

## Chapter 8-1

### NUISANCES

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

(A) The term "nuisance" shall mean whatever is injurious to health, indecent or offensive to the senses or an obstacle to the free use of property so as essentially to interfere with the comfortable enjoyment of life or property. The following are declared to be nuisances:

1. 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 or property of individuals or the public.
2. The causing or suffering any offal, filth or noisome substance, trash, junk, used tires, rock piles, broken concrete or asphalt, or hazards waste, to be collected or to remain in any place which shall be unsightly, or create an odor, or constitute a health hazard, or create a hazard to children who might pass upon the property.
3. The obstructing or impeding without legal authority the passage of any stream, lake or collection of water.
4. 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.
5. The obstructing or encumbering by fences, buildings or otherwise the public roads, private ways, streets, alleys, commons, landing places or burying grounds.
6. Houses of prostitution or other establishments where sex acts (as defined in the Code of Iowa) are performed for compensation, gambling houses, houses resorted to for the use of controlled substances (as defined in the Code of Iowa), houses where drunkenness, quarreling, fighting or breaches of the peace are carried on or permitted to the disturbance of others.

7. 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.
8. Cotton-bearing cottonwood trees and all other cotton-bearing poplar trees.
9. 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.
10. The emission of dense smoke, noxious fumes or fly ash.
11. Dense growth of all weeds, vines, brush or other vegetation in the City so as to constitute a health, safety or fire hazard.
12. Trees infected with Dutch elm disease.
13. 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.
14. All limbs of trees which are less than eight feet (8') above the surface of any public sidewalk, or street.
15. All wires which are strung less than fifteen feet (15') above the surface of the ground.
16. All buildings, walls and other structures which have been damaged by fire, decay or otherwise to an extent exceeding one-half (1/2) their original value, and which are situated as to endanger the safety of the public.
17. All explosives, flammable liquids and other dangerous substances stored in any manner or in any amount other than that provided by law.

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

### **Section 8-1-2 Nuisances Prohibited**

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

### **Section 8-1-3 Other Conditions Prohibited**

The following actions are required and may also be abated in the manner provided in this Ordinance:

(A) 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.

- (B) The removal, repair or dismantling of a dangerous building or structure.
- (C) The connection to public drainage systems from abutting property when necessary for public health or safety.
- (D) 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.
- (E) The cutting or destruction of weeds or other growth which constitutes a health, safety or fire hazard.

#### **Section 8-1-4 Notice To Abate Nuisance Or Condition**

Whenever the Mayor, City Administrator, Code Enforcement Officer or other authorized municipal officer finds that a nuisance or other condition listed in 8-1-3 exists, he/she shall cause to be served upon the property owner as shown by the records of the county auditor, a written notice to abate the nuisance within a reasonable time after notice.

#### **Section 8-1-5 Contents Of Notice To Abate**

The notice to abate shall contain:

- (A) A description of what constitutes the nuisance or other condition;
- (B) The location of the nuisance or condition;
- (C) A statement of the act or acts necessary to abate the nuisance or condition;
- (D) A reasonable time within which to complete the abatement;
- (E) 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.

#### **Section 8-1-6 Method Of Service**

The notice may be in the form of an ordinance or sent by certified mail to the property owner as shown by the records of the county auditor.

#### **Section 8-1-7 Request For Hearing And Appeal**

Any person ordered to abate a nuisance or condition may have 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, the hearing officer shall render a written decision as to whether a nuisance or prohibited condition exists. If he/she finds that a nuisance or prohibited condition exists,

he/she must order it abated within an additional time which must be reasonable under the circumstances. An appeal from this decision may be had by filing a written notice with the hearing officer within twenty-four (24) hours. This appeal will be heard before the City Council at a time and place fixed by the Council. The findings of the Council shall be conclusive and, if a nuisance or prohibited condition is found to exist, it shall be ordered abated within a time reasonable under the circumstances.

#### **Section 8-1-8 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 without prior notice. The City shall assess the costs as provided in 8-1-10 of this Ordinance, after notice to the property owner under the applicable provision of Section 8-1-4 and 8-1-5 and hearing as provided in Section 8-1-7.

#### **Section 8-1-9 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.

#### **Section 8-1-10 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 (1) month, he/she shall certify the costs to the county auditor and it shall then be collected with, and in the same manner, as general property taxes.

#### **Section 8-1-11 Installment Payment Of Cost Of Abatement**

If the amount expended to abate the nuisance or condition exceeds \$500, the City shall permit the assessment to be paid in up to ten (10) annual installments, to be paid in the same manner and with the same interest as benefitted property.

#### **Section 8-1-12 Severability Clause**

If any section, provision or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

#### **Section 8-1-13 Municipal Infraction**

A violation of any of the provisions of this Chapter shall constitute a Municipal infraction subject to the penalties and alternative relief authorized by Title 1, Chapter 20 of this Code and by Section 364.22 of the

Code of Iowa.