

CHAPTER 2 NUISANCES

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3-2-1 DEFINITIONS. The following words and phrases whenever used in the ordinances of the City, shall be construed as defined in this section unless, from the context, a different meaning is intended or unless different meaning is specifically defined and more particularly directed to the use of such words or phrases:

1. “Nuisances Declared” means whatever is injurious to health, indecent, or unreasonably offensive to the senses or an obstacle to the free use of property, so as essentially to unreasonably interfere with the comfortable enjoyment of life or property. Nuisances shall include, but not be limited to, those activities and items hereinafter set forth in this section below:

(Code of Iowa, Sec. 657.1)
(ECIA Model Code Amended in 2017)

a. The erecting, continuing or using any building or other place for the exercise of any trade, employment or manufacture, which by occasioning noxious exhalations, offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort of property or individuals or the public.

b. The causing or suffering any offal, filth, or noisome substance to be collected or to remain in any place to the prejudice of others.

c. The obstructing or impeding without legal authority the passage of any navigable river, harbor, or collection of water.

d. The corrupting or rendering unwholesome or impure the water of any river, stream, or pond, or unlawfully diverting the same from its natural course or state; to the injury or prejudice of others.

e. The obstructing or encumbering by fences, buildings or otherwise the public roads, private ways, streets, alleys, commons, landing places or burying grounds.

f. Houses of ill fame, kept for the purpose of prostitution and lewdness, gambling houses, or houses resorted to for the use of opium or hashish or houses where drunkenness, quarreling, fighting or breaches of the peace are carried on or permitted to the disturbance of others.

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

h. Cotton-bearing cottonwood trees and all other cotton bearing poplar trees in cities.

i. The depositing or storing of flammable junk, such as old rags, rope, cordage, rubber, bones and paper by dealers in such articles within the fire limits of any city, unless it be in a building of fireproof construction.

j. The emission of dense smoke, noxious fumes or fly ash.

k. Weeds. Any condition relating to weeds which is described as a nuisance in the Maquoketa Municipal Code of Ordinances or under state law. Dense growth of all weeds, grasses, vines, brush, or other vegetation in the City so as to constitute a health, safety, or fire hazard including any City owned property between the abutting property line and the street right-of-way. Any condition related to weeds described or defined as a nuisance under the Code of Iowa or the City Municipal Code.

(Code of Iowa, Sec. 657.2(11))
(ECIA Model Code Amended in 2017)

l. Trees on private property infected with Dutch elm disease.

m. Effluent from a septic tank or drainfield or ponding of polluted water over an overloaded or non-operating drainfield.

n. The obstruction of a gutter or drainage ditch or pipe.

o. The maintaining of any accumulations of rubbish and animal manure.

p. Any building or structure damaged by fire
(Ord. No. 1057, 7-21-08)

q. Any water service line constructed of lead.
(Ord. 1132, Passed May 16, 2016)

r. Any accumulation of junk, refuse, garbage, or accumulation of items determined by City inspectors to be an unsightly nuisance when viewed from adjacent property or from the public street.

s. Any equipment or other structure erected in the right-of-way by any utility or private owner which is not kept in good repair, is unsightly due to lack of maintenance, or which is

dilapidated or broken such that the equipment or structure is dangerous, or offensive to the senses, or unsightly.

t. Open excavations, construction sites, and demolition sites that, as determined by City inspectors, are not secured from the public.

(Ord. 1137, Passed June 19, 2017)

u. Causing or suffering any refuse, garbage, obnoxious substances, hazardous wastes, junk or salvage materials to be collected or to remain in any place to the prejudice to others; causing or suffering any refuse, garbage, obnoxious substances, hazardous wastes, junk or salvage materials or other offensive or disagreeable substances to be thrown, left or deposited in or upon any street, avenue, alley, sidewalk, park, public square, public enclosure, lot, vacant or occupied, or upon any pond or pool of water; except for compost piles established and maintained with written permission from the Jackson County Public Health Department and junk or salvage materials property stored in accordance with the Maquoketa Municipal Code.

v. Diseased or damaged trees or shrubs. Any dead, diseased or damaged trees or shrubs, which may harbor insects or diseased pests or diseases injurious to other trees or shrubs or any healthy tree which is in such a state of deterioration that any part of such tree may fall and damage property or cause injury to persons.

w. Any ditch, drain or water course which is now or hereafter may be constructed so as to prevent surface water and overflow water from adjacent lands entering or draining into and through the same; any storm water detention basis not maintained in an appropriate manner so as to allow its proper function.

x. Stagnant water standing on any property, any property, container or material kept in such condition that water can accumulate and stagnate.

y. Conditions which are conducive to the harborage or breeding of vermin.

z. Infestations of vermin such as rats, mice, skunks, snakes, starlings, pigeons, bees, wasps, cockroaches or flies.

aa. Facilities for the storage or processing of sewage, such as privies, vaults, sewers, private drains, septic tanks, cesspools and drainage fields, which have failed or do not function property or which are overflowing, leaking or emanating odors; septic tanks, cisterns and cesspools which are abandoned or no longer in use unless they are empty and cleaned with clean fill; an evolved cesspools or septic tank which does not comply with the Jackson County Department of Health regulation.

bb. Unoccupied buildings or unoccupied portions of buildings which are unsecured.

cc. Dangerous buildings or structures.

dd. Abandoned buildings.

ee. Any hazardous thing or condition on property which may contribute to injury of any person present on the property; hazards include, but are not limited to, open holes, open wells,

open foundation, dangerous trees or limbs, abandoned and unsecured refrigerators or trapping devices.

ff. The storage, parking, leaving or permitting the storage, parking or leaving of any inoperable or obsolete vehicle upon private property within the City for a period in excess of 48 hours, unless exempted herein. This section shall not apply to any vehicle enclosed within a building on private property or to any vehicle held in connection with a legal junk yard or automobile or truck-oriented use operated in the appropriate zone and in compliance with the Maquoketa Municipal Code of Ordinances.

gg. All junk yard or salvage operations except those permitted by ordinance and operating in full compliance with the Maquoketa Municipal Code of Ordinances.

hh. The open burning of trash, refuse, garbage, junk or salvage materials, yard waste, leaves and tree trimmings shall be prohibited within the City limits, provided, however, the City Council may designate up to three weekends each year to allow City residents to burn leaves and tree trimmings in accordance with the City's Open Burning Policy. Outdoor cooking or burning of wood is permitted if performed in a container constructed of steel, brick or masonry and the fire is no larger than two feet in diameter. Additional open burning may be permitted upon written request, only with the special permission of the City Council provided the burning is in compliance with Open Burning Policy guidelines established by the City in consultation with the Fire Department.

ii. Any accumulations of ice, water and snow on public sidewalks, or the failure to remove said accumulations within 24 hours after the creation of such accumulations exist, shall constitute a nuisance and shall be abated pursuant to the provisions specified in the Maquoketa Municipal Code of Ordinances.

jj. The parking of motor vehicles on private property without the consent of the property owner or responsible party.

kk. Any nuisance described as such or declared by Chapter 657 of the Code of Iowa.

ll. The sounding of any horn or other signaling device on any vehicle on any street, public or private place within the City, except as a danger warning, which makes a loud or harsh sound to the disturbance or annoyance of any person and can be plainly audible at a distance of 50 feet.

mm. The use of amplified sound creating a disturbance or annoyance to others and can be plainly heard 50 feet from the source of the amplified sound.

nn. Yelling, shouting, hooting, whistling or singing at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in the vicinity.

oo. The erection, excavation, demolition, alteration, repair or construction of any building or other property between the hours of 7:00 a.m. and 9:00 a.m., except in the case of an emergency of a public health and safety nature, with the approval of the City.

pp. No person shall obstruct, deface, destroy or injure any public right-of-way in any manner by breaking up, plowing or digging within the right-of-way without City permission.

qq. No person shall throw or deposit on any public or private property any glass bottle, glass, nails, tacks, wire, cans, trash, garbage, rubbish, litter or any other debris or like substance which may injure or damage any person, animal or vehicle or which may annoy, injure or become dangerous to the health, comfort or property of individuals or the public.

rr. No person shall allow any plants to grow uncultivated and out of context with the surrounding plant life when such plant has a seed head formed or forming and with a height of 8 inches or more, nor shall any person allow their grass to grow unattended with a consistent height above 8 inches.

ss. Causing or suffering any refuse, garbage, obnoxious substances, hazardous wastes, junk or salvage materials to be collected or to remain in any place that prejudices others.

tt. Causing or suffering any refuse, garbage, obnoxious substances, hazardous wastes, junk or salvage materials or other offensive or disagreeable substances to be thrown, left or deposited in or upon any street, alley, avenue, sidewalk, park, public square, public enclosure, lot, vacant or occupied.

uu. The storage of any appliances, scrap metal, indoor furniture, broken furniture, used building material, unstacked wood, broken toys, broken bicycles and tricycles, bathroom fixtures and similar objects visible from the public right-of-way or adjoining property.

vv. Pools and ponds containing stagnant water.

ww. Pipes, lumber, drywall, flooring, roofing shingles and other building material left on the property visible from the public right-of-way or adjoining property for a period of time exceeding 72 hours.

xx. Rusty, deteriorated, dilapidated or unusable play equipment visible from any adjoining property.

yy. Dilapidated dwelling units exhibiting peeling paint, untreated wood, broken gutters, broken windows, dry rot, missing banisters, railings and spindles, broken doors and the like creating an eyesore and offending members of the public.

(ECIA Model Code Amended in 2017)

2. The term "property owner" shall mean the contract purchaser if there is one of record, otherwise the record holder of legal title.

3-2-2 NUISANCES PROHIBITED. The creation or maintenance of a nuisance is hereby prohibited, and a nuisance may be abated by criminal citation, municipal infraction or as otherwise provided in this Ordinance or Code of Iowa.

(Code of Iowa, Sec. 657.3)

(ECIA Model Code Amended in 2017)

3-2-3 OTHER CONDITIONS REGULATED. The following actions are required and may also be abated in the manner provided in this Ordinance:

1. The removal of diseased trees or dead wood, but not diseased trees and dead wood outside the lot and property lines and inside the curb lines upon the public street.
2. The removal, repair, or dismantling of a dangerous building or structure.
3. The connection to public drainage systems from abutting property when necessary for public health or safety.
4. The connection to public sewer systems from abutting property, and the installation of sanitary toilet facilities and removal of other toilet facilities on such property.
5. The cutting or destruction of weeds or other growth which constitutes a health, safety or fire hazard.
6. The fencing, so as to shield from public view, any junk, refuse, garbage, or accumulation of items determined by City inspectors to be an unsightly nuisance when viewed from adjacent property or from the public street. This abatement remedy may be enforced where fencing is permitted by this Code of Ordinances, or where otherwise permitted or directed in a particular case by the City.

(Ord. 1137, Passed June 19, 2017)

3-2-4 NOTICE TO ABATE NUISANCE OR CONDITION. Whenever the Mayor or other authorized municipal officer finds that a nuisance or other prohibited condition exists, the Mayor or officer may notify the property owner as shown by the records of the County Auditor to abate the nuisance within a reasonable time after notice. Notice and opportunity to abate the nuisance is not required prior to bringing legal action.

(Code of Iowa, Sec. 364.12(3)(h))
(ECIA Model Code Amended in 2014)
(ECIA Model Code Amended in 2017)

3-2-5 CONTENTS OF NOTICE TO ABATE. The notice to abate shall contain:

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

3-2-6 METHOD OF SERVICE. The notice may be served by certified mail or personal service to the property owner as shown by the records of the County Auditor.

(Ord. 983, Passed June 16, 2003)

3-2-7 REQUEST FOR HEARING AND APPEAL. Any person ordered to abate a nuisance or condition may request a hearing with the officer ordering the abatement as to whether a nuisance or prohibited condition exists. A request for a hearing must be made in writing and delivered to the officer ordering the abatement within the time stated in the notice, or it will be conclusively presumed that a nuisance or prohibited condition exists and it must be abated as ordered.

At the conclusion of the hearing, or within ten (10) days thereof, the hearing officer shall render a written decision as to whether a nuisance or prohibited condition exists. If the officer finds that a nuisance or prohibited condition exists, the officer shall order it abated within an additional time which must be reasonable under the circumstances. Any person aggrieved by this decision may appeal the decision to the City Council. The appeal must be made in writing and delivered to the officer conducting the hearing within ten (10) days of the hearing officer's decision. The appeal shall be heard at a time and place fixed by the City Council. The findings of the City Council shall be conclusive and, if a nuisance or prohibited condition is found to exist, it shall be ordered abated within a time that is reasonable under the circumstances.

(Ord. 985, 11-03-03)

3-2-8 ABATEMENT IN EMERGENCY. If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance or condition, the City may perform any action which may be required under this Ordinance within prior notice. The City shall assess the costs as provided in Section 3-2-10 of this Ordinance, after notice to the property owner under the applicable provision of Section 3-2-4 and 3-2-5 and hearing as provided in Section 3-2-7.

3-2-9 ABATEMENT BY MUNICIPALITY. If the person notified to abate a nuisance or condition neglects or fails to abate as directed, the City may perform the required action to abate, keeping an accurate account of the expense incurred. The itemized expense account shall be filed with the City Clerk who shall pay such expenses on behalf of the municipality.

3-2-10 COLLECTION OF COST OF ABATEMENT. The Clerk shall mail a statement of the total expense incurred to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one month, he shall certify the costs to the County Treasurer and it shall then be collected with, and in the same manner, as general property taxes.

(Ord. 991, Passed April 19, 2004)

3-2-11 INSTALLMENT PAYMENT OF COSTS OF ABATEMENT. If the amount expended to abate the nuisance or condition is less than \$1000, the City may permit the assessment to be paid in up to five (5) annual installments, in the same manner and with the same interest rates provided for assessments against benefited property under Iowa Code Chapter 384, division IV. If the amount expended to abate the nuisance or condition is \$1000 or more, the City may permit the assessment to be paid in up to ten (10) annual installments, in the same manner and with the

same interest rates provided for assessments against benefited property under Iowa Code Chapter 384, division IV.

(Ord. No. 1020, 3-6-06)

3-2-12 CONDEMNATION OF NUISANCE. The City may condemn a residential, commercial or industrial building found to be abandoned and a public nuisance and take title to the property for the public purpose of disposing of the property under Chapter 657A by conveying the property to a private individual for rehabilitation or for demolition and construction of housing.

(Code of Iowa, Sec. 364.12A, 657A.1, 657A.10a)

(ECIA Model Code Amended in 2014)

(ECIA Model Code Amended in 2017)

