

CHAPTER 50

NUISANCE ABATEMENT PROCEDURE

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50.01 DEFINITION OF NUISANCE. Whatever is injurious to health, indecent, or unreasonably offensive to the senses, or an obstruction to the free use of property so as essentially to interfere unreasonably with the comfortable enjoyment of life or property is a nuisance.

(Code of Iowa, Sec. 657.1)

50.02 NUISANCES ENUMERATED. The following subsections include, but do not limit, the conditions which are deemed to be nuisances in the City:

(Code of Iowa, Sec. 657.2)

1. **Offensive Smells.** Erecting, continuing or using any building or other place for the exercise of any trade, employment or manufacture, which, by occasioning noxious exhalations, unreasonably offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort or property of individuals or the public.
2. **Filth or Noisome Substance.** Causing or suffering any offal, filth, or noisome substance to be collected or to remain in any place to the prejudice of others.
3. **Impeding Passage of Navigable River.** Obstructing or impeding without legal authority the passage of any navigable river, harbor, or collection of water.
4. **Water Pollution.** 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.
5. **Blocking Public and Private Ways.** Obstructing or encumbering, by fences, buildings or otherwise, the public roads, private ways, streets, alleys, commons, landing places, or burying grounds.
6. **Billboards.** Billboards, signboards and advertising signs, whether erected and constructed on public or private property, which so obstruct and impair the view of any portion or part of a public street, avenue, highway, boulevard or alley or of a railroad or street railway track as to render dangerous the use thereof. **(See also Section 62.06.)**
7. **Storing of Flammable Junk.** 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 the City, unless in a building of fireproof construction. **(See also Chapter 51.)**
8. **Air Pollution.** Emission of dense smoke, noxious fumes, or fly ash.

9. Weeds, Brush. Dense growth of all weeds, vines, brush, or other vegetation in the City so as to constitute a health, safety, or fire hazard. It shall be presumed that a health, safety, or fire hazard exists when growth on any portion of a lot or parcel is in excess of eight (8) inches in height.
10. Dutch Elm Disease. Trees infected with Dutch elm disease. **(See also Chapter 151.)**
11. Airport Air Space. Any object or structure hereafter erected within one thousand (1,000) feet of the limits of any municipal or regularly established airport or landing place, which may endanger or obstruct aerial navigation including take-off and landing, unless such object or structure constitutes a proper use or enjoyment of the land on which the same is located.
12. Disorderly Houses and Premises. It is unlawful for any person to permit prostitution and lewdness, gambling houses, places resorted to by persons participating in criminal gang activity, drunkenness, quarreling, fighting, profane, indecent or obscene language or conduct or loud, disagreeable noises to the disturbance of the neighborhood or general public upon any premises owned by or in possession of such person.
13. Diseased Animals. All diseased animals running at large or maintained in the City limits. **(See also Chapter 55.)**
14. Animal Carcasses. Carcasses of animals not disposed of within 24 hours after death as provided by law.
15. Private Dump. Accumulation of refuse or the maintenance of a private dump in violation of City ordinances. **(See also Section 105.08.)**
16. Pollution by Sewage or Industrial Wastes. The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, chemicals, creamery or industrial wastes or other substances. **(See also Chapters 97 and 100.)**
17. Snow and Ice on Sidewalks. All snow and ice not removed from public sidewalks forty-eight hours after the snow and ice has ceased being deposited thereon. **(See also Section 136.03.)**
18. Obstructions at Intersections. All trees, hedges, billboards, or other obstructions which prevent persons from having a clear view of traffic approaching an intersection from cross streets in sufficient time to bring a motor vehicle driven at a reasonable speed to a full stop before the intersection is reached. **(See also Section 62.06.)**
19. Trees or Shrubbery Impeding Traffic or Use of Fire Hydrant. All trees and shrubbery permitted to grow into the public right-of-way in such a manner that they impede or are hazardous to vehicular or pedestrian traffic or interfere with use of a fire hydrant.
20. Dangerous Buildings. All buildings, walls and other structures which are structurally unsafe, constitute a fire hazard or are otherwise dangerous to human life, constituting a hazard to self-safety, health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard or abandonment; however, repair to, modification of, or demolition of unsafe or dangerous buildings or structures shall be made pursuant to the procedures set out in Chapter 145.

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21. Dangerous Substances. All explosives, flammable liquids and other dangerous substances stored in any manner or in any amount other than that provided by Fire Code.
22. Fireworks. All use or display of fireworks except as provided by Fire Code.
23. Excavations and Obstructions. Obstructions and excavations affecting the ordinary use by the public of streets, alleys, sidewalks or public grounds except under such conditions as are permitted by the Council. **(See also Section 135.09.)**
24. Junk Yards. All junk yard operations. **(See also Chapter 123.)**
25. Abandoned Vehicles. All abandoned vehicles which are not currently licensed, operable, and moveable without third party assistance. **(See also Chapter 80.)**
26. Snow and Ice on City Right-of-Way. Placing snow and ice on City ROW, roadways or thoroughfares following removal unless the ROW is immediately adjacent to the landowner. **(See also Section 135.13.)**
27. Maintenance of Parking or Terrace. Failure to maintain parking or terrace. **(See also Section 135.11.)**

50.03 OTHER CONDITIONS. The following chapters of this Code of Ordinances contain regulations prohibiting or restricting other conditions which are deemed to be nuisances:

1. Junk and Junk Vehicles **(See Chapter 51)**
2. Dangerous and Dilapidated Structures **(See Chapter 145)**
3. Drug Paraphernalia **(See Chapter 47)**
4. Storage and Disposal of Solid Waste **(See Chapter 105)**
5. Trees, Shrubs and Other Plants **(See Chapter 151)**
6. Building and Construction Regulations **(See Chapter 155)**

50.04 NUISANCES PROHIBITED. The creation or maintenance of a nuisance is prohibited, and a nuisance, public or private, may be abated in the manner provided for in this chapter or State law.

(Code of Iowa, Sec. 657.3)

50.05 NUISANCE ABATEMENT. Whenever any authorized municipal officer finds that a nuisance exists, such officer has the authority to determine on a case-by-case basis whether to utilize the nuisance abatement procedure described in Section 50.06 of this chapter or the municipal infraction procedure referred to in Section 50.07.

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

50.06 ABATEMENT OF NUISANCE BY WRITTEN NOTICE. Any nuisance, public or private, may be abated in the manner provided for in this section:

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

1. Contents of Notice. The notice to abate shall contain: †
 - A. Description of Nuisance. A description of what constitutes the nuisance.
 - B. Location of Nuisance. The location of the nuisance.
 - C. Acts Necessary to Abate. A statement of the act or acts necessary to abate the nuisance.
 - D. Reasonable Time. A reasonable time within which to complete the abatement.
 - E. Assessment of City Costs and Fines. 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 may abate it and assess the costs (and/or implement fines set by the Council) against such person.
2. Method of Service. The notice may be in the form of an ordinance or sent by certified mail to the property owner.
(Code of Iowa, Sec. 364.12[3/i])
3. Request for Hearing. Any person ordered to abate a nuisance may have a hearing with the Council as to whether a nuisance exists. A request for a hearing must be made in writing and delivered to the Clerk within the time stated in the notice, or it will be conclusively presumed that a nuisance exists and it must be abated as ordered. The hearing will be before the Council at a time and place fixed by the Council. The findings of the Council shall be conclusive and, if a nuisance is found to exist, it shall be ordered abated within a reasonable time under the circumstances.
4. Abatement in Emergency. If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance or condition, the City may perform any action which may be required under this chapter without prior notice. The City shall assess the costs as provided in subsection 6 of this section after notice to the property owner under the applicable provisions of subsection 1 and 2, and the hearing as provided in subsection 3.
(Code of Iowa, Sec. 364.12[3/i])
5. Abatement by City. If the person notified to abate a nuisance or condition neglects or fails to abate as directed, the City may perform the required action to abate, keeping an accurate account of the expense incurred. The itemized expense account shall be filed with the Clerk who shall pay such expenses on behalf of the City.
(Code of Iowa, Sec. 364.12[3/i])

† **EDITOR'S NOTE:** A suggested form of notice for the abatement of nuisances is included in the Appendix of this Code of Ordinances. Caution is urged in the use of this administrative abatement procedure, particularly where cost of abatement is more than minimal or where there is doubt as to whether or not a nuisance does in fact exist. If compliance is not secured following notice and hearings, we recommend you review the situation with your attorney before proceeding with abatement and assessment of costs. Your attorney may recommend proceedings in court under Chapter 657 of the *Code of Iowa* rather than this procedure.

6. Collection of Costs. The Clerk shall send a statement of the total expense incurred by certified mail to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one month, the Clerk shall certify the costs to the County Treasurer and such costs shall then be collected with, and in the same manner, as general property taxes.

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

7. Installment Payment of Cost of Abatement. If the amount expended to abate the nuisance or condition exceeds five hundred dollars (\$500.00), the City may permit the assessment to be paid in up to ten (10) annual installments, to be paid in the same manner and with the same interest rates provided for assessments against benefited property under State law.

(Code of Iowa, Sec. 364.13)

8. Failure to Abate. Any person causing or maintaining a nuisance who shall fail or refuse to abate or remove the same within the reasonable time required and specified in the notice to abate is in violation of this Code of Ordinances.

50.07 MUNICIPAL INFRACTION ABATEMENT PROCEDURE. In lieu of the abatement procedures set forth in Section 50.06, the requirements of this chapter may be enforced under the procedures applicable to municipal infractions as set forth in Chapter 4 of this Code of Ordinances.

50.08 AUTHORITY TO CITE VIOLATIONS. Fire officials acting under the authority of Chapter 100 of the *Code of Iowa* may issue citations in accordance to Chapter 805 of the *Code of Iowa*, for violations of State and/or local fire safety regulations.

(Code of Iowa, Sec. 100.41)