Safety for cancellation.

**7.40.100 Junk vehicles and machinery a nuisance.**

Storage within the corporate limits of a junk motor vehicle or junk machinery upon private property owned or controlled by the owner of the vehicle or machinery, unless excepted by Section 7.40.140, constitutes a threat to the health and safety of the citizens and is a nuisance within the meaning of Section 657.1 of the Code of Iowa. If any junk motor

vehicle or machinery is stored upon private property in violation of this section, the owner of said motor vehicle (who is the owner or person in control of the property upon which it is stored) shall be prima facie liable for said violation.

**7.40.110      Abatement – Notice.**

Upon discovery of any junk motor vehicle or junk machinery stored upon private property within the corporate limits of the city in violation of Section 7.40.100, the law enforcement shall within ten days notify by certified mail the owner of said motor vehicle or other property owner that:

- A.      The motor vehicle constitutes a nuisance under the provisions of this chapter.
- B.      The owner must remove or repair the motor vehicle or machinery in accordance with the terms of Section 7.40.120.
- C.      Failure to remove or repair the motor vehicle or machinery will be sufficient cause for its removal by the city at the owner's cost.

**7.40.120      Duty of owner to remove or repair.**

The owner of a junk motor vehicle or junk machinery (who is the owner or person in control of property upon which it is stored) who violates the provisions of Section 7.40.100 must within ten days after receipt of written notice from the mayor, or other designated officer, remove the motor vehicle or machinery to an auto salvage yard or junkyard duly licensed by the city, or to a lawful place of storage without the city limits, or repair the defects which cause such motor vehicle or machinery to violate the provisions of this chapter, including licensing if the motor vehicle is not currently licensed.

**7.40.130      Abatement – Authority – Procedure.**

If such owner of a junk motor vehicle or machinery fails to remove or repair the motor vehicle in accordance with the terms of Section 7.40.120, the law enforcement shall abate such nuisance by causing the motor vehicle to be removed and impounded and sold or disposed of as specified in Sections 7.40.160 through 7.40.180. The cost of abatement shall be charged to the owner of the motor vehicle or other property owner.

**7.40.140      Exceptions.**

The provisions of this chapter shall not apply to a junk motor vehicle or junk machinery stored within:

- A.      A garage or enclosed structure;
- B.      An auto salvage yard or junkyard duly licensed by the city.

**7.40.150      Violation – Penalty.**

A violation of this chapter is a municipal infraction and any person violating any of the provisions of this chapter, shall be punished as provided in Chapter 1.12, in the discretion of the court.

## CHAPTER 7.44

### WEEDS AND OFFENSIVE GROWTH

#### Sections:

7.44.010	Owner to cut weeds, etc.
7.44.020	Definitions
7.44.030	Notice to property owners.
7.44.040	Service of notice.
7.44.050	Report required upon work completed by the Public Works Department.
7.44.060	Assessment of costs.
7.44.070	Violation - Penalty.

#### **7.44.010**      **Owner to cut weeds, etc.**

All weeds, grass, vines, brush, and dead, damaged or unsightly bushes, trees or other offensive growth growing on lots and parcels of ground within the corporate limits of the city, exceeding 9 inches in height, constitute a health, safety and fire hazard; and the owners or occupants of all lots and parcels of ground within the city shall cut or destroy weeds, grass, vines, brush and damaged or unsightly bushes, trees or other offensive growth on their respective lots or parcels of ground each time they reach a height of 9 inches. In the event of failing to cut or destroy such weeds, grass, vines, brush, trees or other growth after reaching a height of 9 inches, the Public Works Department may cause the same to be done, or the mayor or designated may issue a civil citation for a violation of this Chapter.

#### **7.44.020**      **Definitions.**

A.      “*Agricultural use land*” refers to land on which regularly cultivated crops are grown. Restrictions of this subsection shall apply only to the outermost 20 feet within the perimeter of the property which is used for agricultural purposes.

B.      “*Weeds*” shall refer to any plants that are not regularly cultivated.

#### **7.44.030**      **Notice to property owners.**

Once each year before the Public Works Department shall cut or destroy any weeds, vines, brush and dead, damaged or unsightly buses, trees or other offensive growth as herein provided, notice shall be served on all property owners of the City by publication on or before April 15<sup>th</sup> each year in a daily newspaper of general circulation in the City notifying all property owners that unless such weeds, vines, brush, bushes, trees or other growth be cut or destroyed on or before the 15<sup>th</sup> day of the month in May, June, July, August, September, and October of that year, the city will issue a civil citation and/or cause the same to be done and assess the costs to the owners of the lot or parcel of ground.

#### **7.44.040**      **Service of notice.**

The city clerk shall cause the notice provided for in section 7.44.030 to be published.

#### **7.44.050**      **Report required upon work completed by the Public Works Department.**

Whenever the Public Works Department shall do or direct to be done any work under the provisions of this article the City Clerk shall make an itemized report of the expenses thereof and submit same to the city council, along with the names of the owners, agents or occupants of the premises if known, and the number and description of the lot or parcel of

ground concerned. Such report shall be filed by the city clerk at the completion of the mowing season each year.

**7.44.060            Assessment of costs.**

The city council shall assess the costs and expenses of the cutting of said weeds, including a charge of \$150.00 per hour for labor and equipment, an administrative charge of \$150.00 for handling the complaints, attorney fees, costs of publication of notice and other costs involved in preparation of the plat or schedule thereof against the lots and parcels of land and the owners thereof so far as known, by resolution as a special assessment to the county treasurer, to be collected as any other special assessment.

**7.44.070            Violation - Penalty**

A violation of this chapter is a municipal infraction and any person violating any of the provisions of this chapter, shall be punished as provided in Chapter 1.12, in the discretion of the court.