

AGENDA

**DES MOINES CITY COUNCIL
REGULAR MEETING
City Council Chambers
21630 11th Avenue South, Des Moines**

June 12, 2014 – 7:00 p.m.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

CORRESPONDENCE

COMMENTS FROM THE PUBLIC

BOARD AND COMMITTEE REPORTS/COUNCILMEMBER COMMENTS

PRESIDING OFFICER'S REPORT

ADMINISTRATION REPORT

CONSENT AGENDA

- Page 1 Item 1: APPROVAL OF VOUCHERS
Motion is to approve for payment vouchers and payroll transfers included in the attached list and further described as follows:
Claim Checks: 1,463,254.62
Payroll Fund Transfers: \$419,862.35
Total Certified Wire Transfers, Voids, A/P and Payroll Vouchers: \$1,883,116.97
- Page 3 Item 2: DES MOINES MEMORIAL DRIVE PIPELINE & SOUTH 216TH PLACE
CULVERT REPLACEMENT PROJECTS – CONTRACT AWARD
Motion 1 is to award the construction contract for the Des Moines Memorial Drive Pipeline & South 216th Place Culvert Replacement Projects to Northwest Cascade, Inc., in the amount of \$433,398.50, and authorize the City Manager to sign said contract substantially in the form as submitted. I further authorize a contingency for the construction project of up to \$44,000 (10%) to cover unforeseen conditions and change orders as determined necessary by the Planning, Building and Public Works Director.

Motion 2 is to direct Administration to propose a CIP budget amendment reallocating funds between approved project budgets to cover the cost of these projects.
- Page 27 Item 3: SETTING A PUBLIC HEARING FOR AMENDMENTS TO THE SIGN CODE THAT WERE INADVERTENTLY OMITTED IN ORDINANCE NO. 1591
Motion is to adopt Draft Resolution No. 14-114 setting a public hearing for July 24, 2014 to consider Draft Ordinance No. 14-114, amending chapter 18.200 DMMC.

NEW BUSINESS

Page 39 Item 1: DRAFT ORDINANCE 13-243, REPEALING AND REPLACING TITLE 8,
ANIMALS
Staff Presentation: Assistant City Attorney Tim George

EXECUTIVE SESSION

The purpose of the Executive Session is to discuss labor negotiations under RCW 42.30.140(4)(a). The Executive Session is expected to last 45 minutes.

NEXT MEETING DATE

June 26, 2014 Regular City Council Meeting

ADJOURNMENT

CITY OF DES MOINES
Voucher Certification Approval

12-Jun-14

Auditing Officer Certification

Vouchers and Payroll transfers audited and certified by the auditing officer as required by RCW 42.24.080, and those expense reimbursement claims certified as required by RCW 42.24.090, have been recorded on a listing, which has been made available to the City Council.

As of June 12, 2014 the Des Moines City Council, by unanimous vote, does approve for payment those vouchers and payroll transfers included in the attached list and further described as follows:

The vouchers below have been reviewed and certified by individual departments and the City of Des Moines Auditing Officer.

Claims Vouchers:	Numbers				Amounts
Total A/P Checks/Vouchers	139518	-	139693	176	1,190,296.76
Electronic Wire Transfers	DEPT OF REVENUE, BOA VISA, BANK OF NY, WA ST DEPT LIC/FIREARMS				272,957.86
Subtotal for this Council Packet					1,463,254.62
Voided Claim Checks this check run:					0.00
Voided Claim Checks from previous check runs					
Total Claims/Wire Transfers/Voids					1,463,254.62
Payroll Vouchers:	DISBURSED 05/20/14				Amounts
Payroll Checks	18471	-	18476	= 6	8,836.68
Direct Deposit	200001	-	200143	= 143	269,298.52
Payroll Taxes					57,717.65
Wage/Garnishments					1,066.91
Voids	0				0.00
Electronic Wire Transfers					82,942.59
ICMA 401 Forfeitures					0.00
Total Claims					419,862.35
Total certified Wire Transfers, Voids, A/P & Payroll vouchers for June 12, 2014					1,883,116.97

A G E N D A I T E M

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Des Moines Memorial Drive Pipeline & South 216th Place Culvert Replacement Projects
– Contract Award

FOR AGENDA OF: June 12, 2014

DEPT. OF ORIGIN: Planning, Building and Public Works

ATTACHMENTS:

1. Construction Contract
2. Bid Summary
3. 2014 SWM CIP Project Budget

DATE SUBMITTED: June 3, 2014

CLEARANCES:

- Legal DB
- Finance pl
- Marina _____ N/A
- Parks, Recreation & Senior Services _____ N/A
- Planning, Building & Public Works DIB
- Police N/A
- Courts _____ N/A

APPROVED BY CITY MANAGER

FOR SUBMITTAL: AI

Purpose and Recommendation

The purpose of this agenda is to award the construction contract (refer to Attachment 1) for the Des Moines Memorial Drive Pipeline and South 216th Place Culvert Replacement Projects. References have been reviewed, and of the five (5) bids received, staff recommends awarding the contract to the low bidder, Northwest Cascade, Inc.

Suggested Motions

Motion 1: “I move to award the construction contract for the Des Moines Memorial Drive Pipeline & South 216th Place Culvert Replacement Projects to Northwest Cascade, Inc. in the amount of \$433,398.50, and authorize the City Manager to sign said contract substantially in the form as submitted. I further authorize a contingency for the construction project of up to \$44,000 (10%) to cover unforeseen conditions and change orders as determined necessary by the Planning, Building and Public Works Director.”

Motion 2: “I move to direct Administration to propose a CIP budget amendment reallocating funds between approved project budgets to cover the cost of these projects.”

Background

Schedule A of the project(s) is for the removal and abandonment of approximately 280 feet of existing storm piping, and installation of 658 feet of new 18-inch and 60 feet of new 12-inch storm sewer pipe, as well as the installation of 14 catch basins and structures and half-street pavement restoration along Des Moines Memorial Drive for approximately 800 feet south of 212th Street. This project is a pipe upgrade project for improving pipe capacity as well as for the replacement of several segments of corrugated metal piping that is severely corroded.

Schedule B of the project(s) is for the replacement of existing 18-inch corrugated metal piping with 366 feet of 24-inch storm sewer piping and the installation of 4 catch basin structures as well as pavement and landscape restoration along the north side of 216th Place (west of Des Moines Memorial Drive). This project is a pipe upgrade project for improving pipe capacity as well as replacement of corrugated metal piping that is currently failing and has been temporarily repaired on at least two occasions.

Both projects are identified in the 2014 SWM CIP (refer to Attachment 3).

Discussion

Five bids were received for the project(s) ranging from the low bid of \$433,398.50 to \$615,619.16. Refer to Attachment 2 for the Bid Tabulation. The mean of the bids was \$512,308 which was slightly higher than the engineer's estimate of \$490,830. The low bid was lower than the engineer's estimate for Schedule A by \$31,578 and lower than the engineer's estimate for Schedule B by \$25,853. City staff has thoroughly reviewed the references provided by the contractor and have concluded the contractor well qualified for the project.

The contract time is 45 working days (9 weeks), so work should be substantially complete by late August. In order to construct both projects, it will be necessary to close one lane of traffic with flagging provided to allow 2-way traffic for the duration of the project.

Alternatives

Council may choose to award either Schedule A or B only or to reject all bids and rebid the project. Neither of these alternatives is recommended as both schedules are lower than the engineer's estimate. Also, rejecting the bids and rebidding the project would delay the project to late summer making it more difficult to obtain available contractors during the peak of the construction peak season.

Financial Impact

The bid for Schedule A in the amount of \$291,886.50 is higher than the budget for the improvements (\$259,000). The bid for Schedule B in the amount of \$141,512 is also slightly higher than the budget for the improvements (\$120,000). Combined, the amount of the construction contract for both schedules construction, including a 10% contingency, is slightly above the budgeted amount for the project budgets when including each project's budget contingency. See Attachment 3 (2014 SWM CIP).

<u>Northwest Cascade</u>		<u>2014 Project Budget</u>	
Schedule A	\$291,886.50	Schedule A Improvements	\$259,000
Schedule B	\$141,512.00	Schedule B Improvements	\$120,000
Total	\$433,398.50	Total	\$379,000
<u>10% Contingency</u>	<u>\$ 43,339.85</u>	Sch. A Project Contingency	\$ 52,000
Maximum Contract	\$476,738.35	Sch. B Project Contingency	\$ 39,000
		Total	\$470,000

Staff is recommending award of the construction contract in the amount of \$433,398.50 plus a 10% contract contingency for a maximum payable amount of \$476,738.35. Although this amount slightly exceeds the project improvement and budgeted project contingency, if needed, the remainder can come from other project budget items or alternatively the overall SWM CIP ending fund balance.

Recommendation or Conclusion

Staff recommends awarding the construction contract to Northwest Cascade, Inc.

Concurrence

The Legal and Finance Departments have reviewed the contract documents and concurs with their approval.



PUBLIC WORKS CONTRACT
BETWEEN CITY OF DES MOINES AND
Northwest Cascade, Inc.

THIS CONTRACT is made and entered into this _____ day of _____, 2014, by and between the City of Des Moines, a Washington municipal corporation (hereinafter the "City"), and Northwest Cascade, Inc. organized under the laws of the State of Washington, located and doing business at 10412 John Bananola Way E., Puyallup, Washington 98373, (253) 848-2371, John Martin Diklich, President (hereinafter the "Contractor").

CONTRACT

The parties agree as follows:

I. DESCRIPTION OF WORK.

Contractor shall perform the services for the City as specifically described in Exhibit "A" Scope and Schedule of Work, attached hereto and incorporated herein by reference.

Des Moines Memorial Drive Pipeline & South 216th Place Culvert Replacement Projects

Work to be performed under this contract is as follows:

Schedule A: Along Des Moines Memorial Drive, the major items of work include: the abandonment of approximately 140 feet of existing 12-inch storm sewer piping, installation of 658 feet of 18-inch and 18 feet of 12-inch storm sewer pipe, installation of 12 catch basin structures and paving restoration.

Schedule B: Along South 216th Place, the major items of work include: replacement of the existing 18-inch storm sewer pipe with 367 feet of 24-inch storm sewer pipe, installation of 13 feet of 12-inch and 18 feet of 18-inch storm sewer pipe, installation of 4 catch basin structures and paving and landscape restoration.

Standard Specifications for Road, Bridge and Municipal Construction, 2014, including the Division 1 APWA Supplement, prepared by the Washington State Department of Transportation and the American Public Works Association – Washington State Chapter.

This is a Public Works Project which is subject to Prevailing Wage and Sales Tax rules. A current City of Des Moines Business License is required for all contractors and subcontractors that perform work under this contract. These licenses shall be in place prior to the issuance of any Notice to Proceed. Retainage will be withheld.

The contract agrees to furnish all materials, tools, labor, equipment and other incidentals, and to perform all services and work as described in this Agreement and the contract documents, which consist of this Agreement and the following items, which are by this reference incorporated herein:

Exhibit A: Bid Documents
 Exhibit B: Contract Documents
 Exhibit C: General Conditions
 Exhibit D: General Special Provisions
 Exhibit E: Amendments to the Standard Specifications
 Exhibit F: Special Provisions
 Appendix A: Wage Rates
 Appendix B: Geotechnical Report
 Contract Plans

a. Contractor represents that the services furnished under this Contract will be performed in accordance with generally accepted professional practices within the Puget Sound region in effect at the time such services are performed.

b. The Contractor shall provide and furnish any and all labor, materials, tools, equipment and utility and transportation services along with all miscellaneous items necessary to perform this Contract except for those items mentioned therein to be furnished by the City:

c. All work shall be accomplished in a workmanlike manner in strict conformity with the attached plans and specifications including any and all Addenda issued by the City, City Regulations and Standards, other Contract Documents hereinafter enumerated.

In addition, the work shall be in conformance with the following documents which are by reference incorporated herein and made part hereof:

- (i) the Standard Specifications of the Washington State Department of Transportation (WSDOT) (current edition);
- (ii) the American Public Works Association (APWA) (current edition);
- (iii) the Manual on Uniform Traffic Control Devices (MUTCD) for Streets and Highways (current edition);
- (iv) the Standard Plans for Road, Bridge and Municipal Construction (as prepared by the WSDOT/APWA current edition);
- (v) the American Water Works Association Standard (AWWA) (current edition), and;
- (vi) shall perform any changes in the work in accord with the Contract Documents.

d. Any inconsistency in the parts of the Contract and the documents referenced in section I c above shall be resolved by following this order of precedence (e.g., 1 presiding over 2, 2 over 3, 3 over 4, and so forth):

1. Terms and provisions of the Contract

2. Addenda,
3. Proposal Form,
4. Special Provisions, including APWA General Special Provisions, if they are included,
5. Contract Plans,
6. Amendments to the Standard Specifications,
7. WSDOT Standard Specifications for Road, Bridge and Municipal Construction,
8. Contracting Agency's Standard Plans (if any), and
9. WSDOT Standard Plans for Road, Bridge, and Municipal Construction.

II. TIME OF COMPLETION. The parties agree that work on the tasks described in Section I above and more specifically detailed in Exhibit A attached hereto will begin immediately upon execution of this Contract. Upon the effective date of this Contract, the Contractor shall complete the work described in Section I within 45 working days. If said work is not completed within the time specified, the Contractor agrees to pay the City the sum specified in Section VI – Liquidated Damages of this contract.

III. COMPENSATION. The City shall pay the Contractor a total amount not to exceed **\$433,398.50**, plus any applicable Washington State Sales Tax, for the work and services contemplated in this Contract. If the work and services to be performed as specified in Exhibit A “Scope and Schedule of Work” is for street, place, road, highway, etc. as defined in WAC 458-20-171, then the applicable Washington State Retail Sales Tax on this contract shall be governed by WAC 458-20-171 and its related rules for the work contemplated in this Contract. The Contractor shall invoice the City monthly. The City shall pay to the Contractor, as full consideration for the performance of the Contract, an amount equal to the unit and lump sum prices set forth in the bid. The Contractor will submit requests for Progress payments on a monthly basis and the City will make progress payment within 45 days after receipt of the Contractor’s request until the work is complete and accepted by the City. The City’s payment shall not constitute a waiver of the City’s right to final inspection and acceptance of the project.

- A. Retainage. The City shall hold back a retainage in the amount of five percent (5%) of any and all payments made to contractor for a period of sixty (60) days after the date of final acceptance, or until receipt of all necessary releases from the State Department of Revenue and the State Department of Labor and Industries and until settlement of any liens filed under Chapter 60.28 RCW. If Contractor plans to submit a bond in lieu of the retainage specified above, the bond must be in a form acceptable to the City and submitted within 30 days upon entering into this Contract, through a bonding company meeting standards established by the City.
- B. Defective or Unauthorized Work. The City reserves its right to withhold payment from Contractor for any defective or unauthorized work. Defective or unauthorized work includes, without limitation: work and materials that do not conform to the requirements of this Contract; and extra work and materials furnished without the City’s written approval. If Contractor is unable, for any reason, to satisfactorily complete any portion of the work, the City may complete the work by contract or otherwise, and Contractor shall be liable to the City for any additional costs incurred by the City. “Additional costs” shall mean all reasonable costs, including legal costs and attorney fees, incurred by the City beyond the maximum Contract price specified above. The City further reserves its right to deduct the cost to complete the Contract work, including any Additional Costs, from any and all amounts due or to become due the Contractor. Notwithstanding the terms of this section, the City’s payment to contractor for work performed shall not be a waiver of any claims the City may have against Contractor for defective or unauthorized work.

- C. Final Payment: Waiver of Claims. THE CONTRACTOR'S ACCEPTANCE OF FINAL PAYMENT (EXCLUDING WITHHELD RETAINAGE) SHALL CONSTITUTE A WAIVER OF CONTRACTOR'S CLAIMS, EXCEPT THOSE PREVIOUSLY AND PROPERLY MADE AND IDENTIFIED BY CONTRACTOR AS UNSETTLED AT THE TIME FINAL PAYMENT IS MADE AND ACCEPTED.

IV. INDEPENDENT CONTRACTOR. The parties understand and agree that Contractor is a firm skilled in matters pertaining to construction and will perform independent functions and responsibilities in the area of its particular field of expertise. Contractor and its personnel, subcontractors, agents and assigns, shall act as independent contractors and not employees of the City. As such, they have no authority to bind the City or control employees of the City, contractors, or other entities. The City's Planning, Building and Public Works Director or his or her designated representative shall have authority to ensure that the terms of the Contract are performed in the appropriate manner.

The Contractor acknowledges that all mandatory deductions, charges and taxes imposed by any and all federal, state, and local laws and regulations shall be the sole responsibility of the Contractor. The Contractor represents and warrants that all such deductions, charges and taxes imposed by law and/or regulations upon the Contractor are, and will remain, current. If the City is assessed, liable or responsible in any manner for those deductions, charges or taxes, the Contractor agrees to indemnify and hold the City harmless from those costs, including attorney's fees.

V. TERMINATION. The City may terminate this Contract for good cause. "Good cause" shall include, without limitation, any one or more of the following events:

- A. The Contractor's refusal or failure to supply a sufficient number of properly skilled workers or proper materials for completion of the Contract work.
- B. The Contractor's failure to complete the work within the time specified in this Contract.
- C. The Contractor's failure to make full and prompt payment to subcontractors or for material or labor.
- D. The Contractor's persistent disregard of federal, state or local laws, rules or regulations.
- E. The Contractor's filing for bankruptcy or becoming adjudged bankrupt.
- F. The Contractor's breach of any portion of this Contract.

If the City terminates this Contract for good cause, the Contractor shall not receive any further money due under this Contract until the Contract work is completed. After termination, the City may take possession of all records and data within the Contractor's possession pertaining to this project which may be used by the City without restriction.

VI. LIQUIDATED DAMAGES. This section of the Contract shall apply only in the event of a delay in the completion of the work within the timeframe specified in the Contract. This being a Public Works project performed for the benefit of the public, and there being a need for the completion of the project in the time specified in the Contract, City and Contractor agree that damages for delay in the performance or completion of the work are extremely difficult to ascertain. However, City and Contractor agree that due to the expenditure of public funds for the work specified in this Contract, and the need to provide the work for the benefit of the health, safety and welfare of the public, the failure to complete the

work within the time specified in the Contract will result in loss and damage to City. City and Contractor agree that a delay will result in, but not be limited to, expense to the City in the form of salaries to City employees, the extended use of City equipment, delays in other portions of the project on which Contractor is working, increased cost to the City for the project, delays in other projects planned by City, and loss of use and inconvenience to the public.

Although difficult to quantify and ascertain, City and Contractor agree that the sum listed as liquidated damages represents a fair and reasonable forecast of the actual damage caused by a delay in the performance or completion of the work specified in the Contract. In addition, City and Contractor agree that the liquidated damages set forth below are intended to compensate the City for its loss and damage caused by delay. The liquidated damages are not intended to induce the performance of Contractor.

Contractor declares that it is familiar with liquidated damages provisions, and understands their intent and purpose. By signing this Contract, Contractor further declares that it understands the liquidated damages provision of this contract, that it is a product of negotiation, and that it is a fair estimation of the damage and loss that City will suffer in the event of delay.

City and Contractor further agree that the contractor shall not be charged with liquidated damages because of any delays in the completion of the work due to unforeseeable causes beyond the control and without the fault or negligence of the contractor, including, but not restricted to, acts of God, or of the public enemy, acts of the Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather or delays of subcontractors due to such causes.

City and Contractor agree that for each day beyond the completion date specified in the Contract that the project is not completed, the sum of **\$1,444.66** shall be deducted from the amount to be paid Contractor and shall be retained by City as damages.

In the event that the Contract is terminated by City for cause pursuant to the general conditions of the contract, this liquidated damages section shall apply, but only to the extent that the contract is delayed. In addition to liquidated damages, City shall be permitted to recover from Contractor the cost of completion of the work if the cost of completion exceeds the original sum of money agreed upon.

VII. PREVAILING WAGES. Contractor shall file a "Statement of Intent to Pay Prevailing Wages," with the State of Washington Department of Labor & Industries prior to commencing the Contract work and an Affidavit of prevailing wages paid after completion of the work. The Statement of Intent to Pay Prevailing Wages," shall include Contractor's registration certificate number and the prevailing rate of wage for each classification of workers entitled to prevailing wages under RCW 39.12.020, and the estimated number of workers in each classification. Contractor shall pay prevailing wages in effect on the date the bid is accepted or executed by Contractor, and comply with Chapter 39.12 of the Revised Code of Washington, as well as any other applicable prevailing wage rate provisions. The latest prevailing wage rate revision issued by the Department of Labor and Industries must be submitted to the City by Contractor. It shall be the responsibility of Contractor to require all subcontractors to comply with Chapter 39.12 RCW and this section of the Contract.

VIII. HOURS OF LABOR. Contractor shall comply with the "hours of labor" requirements and limitations as set forth in Chapter 49.28 RCW. It shall be the responsibility of Contractor to require all subcontractors to comply with the provisions of Chapter 49.28 RCW and this section of the Contract. The Contractor shall pay all reasonable costs (such as over-time of crews) incurred by the City as a result of

work beyond eight (8) hours per day or forty (40) hours per week. Additional hours beyond a forty (40)-hour workweek will be pro-rated against contractual workdays.

IX. COMPLIANCE WITH WAGE, HOUR, SAFETY, AND HEALTH LAWS. The Contractor shall comply with the rules and regulations of the Fair Labor Standards Act, 29 U.S.C. 201 et seq, the Occupational Safety and Health Act of 1970, 29 U.S.C. 651, et seq, the Washington Industrial Safety and Health Act, Chapter 49.17 RCW, and any other state or federal laws applicable to wage, hours, safety, or health standards.

X. DAYS AND TIME OF WORK. Unless otherwise approved by the City, the working hours for this project will be limited to the following hours:

Monday through Friday: 7:00 a.m. to 7:00 p.m.

Saturday, Sunday and Holidays: 8:00 a.m. to 5:00 p.m.

XI. WORKERS' COMPENSATION. The Contractor shall maintain Workers' Compensation insurance in the amount and type required by law for all employees employed under this Contract who may come within the protection of Workers' Compensation Laws. In jurisdictions not providing complete Workers' Compensation protection, the Contractor shall maintain Employer's Liability Insurance in the amount, form and company satisfactory to the City for the benefit of all employees not protected by Workers' Compensation Laws.

The Contractor shall make all payments arising from the performance of this Contract due to the State of Washington pursuant to Titles 50 and 51 of the Revised Code of Washington.

Whenever any work by the Contractor under the authority of this Contract is on or about navigable waters of the United States, Workers' Compensation coverage shall be extended to include United States Longshoreman and harbor worker coverage. The Contractor shall provide the City with a copy of the necessary documentation prior to the start of any activity.

XII. CHANGES. The City may issue a written change order for any change in the Contract work during the performance of this Contract. If the Contractor determines, for any reason, that a change order is necessary, Contractor must submit a written change order request to the person listed in the notice provision section of this Contract, section XXII(C), within fourteen (14) calendar days of the date Contractor knew or should have known of the facts and events giving rise to the requested change. If the City determines that the change increases or decreases the Contractor's costs or time for performance, the City will make an equitable adjustment. The City will attempt, in good faith, to reach agreement with the Contractor on all equitable adjustments. However, if the parties are unable to agree, the City will determine the equitable adjustment as it deems appropriate. The Contractor shall proceed with the change order work upon receiving either a written change order from the City or an oral order from the City before actually receiving the written change order. If the Contractor fails to require a change order within the time specified in this paragraph, the Contractor waives its right to make any claim or submit subsequent change order requests for that portion of the contract work. If the Contractor disagrees with the equitable adjustment, the Contractor must complete the change order work; however, the Contractor may elect to protest the adjustment as provided in subsections A through E of Section XIII, Claims, below.

The Contractor accepts all requirements of a change order by: (1) endorsing it, (2) writing a separate acceptance, or (3) not protesting in the way this section provides. A change order that is accepted by

Contractor as provided in this section shall constitute full payment and final settlement of all claims for contract time and for direct, indirect and consequential costs, including costs of delays related to any work, either covered or affected by the change.

XIII. CLAIMS. If the Contractor disagrees with anything required by a change order, another written order, or an oral order from the City, including any direction, instruction, interpretation, or determination by the City, the Contractor may file a claim as provided in this section. The Contractor shall give written notice to the City of all claims within fourteen (14) calendar days of the occurrence of the events giving rise to the claims, or within fourteen (14) calendar days of the date the Contractor knew or should have known of the facts or events giving rise to the claim, whichever occurs first. Any claim for damages, additional payment for any reason, or extension of time, whether under this Contract or otherwise, shall be conclusively deemed to have been waived by the Contractor unless a timely written claim is made in strict accordance with the applicable provisions of this Contract.

At a minimum, a Contractor's written claim shall include the information set forth in subsections A, items 1 through 5 below.

FAILURE TO PROVIDE A COMPLETE, WRITTEN NOTIFICATION OF CLAIM WITHIN THE TIME ALLOWED SHALL BE AN ABSOLUTE WAIVER OF ANY CLAIMS ARISING IN ANY WAY FROM THE FACTS OR EVENTS SURROUNDING THAT CLAIM OR CAUSED BY THAT DELAY.

- A. Notice of Claim. Provide a signed written notice of claim that provides the following information:
1. The date of the Contractor's claim;
 2. The nature and circumstances that caused the claim;
 3. The provisions in this Contract that support the claim;
 4. The estimated dollar cost, if any, of the claimed work and how that estimate was determined; and
 5. An analysis of the progress schedule showing the schedule change or disruption if the Contractor is asserting a schedule change or disruption.
- B. Records. The Contractor shall keep complete records of extra costs and time incurred as a result of the asserted events giving rise to the claim. The City shall have access to any of the Contractor's records needed for evaluating the protest.
- The City will evaluate all claims, provided the procedures in this section are followed. If the City determines that a claim is valid, the City will adjust payment for work or time by an equitable adjustment. No adjustment will be made for an invalid protest.
- C. Contractor's Duty to Complete Protested Work. In spite of any claim, the Contractor shall proceed promptly to provide the goods, materials and services required by the City under this Contract.
- D. Failure to Protest Constitutes Waiver. By not protesting as this section provides, the Contractor also waives any additional entitlement and accepts from the City any written or oral order (including directions, instructions, interpretations, and determination).

- E. Failure to Follow Procedures Constitutes Waiver. By failing to follow the procedures of this section, the Contractor completely waives any claims for protested work and accepts from the City any written or oral order (including directions, instructions, interpretations, and determination).

XIV. LIMITATION OF ACTIONS. CONTRACTOR MUST, IN ANY EVENT, FILE ANY LAWSUIT ARISING FROM OR CONNECTED WITH THIS CONTRACT WITHIN 120 CALENDAR DAYS FROM THE DATE THE CONTRACT WORK IS COMPLETE OR CONTRACTOR'S ABILITY TO FILE THAT CLAIM OR SUIT SHALL BE FOREVER BARRED. THIS SECTION FURTHER LIMITS ANY APPLICABLE STATUTORY LIMITATIONS PERIOD.

XV. WARRANTY. Upon acceptance of the contract work, Contractor must provide the City a warranty bond for one year in the amount of the contract value specified in Section III above and in a form acceptable to the City. In the event any defects are found within the first year, the warranty bond shall be extended for an additional year. The Contractor shall correct all defects in workmanship and materials within one (1) year from the date of the City's acceptance of the Contract work. In the event any parts are repaired or replaced, only original replacement parts shall be used—rebuilt or used parts will not be acceptable. When defects are corrected, the warranty for that portion of the work shall extend for one (1) year from the date such correction is completed and accepted by the City. The Contractor shall begin to correct any defects within seven (7) calendar days of its receipt of notice from the City of the defect. If the Contractor does not accomplish the corrections within a reasonable time as determined by the City, the City may complete the corrections and the Contractor shall pay all costs incurred by the City in order to accomplish the correction.

XVI. DISCRIMINATION. In the hiring of employees for the performance of work under this Contract or any sub-contract, the Contractor, its sub-contractors, or any person acting on behalf of the Contractor or sub-contractor shall not, by reason of race, religion, color, sex, age, sexual orientation, national origin, or the presence of any sensory, mental, or physical disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

XVII. INDEMNIFICATION. Contractor shall defend, indemnify and hold the City, its officers, officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits, including all legal costs and attorney fees, arising out of or in connection with the Contractor's performance of this Contract, except for that portion of the injuries and damages caused by the City's negligence.

The City's inspection or acceptance of any of Contractor's work when completed shall not be grounds to avoid any of these covenants of indemnification.

Should a court of competent jurisdiction determine that this Contract is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor and the City, its officers, officials, employees, agents and volunteers, the Contractor's liability hereunder shall be only to the extent of the Contractor's negligence.

IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE CONTRACTOR'S WAIVER OF IMMUNITY UNDER INDUSTRIAL INSURANCE, TITLE 51 RCW, SOLELY FOR THE PURPOSES

OF THIS INDEMNIFICATION. THE PARTIES FURTHER ACKNOWLEDGE THAT THEY HAVE MUTUALLY NEGOTIATED THIS WAIVER.

The provisions of this section shall survive the expiration or termination of this Contract.

XVIII. INSURANCE. The Contractor shall, at least ten (10) days prior to the commencement of work, obtain and keep in force during the term of the Contract, insurance against claims for property damage or personal injury which may arise from or in connection with the performance of the contract work by the Contractor, their agents, representatives, employees, or subcontractors as follows:

No Limitation. Contractor's maintenance of insurance as required by the agreement shall not be construed to limit the liability of the Contractor to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

A. Minimum Scope of Insurance

Contractor shall obtain insurance of the types described below:

1. Automobile Liability insurance covering all owned non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.
2. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors, products-completed operations, stop gap liability, personal injury and advertising injury, and liability assumed under an insured contract. The Commercial General Liability insurance shall be endorsed to provide the Aggregate Per Project Endorsement ISO form CG 25 03 11 85. There shall be no endorsement or modification of the Commercial General Liability insurance for liability arising from explosion, collapse or underground property damage. The City shall be named as an insured under the Contractor's Commercial General Liability insurance policy with respect to the work performed for the City using ISO Additional Insured endorsement CG 20 10 10 01 and Additional Insured-Completed Operations endorsement CG 20 37 10 01 or substitute endorsements providing equivalent coverage.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

B. Minimum Amounts of Insurance

Contractor shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate and a \$2,000,000 products-completed operations aggregate limit.

3. Builders Risk insurance shall be written in the amount of the completed value of the project with no coinsurance provisions.

C. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability and Commercial General Liability insurance and Builders Risk:

1. The Contractor's insurance coverage shall be primary insurance as respect to the City. Any Insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Contractor's insurance and shall not contribute with it.
2. The Contractor's insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.

D. Contractor's Insurance for Other Losses

The Contractor shall assume full responsibility for all loss or damage from any cause whatsoever to any tools, Contractor's employee owned tools, machinery, equipment, or motor vehicles owned or rented by the Contractor, or the Contractor's agents, suppliers or contractors as well as to any temporary structures, scaffolding and protective fences.

E. Waiver of Subrogation

The Contractor and the City waive all rights against each other any of their Subcontractors, Sub-subcontractors, agents and employees, each of the other, for damages caused by fire or other perils to the extend covered by Builders Risk insurance or other property insurance obtained pursuant to the Insurance Requirements Section of this Contract or other property insurance applicable to the work. The policies shall provide such waivers by endorsement or otherwise.

F. Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VII.

Verification of Coverage

Contractor shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the Automobile Liability and Commercial General Liability insurance of the Contractor before commencement of the work. Before any exposure to loss may occur, the Contractor shall file with the City a copy of the Builders Risk insurance policy that includes all applicable conditions, exclusions, definitions, terms and endorsements related to this project.

G. Subcontractors

Contractor shall ensure that each subcontractor of every tier obtain at a minimum the same insurance coverage and limits as stated herein for the Contractor (with the exception of Builders Risk insurance). Upon request by the City, the Contractor shall provide evidence of such insurance.

XIX. WORK PERFORMED AT CONTRACTOR'S RISK. Contractor shall take all necessary precautions and shall be responsible for the safety of its employees, agents, and subcontractors in the performance of the contract work and shall utilize all protection necessary for that purpose. All work shall be done at Contractor's own risk, and Contractor shall be responsible for any loss of or damage to materials, tools, or other articles used or held for use in connection with the work.

XX. BOND – SEPARATE PAYMENT AND PERFORMANCE BOND REQUIRED. Pursuant to Chapter 39.08 RCW, the Contractor shall, prior to the execution of the Contract, furnish both a performance bond and a payment bond to the City, both in the full amount of the bid with a surety company as surety. The purpose of the bonds is to ensure that the Contractor shall faithfully perform all the provisions of this Contract and pay all laborers, mechanics, and subcontractors and materialmen, and all persons who supply such Contractor or subcontractors with provisions and supplies for the carrying on of such work. Such bonds shall provide that any person or persons performing such services or furnishing material to any subcontractor shall have the same right under the provisions of such bond as if such work, services or material was furnished to the original Contractor. In addition, the surety company/companies providing such bonds shall agree to be bound to the laws of the State of Washington, and subjected to the jurisdiction of the State of Washington and the King County Superior Court in any proceeding to enforce the bond. This Contract shall not become effective until said bonds are supplied and approved by the Engineer and filed with the City Clerk.

In the event that the Compensation called for in Section III of this Contract is less than \$35,000.00, which sum shall be determined after the addition of applicable Washington State sales tax, the Contractor may, prior to the execution to this contract and in lieu of the above mentioned bonds, elect to have the City retain 50% of the contract amount for a period of either thirty (30) days after final acceptance, or until receipt of all necessary releases from the department of revenue and the department of labor and industries and settlement of any liens filed under Chapter 60.28 RCW, whichever is later.

XXI. DEBARMENT. The Contractor must certify that it, and its subcontractors, have not been and are not currently on the Federal or the Washington State Debarment List and if the Contractor or its subcontractors become listed on the Federal or State Debarment List, the City will be notified immediately.

XXII. MISCELLANEOUS PROVISIONS.

- A. Non-Waiver of Breach. The failure of the City to insist upon strict performance of any of the covenants and agreements contained in this Contract, or to exercise any option conferred by this Contract in one or more instances shall not be construed to be a waiver or relinquishment of those covenants, agreements or options, and the same shall be and remain in full force and effect.
- B. Resolution of Disputes and Governing Law.
1. Alternative Dispute Resolution. If a dispute arises from or relates to this Contract or the breach thereof and if the dispute cannot be resolved through direct discussions, the parties agree to endeavor first to settle the dispute in an amicable manner by mediation administered by a mediator under JAMS Alternative Dispute Resolution service rules or policies before resorting to arbitration. The mediator may be selected by agreement of the parties or through JAMS. Following mediation, or upon written Contract of the parties to waive mediation, any unresolved controversy or claim arising from or relating to this

Contract or breach thereof shall be settled through arbitration which shall be conducted under JAMS rules or policies. The arbitrator may be selected by agreement of the parties or through JAMS. All fees and expenses for mediation or arbitration shall be borne by the parties equally. However, each party shall bear the expense of its own counsel, experts, witnesses, and preparation and presentation of evidence.

2. **Applicable Law and Jurisdiction.** This Contract shall be governed by the laws of the State of Washington. Although the agreed to and designated primary dispute resolution method as set forth above, in the event any claim, dispute or action arising from or relating to this Contract cannot be submitted to arbitration, then it shall be commenced exclusively in the King County Superior Court or the United States District Court, Western District of Washington as appropriate. In any claim or lawsuit for damages arising from the parties' performance of this Agreement, each party shall pay all its legal costs and attorney's fees incurred in defending or bringing such claim or lawsuit, in addition to any other recovery or award provided by law; provided, however, nothing in this paragraph shall be construed to limit the City's right to indemnification under Section XVII of this Contract.
- C. **Written Notice.** All communications regarding this Contract shall be sent to the parties at the addresses listed on the signature page of the Contract, unless notified to the contrary. Any written notice hereunder shall become effective three (3) business days after the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated in this Contract or such other address as may be hereafter specified in writing.
- D. **Assignment.** Any assignment of this Contract by either party without the written consent of the non-assigning party shall be void. If the non-assigning party gives its consent to any assignment, the terms of this Contract shall continue in full force and effect and no further assignment shall be made without additional written consent.
- E. **Modification.** No waiver, alteration, or modification of any of the provisions of this Contract shall be binding unless in writing and signed by a duly authorized representative of the City and Contractor.
- F. **Compliance with Laws.** The Contractor agrees to comply with all federal, state, and municipal laws, rules, and regulations that are now effective or in the future become applicable to Contractor's business, equipment, and personnel engaged in operations covered by this Contract or accruing out of the performance of those operations.
- G. **Counterparts.** This Contract may be executed in any number of counterparts, each of which shall constitute an original, and all of which will together constitute this one Contract.
- H. **Business License.** Contractor shall comply with the provisions of Title 5 Chapter 5.04 of the Des Moines Municipal Code.
- I. **Records Retention and Audit.** During the progress of the Work and for a period not less than three (3) years from the date of completion of the Work or for the retention period required by law, whichever is greater, records and accounts pertaining to the Work and accounting therefore are to be kept available by the Parties for inspection and audit by representatives of the Parties and copies of all records, accounts, documents, or other data pertaining to the Work

shall be furnished upon request. Records and accounts shall be maintained in accordance with applicable state law and regulations.

- J. Entire Contract. The written provisions and terms of this Contract, together with any Exhibits attached hereto, shall supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner this Contract. All of the above documents are hereby made a part of this Contract. However, should any language in any of the Exhibits to this Contract conflict with any language contained in this Contract, then the order of precedence shall be in accordance with Section I c of this Contract.
- K. Severability. If any one or more sections, sub-sections, or sentences of this Contract are held to be unconstitutional or invalid, that decision shall not affect the validity of the remaining portion of this Contract and the remainder shall remain in full force and effect.

Des Moines Memorial Drive Pipeline & South 216th Place Culvert Replacement Projects

Bid Summary

Bid Opening: 3:15 PM on May 22, 2014

	Sch. A – DMMD	Sch. B – 216 th Pl.	Total
1. Northwest Cascade	\$291,886.50	\$141,512.00	\$433,398.50
2. Kar-Vel Construction	\$338,112.00	\$147,209.00	\$485,321.00
3. Hoffman Construction	\$370,538.50	\$134,041.00	\$504,579.50
4. Road Construction NW	\$363,173.00	\$159,450.75	\$522,623.75
5. RW Scott	\$452,982.00	\$162,637.16	\$615,619.16
Engineer's Estimate	\$323,465.22	\$167,365.00	\$490,830.22

Des Moines Memorial Drive Pipeline South 216th Place Culvert Replacement Projects
 Bid Tabulation
 Individual Bid Detailed Comparison
 May 22, 2014

Item No.	Item Description	Qty	Unit	Engineers Estimate		Northwest Cascade, Inc.		Kar-Vel Construction		Hoffman Construction, Inc.		Road Construction Northwest, Inc.		R.W. Scott Construction Co.	
				Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount
1	Minor Change	1	FA	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00
2	Roadway Surveying	1	LS	\$ 4,000.00	\$ 4,000.00	\$ 1,270.00	\$ 1,270.00	\$ 5,000.00	\$ 5,000.00	\$ 6,000.00	\$ 6,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,500.00	\$ 3,500.00
3	Patholing	1	FA	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00
4	SPCC Plan	1	LS	\$ 600.00	\$ 600.00	\$ 100.00	\$ 100.00	\$ 800.00	\$ 800.00	\$ 750.00	\$ 750.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00
5	Type B Progress Schedule (Minimum Bid \$1,000)	1	LS	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,100.00	\$ 1,100.00	\$ 3,000.00	\$ 3,000.00
6	Mobilization	1	LS	\$ 25,000.00	\$ 25,000.00	\$ 17,100.00	\$ 17,100.00	\$ 33,000.00	\$ 33,000.00	\$ 33,600.00	\$ 33,600.00	\$ 35,000.00	\$ 35,000.00	\$ 66,375.00	\$ 66,375.00
7	Pedestrian Control and Protection	1	LS	\$ 5,000.00	\$ 5,000.00	\$ 200.00	\$ 200.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 3,000.00	\$ 3,000.00	\$ 5,000.00	\$ 5,000.00
8	Project Temporary Traffic Control	1	LS	\$ 35,000.00	\$ 35,000.00	\$ 26,000.00	\$ 26,000.00	\$ 12,000.00	\$ 12,000.00	\$ 40,200.00	\$ 40,200.00	\$ 19,500.00	\$ 19,500.00	\$ 75,000.00	\$ 75,000.00
9	Roadside Cleanup	1	FA	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00
10	Removal of Structures and Obstructions	1	LS	\$ 10,000.00	\$ 10,000.00	\$ 5,720.00	\$ 5,720.00	\$ 16,000.00	\$ 16,000.00	\$ 13,950.00	\$ 13,950.00	\$ 11,500.00	\$ 11,500.00	\$ 12,500.00	\$ 12,500.00
11	Roadway Pavement Excavation	300	SY	\$ 60.00	\$ 18,000.00	\$ 29.00	\$ 8,700.00	\$ 9.00	\$ 2,700.00	\$ 27.50	\$ 8,250.00	\$ 75.00	\$ 22,500.00	\$ 20.00	\$ 6,000.00
12	Unsuitable Foundation Excavation Incl. Haul	80	CY	\$ 25.00	\$ 2,000.00	\$ 38.00	\$ 3,040.00	\$ 12.00	\$ 960.00	\$ 37.00	\$ 2,960.00	\$ 75.00	\$ 6,000.00	\$ 60.00	\$ 4,800.00
13	Gravel Borrow Incl. Haul	120	TON	\$ 45.00	\$ 5,400.00	\$ 19.00	\$ 2,280.00	\$ 2.00	\$ 240.00	\$ 20.00	\$ 2,400.00	\$ 17.50	\$ 2,100.00	\$ 50.00	\$ 6,000.00
14	Structure Excavation Class B	480	CY	\$ 20.00	\$ 9,600.00	\$ 1.00	\$ 480.00	\$ 2.00	\$ 960.00	\$ 20.00	\$ 9,600.00	\$ 0.25	\$ 120.00	\$ 40.00	\$ 19,200.00
15	Shoring or Extra Excavation Class B	1	LS	\$ 5,400.00	\$ 5,400.00	\$ 12,500.00	\$ 12,500.00	\$ 1,600.00	\$ 1,600.00	\$ 5,000.00	\$ 5,000.00	\$ 500.00	\$ 500.00	\$ 7,500.00	\$ 7,500.00
16	Crushed Surfacing Top Course	172	TON	\$ 45.00	\$ 7,740.00	\$ 65.00	\$ 11,180.00	\$ 18.00	\$ 3,096.00	\$ 35.00	\$ 6,020.00	\$ 31.25	\$ 5,375.00	\$ 56.00	\$ 9,632.00
17	HMA CI 1/2' PG 64-22	305	TON	\$ 120.00	\$ 36,600.00	\$ 150.00	\$ 45,750.00	\$ 170.00	\$ 51,850.00	\$ 149.00	\$ 45,445.00	\$ 145.00	\$ 44,225.00	\$ 150.00	\$ 45,750.00
18	Planning Bituminous Pavement	1310	SY	\$ 15.00	\$ 19,650.00	\$ 8.00	\$ 10,480.00	\$ 8.00	\$ 10,480.00	\$ 8.00	\$ 10,480.00	\$ 8.50	\$ 11,135.00	\$ 8.00	\$ 10,480.00
19	Cement Conc. Pavement	46	CY	\$ 250.00	\$ 11,500.00	\$ 615.00	\$ 28,290.00	\$ 650.00	\$ 29,900.00	\$ 713.00	\$ 32,798.00	\$ 875.00	\$ 40,250.00	\$ 613.00	\$ 28,198.00
20	Storm Sewer Pipe, 12-In. Diameter	60	LF	\$ 45.00	\$ 2,700.00	\$ 55.00	\$ 3,300.00	\$ 100.00	\$ 6,000.00	\$ 51.00	\$ 3,060.00	\$ 69.00	\$ 4,140.00	\$ 70.00	\$ 4,200.00
21	Storm Sewer Pipe, 18-In. Diameter	658	LF	\$ 65.00	\$ 42,770.00	\$ 79.00	\$ 51,982.00	\$ 115.00	\$ 75,670.00	\$ 78.50	\$ 51,653.00	\$ 90.00	\$ 59,220.00	\$ 68.00	\$ 44,744.00
22	Manhole 48-In. Diam. Type 1	9	EA	\$ 3,500.00	\$ 31,500.00	\$ 2,195.00	\$ 19,755.00	\$ 4,000.00	\$ 36,000.00	\$ 4,340.00	\$ 39,060.00	\$ 4,800.00	\$ 43,200.00	\$ 4,000.00	\$ 36,000.00
23	Catch Basin Type 1	2	EA	\$ 1,500.00	\$ 3,000.00	\$ 1,050.00	\$ 2,100.00	\$ 1,700.00	\$ 3,400.00	\$ 1,075.00	\$ 2,150.00	\$ 1,200.00	\$ 2,400.00	\$ 900.00	\$ 1,800.00
24	Catch Basin Type 1-L	1	EA	\$ 1,700.00	\$ 1,700.00	\$ 1,600.00	\$ 1,600.00	\$ 2,500.00	\$ 2,500.00	\$ 1,230.00	\$ 1,230.00	\$ 1,550.00	\$ 1,550.00	\$ 1,500.00	\$ 1,500.00
25	Catch Basin Type 2, 48-In. Diam.	1	EA	\$ 3,500.00	\$ 3,500.00	\$ 1,900.00	\$ 1,900.00	\$ 3,500.00	\$ 3,500.00	\$ 4,340.00	\$ 4,340.00	\$ 4,800.00	\$ 4,800.00	\$ 4,000.00	\$ 4,000.00
26	Manhole 54-In. Diam. Type 1, with Flow Restrictor	1	EA	\$ 5,000.00	\$ 5,000.00	\$ 3,825.00	\$ 3,825.00	\$ 7,000.00	\$ 7,000.00	\$ 7,550.00	\$ 7,550.00	\$ 8,200.00	\$ 8,200.00	\$ 7,500.00	\$ 7,500.00
27	ESC Lead	45	DAY	\$ 20.00	\$ 900.00	\$ 1.00	\$ 45.00	\$ 5.00	\$ 225.00	\$ 50.00	\$ 2,250.00	\$ 1.00	\$ 45.00	\$ 40.00	\$ 1,800.00
28	Erosion / Water Pollution Control	1	LS	\$ 5,000.00	\$ 5,000.00	\$ 4,025.00	\$ 4,025.00	\$ 2,000.00	\$ 2,000.00	\$ 7,800.00	\$ 7,800.00	\$ 2,500.00	\$ 2,500.00	\$ 18,000.00	\$ 18,000.00
29	Stormwater Pollution Prevention Plan (SWPPP)	1	LS	\$ 500.00	\$ 500.00	\$ 100.00	\$ 100.00	\$ 1,200.00	\$ 1,200.00	\$ 750.00	\$ 750.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00
30	Inlet Protection	3	EA	\$ 100.00	\$ 300.00	\$ 50.00	\$ 150.00	\$ 60.00	\$ 180.00	\$ 100.00	\$ 300.00	\$ 150.00	\$ 450.00	\$ 70.00	\$ 210.00
31	Property Restoration	1	FA	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00
32	Raised Pavement Marker Type 1	217	EA	\$ 5.58	\$ 1,210.21	\$ 5.50	\$ 1,193.50	\$ 8.00	\$ 1,736.00	\$ 10.00	\$ 2,170.00	\$ 6.00	\$ 1,302.00	\$ 1.50	\$ 325.50
33	Raised Pavement Marker Type 2	31	EA	\$ 8.71	\$ 270.01	\$ 16.00	\$ 496.00	\$ 15.00	\$ 465.00	\$ 10.00	\$ 310.00	\$ 18.50	\$ 573.50	\$ 5.00	\$ 155.00
34	Paint Line	650	LF	\$ 2.50	\$ 1,625.00	\$ 0.50	\$ 325.00	\$ 1.00	\$ 650.00	\$ 2.25	\$ 1,462.50	\$ 0.75	\$ 487.50	\$ 1.25	\$ 812.50
				\$ 323,465.22	\$ 323,465.22	\$ 291,886.50	\$ 291,886.50	\$ 338,112.00	\$ 338,112.00	\$ 370,538.50	\$ 370,538.50	\$ 363,173.00	\$ 363,173.00	\$ 452,982.00	\$ 452,982.00

Des Moines Memorial Drive Pipeline South 216th Place Culvert Replacement Projects
 Bid Tabulation
 Individual Bid Detailed Comparison
 May 22, 2014

Item No.	Item Description	Qty	Unit	Engineers Estimate			Northwest Cascade, Inc.			Kar-Val Construction			Hoffman Construction, Inc.			Road Construction Northwest, Inc.			R.W. Scott Construction Co.					
				Unit Price	Amount	Estimate	Unit Price	Amount	Estimate	Unit Price	Amount	Estimate	Unit Price	Amount	Estimate	Unit Price	Amount	Estimate	Unit Price	Amount	Estimate	Unit Price	Amount	
Schedule B																								
1	Minor Change	1	FA	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00			
2	Roadway Surveying	1	LS	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00			
3	Potholing	1	FA	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00			
4	SPCC Plan	1	LS	\$ 600.00	\$ 600.00	\$ 600.00	\$ 600.00	\$ 600.00	\$ 600.00	\$ 600.00	\$ 600.00	\$ 600.00	\$ 600.00	\$ 600.00	\$ 600.00	\$ 600.00	\$ 600.00	\$ 600.00	\$ 600.00	\$ 600.00	\$ 600.00			
5	Type B Progress Schedule (Minimum Bid \$1,000)	1	LS	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00			
6	Mobilization	1	LS	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00			
7	Pedestrian Control and Protection	1	LS	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00			
8	Project Temporary Traffic Control	1	LS	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00			
9	Roadside Cleanup	1	FA	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00			
10	Clearing and Grubbing	1	LS	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00			
11	Removal of Structures and Obstructions	1	LS	\$ 7,500.00	\$ 7,500.00	\$ 7,500.00	\$ 7,500.00	\$ 7,500.00	\$ 7,500.00	\$ 7,500.00	\$ 7,500.00	\$ 7,500.00	\$ 7,500.00	\$ 7,500.00	\$ 7,500.00	\$ 7,500.00	\$ 7,500.00	\$ 7,500.00	\$ 7,500.00	\$ 7,500.00	\$ 7,500.00			
12	Roadway Pavement Excavation	27	SY	\$ 50.00	\$ 1,350.00	\$ 1,350.00	\$ 29.00	\$ 783.00	\$ 783.00	\$ 7.00	\$ 189.00	\$ 189.00	\$ 7.00	\$ 189.00	\$ 189.00	\$ 189.00	\$ 189.00	\$ 189.00	\$ 189.00	\$ 189.00	\$ 189.00	\$ 189.00		
13	Unsuitable Foundation Excavation Incl. Haul	5	CY	\$ 25.00	\$ 125.00	\$ 125.00	\$ 45.00	\$ 225.00	\$ 225.00	\$ 14.00	\$ 70.00	\$ 70.00	\$ 14.00	\$ 70.00	\$ 70.00	\$ 70.00	\$ 37.00	\$ 185.00	\$ 185.00	\$ 75.00	\$ 375.00	\$ 375.00		
14	Gravel Borrow Incl. Haul	8	TON	\$ 45.00	\$ 360.00	\$ 360.00	\$ 45.00	\$ 360.00	\$ 360.00	\$ 18.00	\$ 144.00	\$ 144.00	\$ 18.00	\$ 144.00	\$ 144.00	\$ 144.00	\$ 55.00	\$ 440.00	\$ 440.00	\$ 17.50	\$ 140.00	\$ 140.00		
15	Structure Excavation Class B	435	CY	\$ 15.00	\$ 6,525.00	\$ 6,525.00	\$ 1.00	\$ 435.00	\$ 435.00	\$ 2.00	\$ 870.00	\$ 870.00	\$ 2.00	\$ 870.00	\$ 870.00	\$ 2.00	\$ 870.00	\$ 870.00	\$ 0.25	\$ 108.75	\$ 108.75	\$ 40.00		
16	Shoring or Extra Excavation Class B	1	LS	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 5,400.00	\$ 5,400.00	\$ 5,400.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 7,000.00		
17	Crushed Surfacing Top Course	200	CY	\$ 45.00	\$ 9,000.00	\$ 9,000.00	\$ 66.00	\$ 13,200.00	\$ 13,200.00	\$ 5.00	\$ 1,000.00	\$ 1,000.00	\$ 5.00	\$ 1,000.00	\$ 1,000.00	\$ 5.00	\$ 1,000.00	\$ 1,000.00	\$ 35.00	\$ 7,000.00	\$ 7,000.00	\$ 52.00	\$ 10,400.00	
18	HMA CI 1/2 PG 64-22	13	TON	\$ 160.00	\$ 2,080.00	\$ 2,080.00	\$ 200.00	\$ 2,600.00	\$ 2,600.00	\$ 275.00	\$ 3,575.00	\$ 3,575.00	\$ 275.00	\$ 3,575.00	\$ 3,575.00	\$ 275.00	\$ 3,575.00	\$ 3,575.00	\$ 338.00	\$ 4,394.00	\$ 4,394.00	\$ 280.00	\$ 3,640.00	
19	Storm Sewer Pipe, 12-In. Diameter	13	LF	\$ 45.00	\$ 585.00	\$ 585.00	\$ 60.00	\$ 780.00	\$ 780.00	\$ 90.00	\$ 1,170.00	\$ 1,170.00	\$ 90.00	\$ 1,170.00	\$ 1,170.00	\$ 90.00	\$ 1,170.00	\$ 1,170.00	\$ 51.00	\$ 663.00	\$ 663.00	\$ 80.00	\$ 1,040.00	
20	Storm Sewer Pipe, 18-In. Diameter	18	LF	\$ 70.00	\$ 1,260.00	\$ 1,260.00	\$ 100.00	\$ 1,800.00	\$ 1,800.00	\$ 97.00	\$ 1,746.00	\$ 1,746.00	\$ 97.00	\$ 1,746.00	\$ 1,746.00	\$ 97.00	\$ 1,746.00	\$ 1,746.00	\$ 78.50	\$ 1,413.00	\$ 1,413.00	\$ 90.00	\$ 1,620.00	
21	Storm Sewer Pipe, 24-In. Diameter	366	LF	\$ 100.00	\$ 36,600.00	\$ 36,600.00	\$ 90.00	\$ 32,940.00	\$ 32,940.00	\$ 120.00	\$ 43,920.00	\$ 43,920.00	\$ 120.00	\$ 43,920.00	\$ 43,920.00	\$ 120.00	\$ 43,920.00	\$ 43,920.00	\$ 91.00	\$ 33,306.00	\$ 33,306.00	\$ 120.00	\$ 43,920.00	
22	Catch Basin Type 1-L	1	EA	\$ 1,700.00	\$ 1,700.00	\$ 1,700.00	\$ 1,100.00	\$ 1,100.00	\$ 1,100.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 1,230.00	\$ 1,230.00	\$ 1,230.00	\$ 1,500.00	\$ 1,500.00		
23	Catch Basin Type 2, 54-In. Diameter with Bridge Trash Rack	1	EA	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 4,300.00	\$ 4,300.00	\$ 4,300.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,750.00	\$ 6,750.00	\$ 6,750.00	\$ 7,500.00	\$ 7,500.00		
24	Manhole 54-In. Diam. Type 1	1	EA	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 2,375.00	\$ 2,375.00	\$ 2,375.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,650.00	\$ 4,650.00	\$ 4,650.00	\$ 5,750.00	\$ 5,750.00		
25	Manhole 60-In. Diam. Type 1	1	EA	\$ 4,500.00	\$ 4,500.00	\$ 4,500.00	\$ 4,325.00	\$ 4,325.00	\$ 4,325.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 5,360.00	\$ 5,360.00	\$ 5,360.00	\$ 6,500.00	\$ 6,500.00		
26	Trash Rack Inlet for 12-In. Diam. Storm Sewer Pipe	1	EA	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 925.00	\$ 925.00	\$ 925.00	\$ 1,500.00	\$ 1,500.00	\$ 1,500.00	\$ 1,500.00	\$ 1,500.00	\$ 1,500.00	\$ 1,500.00	\$ 1,500.00	\$ 540.00	\$ 540.00	\$ 540.00	\$ 1,250.00	\$ 1,250.00		
27	Trash Rack Inlet for 24-In. Diam. Storm Sewer Pipe	1	EA	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00	\$ 1,125.00	\$ 1,125.00	\$ 1,125.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 775.00	\$ 775.00	\$ 775.00	\$ 1,750.00	\$ 1,750.00		
28	ESC Lead	45	DAY	\$ 20.00	\$ 900.00	\$ 900.00	\$ 1.00	\$ 45.00	\$ 45.00	\$ 5.00	\$ 225.00	\$ 225.00	\$ 5.00	\$ 225.00	\$ 225.00	\$ 5.00	\$ 225.00	\$ 225.00	\$ 20.00	\$ 900.00	\$ 900.00	\$ 1.00	\$ 45.00	
29	Erosion / Water Pollution Control	1	LS	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,750.00	\$ 2,750.00	\$ 2,750.00	\$ 2,500.00	\$ 2,500.00		
30	Stormwater Pollution Prevention Plan (SWPPP)	1	LS	\$ 500.00	\$ 500.00	\$ 500.00	\$ 100.00	\$ 100.00	\$ 100.00	\$ 800.00	\$ 800.00	\$ 800.00	\$ 800.00	\$ 800.00	\$ 800.00	\$ 800.00	\$ 800.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 1.00	\$ 1.00		
31	Inlet Protection	3	EA	\$ 100.00	\$ 300.00	\$ 300.00	\$ 50.00	\$ 150.00	\$ 150.00	\$ 60.00	\$ 180.00	\$ 180.00	\$ 60.00	\$ 180.00	\$ 180.00	\$ 60.00	\$ 180.00	\$ 180.00	\$ 100.00	\$ 300.00	\$ 300.00	\$ 85.00	\$ 255.00	
32	Property Restoration	1	FA	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00		
33	Cement Conc. Traffic Curb and Gutter	20	LF	\$ 100.00	\$ 2,000.00	\$ 2,000.00	\$ 39.00	\$ 780.00	\$ 780.00	\$ 70.00	\$ 1,400.00	\$ 1,400.00	\$ 70.00	\$ 1,400.00	\$ 1,400.00	\$ 70.00	\$ 1,400.00	\$ 1,400.00	\$ 58.00	\$ 1,160.00	\$ 1,160.00	\$ 75.00	\$ 1,500.00	
34	Plastic Stop Line	12	LF	\$ 40.00	\$ 480.00	\$ 480.00	\$ 22.00	\$ 264.00	\$ 264.00	\$ 60.00	\$ 720.00	\$ 720.00	\$ 60.00	\$ 720.00	\$ 720.00	\$ 60.00	\$ 720.00	\$ 720.00	\$ 18.00	\$ 216.00	\$ 216.00	\$ 25.00	\$ 300.00	
Total Schedule B				\$ 167,365.00			\$ 141,512.00			\$ 147,209.00			\$ 504,579.50			\$ 522,623.75			\$ 159,450.75			\$ 162,637.16		
Total Bid (Schedule A+B)				\$ 480,830.22			\$ 433,398.50			\$ 485,321.00			\$ 504,579.50			\$ 522,623.75			\$ 615,619.16					



**2014-2019 CAPITAL IMPROVEMENT PLAN
Surface Water Management**

**CAPITAL IMPROVEMENT PLAN
REQUEST FORM**

CATEGORY	Surface Water Management	City Project #	451.819
PROJECT	216th Place Culvert Replacement	SWM Project #	
		Project Type:	
		Council Goals met:	
		Council Objectives met:	
		Project Status	

LOCATION 216th Place (4th Place S. to Des Moines Memorial Drive)

DESCRIPTION: Replacement of existing 18-inch corrugated metal pipe with 400 feet of 24-inch pipe.

EXPENDITURE SCHEDULE										
COST ELEMENTS	TOTAL*	FY 12 Act	FY 13 Est	FY 13 Amd	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19
ADMINISTRATION	\$ 4,276		\$ 1,276	\$ 4,000	\$ 3,000					
CIP PROJ MANAGEMENT	10,000			10,000	10,000					
Design	13,252		8,252	20,000	5,000					
Improvements	120,000			85,100	120,000					
Inspection	19,500			15,000	19,500					
CONTINGENCY	39,000			40,200	39,000					
OTHER	-									
TOTAL	\$ 206,028		\$ 9,528	\$ 174,300	\$ 196,500					

FUNDING SOURCES	TOTAL*	FY 12 Act	FY 13 Est	FY 13 Amd	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19
SWM CIP	\$ 206,028		\$ 9,528	\$ 174,300	\$ 196,500					
	-									
	-									
TOTAL	\$ 206,028		\$ 9,528	\$ 174,300	\$ 196,500					

*Excludes FY 13 Amd



**2014-2019 CAPITAL IMPROVEMENT PLAN
Surface Water Management**

**CAPITAL IMPROVEMENT PLAN
REQUEST FORM**

CATEGORY Surface Water Management PROJECT NO. 451.812
PROJECT Des Moines Memorial Drive - S. 212th to S. 213th Pipeline Replacement Project Type: Improvement
LOCATION North side of Des Moines Memorial Drive from S. 212th Street to S. 213th Street Council Goals met: 2
 DESCRIPTION: Replacement of 350 feet of existing storm drainage and ditches with 18-inch pipe. Council Objectives met: Project Status

EXPENDITURE SCHEDULE													
COST ELEMENTS	TOTAL *	FY 09 Act	FY 10 Act	FY 11 Act	FY 12 Act	FY 13 Est	FY 13 Amend	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19
ADMINISTRATION	\$ 7,189	\$ 2,117	\$ 165			\$ 907	\$ 8,000	\$ 4,000					
CIP PROJ MANAGEMENT	5,929		929					5,000					
Design	22,407					17,407	20,000	5,000					
Improvements	259,000						90,500	259,000					
Construction Management	31,000						20,000	31,000					
CONTINGENCY	52,000						35,000	52,000					
OTHER	-												
TOTAL	\$ 377,525	\$ 2,117	\$ 1,094			\$ 18,314	\$ 173,500	\$ 356,000					

FUNDING SOURCES	TOTAL *	FY 09 Act	FY 10 Act	FY 11 Act	FY 12 Act	FY 13 Est	FY 13 Amend	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19
SWM CIP	\$ 377,525	\$ 2,117	\$ 1,094			\$ 18,314	\$ 173,500	\$ 356,000					
TOTAL	\$ 377,525	\$ 2,117	\$ 1,094			\$ 18,314	\$ 173,500	\$ 356,000					

*Excludes FY 13 Amd

when Title 18 DMMC was repealed and replaced. Draft Ordinance 14-114 would add the Council-directed language that was passed on August 8, 2013 back into the Sign Code.

Alternatives

Not to set a public hearing.

Financial Impact

None.

Recommendation or Conclusion

It is recommended that Draft Resolution No. 14-114 be adopted setting a public hearing for July 24, 2014. Code Publishing has recommended that we enact this Ordinance as a housekeeping measure.

CITY ATTORNEY'S FIRST DRAFT 06/03/2014

DRAFT RESOLUTION NO. 14-114

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DES MOINES, WASHINGTON, fixing a time for a public hearing to consider Draft Ordinance No. 14-114 which amends DMMC 18.200.160(7) and 18.200.300 (1)(c)(i), as housekeeping measures, to incorporate language previously enacted by City Council in Ordinance No. 1572 that was inadvertently omitted in the Title 18 DMMC re-write (Ordinance No. 1591).

WHEREAS, Ordinance No. 1572 was enacted by City Council on August 8, 2013, amending the City's Sign Code.

WHEREAS, on January 30, 2014 the City Council passed Ordinance No. 1592 repealing and replacing Title 18 DMMC, "Zoning."

WHEREAS, during the repeal and replacement of Title 18 DMMC, the City Council's amendments to the Sign Code made on August 8, 2013 were inadvertently omitted from Ordinance No. 1591 (the Title 18 re-write Ordinance).

WHEREAS, the City Council is considering amendments to DMMC 18.200.160(7) and 18.200.300(1)(c)(i) to incorporate language that was inadvertently omitted in the Title 18 DMMC re-write (Ordinance No. 1591) on January 30, 2014, and

WHEREAS, a public hearing is required for enactment of an Ordinance which amends a portion of Title 18 DMMC commonly referred to as the *Zoning*; now therefore,

THE CITY COUNCIL OF THE CITY OF DES MOINES RESOLVES AS FOLLOWS:

The matter of amending DMMC 18.200.160(7) and 18.200.300 (1)(c)(i) to incorporate language previously enacted by City Council in Ordinance No. 1572 that was inadvertently omitted in the Title 18 DMMC re-write is set for a public hearing before the City Council on Thursday, July 24, 2014, at 7:00 p.m., or as soon thereafter as the matter may be heard, in the City Council Chambers, 21630 11th Avenue South, Suite B, Des Moines, Washington.

Resolution No. ____
Page 2 of ____

ADOPTED BY the City Council of the City of Des Moines, Washington this ____ day of _____, 2014 and signed in authentication thereof this ____ day of _____, 2014.

M A Y O R

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

6/4/14 9:11 AM

CITY ATTORNEY'S FIRST DRAFT 06/03/2014

DRAFT ORDINANCE NO. 14-114

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON relating to the City of Des Moines Sign Code, amending DMMC 18.200.160(7) and 18.200.300(1)(c)(i) as housekeeping measures to incorporate inadvertently omitted language into the Sign Code as enacted by the City Council in Ordinance No. 1572.

WHEREAS, the City Council passed Ordinance No. 1572 on August 8, 2013, which included Council amendments to DMMC 18.42.150(7) [currently DMMC 18.200.160(7)], "*Prohibited signs*", and DMMC 18.42.310(1)(c)(i) [currently 18.200.300(1)(c)(i)], "*Commercial zones*", and

WHEREAS, on January 30, 2014 the City Council passed Ordinance No. 1591 repealing and replacing Title 18, "*Zoning*", and

WHEREAS, during the repeal and replacement of Title 18 DMMC, Council's amendments to the Sign Code made on August 8, 2013 were inadvertently omitted from Ordinance No. 1591, and

WHEREAS, notice of the public hearing was given to the public in accordance with the law and a public hearing was held on the 24th day of July, 2014 and all persons wishing to be heard were heard, and

WHEREAS, a notice of intent to adopt the proposed code amendments was sent to the Washington State Department of Commerce for a 15-day expedited review and comment period in accordance with State law, and

WHEREAS, the City Council finds that this Ordinance is a housekeeping measure and incorporates language previously enacted by City Council in Ordinance No. 1572 that was inadvertently omitted in the Title 18 DMMC re-write (Ordinance No. 1591); now therefore,

THE CITY COUNCIL OF THE CITY OF DES MOINES ORDAINS AS FOLLOWS:

Ordinance No. ____
Page 2 of 7

Sec. 1. DMMC 18.200.160 and section 476 of Ordinance No. 1591 are amended to read as follows:

Prohibited signs. The following signs are prohibited:

- (1) Abandoned signs;
- (2) Signs or sign structures, which by coloring, shape, wording, or location resemble or conflict with official traffic control signs or devices;
- (3) Signs that create a safety hazard for pedestrian, wheelchair, bicycle, or vehicular traffic;
- (4) All flashing signs;
- (5) Signs attached to or placed on a vehicle or trailer parked on public or private property or public right-of-way; provided, however, that this provision shall not be construed as prohibiting the identification of a firm or its products on a vehicle operating during the normal course of business or political signs exempted under DMMC 18.200.070(6). Public transit vehicles and taxis are exempt from this provision;
- (6) Off-premises signs, except as provided in DMMC 18.200.260; or any one sign for a Des Moines business that is 12 square feet or under;
- (7) Any sign affixed to or painted on trees, rocks, or other natural features, or utility poles and the like including advertising signs affixed to or painted on fences; except as provided by DMMC 18.200.110;
- (8) Roof signs, except in Pacific Ridge; provided, that signs do not exceed the allowable building height or freestanding signs standards in DMMC 18.200.300(1);

Ordinance No. _____
Page 3 of 7

- (9) All portable reader board signs;
- (10) Strings of pennants, banners, posters, ribbons, streamers, balloons, spinners, searchlights, or other devices of a carnival nature, except as provided in DMMC 18.200.110;
- (11) Home occupation signs;
- (12) Any sign that is not specifically permitted by this chapter.

Sec. 2. DMMC 18.200.300 and section 490 of Ordinance No. 1591 are amended to read as follows:

Commercial zones. The following signs are permitted in the Pacific Ridge Commercial Zone, Business Park Zone, and all Commercial Zones abutting Pacific Highway South that are not within the Pacific Ridge neighborhood:

(1) Freestanding Signs. For single business properties, multiple-tenant buildings, multiple-building complexes, and shopping centers, freestanding signs are allowed as follows:

(a) Number of Freestanding Signs.

(i) For building sites with up to 300 feet of street frontage, one sign is allowed.

(ii) For building sites with more than 300 feet of street frontage and having more than one vehicular access, two signs are allowed; provided, that the total allowable sign area is not exceeded and the signs are more than 100 feet apart.

(b) Freestanding Sign Size.

(i) Each sign allowed shall not exceed 100 square feet in area.

Ordinance No. ____
Page 4 of 7

(ii) For properties with less than 80 feet of street frontage, sign area shall not exceed one square foot of sign area for each lineal foot of street frontage.

(c) Freestanding Sign Height.

(i) For single business properties and multiple business properties, freestanding signs shall not exceed 20 feet in height as measured from median sidewalk grade. The City Manager is authorized to formally waive the maximum sign height when signs must be set back from the arterial because of sloping site conditions provided the City Manager determines that the intent of this section is otherwise met.

(ii) For shopping centers and multi-building complexes freestanding signs shall not exceed 20 feet in height as measured from median sidewalk grade.

(d) Allowed signs, sign area, or sign height may not be transferred from one street frontage to another.

(e) The City Manager or the City Manager's designee may approve monument signs located on a separate parcel of property within a multiple-building complex or shopping center when the following conditions exist.

(i) The multiple-building complex or shopping center appears and functions as one building site; and

(ii) The monument sign appears and functions as an on-premises sign; and

(iii) The approval would not result in additional signs or sign area for the multiple-building complex or shopping center than would otherwise be allowed; and

Ordinance No. ____
Page 5 of 7

(iv) All monument and wall signs within the multiple-building complex or shopping center conform to the provisions of this chapter.

(f) Freestanding signs shall not be located on, above, nor project over the public right-of-way.

(2) Wall Signs.

(a) Each single business property is permitted a total sign area not to exceed two square feet per lineal foot of street frontage, up to a maximum of 200 square feet or no more than 10 percent of the front wall size, whichever is larger.

(b) Each multiple business property is permitted a total sign area not to exceed 20 square feet plus 40 square feet per licensed business; provided, however, that each business must be guaranteed a minimum of at least 25 square feet signage.

(c) Each multi-building complex and shopping center is permitted a total sign area not to exceed 150 square feet plus 40 square feet per licensed business; provided, however, that each business must be guaranteed a minimum of at least 35 square feet signage.

(d) Except for buildings containing multiple businesses, wall signage shall not extend horizontally a distance greater than 50 percent of the width of the building wall on which it is displayed.

(e) Allowed wall signage is not transferable from one property to another; except within a shopping center or multi-building complex.

Ordinance No. ____
Page 6 of 7

(f) Wall signs shall not be placed higher than 35 feet above median sidewalk grade.

(g) Projecting signs may not project further than six feet from the surface of the building. A right-of-way use permit shall be required for signs projecting over the public right-of-way.

(3) Reader board signs and changeable message center signs are permitted as per the requirements established in DMMC 18.200.230.

(4) Gasoline price signs shall not be located in, nor project over, the public right-of-way and shall not be portable. Such signs may be freestanding or attached to canopy columns. The area of the price sign shall not count towards the allowed total wall or freestanding signage.

(5) Temporary signs shall be permitted as provided in DMMC 18.200.110.

NEW SECTION. Sec. 3. Severability - Construction.

(1) If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

(2) If the provisions of this ordinance are found to be inconsistent with other provisions of the Des Moines Municipal Code, this ordinance is deemed to control.

NEW SECTION. Sec. 4. Effective date. This ordinance shall take effect and be in full force thirty (30) days after its passage and approval in accordance with law.

PASSED BY the City Council of the City of Des Moines this ____ day of _____, 2014 and signed in authentication thereof this ____ day of _____, 2014.

Ordinance No. _____
Page 7 of 7

M A Y O R

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

Published: _____

Effective Date: _____

recently amended, to organize and eliminate unneeded or ambiguous language, and to update to reflect the current practices of Animal Control and the City.

This Draft Ordinance was reviewed and approved for presentation to the full City Council by the Public Safety and Transportation Committee.

Discussion

Draft Ordinance 13-243 primarily achieves two objectives: (1) it creates uniformity with recent changes to Titles 12-18 and (2) updates language to reflect current practices and eliminate ambiguities. Both will be discussed below:

Uniformity:

- *Title, Application, Purpose and Authority sections were added at head of chapters.
- *Capitalized titles i.e. Chief of Police, City Manager, Hearing Examiner, etc.
- *Integrated “Offenses Against Waterfowl” chapter into chapter 8.04 DMMC.
- *Updated internal references to the DMMC as well as external to RCW’s and WAC’s.

Amendments to reflect current practices and eliminate ambiguities:

- *Clarified “bite” provision in definition of “Potentially Dangerous Dog” (DMMC 8.04.020).
- *Changed to reflect that Police Department issues licenses (DMMC 8.04.030).
- *Eliminated transfer of license language as no lesser fee has existed and new owners are required to obtain regular license. (DMMC 8.04.030).
- *Removed “Cruelty Violations” as the Criminal Code in DMMC Title 9 contains a chapter entitled “Crimes Relating to Animals.” This chapter adopts the state definition of Animal Cruelty by reference and addresses cruelty violations. (DMMC 8.04.220-230).
- *Clarified 3 strike abatement rule to require each “strike” to occur on different dates (DMMC 8.04.250).
- *Eliminated outdated reference to disposal of dead animals. City no longer disposes of dead animals. (DMMC 8.04.290).
- *Adjusted penalty provisions to reflect class 5 and 6 infractions no longer exist(DMMC 8.04.330).
- * Adjusted impound cost of dog from \$10 to \$20 to reflect actual cost to City of impound (DMMC 8.16.130).

Alternatives

1. Pass with alternative amendments.
2. Take no action.

Financial Impact

None

Recommendation or Conclusion

The Legal Department and the Police Department recommend passage of this Draft Ordinance.

CITY ATTORNEY'S FIRST DRAFT 02/25/2014

DRAFT ORDINANCE NO. 13-243

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON relating to animals and repealing and replacing Title 8 DMMC as reorganized and consistent with state law.

WHEREAS, following the amendments made to Titles 12, 13, 14, 16, 17, and 18 DMMC, additional Tiles were found to need updating, and

WHEREAS, when Title 8 DMMC was enacted, the City Clerk's office was designated to license animals, which has subsequently been reassigned to the Police Department, and

WHEREAS, subsequently chapter 8.08 DMMC was enacted as a separate chapter within Title 8 DMMC and needs to be relocated to chapter 8.04 DMMC, and

WHEREAS, the City Council finds that it is in the best interest of the public health, safety, and general welfare to establish comprehensive, uniform, and current provisions for the City's Animal Code; now therefore,

THE CITY COUNCIL OF THE CITY OF DES MOINES ORDAINS AS FOLLOWS:

Title 8 DMMC, *Animals*, and all underlying Ordinances are repealed and replaced with the following:

**TITLE 8
ANIMALS**

**Chapter 8.04
ANIMAL REGULATIONS**

Sections:

8.04.001 Title
8.04.005 Application
8.04.010 Purpose
8.04.015 Authority
8.04.020 Definitions

Draft Ordinance No. 13-243.1
10/29/2013

Ordinance No. ____
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- 8.04.030 Dog and cat licensing.
- 8.04.040 Kennel, pet shop, shelter, and veterinary hospital licenses.
- 8.04.050 License applications.
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- 8.04.320 Personal obligations.
- 8.04.330 Violation - Penalty.

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Sec. 1. 8.04.001. Title. This Title shall be referred to as "Animals." This chapter shall be entitled "Animal Regulations."

Sec. 2. 8.04.005. Application. The provisions of this chapter shall apply to all chapters contained within Title 8 DMMC.

Sec. 3. 8.04.010. Purpose. It is the purpose of this chapter to maintain levels of animal control to protect human health and safety, and to prevent injury to property and cruelty to animal life; to provide a means of licensing dogs, cats, kennels, pet shops, veterinary hospitals, and grooming parlors; to control errant animal behavior so that it shall not become a public nuisance; and to prevent cruelty to animals.

Sec. 4. 8.04.015. Authority. This chapter is adopted pursuant to the provisions of chapter 16.08 RCW and the general police powers granted to the City pursuant to chapter 35A.13 RCW and other applicable laws.

Sec. 5. 8.04.020. Definitions. As used in this Title, unless the context or subject matter clearly requires otherwise, the words or phrases defined in this section shall have the indicated meanings.

"Abatement" means the termination of any violation by reasonable and lawful means determined by the City Manager or the City Manager's designee in order that an owner or keeper or a person presumed to be an owner or keeper shall comply with this Title.

"Animal" means a living creature, except human beings, insects, and worms.

"Animal control authority" means the animal control division of the Police Department acting alone or in concert with King County animal control division for enforcement of the animal control laws of the City, county, and state, and the shelter and welfare of animals.

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"Animal control officer" means an individual employed, contracted with, or appointed by the City's Chief of Police, for the purpose of aiding in the enforcement of this Title or any other law or Ordinance relating to the licensure of animals, control of animals, or seizure and impoundment of animals, and includes any state or local law enforcement officer or other employee whose duties in whole or in part include assignments that involve the seizure and impoundment of any animal. For the purposes of this Title this definition shall apply where a person charged with enforcement of this Title is referred to as "officer" or "official."

"At large" means to be off the premises of the owner or keeper and not under control of the owner or keeper or other competent person by leash; except an animal within an automobile or other vehicle of its owner or keeper or other competent person is deemed to be on the owner's or keeper's premises.

"Dangerous dog" means a dog that according to the records of the appropriate authority:

(1) Has inflicted severe injury on a human being without provocation on public or private property; or

(2) Has killed a domestic animal, or other animal protected under federal, state, or local rules, without provocation while off the owner's or keeper's property; or

(3) Has been previously found to be potentially dangerous, the owner or keeper having received notice of such and the dog again aggressively bites, attacks, or endangers the safety of human beings or domestic animals without provocation.

"Domesticated animals" means those domestic beasts such as any dog, cat, rabbit, horse, mule, donkey, bovine animal, lamb, goat, sheep, hog, or other animal including fowl made to be domestic.

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"Euthanasia" means the humane destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death or by a method that causes painless loss of consciousness and death during loss of consciousness.

"Grooming parlor" means a place or establishment, public or private, where animals are bathed, clipped, or combed for compensation.

"Harboring" means the presumption of ownership of an animal by an occupant of any premises on which the animal remains or to which it customarily returns daily for food and care for a period of 10 days.

"Kennel" means a place where four or more dogs or cats over four months of age are kept, whether by the owners or keepers of the dogs or cats or by persons providing facilities and care, but not including a veterinary hospital or clinic or pet shop.

"Leash" means a cord, rope, thong, or chain not more than eight feet in length by which an animal is controlled by the person accompanying it.

"Livestock" means horses, bovine animals, sheep, goats, swine, reindeer, donkeys, and mules.

"Neutered" or "spayed" means action performed by a licensed veterinarian meant to prevent conception by an animal.

"Owner" or "keeper" means a person having an interest in or right of possession to an animal or a person having control, custody, or possession of an animal, or by reason of the animal being harbored being presumed to be the owners.

"Pack of animals" means a group of three or more animals running at large upon either public or private property not that

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of the owner or keeper in a state in which either their control or ownership is in doubt or cannot be readily ascertained.

"Pet shop" means a person that acquires animals bred by others and/or supplies for animals, whether as owners, keepers, agents, or on consignment and sells or offers to sell such animals and/or supplies to the public.

"Potentially dangerous dog" means:

(1) A dog that when unprovoked:

(a) Inflicts one or more bites on a human being or a domestic animal or other animal protected under federal, state, or local rules, either on public or private property; or

(b) Chases or approaches a person upon a street or a public grounds in a menacing fashion or apparent attitude of attack, or a dog with a known propensity, tendency, or disposition to attack without provocation, to cause severe injury, or to cause injury or otherwise threaten the safety of humans, domestic animals, or other animals protected under federal, state, or local rules; or

(2) An offspring, older than eight weeks, later born to a dog found to be a dangerous dog.

"Proper enclosure to confine the dog" means a securely confined indoor area of the owner's or keeper's premises, or a securely enclosed and locked pen, kennel, or other exterior structure on such premises, suitable to prevent the entry of young children or human extremities and designed to prevent a potentially dangerous or dangerous dog from escaping. Such pen, kennel, or other structure shall have secure sides and a secure top, and provide protection from the elements for the dog. If such pen, kennel, or structure has no bottom secured to the sides, the sides shall be embedded not less than two feet into the ground. Doors, windows, or other openings enclosed solely by

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wire or mesh screening shall not be considered a proper enclosure as defined in this section.

"Provocation" includes taunting, teasing, willfully causing undue pain, and/or unlawful entry upon or into the property of the owner or keeper.

"Severe injury" means a physical injury that results in broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery.

"Shelter" means a facility which is used to house or contain stray, homeless, abandoned, unwanted, or illegally maintained animals and which is owned, operated, or maintained by a public body, an established humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection, and humane treatment of animals.

"Under control" means control by leash so as to thereby be restrained from approaching a bystander or another animal or from causing or being the cause of physical property damage or personal injury, when off the premises of the owner or keeper.

"Vicious animals" means an animal other than a "dangerous dog" or "potentially dangerous dog" displaying the characteristics or propensity to do an act that might endanger the safety of a person, animal, or property of another, including but not limited to a disposition to mischief or fierceness as might occasionally lead to attack on human beings or other animals without provocation whether in play or outbreak of untrained nature.

"Waterfowl" means a warm-blooded vertebrate of the class Aves, having a body covered with feathers and forelimbs modified into wings (birds) that have aquatic characteristics in their natural state, and includes without limitation, ducks, geese, sea gulls, and the like.

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Sec. 6. 8.04.030. Dog and cat licensing.

(1) It is unlawful to keep or harbor a dog or cat more than six months of age unless an annual license is procured for the dog or cat from the Des Moines Police Department. There is established a rebuttable presumption that the purchaser of such license is the owner of the animal identified in the license application.

(2) Dogs and cats four months old or older shall be vaccinated against rabies. Vaccinations shall be performed in accordance with the standards contained in the "Compendium of Animal Rabies Control" as amended, published by the National Association of State Public Health Veterinarians, Inc. Proof of vaccination must be shown before a license will be issued by the Des Moines Police Department.

(3) The annual license fees, including late penalties, are set by Resolution of the City Council. A late penalty is charged on all licenses issued after March 1st of each year and an additional late penalty is charged on all licenses issued after May 1st of each year. A dog or cat acquired during the year shall be licensed within 30 days from the date of its acquisition, and in such cases the late penalties are charged only on licenses issued after such 30-day period and after 90 days in which to comply with these licensing requirements.

(4) When recovering an impounded animal that does not have a valid license, the owner shall obtain a license prior to the dog or cat being discharged.

(5) The license shall remain in force for the calendar year in which it is issued. A license is considered as being due on or before January 1st of each year. Application for such license is made upon forms provided by the City. The application shall list the name, address, and phone number of the owner, the name, breed, colors, age, and sex, if any, of the dog or cat, and such other medical and vaccination information and data as may be required. Such information is kept, conveniently indexed

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by the Police Department, together with the number of the license issued.

(6) City residents 65 years of age and older may obtain at no charge a special permanent license for the lifetime of dogs and cats that are neutered or spayed and for which they are the registered owners when the animals are maintained at the owner's registered address. Such residents are not required to annually obtain a new license for the lifetime of such licensed animals, except that no household shall be issued more than three special permanent animal licenses for dogs or cats.

(7) A license issued is not transferable or usable by a person, other than the person to whom it was originally issued.

(8) It is unlawful for an applicant to withhold or provide false information on an application.

(9) Upon payment of the license fee, the Police Department shall furnish to the person paying the same a license tag for the dog or cat for which such fee has been paid. The shape of such tag may be changed from year to year, and the tag shall have stamped upon it the calendar year for which the fee has been paid. All license tags issued shall be securely fastened to a collar or other like harness which shall be worn by the animal at all times when off the premises of the licensed owner.

(10) An owner or keeper of a licensed dog or cat whose current license tag has been lost may obtain a replacement tag by the payment of a sum to be set by executive order of the City Manager at a sum less than the basic license fee.

(11) The above provisions of this section shall not apply to:

(a) Dogs and cats whose owners are nonresidents temporarily within the City;

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(b) The owners of dogs or cats brought into the City for the purpose of participating in a dog or cat show;

(c) The owners or users of Seeing Eye, Guide, or Service dogs;

(d) Veterinarians in custody of dogs or cats;

(e) The owners or operators of an animal shelter;

(f) The owners or operators of a duly licensed kennel; or

(g) The owners or operators of a grooming parlor or pet shop.

(12) It is unlawful for a person to refuse to show or exhibit at a reasonable time to an officer a dog in such person's possession or custody of a license tag issued.

Sec. 7. 8.04.040. Kennel, pet shop, shelter, and veterinary hospital licenses. It is unlawful for a person to keep, maintain, or operate a kennel, pet shop, veterinary hospital, or shelter within the City without first obtaining a valid license. A fee set by executive order of the City Manager shall be assessed not upon individual animals but upon the owner or keeper of a kennel, pet shop, veterinary hospital, or shelter. Each license and certificate of inspection issued pursuant to this chapter shall be conspicuously displayed at the establishment to which such license was issued. The license shall be dated, numbered, and shall bear the name of the City, and the name and address of the owner or keeper of the establishment, and the expiration date of the license. The license shall expire at the end of the calendar year.

Sec. 8. 8.04.050. License applications. Applications for licenses for kennels, pet shops, veterinary hospitals, and shelters shall be made to the Des Moines Police Department on forms provided by the City and shall include a finding by the Planning, Building and Public Works Director that the use is consistent with the City's Zoning Code.

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Sec. 9. 8.04.060. Veterinary hospital license - Certificate of inspection required. Before a veterinary hospital license shall be issued, a certificate of inspection from the City's health officer must be issued showing that the hospital is in full compliance with all applicable state standards (chapter 246-933 WAC) and applicable City health requirements.

Sec. 10. 8.04.070. Kennel, pet shop, or shelter license - Certificate of inspection required. Before a kennel, pet shop, or shelter license may be issued, a certificate of inspection from the City's health officer must be issued showing that the kennel, pet shop, or shelter is in full compliance with DMMC 8.04.080, 8.04.090, and 8.04.100.

Sec. 11. 8.04.080. Kennels, pet shops, or shelters - Requirements. Kennels, pet shops, and shelters shall meet the following conditions:

(1) Housing facilities shall be provided for the animals and such facilities shall be structurally sound and shall be maintained in good repair, shall be designed so as to protect the animals from injury, shall contain the animals, and shall restrict the entrance of other animals.

(2) Electric power shall be supplied in conformance with Title 14 DMMC and adequate to supply lighting and heating as may be required by this chapter. Water shall be supplied at sufficient pressure and quantity to clean indoor facilities and primary enclosures of debris and excreta.

(3) Suitable food and bedding shall be provided and stored in facilities adequate to provide protection from the infestation or contamination of insects or rodents. Refrigeration shall be provided for the protection of perishable food.

(4) Provision shall be made for the removal and disposal of animal and food wastes, bedding, dead animals, and debris. Disposal facilities shall be maintained in a sanitary

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condition, free from the infestation or contamination of insects or rodents or disease, and from obnoxious or foul odors.

(5) Washroom facilities, including sinks and toilets, with hot and cold water, shall be conveniently available for cleaning purposes, and a large sink or tub shall be provided for the purpose of washing utensils, equipment, and facilities.

(6) Sick animals shall be separated from those appearing healthy and normal and if for sale shall be removed from display and sale. Sick animals shall be kept in isolation quarters with adequate ventilation to keep from contaminating the other animals.

(7) There shall be an employee on duty at all times during the hours any establishment is opened whose responsibility shall be the care and welfare of the animals held for sale or display.

(8) An employee or owner shall come in to feed, water, and do the necessary cleaning of animals on days the establishment is closed.

(9) No person shall misrepresent an animal to a consumer in any way.

(10) No person shall knowingly sell a sick or injured animal.

(11) Adequate care and feeding instructions shall be given to each purchaser of an animal and such must be in writing.

Sec. 12. 8.04.090. Kennels, pet shops, or shelters - Indoor housing facility requirements. Kennels, pet shops, and shelters which have indoor housing facilities for animals shall:

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(1) Be sufficiently heated or cooled to protect such animals from temperatures to which they are not normally acclimatized;

(2) Be adequately ventilated to provide for the health of animals contained therein and to assist in the removal of foul and obnoxious odors. Provision shall be made so that the volume of air within any enclosed indoor facility shall be changed three times or more each hour;

(3) Have sufficient natural or artificial lighting to permit routine inspection and cleaning any time of day. In addition, sufficient natural or artificial lighting shall be supplied in the area of sinks and toilets to provide for the hygiene of animal caretakers;

(4) Have interior wall, ceiling, and floor surfaces constructed of materials which are resistant to the absorption of moisture and odors, or such surfaces shall be treated with a sealant or with paint, when such materials are not originally resistant to moisture or odors. Floor surfaces shall not be made of unsealed wood. In addition, interior walls shall be constructed so that the interface with floor surfaces is sealed from the flow or accumulation of moisture or debris;

(5) Contain a drainage system which shall be connected to a sanitary sewer or septic tank system which conforms to the City building code standards and shall be designed to rapidly remove water and excreta in the cleaning of such indoor housing facility in any condition of weather or temperature; provided, that this requirement shall not apply to pet shops. All indoor housing facilities shall be maintained in a clean and sanitary condition and a safe and effective disinfectant shall be used in the cleaning of such facilities.

Sec. 13. 8.04.100. Kennels, pet shops, or shelters - Outdoor housing facility requirements. Kennels, pet shops, and shelters which have outdoor facilities for animals shall:

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(1) Be constructed to provide shelter from excessive sunlight, rain, snow, wind, or other elements. In addition, such facilities shall be constructed to provide sufficient space for the proper exercise and movement of each animal contained therein;

(2) Be constructed to provide drainage and to prevent the accumulation of water, mud, debris, excreta, and other materials and shall be designed to facilitate the removal of animal and food waste;

(3) Be constructed with adequate walls or fences to contain the animals kept therein and to prevent the entrance of other animals.

Sec. 14. 8.04.110. Compliance with DMMC 8.04.080, 8.04.090, and 8.04.100 required. All kennels, pet shops, and shelters shall at all times be in a condition of full compliance with the requirements of DMMC 8.04.080, 8.04.090, and 8.04.100. Failure to be in full compliance with DMMC 8.04.080, 8.04.090, and 8.04.100 is unlawful and shall constitute a public nuisance and as such shall be subject to the abatement procedures of this chapter. Failure to maintain the establishment in full compliance shall be grounds for revocation of any license issued.

Sec. 15. 8.04.120. Inspections. It shall be the duty of the City's health officer to make or cause to be made all such inspection as may be necessary to insure compliance with this chapter. The owner or keeper of a kennel, pet shop, or shelter shall admit any officer or agent of the City's health officer to the premises in order to make necessary inspections at any reasonable time that admission is requested.

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Sec. 16. 8.04.130. Grooming parlor license - Requirements.

(1) It is unlawful for any person to keep or maintain any grooming parlor without a valid license. A fee set by executive order of the City Manager shall be assessed and paid.

(2) Grooming parlors shall:

(a) Not board animals but keep such animals only for a reasonable time in order to perform the business of grooming;

(b) Provide such restraining straps for the animal while it is being groomed so that such animal shall not fall or be hanged;

(c) Sterilize all equipment after each animal has been groomed;

(d) Not leave an animal unattended before a dryer;

(e) Not prescribe treatment or medicine that is the province of a licensed veterinarian as provided in RCW 18.92.010; and

(f) Not put more than one animal in each cage.

(3) A grooming parlor license must be revoked or may be refused to be renewed if the establishment constitutes a public nuisance or for failure to comply with the above requirements.

Sec. 17. 8.04.140. Denial of license - Appeal.

No applicant shall be issued a kennel, pet shop, shelter, or grooming parlor license that has had such license revoked or refusal to renew and until such applicant meets all applicable requirements established by this chapter. A decision to revoke, refusal to renew, or denial of a license under this chapter may

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be appealed to the Hearing Examiner. Such appeal shall be brought within 10 days of such decision and in accordance with the Hearing Examiner Code.

Sec. 18. 8.04.150. Enforcement powers.

(1) City officers and officials are authorized to take such lawful action as may be required to enforce the provisions of this chapter and the laws of the state as they pertain to control of animal behavior and prevention of cruelty to animals.

(2) Enforcement officers and officials shall not enter a building designated for and used for private purposes, unless a proper warrant has first been issued upon a showing that the officer or official has probable cause to believe that an animal is being maintained in the building in violation of this chapter.

(3) Provided, that such officers or officials, while pursuing an animal observed by the officer or official to be in violation of this chapter, may enter upon any public or private property, except any building designated for and used for private purposes for the purpose of abating the animal violation.

(4) No person shall deny, prevent, obstruct, or attempt to deny, prevent, or obstruct an officer or official from pursuing and impounding an animal observed to be in violation of this chapter.

Sec. 19. 8.04.160. Impound power and procedure.

The Chief of Police or the Chief's designee may apprehend an animal found doing any of the acts defined as a public nuisance or being subject to cruel treatment as defined by law. After such animals are apprehended, the Chief of Police or the Chief's designee shall ascertain whether such animal is licensed or otherwise identifiable, and if reasonably possible and if the animal is not subject to DMMC 8.04.250, return the animal to the owner together with a notice of violation, and if it is not reasonably possible to immediately return the animal to its owner, the Chief of Police or the Chief's designee shall notify

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the owner within a reasonable time by certified mail or by telephone that the animal has been impounded and may be redeemed. The Chief of Police or the Chief's designee shall immediately upon impounding an animal make a complete registry, entering the type, breed, color, and sex of such animal and where appropriate, whether licensed and if licensed, shall enter the name and address of the owner or keeper and the number of the tag.

Sec. 20. 8.04.170. Impounded animals to be held for at least 72 hours. An animal impounded pursuant to this chapter and not subject to DMMC 8.04.250 shall be held for the owner at least 72 hours after the owner's receipt of notification by certified mail or by telephone. Any animal suffering from serious injury or disease may be humanely destroyed by euthanasia or in the discretion of the impounding authority may be held for a longer period and provided veterinary care and redeemed by the owner or keeper within 72 hours of notification or by any person after that time upon the payment of all charges due and owing.

Sec. 21. 8.04.180. Redemption of impounded animals. Impounded animals shall be taken to locations approved by the City. The owner or keeper of such an animal may recover said animal when all billable costs, redemption fees, penalties, license fees, including any late penalty, and boarding costs incurred by such impoundment are made payable to the City; provided, the boarding cost for livestock shall be in accordance with the rate established by contract between the City and the given stockyard used for holding such animal. The Chief of Police or the Chief's designee may release the animal to its owner, before the receipt of all costs and payments due, when the Chief of Police or the Chief's designee receives notice from the City Attorney that the owner has signed a promissory note, in a form prepared by the City Attorney, wherein such owner shall agree to pay such redemption charges in full within 30 days from the date of the execution of such promissory note. Such promissory note shall provide for the interest and payment of the attorney's fees involved in collection in the event payment is not made within the time required by the terms thereof.

Sec. 22. 8.04.190. Unredeemed impounded animals. In case an animal is not redeemed, it shall be humanely

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destroyed by euthanasia by the impounding agency or may be made available for adoption or may be sold at auction upon 10 days' notice published in the City's official newspaper. A copy of such notice shall be served upon the owner if known personally or by certified mail, return receipt requested at least one day before such auction. City expenses shall be first deducted from the amount obtained at such an auction, with the remainder, if any, retained for the owner for six months. If unclaimed for such six-month period, the balance shall revert to the City and be deposited into the general fund.

Sec. 23. 8.04.200. Redemption of impounded animals subject to further provisions. Release of an impounded animal to its owner or keeper may be further subject to an agreement by the owner or keeper to special provisions set by the Chief of Police intended to prevent the reoccurrence of the violation. Violation of such agreement shall be a violation of this chapter and shall be punished accordingly.

Sec. 24. 8.04.210. Violations to be abated. For the purposes of this chapter, the following are violations of this chapter and are abated as provided in this chapter:

(1) A public nuisance relating to animal control known at common law or in equity jurisprudence;

(2) A domesticated animal running at large;

(3) A domesticated animal, whether licensed or not, that runs at large in a park, or enters a public beach, pond, fountain, or stream therein, or upon a public playground or school ground, except that this subsection shall not apply to a person using a trained seeing eye, guide, or service dog, to animal shows, exhibitions, or organized dog training classes when at least 24 hours' advance notice has been given to the Chief of Police by such persons requesting to hold such animal shows, exhibitions, or dog training classes;

(4) An animal that enters a room or immediate area where food is stored, prepared, served, or sold to the public, except that this subsection shall not apply to a guide dog for a

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blind or hearing impaired person or to a service dog for a physically disabled person;

(5) An animal that enters a public building or hall, except that this section shall not apply to a guide dog for a blind or hearing impaired person, to a service dog for a physically disabled person, to veterinary offices or hospitals, shelters, or to animal shows, exhibitions or organized dog training classes when at least 24 hours' advance notice has been given to the Chief of Police by such persons requesting to hold such animal shows, exhibitions, or dog training classes. This section shall not prohibit a person from walking or exercising an animal, or visiting a public building or hall with an animal when such animal is on a leash or in an enclosure and proper safeguards are taken to protect the public and property from injury or damage by the animal; however, the owner of the animal shall assume all risk and liability for injury or damage that could be caused by the animal;

(6) A domesticated animal that chases, runs after, or jumps at vehicles using the public streets;

(7) A domesticated animal that habitually snaps, growls, snarls, jumps upon, or otherwise threatens persons lawfully using the public streets;

(8) An animal that has exhibited vicious propensities and that constitutes a danger to the safety of persons, property, or other animals off its owner or keeper's premises or lawfully on such owner or keeper's premises;

(9) An animal with vicious propensities when not on its owner or keeper's premises and not securely controlled by leash or confined or not in control of a person of suitable age and discretion to control or restrain such animal;

(10) A domesticated animal which howls, yelps, whines, barks, or makes other oral noises, in such a manner as to disturb person(s) or a neighborhood to an unreasonable degree;

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(11) A domesticated animal that enters upon another person's property without the permission of that person;

(12) An animal staked, tethered, or kept on public property without prior written consent of the Chief of Police;

(13) Animals kept, harbored, or maintained and known to have a contagious disease unless under the treatment of licensed veterinarian;

(14) Animals running in packs;

(15) Domestic animals trespassing on private or public property so as to damage, destroy, or despoil any property.

Sec. 25. 8.04.240. Termination of occurrence of violation. Upon the complaint of a person, and after such complaint is verified by the Chief of Police or the Chief's designee, the Chief of Police or the Chief's designee shall commence proceedings to terminate the occurrence of a violation either by service of citation or by the procedure set out in DMMC 8.04.250, as applicable. The standards of this chapter shall be followed by the Chief of Police in determining the existence of an animal control violation and in determining the abatement action required.

Sec. 26. 8.04.250. Animal declared a public nuisance - Abatement. An animal that has been the subject of three (3) convictions of a violation of this chapter occurring on separate dates in a period of 365 days or an animal that bites or attacks a person or persons without provocation twice within a five-year period is a public nuisance and shall not be kept within the City. The Chief of Police shall follow the procedures set out in DMMC 8.04.260 in order to abate such animal. After the completion of such abatement procedures, an animal subject to removal from the City as provided in this section that is found within the City shall be impounded and treated as an unredeemed animal with no right of redemption by its owner or keeper.

Sec. 27. 8.04.260. Abatement of nuisances - Procedure - Appeal. The following procedure shall apply to the abatement of animals subject to removal, to animals not

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redeemable because subject to cruelty, and to kennels, pet shops, and shelters in violation of DMMC 8.04.040 through 8.04.120:

(1) Notice shall be directed to the owner or keeper of such an animal by the Chief of Police or the Chief's designee, stating the action to be taken, the basis for action, and the availability of an appeal, as provided in subsection (2) of this section. Such notice shall be served personally, or by postage paid certified mail, return receipt requested, or by posting at the last known residence or place of business of the owner or keeper. Such notice shall constitute a final order unless the owner or keeper files a written notice of appeal within 48 hours of the receipt of the notice or posting of the notice.

(2) An appeal from the notice of abatement of nuisance shall be brought to the Hearing Examiner. Such appeal shall be brought within 10 days of such decision and in accordance with the Hearing Examiner Code; provided, however, that appeal from the decision of the Hearing Examiner shall be directly to King County superior court upon a writ of certiorari and within the time provided for appeal to superior court from a decision of the City Council under the Hearing Examiner Code. During the pendency of such appeal the animal shall either be confined or, as an alternative, the owner shall post adequate monetary security to guarantee he will confine the animal. The Hearing Examiner shall have the discretion to order either alternative, and shall have discretion to revoke the recognizance should the owner violate any provision thereof. In the event the animal is confined during the appeal to superior court, the owner shall, as a condition of such appeal, post a cost bond in an amount equivalent to the cost of maintaining the animal during the pendency of the action in superior court. Such bond shall be posted either within 10 days of commencing the action or within 10 days of revocation of the recognizance, such as the case may be.

(3) Failure to fully comply with a final order shall be a misdemeanor and, further, the Chief of Police or the

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Chief's designee, shall be empowered to act to abate such nuisance or cruelty violation and the person failing to comply with such order shall become indebted to the City for all damages, costs, and charges incurred in the removal of such animal. Such damages, costs, and charges shall become a civil debt against the person failing to comply and shall be collectible in the same manner as any other civil debt owing to the City.

(4) Whenever such a public nuisance constitutes or reasonably appears to constitute an imminent or continuing danger to the public, the Chief of Police or the Chief's designee shall have authority to summarily and without notice abate the same by reasonable means. If the subject animal can be safely impounded, the Chief of Police or the Chief's designee shall do so, and the owner or keeper thereof shall become indebted to the City for all damages, costs, and charges incurred during the process of abatement. If the animal cannot be safely impounded, the Chief of Police or the Chief's designee shall have authority to slay such animal. The expense of such abatement shall likewise become a civil debt against the owner or keeper of such animal. Such summary abatement shall not limit criminal prosecution for the original violation.

Sec. 28. 8.04.270. Additional enforcement.
 Notwithstanding the existence or use of any other remedy, the Chief of Police through the City Manager may seek legal or equitable relief to enjoin acts or practices and abate conditions that constitute a violation of this chapter or other regulation adopted in this chapter.

Sec. 29. 8.04.280. Rabies control.

(1) It is unlawful for the owner of an animal when notified that such animal has bitten a person or has injured a person as to cause an abrasion of the skin, to sell, give away, or permit or allow such animal to be taken beyond the limits of the City, except to a veterinary hospital, but it shall be the duty of such owner upon receiving notice of the occurrence of

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such bite or abrasion to immediately place such animal in a duly licensed veterinary hospital for at least 15 days or to deliver such animal to the police department or their agent for such placement; provided, upon authorization of a licensed veterinarian and the Des Moines Police Department, such animal may be released to the custody of its owner or keeper upon the owner or keeper's undertaking to keep the same securely chained and confined to the premises of the owner or keeper and segregated from other animals during such observation period. A member of the Police Department or agent thereof receiving such animal shall immediately convey the animal to a veterinary hospital where such animal shall be securely confined for a period of at least 15 days. In case such animal is delivered to a veterinary hospital by the owner or keeper, the owner or keeper shall immediately furnish notice thereof to the Chief of Police. A veterinary hospital, upon the receipt of such animal, shall submit to the Chief of Police a certificate stating that the animal either:

- (a) Shows no symptoms of rabies; or
- (b) Shows symptoms of rabies.

At the expiration of the 15-day period of confinement and upon release of such animal because not rabid, a veterinary hospital shall submit to the Chief of Police a second certificate stating that the animal has been found not to be rabid and has been released. A licensed veterinarian releasing such animal to its owner or keeper for confinement during the observation period, shall at the end of the 15-day period submit a report to the Chief of Police as to the condition of such animal.

(2) Costs of maintaining an animal in a veterinary hospital shall be paid by the owner.

(3) If a fierce, dangerous, or vicious animal cannot be safely taken up and impounded, such animal may be euthanized by the police department or any of its officers or agents.

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(4) In cases where an animal that has bitten a person or caused an abrasion of the skin is euthanatized by an officer, and a period of less than 15 days has elapsed since the day the animal bit a person or caused an abrasion of the skin of a person, it is the duty of the Chief of Police or the Chief's designee to contact the laboratory of the State Department of Health for further instruction.

(5) Whenever rabies among dogs becomes prevalent in western Washington or in the county, or whenever western Washington or the county are declared to be under a rabies quarantine, the City Manager may order every dog within the City inoculated, may order all dogs muzzled unless confined within a pen, and may make such other orders as may be necessitated to protect the public from this health hazard. During the time such orders are in force, the Chief of Police and the Chief's designee may be ordered by the City Manager to euthanize dogs found running at large.

(6) For the purposes of this section, a King County animal control center qualifies as a duly licensed veterinary hospital.

Sec. 30. 8.04.290. Prohibited acts against waterfowl.

(1) Persons. No person shall engage in the following acts toward a waterfowl: to catch, injure, kill, or throw a stone or missile at or strike with a stick or weapon.

(2) Dogs. No person shall permit a dog to engage in the following acts toward a waterfowl: to catch, injure, or kill a waterfowl.

(3) Violation - Penalty.

(a) No person shall violate or fail to comply with this section.

(b) A violation of or failure to comply with this section is a class 3 civil infraction.

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(c) Each waterfowl that is the object of the conduct prohibited in DMMC 8.04.290 constitutes a separate offense.

Sec. 31. 8.04.300. Possession of another's animal.

Anyone having in his possession an animal not owned by him, without consent of the lawful owner or custodian, shall immediately notify the Chief of Police or the Chief's designee and release such animal to the Chief of Police or the Chief's designee on demand without charge.

Sec. 32. 8.04.310. Wild or exotic animals.

(1) No person shall have, keep, or maintain, in an area of the City, a live monkey (nonhuman primate), lion, tiger, bear, cougar, mountain lion, badger, wolf, coyote, fox, lynx, or a venomous reptile or serpent, or any other dangerous, carnivorous, wild, or exotic animal or reptile.

(2) For the purpose of this section, the following terms shall have the following meanings:

"Exotic" means animals of foreign origin and that are not native by birth to this community.

"Wild" means an animal that generally lives in its original natural state and is not normally domesticated.

(3) Such animals will be allowed to enter or remain in the City on the condition that a permit be obtained from the Des Moines Police Department. Such permit shall only be granted upon a showing by the applicant that adequate safeguards have been instituted and will be maintained which will effectively control the dangerous or vicious propensities of such animal or reptile, eliminating danger to individuals or property and providing that the keeping or maintaining of such animal will in no way constitute a nuisance to the occupants of surrounding property.

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(4) No person owning or having charge, custody, control, or possession of an animal specified in subsection (1) of this section, shall permit the same to run at large upon any street or other place, public or private or within the premises of such person, in such a manner to endanger a person lawfully entering such premises.

(5) Subsection (1) of this section shall not apply to a person keeping or maintaining or having in his possession or under his control an animal defined in that subsection when such person is transporting such animal through the City; provided, that he has taken adequate safeguards to protect the public, and has notified the Chief of Police of his proposed route and of the time that such trip is to take place; nor shall subsection (1) apply to a person who has custody of such animals in connection with the operation of a zoo or circus or in connection with a program of medical or scientific research; provided such person has taken adequate measures to safeguard persons and property. Whether measures taken to safeguard the public pursuant to this section are adequate shall be determined solely by the Chief of Police or the Chief's designee.

Sec. 33. 8.04.320. Personal obligations. Civil penalties and costs of abatement incurred by the City are the personal obligations of the animal owner or keeper. The City Attorney may collect such civil penalties and abatement costs by use of appropriate legal remedies.

Sec. 34. 8.04.330. Violation - Penalty.

(1) No person shall violate or fail to comply with this chapter or, as owner or keeper, cause, allow, or intentionally or negligently permit animals under such person's control to be in violation of this chapter.

(2) A first violation of or failure to comply with this section within a 12-month period with respect to the same animal is a class 4 civil infraction.

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(3) A second violation of or failure to comply with this section within a 12-month period with respect to the same animal is a class 3 civil infraction.

(4) A third or subsequent violation of or failure to comply with this section within a 12-month period with respect to the same animal is a class 2 civil infraction; provided, that a third or subsequent violation of or failure to comply with the provisions of DMMC 8.04.210(7) or (8) within a 12-month period with respect to the same animal is a class 1 civil infraction

Chapter 8.16 DANGEROUS AND POTENTIALLY DANGEROUS DOGS

Sections:

8.16.001	Title
8.16.003	Application
8.16.005	Purpose
8.16.008	Authority
8.16.010	Special license and certificate required.
8.16.020	Certificate - Issuance upon compliance.
8.16.030	Findings and declaration - Probable cause.
8.16.040	Declaration - Service to owner in writing.
8.16.050	Declaration - Information required.
8.16.060	Declaration - Appeal - Hearing - Procedure.
8.16.070	Declaration - Impoundment pending appeal.
8.16.080	Special license requirements - Fees and renewals.
8.16.090	Special license requirements - Information required.
8.16.100	Noncompliance with confinement regulation.
8.16.110	Potentially dangerous dog - Failure to obtain license and certificate.
8.16.120	Dangerous dog - Failure to obtain license and certificate.
8.16.130	Impoundment for failure to obtain license or certificate.
8.16.140	Immediate impoundment - Conditions warranting.
8.16.150	Impoundment for biting.
8.16.160	Dogs exempted - Effect of trespass or tort.
8.16.170	Limitations on ownership of potentially dangerous dogs and dangerous dogs - Reporting requirements.

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8.16.180 Potentially dangerous dog, dangerous dog, special license fees.
8.16.190 Immunity.
8.16.200 Violation - Penalty.

Sec. 35. 8.16.001. Title. This chapter shall be entitled "Dangerous and Potentially Dangerous Dogs."

Sec. 36. 8.16.003. Application. The provisions of this chapter shall apply to all chapters contained within Title 8 DMMC.

Sec. 37. 8.16.005. Purpose. The purpose of this chapter is to provide regulations and penalties for dangerous and potentially dangerous dogs and to promote the public health, safety, and general welfare in accordance with the standards established in this Title and set forth in chapter 16.08 RCW.

Sec. 38. 8.16.008. Authority. This chapter is adopted pursuant to the general police powers granted to the City pursuant to chapter 35A.13 RCW and other applicable laws.

Sec. 39. 8.16.010. Special license and certificate required. It is unlawful for an owner or keeper to harbor a potentially dangerous dog or dangerous dog in the City without first having obtained a special license and certificate of registration, that must be obtained within 30 days of the date of declaration as provided in DMMC 8.16.030.

Sec. 40. 8.16.020. Certificate - Issuance upon compliance. A certificate of registration shall be issued by the City upon a showing of compliance with the following:

(1) Placement of a proper enclosure on the owner's or keeper's property to confine the dog and the posting on the premises where the dog is harbored of a clearly visible warning sign that there is a potentially dangerous or dangerous dog on the property; and

(2) A conspicuously displayed sign on the premises where the dog is harbored with a warning symbol that informs children or adults who cannot read of the presence of a potentially dangerous or dangerous dog; and, either:

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(3) For potentially dangerous dogs: A surety bond issued by a surety insurer qualified under chapter 48.28 RCW in a sum of not less than \$100,000 payable to a person injured by the dog(s); or a policy of liability insurance issued by an insurer qualified under Title 48 RCW in an amount not less than \$100,000, insuring the owner or keeper for personal injuries inflicted by the dog(s); or

(4) For dangerous dogs: A surety bond issued by a surety insurer qualified under chapter 48.28 RCW in a sum of not less than \$250,000 payable to a person injured by the dog(s); or a policy of liability insurance issued by an insurer qualified under Title 48 RCW in an amount not less than \$250,000, insuring the owner or keeper for personal injuries inflicted by the dog(s);

(5) A certificate issued to satisfy the insurance requirements of this chapter shall provide for written notice to the City within 30 days of cancellation, reduction of limits, or termination of coverage;

(6) Any unaltered dog may not be redeemed by any person or issued a certificate of registration until the dog is spayed or neutered. In all cases, the veterinarian fee shall be paid prior to the redemption of the dog by the dog's owner or keeper.

Sec. 41. 8.16.030. Findings and declaration - Probable cause. The animal control authority may find and declare an animal potentially dangerous or dangerous if it has probable cause to believe that the animal falls within the definition set forth in DMMC 8.04.020. For the purposes of this chapter probable cause may include:

(1) The written complaint of a citizen who is willing to testify that the animal has acted in a manner which causes it to fall within the definition in DMMC 8.04.020; or

(2) Dog bite reports filed with the animal control authority as required by this chapter or state law; or

(3) Actions of the dog witnessed by any animal control officer or law enforcement officer; or

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(4) A verified report that the animal previously has been found to be either potentially dangerous or dangerous by any animal control authority; or

(5) Other substantial evidence admissible in a court of law.

Sec. 42. 8.16.040. Declaration - Service to owner in writing. The declaration shall be in writing, and shall be served on the owner or keeper in one of the following methods:

(1) Certified mail to the owner's or keeper's last known address, if known; or

(2) Personally; or

(3) If the owner or keeper cannot be located by one of the first two methods, by publication in a newspaper of general circulation;

(4) The owner or keeper of any animal found to be a potentially dangerous or dangerous dog under this section shall be assessed all service costs expended under this subsection.

Sec. 43. 8.16.050. Declaration - Information required. The declaration set forth in DMMC 8.16.040 shall state at least:

(1) A description of the animal;

(2) The name and address of the owner or keeper of the animal, if known;

(3) The whereabouts of the animal if it is not in the custody of the owner or keeper;

(4) The facts upon which the declaration is based;

(5) The availability of a hearing in case the person objects to the declaration, if a request is made within five days;

(6) The restrictions placed on the animal as a result of the declaration; and

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(7) The penalties for violation of the restrictions, including the possibility of destruction of the animal, and imprisonment or fining of the owner or keeper.

Sec. 44. 8.16.060. Declaration - Appeal - Hearing - Procedure. If the owner or keeper of the animal wishes to contest the declaration, the following procedures shall apply:

(1) The owner or keeper shall, within five days of receipt of the declaration, or within five days of the publication of the declaration pursuant to DMMC 8.16.040(3), request a hearing before the municipal court of the City. Failure to exhaust this administrative appeal process shall be a bar to further action in superior court. Any appeal taken from the decision of the Des Moines Municipal Court shall be in accordance with the Rules for Appeal of the Decisions of Courts of Limited Jurisdiction as presently constituted or as may be subsequently amended and designated.

(2) If the Des Moines municipal court finds by a preponderance of the evidence that the animal is dangerous or potentially dangerous, the declaration shall be affirmed.

(3) If the Des Moines municipal court does not find by a preponderance of the evidence that the animal is dangerous or potentially dangerous, the declaration shall be rescinded, and the restrictions imposed thereby annulled.

(4) If the Des Moines municipal court finds that the animal is not a potentially dangerous or dangerous dog, no costs shall be assessed against the City or the animal control authority or officer.

Sec. 45. 8.16.070. Declaration - Impoundment pending appeal. Following service of a declaration of potentially dangerous or dangerous dog, and pending appeal under DMMC 8.16.060, the animal control authority may, if circumstances require, impound the animal at the owner's or keeper's expense, pursuant to the provisions of this chapter, until the Des Moines Municipal Court or a higher court of competent jurisdiction orders either its redemption or destruction.

Sec. 46. 8.16.080. Special license requirements - Fees and renewals. The owner or keeper of a potentially

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dangerous or dangerous dog shall obtain a special license for such dog from the animal control authority, and shall be required to pay the fee for such license in the amount set forth in this chapter, or as may be subsequently amended. In addition, the owner or keeper of such dog shall pay an annual renewal fee for such license in the amount set forth in this chapter, or as may be subsequently amended. Annual renewal of any special license shall be conditioned on compliance with the requirements of this chapter. The animal control authority shall be authorized to pro rate such fee for the remainder of the first year during which an animal becomes subject to the registration requirements of this chapter, if no question of registration or license avoidance exists.

Sec. 47. 8.16.090. Special license requirements - Information required. The owner or keeper of a dog that is subject to a special license shall furnish the following information along with the appropriate special license fee:

(1) The animal's age, weight, coloring, breed, and any other special identifying characteristics;

(2) Two 3" x 5" color photographs of the animal;

(3) Proof of placement of a tattoo or microchip, consisting of the owner's or keeper's Social Security number or current contact information, in a location as deemed fit by a licensed veterinarian;

(4) Proof of current rabies vaccination for the animal; and, either:

(5) For potentially dangerous dogs: a certification under penalty of perjury that the animal has not been previously found to be a potentially dangerous or dangerous dog; or

(6) For dangerous dogs: a certification under penalty of perjury that the animal has not been removed from another jurisdiction to avoid any penalties arising from the animal's previous status.

Sec. 48. 8.16.100. Noncompliance with confinement regulation. An owner or keeper of a potentially dangerous dog or dangerous dog who fails to comply with the requirements of

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this chapter related to confinement in a proper enclosure, or posting of warning notices shall be guilty of a violation of this chapter.

Sec. 49. 8.16.110. Potentially dangerous dog - Failure to obtain license and certificate. Any owner or keeper of a potentially dangerous dog who fails to obtain a special license and certificate of registration, or renewal, for such dog as required in this section shall be assessed a civil penalty or shall be guilty of a gross misdemeanor in accordance with DMMC 8.16.200; provided, however, that no prosecution shall be commenced until five days have elapsed from the date such owner or keeper is notified by the animal control authority that such license or renewal for such potentially dangerous dog is required, or until any appeal brought under that section has been completed, whichever is later.

Sec. 50. 8.16.120. Dangerous dog - Failure to obtain license and certificate. Any owner or keeper of a dangerous dog who fails to obtain a special license and certificate of registration, or renewal, for such dog as required in this section shall be assessed a civil penalty or shall be guilty of a gross misdemeanor in accordance with DMMC 8.16.200; provided, however, that no prosecution shall be commenced until five days have elapsed from the date such owner or keeper is notified by the animal control authority that such license or renewal for such dangerous dog is required.

Sec. 51. 8.16.130. Impoundment for failure to obtain license or certificate. Any dangerous dog or potentially dangerous dog for which a special license and certificate of registration, or renewal, has not been obtained by its owner or keeper, pursuant to DMMC 8.16.110 and 8.16.120, is subject to being impounded by the animal control authority. In addition to any other civil penalty imposed by this chapter, the owner or keeper of any potentially dangerous dog or dangerous dog so impounded shall be subject to a civil penalty in the amount of \$20.00 per day for each day such dog remains impounded with the animal control authority. Any potentially dangerous dog or dangerous dog which is impounded due to the failure of the owner or keeper of such dog to obtain the required license or certificate of registration, and which remains impounded for a period of at least 20 days due to the failure of the owner or keeper to obtain such license or certificate of registration, or

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renewal, may be destroyed in an expeditious and humane manner by the animal control authority.

**Sec. 52. 8.16.140. Immediate impoundment -
Conditions warranting.**

(1) Any dangerous dog shall and any potentially dangerous dog may be immediately impounded by an animal control authority if:

(a) The dog is not validly registered under this chapter; or

(b) The owner or keeper does not secure or maintain the liability insurance coverage required under this chapter; or

(c) The dog is not maintained in a proper enclosure; or

(d) The dog is outside of the dwelling of the owner or keeper, or outside of the proper enclosure, and not muzzled or under proper physical restraint by the responsible person; or

(e) The dog is otherwise in violation of registration or licensing provisions of this chapter.

(2) In addition to such impound, the owner or keeper of such animal shall be deemed guilty of a criminal offense and assessed a civil penalty or shall be guilty of a gross misdemeanor in accordance with DMMC 8.16.200; provided, however, that no prosecution shall be commenced until five days have elapsed from the date such owner or keeper is notified by the animal control authority that such license or renewal for such potentially dangerous dog is required, or until any appeal brought under that section has been completed, whichever is later. The owner or keeper of any dog impounded under this subsection may redeem such dog from the animal control authority only upon proof of a valid special license and registration, proof that all required conditions under this chapter have been met, and payment of \$20.00 per day for each day such dog has been in the control of the animal control authority; provided, however, that in the event the owner or keeper has not redeemed

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such dog within 10 days of being notified of the impound, the dog shall be destroyed in an expeditious and humane manner and the owner or keeper shall be assessed an additional civil penalty in the amount of \$50.00 for the cost of destroying such dog.

Sec. 53. 8.16.150. Impoundment for biting. If a dog classified as a dangerous dog bites a person or another domestic animal, such dog shall be immediately impounded by the animal control authority, placed in quarantine for the proper length of time, and thereafter destroyed in an expeditious and humane manner. Any such animal which is deemed uncatchable by the animal control authority may be killed by such official if no other reasonable means of capture is available or such animal continues to be a threat to persons or domestic animals. Reasonable means of capture may include the use of tranquilizers which, depending upon the animal's age, size, and physical condition, may cause death. The owner or keeper of any dangerous dog impounded and destroyed pursuant to this section shall be assessed, in addition to the actual costs of the quarantine, a civil penalty in the amount of \$20.00 per day for each day such dangerous dog is quarantined by the animal control authority and in the amount of \$50.00 for the cost of destroying such dangerous dog.

Sec. 54. 8.16.160. Dogs exempted - Effect of trespass or tort. The requirements of this chapter related to potentially dangerous and dangerous dogs shall not apply to dogs registered for use by law enforcement officials for police work, whether or not such animal is maintained at its handler's residence, or to animals held in quarantine by a licensed veterinarian. Further, dogs shall not be declared potentially dangerous or dangerous if the threat, injury, or damage was sustained by a person who, at the time, was committing a wilful trespass or other tort upon the premises occupied by the owner or keeper of the dog or was tormenting, abusing, or assaulting the dog or has, in the past, been observed or reported to have tormented, abused, or assaulted the dog or was committing or attempting to commit a crime.

Sec. 55. 8.16.170. Limitations on ownership of potentially dangerous dogs and dangerous dogs - Reporting requirements.

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(1) It is unlawful for an owner or keeper of a potentially dangerous dog or dangerous dog to permit such animal to be outside the proper enclosure, unless the dog is muzzled and restrained by a substantial chain or leash not longer than 48 inches and under the physical control of a person 18 years of age or older who is capable of restraining such animal. The muzzle shall be constructed so that it will not cause injury to the dog or interfere with its vision or respiration. Such muzzle shall be constructed so that it will prevent the dog from biting any person or animal. Such dogs shall not be leashed or otherwise tied or tethered to inanimate objects, such as trees, posts, buildings, mail boxes, newspaper vending machines, and the like. Dangerous dogs and potentially dangerous dogs shall wear a bright orange collar, not less than two inches in width, at all times.

(2) It is unlawful for any person under the age of 18 years to own or keep a potentially dangerous or dangerous dog within the City limits.

(3) It is unlawful for any person to own or keep more than one potentially dangerous or dangerous dog within the City limits.

(4) It is unlawful to transfer ownership of a potentially dangerous or dangerous dog within the City limits unless the recipient has complied with the registration and licensing requirements of this chapter for such animal.

(5) It is unlawful to keep or maintain the offspring of a dangerous dog within the City for more than eight weeks following the birth of such offspring unless the offspring are registered as potentially dangerous dogs under this chapter.

(6) It is unlawful for the owner or keeper of any animal which is subject to any licensing requirements of the City to fail to report any bites or injuries suffered by any person or domestic animal as a result of an attack incident or other contact with such animal, regardless of the geographical location where such attack, incident or other contact occurs.

(7) It is unlawful for any owner or keeper of any dangerous or potentially dangerous dog to fail to immediately notify the animal control authority in writing of:

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(a) The removal from the City or death of any dog registered under this chapter, including the address and contact information for the relocation of the dog outside the City limits; or

(b) The birth of offspring of any dog licensed under this chapter; or

(c) The new address of the owner or keeper of any dog registered under this chapter should such person move within the City limits.

(8) Failure to comply. Any person who fails to comply with the mandatory or prohibitory provisions of this section shall be subject to the penalties as provided in DMMC 8.16.200.

Sec. 56. 8.16.180. Potentially dangerous dog, dangerous dog, special license fees.

(1) The special license fee for each potentially dangerous dog to be licensed under this chapter is \$250.00. The annual renewal fee for each potentially dangerous dog licensed under this chapter is \$100.00.

(2) The special license fee for each dangerous dog to be licensed under this chapter is \$250.00. The annual renewal fee for each dangerous dog licensed under this chapter is \$100.00.

Sec. 57. 8.16.190. Immunity. The City, the animal control authority, and any animal control officer executing the responsibilities set forth in this chapter shall be immune from all civil liability for an action or actions taken pursuant to this chapter, or for failure to take action to enforce the provisions of this chapter. It is not the purpose or intent of this chapter to create on the part of the City, its officers, employees, agents, or volunteers a special duty or relationship toward a specific class of individuals. This chapter has been enacted for the safety and welfare of the public as a whole.

Sec. 58. 8.16.200. Violation - Penalty.

(1) No person shall violate or fail to comply with this chapter.

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(2) A first violation of or failure to comply with this chapter within a 12-month period is a class 3 civil infraction.

(3) A second violation of or failure to comply with this chapter within a 12-month period is a class 1 civil infraction.

(4) A third or subsequent violation of or failure to comply with this chapter within a 12-month period is a gross misdemeanor.

Sec. 59. Severability - Construction.

(1) If a section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

(2) If the provisions of this Ordinance are found to be inconsistent with other provisions of the Des Moines Municipal Code, this Ordinance is deemed to control.

Sec. 60. Effective date. This Ordinance shall take effect and be in full thirty (30) days after its passage and approval in accordance with law.

PASSED BY the City Council of the City of Des Moines this ____ day of _____, 2014 and signed in authentication thereof this ____ day of _____, 2014.

M A Y O R

APPROVED AS TO FORM:

City Attorney

ATTEST:

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City Clerk

Published: _____

Effective Date: _____

Chapter 8.04
ANIMAL REGULATIONS

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[8.04.300](#) Possession of another's animal.

[8.04.310](#) Wild or exotic animals.

[8.04.320](#) Personal obligations.

[8.04.330](#) Violation – Penalty.

8.04.001. Title. This Title shall be referred to as “Animals.” This chapter shall be entitled “Animal Regulations.”

8.04.005. Application. The provisions of this chapter shall apply to all chapters contained within Title 8 DMMC.

8.04.010 Purpose.

It is the purpose of this chapter to maintain levels of animal control to protect human health and safety, and to prevent injury to property and cruelty to animal life; to provide a means of licensing dogs, cats, kennels, pet shops, veterinary hospitals, and grooming parlors; to control errant animal behavior so that it shall not become a public nuisance; and to prevent cruelty to animals.

~~It is declared the public policy of the city to secure and maintain such levels of animal control as will protect human health and safety, and to the greatest degree practicable prevent injury to property and cruelty to animal life. To this end, it is the purpose of this chapter to provide a means of licensing dogs, cats, kennels, pet shops, veterinary hospitals, and grooming parlors, to control errant animal behavior so that it shall not become a public nuisance, and to prevent cruelty to animals. [Ord. 1225 § 1, 1998; Ord. 512 § 1, 1980.]~~

8.04.015. Authority. This chapter is adopted pursuant to the provisions of chapter 16.08 RCW and the general police powers granted to the City pursuant to chapter 35A.13 RCW and other applicable laws.

8.04.020 Definitions.

~~(1) Use of Words and Phrases.~~ As used in this ~~title~~Title, unless the context or subject matter clearly requires otherwise, the words or phrases defined in this section shall have the indicated meanings.

~~(2)~~ “Abatement” means the termination of any violation by reasonable and lawful means determined by the ~~City Manager or the City Manager’s designee~~ ~~chief of police~~ in order that an owner or keeper or a person presumed to be an owner or keeper shall comply with this ~~title~~Title.

~~(3)~~ “Animal” means a living creature, except human beings, insects, and worms.

~~(4)~~ “Animal control authority” means the animal control division of the police department acting alone or in concert with King County animal control division for enforcement of the animal control laws of the ~~city~~City, county, and state, and the shelter and welfare of animals.

~~(5)~~ “Animal control officer” means an individual employed, contracted with, or appointed by the ~~city~~City’s ~~chief~~Chief of ~~police~~Police, for the purpose of aiding in the enforcement of this ~~title~~Title or any other law or ~~ordinance~~Ordinance relating to the licensure of animals, control of animals, or seizure and impoundment of animals, and includes any state or local law enforcement officer or other employee whose duties in whole or in part include assignments that involve the seizure and impoundment of any animal. For the purposes of this ~~title~~Title this definition shall apply where a person charged with enforcement of this ~~title~~Title is referred to as “officer” or “official.”

(6) "At large" means to be off the premises of the owner or keeper and not under control of the owner or keeper or other competent person by leash; except an animal within an automobile or other vehicle of its owner or keeper or other competent person is deemed to be on the owner's or keeper's premises.

(7) "Dangerous dog" means a dog that according to the records of the appropriate authority:

(a) Has inflicted severe injury on a human being without provocation on public or private property; or

(b) Has killed a domestic animal, or other animal protected under federal, state, or local rules, without provocation while off the owner's or keeper's property; or

(c) Has been previously found to be potentially dangerous, the owner or keeper having received notice of such and the dog again aggressively bites, attacks, or endangers the safety of human beings or domestic animals without provocation.

(8) "Domesticated animals" means those domestic beasts such as any dog, cat, rabbit, horse, mule, donkey, bovine animal, lamb, goat, sheep, hog, or other animal including fowl made to be domestic.

(9) "Euthanasia" means the humane destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death or by a method that causes painless loss of consciousness and death during loss of consciousness.

(10) "Grooming parlor" means a place or establishment, public or private, where animals are bathed, clipped, or combed for compensation.

(11) "Harboring" means the presumption of ownership of an animal by an occupant of any premises on which the animal remains or to which it customarily returns daily for food and care for a period of 10 days.

(12) "Kennel" means a place where four or more dogs or cats over four months of age are kept, whether by the owners or keepers of the dogs or cats or by persons providing facilities and care, but not including a veterinary hospital or clinic or pet shop.

(13) "Leash" means a cord, rope, thong, or chain not more than eight feet in length by which an animal is controlled by the person accompanying it.

(14) "Livestock" means horses, bovine animals, sheep, goats, swine, reindeer, donkeys, and mules.

(15) "Neutered" or "spayed" means action performed by a licensed veterinarian meant to prevent conception by an animal.

(16) "Owner" or "keeper" means a person having an interest in or right of possession to an animal or a person having control, custody, or possession of an animal, or by reason of the animal being harbored being presumed to be the owners.

(17) "Pack of animals" means a group of three or more animals running at large upon either public or private property not that of the owner or keeper in a state in which either their control or ownership is in doubt or cannot be readily ascertained.

(18) "Pet shop" means a person that acquires animals bred by others and/or supplies for animals, whether as owners, keepers, agents, or on consignment and sells or offers to sell such animals and/or supplies to the public.

(19) "Potentially dangerous dog" means:

(a) A dog that when unprovoked:

(i) Inflicts one or more bites on a human being or a domestic animal or other animal protected under federal, state, or local rules, either on public or private property; or

(ii) Chases or approaches a person upon a street or a public grounds in a menacing fashion or apparent attitude of attack, or a dog with a known propensity, tendency, or disposition to attack without provocation, to cause severe injury, or to cause injury or otherwise threaten the safety of humans, domestic animals, or other animals protected under federal, state, or local rules; or

(b) An offspring, older than eight weeks, later born to a dog found to be a dangerous dog.

(20) "Proper enclosure to confine the dog" means a securely confined indoor area of the owner's or keeper's premises, or a securely enclosed and locked pen, kennel, or other exterior structure on such premises, suitable to prevent the entry of young children or human extremities and designed to prevent a potentially dangerous or dangerous dog from escaping. Such pen, kennel, or other structure shall have secure sides and a secure top, and provide protection from the elements for the dog. If such pen, kennel, or structure has no bottom secured to the sides, the sides shall be embedded not less than two feet into the ground. Doors, windows, or other openings enclosed solely by wire or mesh screening shall not be considered a proper enclosure as defined in this section.

(21) "Provocation" includes taunting, teasing, wilfully causing undue pain, and/or unlawful entry upon or into the property of the owner or keeper.

(22) "Severe injury" means a physical injury that results in broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery.

(23) "Shelter" means a facility which is used to house or contain stray, homeless, abandoned, unwanted, or illegally maintained animals and which is owned, operated, or maintained by a public body, an established humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection, and humane treatment of animals.

~~(24)~~ “Under control” means control by leash so as to thereby be restrained from approaching a bystander or another animal or from causing or being the cause of physical property damage or personal injury, when off the premises of the owner or keeper.

~~(25)~~ “Vicious animals” means an animal other than a “dangerous dog” or “potentially dangerous dog” displaying the characteristics or propensity to do an act that might endanger the safety of a person, animal, or property of another, including but not limited to a disposition to mischief or fierceness as might occasionally lead to attack on human beings or other animals without provocation whether in play or outbreak of untrained nature.

“Waterfowl” means a warm-blooded vertebrate of the class Aves, having a body covered with feathers and forelimbs modified into wings (birds) that have aquatic characteristics in their natural state, and includes without limitation, ducks, geese, sea gulls, and the like.

8.04.030 Dog and cat licensing.

(1) It is unlawful to keep or harbor a dog or cat more than six months of age unless an annual license is procured for the dog or cat from the ~~city-clerk~~Des Moines Police Department. There is established a rebuttable presumption that the purchaser of such license is the owner of the animal identified in the license application.

(2) Dogs and cats four months old or older shall be vaccinated against rabies. Vaccinations shall be performed in accordance with the standards contained in the “Compendium of Animal Rabies Control” as amended, published by the National Association of State Public Health Veterinarians, Inc. Proof of vaccination must be shown before a license will be issued by the ~~city-clerk~~Des Moines Police Department.

(3) The annual license fees, including late penalties, are set by ~~resolution-Resolution~~ of the ~~city-City council~~Council. A late penalty is charged on all licenses issued after March 1st of each year and an additional late penalty is charged on all licenses issued after May 1st of each year. A dog or cat acquired during the year shall be licensed within 30 days from the date of its acquisition, and in such cases the late penalties are charged only on licenses issued after such 30-day period and after 90 days in which to comply with these licensing requirements.

~~(4) When recovering an impounded animal that does not have a valid license, the owner shall is obtained a license prior to the dog or cat being discharged. in the process of recovery of an impounded dog or cat, a fee is charged for the license.~~

(5) The license shall remain in force for the calendar year in which it is issued. A license is considered as being due on or before January 1st of each year. Application for such license is made upon forms provided by the ~~city~~City. The application shall list the name, address, and phone number of the owner, the name, breed, colors, age, and sex, if any, of the dog or cat, and such other medical and vaccination information and data as may be required. Such information is kept, conveniently indexed by the ~~city-clerk~~Police Department, together with the number of the license issued.

(6) City residents 65 years of age and older may obtain at no charge a special permanent license for the lifetime of dogs and cats that are neutered or spayed and for which they are the registered owners when the animals are maintained at the owner's registered address. Such residents are not required to annually obtain a new license for the lifetime of such licensed animals, except that no household shall be issued more than three special permanent animal licenses for dogs or cats.

(7) A license issued is not transferable or usable by a person, other than the person to whom it was originally issued, ~~except as provided in subsection (10) of this section.~~

(8) It is unlawful for an applicant to withhold or provide false information on an application.

(9) Upon payment of the license fee, the ~~city clerk~~ Police Department shall furnish to the person paying the same a license tag for the dog or cat for which such fee has been paid. The shape of such tag may be changed from year to year, and the tag shall have stamped upon it the calendar year for which the fee has been paid. All license tags issued shall be securely fastened to a collar or other like harness which shall be worn by the animal at all times when off the premises of the licensed owner.

~~(10) Whenever the ownership of a licensed dog or cat changes, the new owner shall notify the city clerk and shall pay to the clerk a sum to be set by administrative order of the city manager at less than the basic license fee, whereupon the clerk shall change the record of the animal to show the new ownership.~~

~~(11)~~ (4110) An owner or keeper of a licensed dog or cat whose current license tag has been lost may obtain a replacement tag by the payment of a sum to be set by ~~administrative order~~ executive order of the ~~city~~ City ~~manager~~ Manager at a sum less than the basic license fee.

~~(12)~~ (1211) The above provisions of this section shall not apply to:

- (a) Dogs and cats whose owners are nonresidents temporarily within the ~~city~~ City;
- (b) The owners of dogs or cats brought into the ~~city~~ City for the purpose of participating in a dog or cat show;
- (c) The owners or users of Seeing Eye, Guide, or Service dogs;
- (d) Veterinarians in custody of dogs or cats;
- (e) The owners or operators of an animal shelter;
- (f) The owners or operators of a duly licensed kennel; or
- (g) The owners or operators of a grooming parlor or pet shop.

(13) It is unlawful for a person to refuse to show or exhibit at a reasonable time to an officer a dog in such person's possession or custody of a license tag issued ~~therefor.~~

8.04.040 Kennel, pet shop, shelter, and veterinary hospital licenses.

It is unlawful for a person to keep, maintain, or operate a kennel, pet shop, veterinary hospital, or shelter within the ~~city-City~~ without first obtaining a valid license ~~therefor~~. A fee set by ~~administrative order~~ ~~executive order~~ of the ~~city-manager~~ City Manager shall be assessed not upon individual animals but upon the owner or keeper of a kennel, pet shop, veterinary hospital, or shelter. Each license and certificate of inspection issued pursuant to this chapter shall be conspicuously displayed at the establishment to which such license was issued. The license shall be dated, numbered, and shall bear the name of the ~~city~~City, and the name and address of the owner or keeper of the establishment, and the expiration date of the license. The license shall expire at the end of the calendar year.

8.04.050 License applications.

Applications for licenses for kennels, pet shops, veterinary hospitals, and shelters shall be made to the ~~city-clerk~~ Des Moines Police Department on forms provided by the ~~city~~City and shall include a finding by the ~~public-works-director~~ Planning, Building, and Public Works Director that the use is consistent with the ~~City's Zoning Code~~. ~~zoning-code-of-the-city~~.

8.04.060 Veterinary hospital license – Certificate of inspection required.

Before a veterinary hospital license shall be issued, a certificate of inspection from the ~~city~~ City's health officer must be issued showing that the hospital is in full compliance with all applicable state standards (chapter ~~308-153~~ 246-933 WAC) and applicable ~~city~~City health requirements.

8.04.070 Kennel, pet shop, or shelter license – Certificate of inspection required.

Before a kennel, pet shop, or shelter license may be issued, a certificate of inspection from the ~~city~~ City's health officer must be issued showing that the kennel, pet shop, or shelter is in full compliance with DMMC 8.04.080, 8.04.090, and 8.04.100.

8.04.080 Kennels, pet shops, or shelters – Requirements.

Kennels, pet shops, and shelters shall meet the following conditions:

- (1) Housing facilities shall be provided for the animals and such facilities shall be structurally sound and shall be maintained in good repair, shall be designed so as to protect the animals from injury, shall contain the animals, and shall restrict the entrance of other animals.
- (2) Electric power shall be supplied in conformance with ~~the-city-electrical-code~~ Title 14 DMMC and adequate to supply lighting and heating as may be required by this chapter. Water shall be supplied at sufficient pressure and quantity to clean indoor facilities and primary enclosures of debris and excreta.
- (3) Suitable food and bedding shall be provided and stored in facilities adequate to provide protection from the infestation or contamination of insects or rodents. Refrigeration shall be provided for the protection of perishable food.

- (4) Provision shall be made for the removal and disposal of animal and food wastes, bedding, dead animals, and debris. Disposal facilities shall be maintained in a sanitary condition, free from the infestation or contamination of insects or rodents or disease, and from obnoxious or foul odors.
- (5) Washroom facilities, including sinks and toilets, with hot and cold water, shall be conveniently available for cleaning purposes, and a large sink or tub shall be provided for the purpose of washing utensils, equipment, and facilities.
- (6) Sick animals shall be separated from those appearing healthy and normal and if for sale shall be removed from display and sale. Sick animals shall be kept in isolation quarters with adequate ventilation to keep from contaminating the other animals.
- (7) There shall be an employee on duty at all times during the hours any establishment is opened whose responsibility shall be the care and welfare of the animals held for sale or display.
- (8) An employee or owner shall come in to feed, water, and do the necessary cleaning of animals on days the establishment is closed.
- (9) No person shall misrepresent an animal to a consumer in any way.
- (10) No person shall knowingly sell a sick or injured animal.
- (11) Adequate care and feeding instructions shall be given to each purchaser of an animal and such must be in writing.

8.04.090 Kennels, pet shops, or shelters – Indoor housing facility requirements.

Kennels, pet shops, and shelters which have indoor housing facilities for animals shall:

- (1) Be sufficiently heated or cooled to protect such animals from temperatures to which they are not normally acclimatized;
- (2) Be adequately ventilated to provide for the health of animals contained therein and to assist in the removal of foul and obnoxious odors. Provision shall be made so that the volume of air within any enclosed indoor facility shall be changed three times or more each hour;
- (3) Have sufficient natural or artificial lighting to permit routine inspection and cleaning any time of day. In addition, sufficient natural or artificial lighting shall be supplied in the area of sinks and toilets to provide for the hygiene of animal caretakers;
- (4) Have interior wall, ceiling, and floor surfaces constructed of materials which are resistant to the absorption of moisture and odors, or such surfaces shall be treated with a sealant or with paint, when such materials are not originally resistant to moisture or odors. Floor surfaces shall not be made of unsealed wood. In addition, interior walls shall be constructed so that the interface with floor surfaces is sealed from the flow or accumulation of moisture or debris;

(5) Contain a drainage system which shall be connected to a sanitary sewer or septic tank system which conforms to the city-City building code standards and shall be designed to rapidly remove water and excreta in the cleaning of such indoor housing facility in any condition of weather or temperature; provided, that this requirement shall not apply to pet shops. All indoor housing facilities shall be maintained in a clean and sanitary condition and a safe and effective disinfectant shall be used in the cleaning of such facilities.

8.04.100 Kennels, pet shops, or shelters – Outdoor housing facility requirements.

Kennels, pet shops, and shelters which have outdoor facilities for animals shall:

- (1) Be constructed to provide shelter from excessive sunlight, rain, snow, wind, or other elements. In addition, such facilities shall be constructed to provide sufficient space for the proper exercise and movement of each animal contained therein;
- (2) Be constructed to provide drainage and to prevent the accumulation of water, mud, debris, excreta, and other materials and shall be designed to facilitate the removal of animal and food waste;
- (3) Be constructed with adequate walls or fences to contain the animals kept therein and to prevent the entrance of other animals.

8.04.110 Compliance with DMMC 8.04.080, 8.04.090, and 8.04.100 required.

All kennels, pet shops, and shelters shall at all times be in a condition of full compliance with the requirements of DMMC 8.04.080, 8.04.090, and 8.04.100. Failure to be in full compliance with DMMC 8.04.080, 8.04.090, and 8.04.100 is unlawful and shall constitute a public nuisance and as such shall be subject to the abatement procedures of this chapter. Failure to maintain the establishment in full compliance shall be grounds for revocation of any license issued.

8.04.120 Inspections.

It shall be the duty of the city-City's health officer to make or cause to be made all such inspection as may be necessary to insure compliance with this chapter. The owner or keeper of a kennel, pet shop, or shelter shall admit any officer or agent of the city-City's health officer to the premises in order to make necessary inspections at any reasonable time that admission is requested.

8.04.130 Grooming parlor license – Requirements.

(1) It is unlawful for any person to keep or maintain any grooming parlor without a valid license ~~therefor~~. A fee set by administrative-executive order of the eCity mManager shall be assessed and paid.

(2) Grooming parlors shall:

- (a) Not board animals but keep such animals only for a reasonable time in order to perform the business of grooming;

(b) Provide such restraining straps for the animal while it is being groomed so that such animal shall not fall or be hanged;

(c) Sterilize all equipment after each animal has been groomed;

(d) Not leave an animal unattended before a dryer;

(e) Not prescribe treatment or medicine that is the province of a licensed veterinarian as provided in RCW 18.92.010; and

(f) Not put more than one animal in each cage.

(3) A grooming parlor license must be revoked or may be refused to be renewed if the establishment constitutes a public nuisance or for failure to comply with the above requirements.

8.04.140 Denial of license – Appeal.

No applicant shall be issued a kennel, pet shop, shelter, or grooming parlor license ~~who-that~~ has had such license revoked or refusal to renew and until such applicant meets all applicable requirements established by this chapter. A decision to revoke, refusal to renew, or denial of a license under this chapter may be appealed to the ~~h~~Hearing ~~e~~Examiner. Such appeal shall be brought within 10 days of such decision and in accordance with the ~~h~~Hearing ~~e~~Examiner ~~e~~Code. [Ord. 770 § 47, 1988: Ord. 512 § 6, 1980.]

8.04.150 Enforcement powers.

(1) City officers and officials are authorized to take such lawful action as may be required to enforce the provisions of this chapter and the laws of the state as they pertain to control of animal behavior and prevention of cruelty to animals.

(2) Enforcement officers and officials shall not enter a building designated for and used for private purposes, unless a proper warrant has first been issued upon a showing that the officer or official has probable cause to believe that an animal is being maintained in the building in violation of this chapter.

(3) Provided, that such officers or officials, while pursuing an animal observed by the officer or official to be in violation of this chapter, may enter upon any public or private property, except any building designated for and used for private purposes for the purpose of abating the animal violation.

(4) No person shall deny, prevent, obstruct, or attempt to deny, prevent, or obstruct an officer or official from pursuing and impounding an animal observed to be in violation of this chapter.

8.04.160 Impound power and procedure.

The ~~e~~Chief of ~~p~~Police ~~or the Chief's designee and his officers~~ may apprehend an animal found doing any of the acts defined as a public nuisance or being subject to cruel treatment as defined by law. After such animals are apprehended, the ~~e~~Chief of ~~p~~Police or ~~the Chief's designee his officers~~ shall ascertain whether such animal is licensed or otherwise identifiable, and if reasonably possible and if the animal is

not subject to DMMC ~~8.04.230~~ or ~~8.04.250~~, return the animal to the owner together with a notice of violation, and if it is not reasonably possible to immediately return the animal to its owner, the ~~e~~Chief of ~~p~~Police or ~~the Chief's designee his officers~~ shall notify the owner within a reasonable time by certified mail or by telephone that the animal has been impounded and may be redeemed. The ~~e~~Chief of ~~p~~Police or ~~the Chief's designee his officers~~ shall immediately upon impounding an animal make a complete registry, entering the type, breed, color, and sex of such animal and where appropriate, whether licensed and if licensed, shall enter the name and address of the owner or keeper and the number of the tag.

8.04.170 Impounded animals to be held for at least 72 hours.

An animal impounded pursuant to this chapter and not subject to DMMC ~~8.04.230~~ or ~~8.04.250~~ shall be held for the owner at least 72 hours after the owner's receipt of notification by certified mail or by telephone. Any animal suffering from serious injury or disease may be humanely destroyed by euthanasia or in the discretion of the impounding authority may be held for a longer period and provided veterinary care and redeemed by the owner or keeper within 72 hours of notification or by any person after that time upon the payment of all charges due and owing.

8.04.180 Redemption of impounded animals.

Impounded animals shall be taken to locations approved by the ~~e~~City. The owner or keeper of such an animal may recover said animal when all billable costs, redemption fees, penalties, license fees, including any late penalty, and boarding costs incurred by such impoundment are made payable to the ~~e~~City; provided, the boarding cost for livestock shall be in accordance with the rate established by contract between the ~~e~~City and the given stockyard used for holding such animal. The ~~e~~Chief of ~~p~~Police or ~~the Chief's designee his authorized officers~~ may release the animal to its owner, before the receipt of all costs and payments due, when the ~~C~~chief of ~~p~~Police or ~~the Chief's designee his authorized officer~~ receives notice from the ~~city clerk City Attorney~~ that the owner has signed a promissory note, in a form prepared by the ~~e~~City ~~a~~Attorney, wherein such owner shall agree to pay such redemption charges in full within 30 days from the date of the execution of such promissory note. Such promissory note shall provide for the interest and payment of the attorney's fees involved in collection in the event payment is not made within the time required by the terms thereof.

8.04.190 Unredeemed impounded animals.

In case an animal is not redeemed, it shall be humanely destroyed by euthanasia by the impounding agency or may be made available for adoption or may be sold at auction upon 10 days' notice published in the ~~e~~City's official newspaper. A copy of such notice shall be served upon the owner if known personally or by certified mail, return receipt requested at least one day before such auction. City expenses shall be first deducted from the amount obtained at such an auction, with the remainder, if any, retained for the owner for six months. If unclaimed for such six-month period, the balance shall revert to the ~~C~~city and be deposited into the general fund.

8.04.200 Redemption of impounded animals subject to further provisions.

Release of an impounded animal to its owner or keeper may be further subject to an agreement by the owner or keeper to special provisions set by the ~~e~~Chief of ~~p~~Police intended to prevent the reoccurrence of

the violation. Violation of such agreement shall be a violation of this chapter and shall be punished accordingly.

8.04.210 Violations to be abated.

For the purposes of this chapter, the following are violations of this chapter and are abated as provided in this chapter:

- (1) A public nuisance relating to animal control known at common law or in equity jurisprudence;
- (2) A domesticated animal running at large;
- (3) A domesticated animal, whether licensed or not, that runs at large in a park, or enters a public beach, pond, fountain, or stream therein, or upon a public playground or school ground, except that this subsection shall not apply to a person using a trained seeing eye, guide, or service dog, to animal shows, exhibitions, or organized dog training classes when at least 24 hours' advance notice has been given to the ~~e~~Chief of ~~p~~Police by such persons requesting to hold such animal shows, exhibitions, or dog training classes;
- (4) An animal that enters a room or immediate area where food is stored, prepared, served, or sold to the public, except that this subsection shall not apply to a guide dog for a blind or hearing impaired person or to a service dog for a physically disabled person;
- (5) An animal that enters a public building or hall, except that this section shall not apply to a guide dog for a blind or hearing impaired person, to a service dog for a physically disabled person, to veterinary offices or hospitals, shelters, or to animal shows, exhibitions or organized dog training classes when at least 24 hours' advance notice has been given to the ~~chief~~Chief of ~~police~~Police by such persons requesting to hold such animal shows, exhibitions, or dog training classes. This section shall not prohibit a person from walking or exercising an animal, or visiting a public building or hall with an animal when such animal is on a leash or in an enclosure and proper safeguards are taken to protect the public and property from injury or damage by the animal; however, the owner of the animal shall assume all risk and liability for injury or damage that could be caused by the animal;
- (6) A domesticated animal that chases, runs after, or jumps at vehicles using the public streets;
- (7) A domesticated animal that habitually snaps, growls, snarls, jumps upon, or otherwise threatens persons lawfully using the public streets;
- (8) An animal that has exhibited vicious propensities and that constitutes a danger to the safety of persons, property, or other animals off its owner or keeper's premises or lawfully on such owner or keeper's premises;

(9) An animal with vicious propensities when not on its owner or keeper's premises and not securely controlled by leash or confined or not in control of a person of suitable age and discretion to control or restrain such animal;

(10) A domesticated animal which howls, yelps, whines, barks, or makes other oral noises, in such a manner as to disturb person(s) or a neighborhood to an unreasonable degree;

(11) A domesticated animal that enters upon another person's property without the permission of that person;

(12) An animal staked, tethered, or kept on public property without prior written consent of the Chief of Police;

(13) Animals kept, harbored, or maintained and known to have a contagious disease unless under the treatment of licensed veterinarian;

(14) Animals running in packs;

(15) Domestic animals trespassing on private or public property so as to damage, destroy, or despoil any property.

8.04.220 Cruelty violations.²

It is unlawful for a person to:

~~(1) Abandon a domestic animal by dropping off or leaving such animal on the street, or in any other public place, or on the private property of another;~~

~~(2) Wilfully run down with a vehicle an animal. A person who kills or injures an animal while driving a vehicle shall stop at the scene of the accident and shall render such assistance as is reasonable, shall make a reasonable effort to locate and identify himself to the owner or keeper of the animal, and shall report the accident immediately to the police department;~~

~~(3) Sell or offer for sale or to give away living baby rabbits, chicks, ducklings, or other fowl that are under two months of age or that have been dyed or colored, or otherwise treated so as to have an artificial color, but this subsection shall not be construed so as to prohibit the sale or display of natural baby rabbits, chicks, ducklings, or other fowl in proper brooder facilities by hatcheries or stores engaged in selling them for commercial purposes. [Ord. 1036 § 104, 1993; Ord. 512 § 7(4)(a)–(h), 1980.]~~

8.04.230 Redemption of animals subject to cruelty — Requirements.

~~The chief of police shall have authority to impound an animal maintained in violation of DMMC 8.04.220 and shall hold such animal for at least 72 hours after proper notification of the owner or keeper.~~

~~Redemption of such an animal shall be permitted only after payment of all costs and fees incurred and upon the written agreement of the owner or keeper to take such actions as are necessary to prevent recurrence of the violation; provided, that the violation of such agreement of release is unlawful and~~

~~shall subject the animal involved to impounding without right of redemption to the owner or keeper. Such animal shall be retained under city control until the notice and administrative procedure in DMMC 8.04.260 has been complied with. [Ord. 512 § 7(4)(i), 1980.]~~

8.04.240 Termination of occurrence of violation.

Upon the complaint of a person, and after such complaint is verified by the ~~e~~C~~hief~~ of ~~p~~P~~olice~~ or ~~the Chief's designee his authorized officers~~, the ~~e~~C~~hief~~ of ~~p~~P~~olice~~ ~~or the Chief's designee~~ shall commence proceedings to terminate the occurrence of a violation either by service of citation or by the procedure set out in DMMC [8.04.250](#), as applicable. The standards of this chapter shall be followed by the ~~e~~C~~hief~~ of ~~p~~P~~olice~~ in determining the existence of an animal control violation and in determining the abatement action required.

8.04.250 Animal declared a public nuisance – Abatement.

An animal that has been the subject of three ~~(3)~~ convictions of a violation of this chapter ~~occurring on separate dates~~ in a period of 365 days or an animal that bites or attacks a person or persons without provocation twice within a five-year period is a public nuisance and shall not be kept within the ~~e~~C~~ity~~. The ~~e~~C~~hief~~ of ~~p~~P~~olice~~ shall follow the procedures set out in DMMC [8.04.260](#) in order to abate such animal. After the completion of such abatement procedures, an animal subject to removal from the ~~e~~C~~ity~~ as provided in this section that is found within the ~~e~~C~~ity~~ shall be impounded and treated as an unredeemed animal with no right of redemption by its owner or keeper.

8.04.260 Abatement of nuisances – Procedure – Appeal.

The following procedure shall apply to the abatement of animals subject to removal, to animals not redeemable because subject to cruelty ~~as provided in DMMC 8.04.230~~, and to kennels, pet shops, and shelters in violation of DMMC [8.04.040](#) through [8.04.120](#):

(1) Notice shall be directed to the owner or keeper of such an animal by the ~~e~~C~~hief~~ of ~~p~~P~~olice~~ ~~or the Chief's designee~~, stating the action to be taken, the basis for action, and the availability of an appeal, as provided in subsection (2) of this section. Such notice shall be served personally, or by postage paid certified mail, return receipt requested, or by posting at the last known residence or place of business of the owner or keeper. Such notice shall constitute a final order unless the owner or keeper files a written notice of appeal within 48 hours of the receipt of the notice or posting of the notice.

(2) An appeal from the notice of abatement of nuisance shall be brought to the ~~h~~H~~earing~~ ~~e~~E~~xaminer~~. Such appeal shall be brought within 10 days of such decision and in accordance with the ~~h~~H~~earing~~ ~~e~~E~~xaminer~~ ~~e~~C~~ode~~; provided, however, that appeal from the decision of the ~~h~~H~~earing~~ ~~e~~E~~xaminer~~ shall be directly to King County superior court upon a writ of certiorari and within the time provided for appeal to superior court from a decision of the ~~e~~C~~ity~~ ~~e~~C~~ouncil~~ under the ~~h~~H~~earing~~ ~~e~~E~~xaminer~~ ~~e~~C~~ode~~. During the pendency of such appeal the animal shall either be confined or, as an alternative, the owner shall post adequate monetary security to guarantee he will confine the animal. The ~~h~~H~~earing~~ ~~e~~E~~xaminer~~ shall have the discretion to order either alternative, and shall have discretion to revoke the recognizance should the owner violate any provision thereof. In the event the animal is confined during the appeal to superior

court, the owner shall, as a condition of such appeal, post a cost bond in an amount equivalent to the cost of maintaining the animal during the pendency of the action in superior court. Such bond shall be posted either within 10 days of commencing the action or within 10 days of revocation of the recognizance, such as the case may be.

(3) Failure to fully comply with a final order shall be a misdemeanor and, further, the eChief of pPolice or the Chief's designee his authorized agent, shall be empowered to act to abate such nuisance or cruelty violation and the person failing to comply with such order shall become indebted to the eCity for all damages, costs, and charges incurred in the removal of such animal. Such damages, costs, and charges shall become a civil debt against the person failing to comply and shall be collectible in the same manner as any other civil debt owing to the eCity.

(4) Whenever such a public nuisance constitutes or reasonably appears to constitute an imminent or continuing danger to the public, the eChief of pPolice or the Chief's designee shall have authority to summarily and without notice abate the same by reasonable means. If the subject animal can be safely impounded, the Cchief of pPolice or the Chief's designee shall do so, and the owner or keeper thereof shall become indebted to the city-City for all damages, costs, and charges incurred during the process of abatement. If the animal cannot be safely impounded, the eChief of pPolice or the Chief's designee shall have authority to slay such animal. The expense of such abatement shall likewise become a civil debt against the owner or keeper of such animal. Such summary abatement shall not limit criminal prosecution for the original violation.

8.04.270 Additional enforcement.

Notwithstanding the existence or use of any other remedy, the eChief of pPolice through the eCity mManager may seek legal or equitable relief to enjoin acts or practices and abate conditions that constitute a violation of this chapter or other regulation adopted in this chapter.

8.04.280 Rabies control.

(1) It is unlawful for the owner of an animal when notified that such animal has bitten a person or has injured a person as to cause an abrasion of the skin, to sell, give away, or permit or allow such animal to be taken beyond the limits of the cityCity, except to a veterinary hospital, but it shall be the duty of such owner upon receiving notice of the occurrence of such bite or abrasion to immediately place such animal in a duly licensed veterinary hospital for at least 15 days or to deliver such animal to the police department or their agent for such placement; provided, upon authorization of a licensed veterinarian and the Des Moines Police Department, such animal may be released to the custody of its owner or keeper upon the owner or keeper's undertaking to keep the same securely chained and confined to the premises of the owner or keeper and segregated from other animals during such observation period. A member of the pPolice dDepartment or agent thereof receiving such animal shall immediately convey the animal to a veterinary hospital where such animal shall be securely confined for a period of at least 15 days. In case such animal is delivered to a veterinary hospital by the owner or keeper, the owner or keeper shall immediately furnish notice thereof to the ehief-Chief of policePolice. A veterinary hospital, upon the receipt of such animal, shall submit to the eChief of pPolice a certificate stating that the animal either:

- (a) Shows no symptoms of rabies; or
- (b) Shows symptoms of rabies.

At the expiration of the 15-day period of confinement and upon release of such animal because not rabid, a veterinary hospital shall submit to the eChief of pPolice a second certificate stating that the animal has been found not to be rabid and has been released. A licensed veterinarian releasing such animal to its owner or keeper for confinement during the observation period, shall at the end of the 15-day period submit a report to the eChief of pPolice as to the condition of such animal.

(2) Costs of maintaining an animal in a veterinary hospital shall be paid by the owner.

(3) If a fierce, dangerous, or vicious animal cannot be safely taken up and impounded, such animal may be euthanatized by the police department or any of its officers or agents.

(4) In cases where an animal that has bitten a person or caused an abrasion of the skin is euthanatized by an officer, and a period of less than 15 days has elapsed since the day the animal bit a person or caused an abrasion of the skin of a person, it is the duty of the eChief of pPolice or the Chief's designee ~~his authorized agent to deliver the brain of such animal to~~ to contact the laboratory of the State Department of Health for further instruction.

(5) Whenever rabies among dogs becomes prevalent in western Washington or in the county, or whenever western Washington or the county are declared to be under a rabies quarantine, the eCity mManager may order every dog within the city-City inoculated, may order all dogs muzzled unless confined within a pen, and may make such other orders as may be necessitated to protect the public from this health hazard. During the time such orders are in force, the eChief of pPolice and the Chief's designee ~~his officers~~ may be ordered by the eCity mManager to euthanatize dogs found running at large.

(6) For the purposes of this section, a King County animal control center qualifies as a duly licensed veterinary hospital.

8.04.290 Disposal of dead animals.

~~The chief of police or his officers shall collect and dispose of all dead animals found in the city and if the owner or keeper is known, a fee set by administrative order of the city manager may be collected therefrom for such service. A fee set by administrative order of the city manager shall be charged an owner or keeper who wants his animal disposed of by the police department.~~

8.04.290. Prohibited acts against waterfowl.

(1) Persons. No person shall engage in the following acts toward a waterfowl: to catch, injure, or kill, or throw a stone or missile at or strike with a stick or weapon.

(2) Dogs. No person shall permit a dog to engage in the following acts toward a waterfowl: to catch, injure, or kill a waterfowl.

(3) Violation – Penalty.

(a) No person shall violate or fail to comply with this section.

(b) A violation of or failure to comply with this section is a class 3 civil infraction.

(c) Each waterfowl that is the object of the conduct prohibited in DMMC 8.04.310 constitutes a separate offense.

8.04.300 Possession of another’s animal.

Anyone having in his possession an animal not owned by him, without consent of the lawful owner or custodian, shall immediately notify the ~~e~~Chief of ~~p~~Police or the Chief’s designee and release such animal to ~~him or his officer~~the Chief of Police or the Chief’s designee on demand without charge.

8.04.310 Wild or exotic animals.

(1) No person shall have, keep, or maintain, in an area of the ~~city~~City, a live monkey (nonhuman primate), lion, tiger, bear, cougar, mountain lion, badger, wolf, coyote, fox, lynx, or a ~~poisonous- venemous~~ reptile or serpent, or any other dangerous, carnivorous, wild, or exotic animal or reptile.

(2) For the purpose of this section, the following terms shall have the following meanings:

(a) “Exotic” means animals of foreign origin and that are not native by birth to this community.

(b) “Wild” means an animal that generally lives in its original natural state and is not normally domesticated.

(3) Such animals will be allowed to enter or remain in the ~~e~~City on the condition that a permit be obtained from the ~~city clerk~~ Des Moines Police Department. Such permit shall only be granted upon a showing by the applicant that adequate safeguards have been instituted and will be maintained which will effectively control the dangerous or vicious propensities of such animal or reptile, eliminating danger to individuals or property and providing that the keeping or maintaining of such animal will in no way constitute a nuisance to the occupants of surrounding property.

(4) No person owning or having charge, custody, control, or possession of an animal specified in subsection (1) of this section, shall permit the same to run at large upon any street or other place, public or private or within the premises of such person, in such a manner to endanger a person lawfully entering such premises.

(5) Subsection (1) of this section shall not apply to a person keeping or maintaining or having in his possession or under his control an animal defined in that subsection when such person is transporting such animal through the ~~city~~City; provided, that he has taken adequate safeguards to protect the public, and has notified the ~~e~~Chief of ~~police~~-Police of his proposed route and of the time that such trip is to take place; nor shall subsection (1) apply to a person who has custody of such animals in connection with the operation of a zoo or circus or in connection with a program of medical or scientific research; provided such person has taken adequate measures to safeguard persons and property. Whether measures taken

to safeguard the public pursuant to this section are adequate shall be determined solely by the ~~chief~~Chief of ~~police~~Police or ~~the Chief's designee~~. ~~his authorized agent~~.

8.04.320 Personal obligations.

Civil penalties and costs of abatement incurred by the ~~e~~City are the personal obligations of the animal owner or keeper. The ~~e~~City ~~a~~Attorney may collect such civil penalties and abatement costs by use of appropriate legal remedies.

8.04.330 Violation – Penalty.

(1) No person shall violate or fail to comply with this chapter or, as owner or keeper, cause, allow, or intentionally or negligently permit animals under such person's control to be in violation of this chapter.

(2) A first violation of or failure to comply with this section within a 12-month period with respect to the same animal is a class ~~6~~4 civil infraction.

(3) A second violation of or failure to comply with this section within a 12-month period with respect to the same animal is a class ~~5~~3 civil infraction.

(4) A third or subsequent violation of or failure to comply with this section within a 12-month period with respect to the same animal is a class ~~3~~2 civil infraction; provided, that a third or subsequent violation of or failure to comply with the provisions of DMMC 8.04.210(7) or (8) within a 12-month period with respect to the same animal is a class 1 civil infraction.

Chapter 8.08

OFFENSES AGAINST WATERFOWL

Sections

~~8.08.010~~ Definitions.

~~8.08.020~~ Prohibited acts—Persons.

~~8.08.030~~ Prohibited acts—Dogs.

~~8.08.040~~ Violation—Penalty.

8.08.010 Definitions.

~~(1) Use of Words and Phrases. As used in this chapter, unless the context or subject matter clearly requires otherwise, the words or phrases defined in this section shall have the indicated meanings.~~

~~(2) "Permit" means ownership, accompaniment, or control of a dog that disturbs, molests, catches, injures, or kills a waterfowl.~~

~~(3) "Waterfowl" means a warm-blooded vertebrate of the class Aves, having a body covered with feathers and forelimbs modified into wings (birds) that have aquatic characteristics in their natural state, and includes without limitation, ducks, geese, sea gulls, and the like. [Ord. 926 § 1, 1992.]~~

~~8.08.020 Prohibited acts—Persons.~~

~~No person shall engage in the following acts toward a waterfowl: to tease, annoy, disturb, molest, catch, injure, or kill, or throw a stone or missile at or strike with a stick or weapon. [Ord. 926 § 2, 1992.]~~

~~8.08.030 Prohibited acts—Dogs.~~

~~No person shall permit a dog to engage in the following acts toward a waterfowl: to disturb, molest, catch, injure, or kill a waterfowl. [Ord. 926 § 3, 1992.]~~

~~8.08.040 Violation—Penalty.~~

~~(1) No person shall violate or fail to comply with this chapter.~~

~~(2) A violation of or failure to comply with this section is a class 3 civil infraction.~~

~~(3) Each waterfowl that is the object of the conduct prohibited in DMMC [8.08.020](#) and [8.08.030](#) constitutes a separate offense. [Ord. 1009 § 46, 1993; Ord. 926 §§ 4, 5, 1992.]~~

Chapter 8.16**DANGEROUS AND POTENTIALLY DANGEROUS DOGS**

Sections

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[8.16.003 Application](#)

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[8.16.130](#) Impoundment for failure to obtain license or certificate.

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[8.16.150](#) Impoundment for biting.

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[8.16.170](#) Limitations on ownership of potentially dangerous dogs and dangerous dogs – Reporting requirements.

[8.16.180](#) Potentially dangerous dog, dangerous dog, special license fees.

[8.16.190](#) Immunity.

[8.16.200](#) Violation – Penalty.

~~8.16.04001-~~ Title. This chapter shall be entitled “Dangerous and Potentially Dangerous Dogs.”

8.16.003. Application. The provisions of this chapter shall apply to all chapters contained within Title 8 DMMC.

8.16.005. Purpose. The purpose of this chapter is to provide regulations and penalties for dangerous and potentially dangerous dogs and to promote the public health, safety, and general welfare in accordance with the standards established in this Title and set forth in chapter 16.08 RCW.

8.16.008. Authority. This chapter is adopted pursuant to the general police powers granted to the City pursuant to chapter 35A.13 RCW and other applicable laws.

8.16.010 Special license and certificate required.

It is unlawful for an owner or keeper to harbor a potentially dangerous dog or dangerous dog in the eCity without first having obtained a special license and certificate of registration ~~therefor~~, that must be obtained within 30 days of the date of declaration as provided in DMMC [8.16.030](#).

8.16.020 Certificate – Issuance upon compliance.

A certificate of registration shall be issued by the eCity upon a showing of compliance with the following:

- (1) Placement of a proper enclosure on the owner’s or keeper’s property to confine the dog and the posting on the premises where the dog is harbored of a clearly visible warning sign that there is a potentially dangerous or dangerous dog on the property; and
- (2) A conspicuously displayed sign on the premises where the dog is harbored with a warning symbol that informs children or adults who cannot read of the presence of a potentially dangerous or dangerous dog; and, either:
 - (3) For potentially dangerous dogs: A surety bond issued by a surety insurer qualified under chapter 48.28 RCW in a sum of not less than \$100,000 payable to a person injured by the dog(s); or a policy of liability insurance issued by an insurer qualified under Title 48 RCW in an amount not less than \$100,000, insuring the owner or keeper for personal injuries inflicted by the dog(s); or
 - (4) For dangerous dogs: A surety bond issued by a surety insurer qualified under chapter 48.28 RCW in a sum of not less than \$250,000 payable to a person injured by the dog(s); or a policy of liability insurance issued by an insurer qualified under Title 48 RCW in an amount not less than \$250,000, insuring the owner or keeper for personal injuries inflicted by the dog(s);
- (5) A certificate issued to satisfy the insurance requirements of this chapter shall provide for written notice to the eCity within 30 days of cancellation, reduction of limits, or termination of coverage;

(6) Any unaltered dog may not be redeemed by any person or issued a certificate of registration until the dog is spayed or neutered. In all cases, the veterinarian fee shall be paid prior to the redemption of the dog by the dog's owner or keeper.

8.16.030 Findings and declaration – Probable cause.

The animal control authority may find and declare an animal potentially dangerous or dangerous if it has probable cause to believe that the animal falls within the definition set forth in DMMC [8.04.020](#). For the purposes of this chapter probable cause may include:

- (1) The written complaint of a citizen who is willing to testify that the animal has acted in a manner which causes it to fall within the definition in DMMC [8.04.020](#); or
- (2) Dog bite reports filed with the animal control authority as required by this chapter or state law; or
- (3) Actions of the dog witnessed by any animal control officer or law enforcement officer; or
- (4) A verified report that the animal previously has been found to be either potentially dangerous or dangerous by any animal control authority; or
- (5) Other substantial evidence admissible in a court of law.

8.16.040 Declaration – Service to owner in writing.

The declaration shall be in writing, and shall be served on the owner or keeper in one of the following methods:

- (1) Certified mail to the owner's or keeper's last known address, if known; or
- (2) Personally; or
- (3) If the owner or keeper cannot be located by one of the first two methods, by publication in a newspaper of general circulation;
- (4) The owner or keeper of any animal found to be a potentially dangerous or dangerous dog under this section shall be assessed all service costs expended under this subsection.

8.16.050 Declaration – Information required.

The declaration set forth in DMMC [8.16.040](#) shall state at least:

- (1) A description of the animal;
- (2) The name and address of the owner or keeper of the animal, if known;
- (3) The whereabouts of the animal if it is not in the custody of the owner or keeper;
- (4) The facts upon which the declaration is based;

- (5) The availability of a hearing in case the person objects to the declaration, if a request is made within five days;
- (6) The restrictions placed on the animal as a result of the declaration; and
- (7) The penalties for violation of the restrictions, including the possibility of destruction of the animal, and imprisonment or fining of the owner or keeper.

8.16.060 Declaration – Appeal – Hearing – Procedure.

If the owner or keeper of the animal wishes to contest the declaration, the following procedures shall apply:

- (1) The owner or keeper shall, within five days of receipt of the declaration, or within five days of the publication of the declaration pursuant to DMMC [8.16.040\(3\)](#), request a hearing before the municipal court of the [city City](#). Failure to exhaust this administrative appeal process shall be a bar to further action in superior court. Any appeal taken from the decision of the Des Moines [mMunicipal eCourt](#) shall be in accordance with the Rules for Appeal of the Decisions of Courts of Limited Jurisdiction as presently constituted or as may be subsequently amended and designated.
- (2) If the Des Moines [mMunicipal eCourt](#) finds by a preponderance of the evidence that the animal is dangerous or potentially dangerous, the declaration shall be affirmed.
- (3) If the Des Moines [mMunicipal eCourt](#) does not find by a preponderance of the evidence that the animal is dangerous or potentially dangerous, the declaration shall be rescinded, and the restrictions imposed thereby annulled.
- (4) If the Des Moines [mMunicipal eCourt](#) finds that the animal is not a potentially dangerous or dangerous dog, no costs shall be assessed against the [eCity](#) or the animal control authority or officer.

8.16.070 Declaration – Impoundment pending appeal.

Following service of a declaration of potentially dangerous or dangerous dog, and pending appeal under DMMC [8.16.060](#), the animal control authority may, if circumstances require, impound the animal at the owner's or keeper's expense, pursuant to the provisions of this chapter, until the Des Moines [municipal Municipal eCourt](#) or a higher court of competent jurisdiction orders either its redemption or destruction.

8.16.080 Special license requirements – Fees and renewals.

The owner or keeper of a potentially dangerous or dangerous dog shall obtain a special license for such dog from the animal control authority, and shall be required to pay the fee for such license in the amount set forth in this chapter, or as may be subsequently amended. In addition, the owner or keeper of such dog shall pay an annual renewal fee for such license in the amount set forth in this chapter, or as may be subsequently amended. Annual renewal of any special license shall be conditioned on compliance with the requirements of this chapter. The animal control authority shall be authorized to pro rate such fee for

the remainder of the first year during which an animal becomes subject to the registration requirements of this chapter, if no question of registration or license avoidance exists.

8.16.090 Special license requirements – Information required.

The owner or keeper of a dog that is subject to a special license shall furnish the following information along with the appropriate special license fee:

- (1) The animal's age, weight, coloring, breed, and any other special identifying characteristics;
- (2) Two 3" x 5" color photographs of the animal;
- (3) Proof of placement of a tattoo or microchip, consisting of the owner's or keeper's Social Security number or current contact information, in a location as deemed fit by a licensed veterinarian;
- (4) Proof of current rabies vaccination for the animal; and, either:
- (5) For potentially dangerous dogs: a certification under penalty of perjury that the animal has not been previously found to be a potentially dangerous or dangerous dog; or
- (6) For dangerous dogs: a certification under penalty of perjury that the animal has not been removed from another jurisdiction to avoid any penalties arising from the animal's previous status.

8.16.100 Noncompliance with confinement regulation.

An owner or keeper of a potentially dangerous dog or dangerous dog who fails to comply with the requirements of this chapter related to confinement in a proper enclosure, or posting of warning notices shall be guilty of a violation of this chapter.

8.16.110 Potentially dangerous dog – Failure to obtain license and certificate.

Any owner or keeper of a potentially dangerous dog who fails to obtain a special license and certificate of registration, or renewal, for such dog as required in this section shall be assessed a civil penalty or shall be guilty of a gross misdemeanor in accordance with DMMC [8.16.200](#); provided, however, that no prosecution shall be commenced until five days have elapsed from the date such owner or keeper is notified by the animal control authority that such license or renewal for such potentially dangerous dog is required, or until any appeal brought under that section has been completed, whichever is later.

8.16.120 Dangerous dog – Failure to obtain license and certificate.

Any owner or keeper of a dangerous dog who fails to obtain a special license and certificate of registration, or renewal, for such dog as required in this section shall be assessed a civil penalty or shall be guilty of a gross misdemeanor in accordance with DMMC [8.16.200](#); provided, however, that no prosecution shall be commenced until five days have elapsed from the date such owner or keeper is notified by the animal control authority that such license or renewal for such dangerous dog is required.

8.16.130 Impoundment for failure to obtain license or certificate.

Any dangerous dog or potentially dangerous dog for which a special license and certificate of registration, or renewal, has not been obtained by its owner or keeper, pursuant to DMMC [8.16.110](#) and [8.16.120](#), is subject to being impounded by the animal control authority. In addition to any other civil penalty imposed by this chapter, the owner or keeper of any potentially dangerous dog or dangerous dog so impounded shall be subject to a civil penalty in the amount of ~~\$40~~ [20](#).00 per day for each day such dog remains impounded with the animal control authority. Any potentially dangerous dog or dangerous dog which is impounded due to the failure of the owner or keeper of such dog to obtain the required license or certificate of registration, and which remains impounded for a period of at least 20 days due to the failure of the owner or keeper to obtain such license or certificate of registration, or renewal, may be destroyed in an expeditious and humane manner by the animal control authority.

8.16.140 Immediate impoundment – Conditions warranting.

(1) Any dangerous dog shall and any potentially dangerous dog may be immediately impounded by an animal control authority if:

- (a) The dog is not validly registered under this chapter; or
- (b) The owner or keeper does not secure or maintain the liability insurance coverage required under this chapter; or
- (c) The dog is not maintained in a proper enclosure; or
- (d) The dog is outside of the dwelling of the owner or keeper, or outside of the proper enclosure, and not muzzled or under proper physical restraint by the responsible person; or
- (e) The dog is otherwise in violation of registration or licensing provisions of this chapter.

(2) In addition to such impound, the owner or keeper of such animal shall be deemed guilty of a criminal offense and assessed a civil penalty or shall be guilty of a gross misdemeanor in accordance with DMMC [8.16.200](#); provided, however, that no prosecution shall be commenced until five days have elapsed from the date such owner or keeper is notified by the animal control authority that such license or renewal for such potentially dangerous dog is required, or until any appeal brought under that section has been completed, whichever is later. The owner or keeper of any dog impounded under this subsection may redeem such dog from the animal control authority only upon proof of a valid special license and registration, proof that all required conditions under this chapter have been met, and payment of \$20.00 per day for each day such dog has been in the control of the animal control authority; provided, however, that in the event the owner or keeper has not redeemed such dog within 10 days of being notified of the impound, the dog shall be destroyed in an expeditious and humane manner and the owner or keeper shall be assessed an additional civil penalty in the amount of \$50.00 for the cost of destroying such dog.

8.16.150 Impoundment for biting.

If a dog classified as a dangerous dog bites a person or another domestic animal, such dog shall be immediately impounded by the animal control authority, placed in quarantine for the proper length of time,

and thereafter destroyed in an expeditious and humane manner. Any such animal which is deemed uncatchable by the animal control authority may be killed by such official if no other reasonable means of capture is available or such animal continues to be a threat to persons or domestic animals. Reasonable means of capture may include the use of tranquilizers which, depending upon the animal's age, size, and physical condition, may cause death. The owner or keeper of any dangerous dog impounded and destroyed pursuant to this section shall be assessed, in addition to the actual costs of the quarantine, a civil penalty in the amount of \$20.00 per day for each day such dangerous dog is quarantined by the animal control authority and in the amount of \$50.00 for the cost of destroying such dangerous dog.

8.16.160 Dogs exempted – Effect of trespass or tort.

The requirements of this chapter related to potentially dangerous and dangerous dogs shall not apply to dogs registered for use by law enforcement officials for police work, whether or not such animal is maintained at its handler's residence, or to animals held in quarantine by a licensed veterinarian. Further, dogs shall not be declared potentially dangerous or dangerous if the threat, injury, or damage was sustained by a person who, at the time, was committing a wilful trespass or other tort upon the premises occupied by the owner or keeper of the dog or was tormenting, abusing, or assaulting the dog or has, in the past, been observed or reported to have tormented, abused, or assaulted the dog or was committing or attempting to commit a crime.

8.16.170 Limitations on ownership of potentially dangerous dogs and dangerous dogs – Reporting requirements.

(1) It is unlawful for an owner or keeper of a potentially dangerous dog or dangerous dog to permit such animal to be outside the proper enclosure, unless the dog is muzzled and restrained by a substantial chain or leash not longer than 48 inches and under the physical control of a person 18 years of age or older who is capable of restraining such animal. The muzzle shall be constructed so that it will not cause injury to the dog or interfere with its vision or respiration. Such muzzle shall be constructed so that it will prevent the dog from biting any person or animal. Such dogs shall not be leashed or otherwise tied or tethered to inanimate objects, such as trees, posts, buildings, mail boxes, newspaper vending machines, and the like. Dangerous dogs and potentially dangerous dogs shall wear a bright orange collar, not less than two inches in width, at all times.

(2) It is unlawful for any person under the age of 18 years to own or keep a potentially dangerous or dangerous dog within the eCity limits.

(3) It is unlawful for any person to own or keep more than one potentially dangerous or dangerous dog within the eCity limits.

(4) It is unlawful to transfer ownership of a potentially dangerous or dangerous dog within the eCity limits unless the recipient has complied with the registration and licensing requirements of this chapter for such animal.

(5) It is unlawful to keep or maintain the offspring of a dangerous dog within the eCity for more than eight weeks following the birth of such offspring unless the offspring are registered as potentially dangerous dogs under this chapter.

(6) It is unlawful for the owner or keeper of any animal which is subject to any licensing requirements of the eCity to fail to report any bites or injuries suffered by any person or domestic animal as a result of an attack incident or other contact with such animal, regardless of the geographical location where such attack, incident or other contact occurs.

(7) It is unlawful for any owner or keeper of any dangerous or potentially dangerous dog to fail to immediately notify the animal control authority in writing of:

(a) The removal from the eCity or death of any dog registered under this chapter, including the address and contact information for the relocation of the dog outside the eCity limits; or

(b) The birth of offspring of any dog licensed under this chapter; or

(c) The new address of the owner or keeper of any dog registered under this chapter should such person move within the eCity limits.

(8) Failure to Comply. Any person who fails to comply with the mandatory or prohibitory provisions of this section shall be subject to the penalties as provided in DMMC [8.16.200](#).

8.16.180 Potentially dangerous dog, dangerous dog, special license fees.

(1) The special license fee for each potentially dangerous dog to be licensed under this chapter is \$250.00. The annual renewal fee for each potentially dangerous dog licensed under this chapter is \$100.00.

(2) The special license fee for each dangerous dog to be licensed under this chapter is \$250.00. The annual renewal fee for each dangerous dog licensed under this chapter is \$100.00.

8.16.190 Immunity.

The eCity, the animal control authority, and any animal control officer executing the responsibilities set forth in this chapter shall be immune from all civil liability for an action or actions taken pursuant to this chapter, or for failure to take action to enforce the provisions of this chapter. It is not the purpose or intent of this chapter to create on the part of the eCity, its officers, employees, agents, or volunteers a special duty or relationship toward a specific class of individuals. This chapter has been enacted for the safety and welfare of the public as a whole.

8.16.200 Violation – Penalty.

(1) No person shall violate or fail to comply with this chapter.

(2) A first violation of or failure to comply with this chapter within a 12-month period is a class 3 civil infraction.

(3) A second violation of or failure to comply with this chapter within a 12-month period is a class 1 civil infraction.

(4) A third or subsequent violation of or failure to comply with this chapter within a 12-month period is a gross misdemeanor.

