

TITLE 9

HEALTH AND SANITARY REGULATIONS

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TITLE 9 – HEALTH AND SANITARY REGULATIONS
CHAPTER 1 – FOOD ESTABLISHMENTS AND HOTEL SANITATION

The following provisions of the Iowa Code and all administrative rules adopted pursuant thereto are hereby adopted by reference and the City Council shall be responsible for the licensing, inspection, and enforcement thereof:

Chapter 137C, hotel sanitation code.

Chapter 137D, home food establishments.

Chapter 137F, food establishments and food processing plants.

Iowa Administrative Code, Section 481-30 food and consumer safety.

Iowa Administrative Code, Section 481-31 food establishment and food processing plant inspections.

Iowa Administrative Code, Section 481-37 hotels and motels.

TITLE 9 – HEALTH AND SANITARY REGULATIONS
CHAPTER 2 – HEALTH REGULATIONS

The following provisions of the Iowa Code and all administrative rules adopted pursuant thereto are hereby adopted by reference and the City Council shall be responsible for the licensing, inspection, and enforcement thereof:

Iowa Administrative Code, Chapter 22, Tattoos.

Iowa Administrative Code, Chapter 46, Tanning.

Iowa Administrative Code, Chapter 15 and 1351.

**TITLE 9 – HEALTH AND SANITARY REGULATIONS
CHAPTER 3 – NUISANCE**

SECTIONS:

- 9-3-1 Nuisance Defined
- 9-3-2 Definitions Generally
- 9-3-3 Nuisances Enumerated
- 9-3-4 Nuisances Prohibited and Authority to Abate 9-3-5 Notice to Abate.
- 9-3-6 Contents of Notice to Abate
- 9-3-7 Method of Notice
- 9-3-8 Appeals and Extensions
- 9-3-9 Abatement by the City
- 9-3-10 Report to Council; Abatement Costs
- 9-3-11 Assessment of Costs
- 9-3-12 Failure to Abate
- 9-3-13 Penalty
- 9-3-14 Abatement in Emergency

9-3-1 Nuisance Defined

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, and a civil action by ordinary proceedings may be brought to enjoin and abate the nuisance and to recover damages sustained on account of the nuisance. (*Code of Iowa, Sec. 657.1*)

9-3-2 Definitions

- A. **"Garbage"** means all wastes from the preparation or spoilage of food.
- B. **"Filth"** means excrement, either animal or human, or any material connected herewith.
- C. **"Junk"** means metal or wood, whether usable or not, stored in such a manner that it constitutes a health or safety hazard.
- D. **"Junked Vehicle"** means any vehicle, which exhibits any one or more of
The following characteristics:
 - 1. Any vehicle designed to be capable of moving itself when in proper repair, but is incapable of being moved under its own power in its existing condition.
 - 2. Any vehicle that is incapable of being operated for want of a major component of the vehicle.
 - 3. Any vehicle that does not have all tires inflated.
 - 4. Any dismantled or partially dismantled vehicle.

5. Any vehicle missing significant body parts such as, hood, fender, cab, door, wheel, or trunk lid.
 6. Any vehicle with a missing or shattered windshield.
 7. Any vehicle with any exposed broken glass edges.
 8. Any vehicle that is the habitat of rats, mice, snakes or any other vermin or insects."
- E. "Refuse"** means any material not junk, garbage, or filth deposited upon property in an unsightly or unhealthy condition.
- F. "Semitrailer"** means every vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle; and is longer than 22 feet in length."
- G. "Unregistered Vehicle"** means a vehicle for which state law requires registration, but which is not currently registered. This definition includes vehicles with expired registration.
- H. "Vehicle"** means a machine propelled or pushed or pulled by power other than human power designed to travel along the ground or in water and transport persons or property or pull machinery and shall include as examples, but shall not be limited to, automobiles, trucks, trailers, motorcycles, motorbikes, motor scooters, tractors, go-carts, riding lawn mower, golf carts, campers, buggy and wagons, recreational and camping trailers, boats, boats on a trailer, camper shells, cargo/enclosed trailers, race car trailers, equipment trailers, car haulers, concession/specialty trailers, motorcycle-ATV-snowmobile trailers and landscape trailers.

9-3-3 Nuisances Enumerated

A "nuisance" shall include, but not be limited to, the following:
(Code of Iowa, Sec. 657.2)

A. 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.

B. 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.

C. Impeding Passage of Navigable River

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

D. 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.

E. 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.

F. 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.

G. 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.

H. Air Pollution

Emission of dense smoke, noxious fumes or fly ash.

I. 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.

J. Dutch Elm Disease or Emerald Ash Borer Damage

Trees infected with Dutch Elm Disease or knowingly impacted and damaged by the Emerald Ash Borer.

K. 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. (See Airport Zoning)

L. Houses of Ill Fame

Houses of ill fame, kept for the purpose of prostitution and lewdness; gambling houses; places resorted to by persons participating in criminal gang activity prohibited by Chapter 723A of the Code of Iowa or places resorted to by persons using controlled substances, as defined in Section 124.101 of the Code of Iowa, in violation of law, or houses where drunkenness, quarreling, fighting or breaches of the peace are carried on or permitted to the disturbance of others.

M. Stagnant Water

All lots and parcels of ground wherever water is permitted to accumulate and stand until stagnant or upon any privately owned lot.

N. Junked or Unregistered Vehicles

It shall be unlawful for any person to store, maintain or keep, any "junked vehicle" or "unregistered vehicle", as defined in this chapter, on any private property in the city; and it shall be unlawful for any owner or manager of real property to permit or allow the storage, maintenance, or keeping of any such junked vehicle or unregistered vehicle on real property under their dominion or control. Except a junked or unlicensed vehicle may be kept as follows:

1. Residentially zoned districts:

- a.** In a fully enclosed garage or like structure.
- b.** Outdoors in locations not within the public right of way in which a vehicle may be lawfully parked. Provided that there is no more than one junked vehicle on the parcel, is fully covered with a commercial tarpaulin constructed especially for motor vehicles, sufficient in size to cover the entire vehicle. Such vehicle cover must be in good condition and must be replaced if it becomes torn, weather-beaten, or acquires any other defects. Makeshift covers do not satisfy the requirement of this subsection.

2. Non-Residentially zoned districts:

Junked or unregistered vehicles shall be stored in a fully enclosed structure or in an area that is completely screened (opaque fence or landscaping) in a lawful manner where it is not visible from the street or other public or private property including the public right of way.

3. Vehicle Sales

Upon parcels where there is a currently valid Motor Vehicle Dealer License issued by the Iowa Department of Transportation

unregistered, but not junked vehicles may be stored in any location on a property upon which a vehicle can lawfully be parked.

O. Junk, Refuse, and Garbage

All lots or parcels of land upon which junk, refuse, garbage, or filth is allowed to accumulate.

P. Containers

Abandoned or unattended refrigerator, icebox, or similar container with doors that may become locked located outside of buildings and accessible to children, or to allow any such refrigerator, icebox, or similar container to remain outside of buildings on premises in the person's possession or control to remain abandoned or unattended and so accessible to children.

Q. Poison

Any poison, poisonous meat, or any other poisonous substance in any place outside of any residence, or where it may endanger life by being taken and used by any person, or who shall so expose any such poison or poisonous substance where the same shall be taken by any dog, hog, cat, or any animal or living thing.

R. Dangerous or Unsafe Building or Structure

Dangerous or Unsafe Building or Structure shall mean any structure or building meeting any or all of the following criteria:

1. Whenever any portion or member of a building or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.
2. Whenever a portion or member of a building has wracked, warped, buckled, or settled to such an extent that walls or other structural portions have materially less resistance to winds or snow loading than is required in the case of similar new construction.
3. Whenever the building or structure, or any portion thereof, because of 1) dilapidation, deterioration, or decay; 2) faulty construction; 3) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; 4) the deterioration, decay or inadequacy of its foundation; or 5) any other cause, is likely to collapse partially or completely.
4. Whenever, for any reason, the building or structure, or any portion thereof, is unsafe for the purpose for which it is being used.
5. Whenever the building or structure has been damaged by fire, wind, flood, or has become dilapidated or deteriorated as to become 1) an attractive nuisance to children; 2) a harbor for vagrants, criminals, or as to 3) enable persons to resort thereto for the purpose of committing unlawful acts.

6. Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air, or sanitation facilities, or otherwise, is determined by the Building Official or Health Officer to be unsanitary, unfit for human habitation, or in such condition that it is likely to cause sickness or disease.
 7. Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire- resistive construction, faulty electrical wiring, gas connections, or maintenance of heating and/or cooling equipment, or other cause, is determined by the Building Official or City Fire Marshall to be a fire hazard.
 8. Whenever any portion of a building or structure remains on a site after demolition or destruction of the building or structure, or whenever any building or structure is abandoned, or whenever any building or structure is abandoned for a period of six (6) months so as to constitute such building or portion thereof to be an attractive nuisance or hazard to the public.
- S. Ashes, cinders, leaves, grass, tools, implements, machines, soil, dirt, sand, gravel, lumber, brick, or other building material, or any other thing or substance deposited, stored, placed, or permitted to be or come in or into or upon any street, alley, public place, or into or upon any privately owned property which obstructs, hinders, or prevents the full and free use of any part of such street, alley, public place, or private property the free and uninterrupted flow of water in, upon, and away from the same.

T. Semitrailers Parking on Residential Parcels

On any parcel where a residential dwelling or dwellings are established as the primary use, the parking of any semitrailer is hereby declared to be a public nuisance and prohibited. However, a semitrailer may be parked in a residential zoned district if it is parked in compliance with another applicable city ordinance; and either

1. Is parked in a fully enclosed structure or in an area that is completely screened (opaque fence or landscaping) in a lawful manner where it is not visible from the street or other public or private property including the public right of way; or
2. Is actively involved in making a pickup or delivery as part of a household move.

9-3-4 Nuisances Prohibited and Authority to Abate

The causing, permitting, or continuing of any nuisance as provided in this Chapter is hereby prohibited, and may be abated in the manner provided in this Chapter, or as otherwise provided by law.

9-3-5 Notice to Abate

Whenever any nuisance as set out in this Chapter is found to exist, the City shall provide notice in the manner required by Section 9-3-6 to the owner, occupant, or agent of the property upon which such nuisance is found to exist or from which such nuisance comes, or upon the person causing or permitting such nuisance to exist upon or in any street, alley, public place, or private property.

9-3-6 Contents of Notice to Abate

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

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

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.

9-3-7 Method of Notice

The method of notice shall be in accordance with Section 364.12[3h] of the Code of Iowa.

9-3-8 Appeals and Extensions

A. Request for a Hearing to Appeal a Determination of a Nuisance

1. Any person to whom the Notice to Abate is directed may appeal the determination that the condition of the property constitutes a nuisance by requesting a hearing before the City Council.
2. The request must be in writing and be delivered to the City Clerk within ten (10) days from the date of the Notice to Abate or the decision will be final that a nuisance exists which must be abated as stated in the Notice to Abate.

B. Request for an Extension of a Notice to Abate

1. Any person to whom the Notice to Abate is directed may request an extension of time to complete any action to abate a nuisance.
2. Such request for an extension shall be made to the Community Development Department no later than at least one (1) business day prior to the deadline imposed by the Notice to Abate.

3. Approval of an extension to a Notice to Abate may be granted if the Community Development Department finds that:
 - a. Strict compliance with the deadline set by the Notice to Abate is impractical;
 - b. That the granting of such an extension does not violate the intent and purpose of City Code;
 - c. That granting the requested extension does not endanger the life, health, safety, or property.

9-3-9 Abatement by the City

Whenever any person having been served with a notice for the reason and in the manner required by this Chapter shall refuse, fail, or neglect to abate or remove the nuisance referred to in such notice within the time therein stated, the City may cause such nuisance to be abated and removed.

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

9-3-10 Report to Council; Abatement Costs

If the City abates a nuisance under Section 9-3-9 of this Chapter, the City Clerk shall report the fact in writing to the Council, stating the cost and value of all tools, appliances, materials, labor, and assistance used, consumed, and performed by and for him or her, giving the several items thereof, and the name of the person responsible for the commission of such nuisance and a description of the property, lot, or parcel of ground whereon such nuisance existed or from which the same came.

9-3-11 Assessment of Costs

Upon receiving such report under Section 9-3-9, the Council may assess the costs against the property by resolution for collection in the same manner as a property tax.

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

9-3-12 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 or applicable Federal, State or County laws.

9-3-13 Penalty

A failure to abate a nuisance as defined in this Chapter or a failure to perform an action required herein, following notice as provided in this Chapter, shall constitute a

municipal infraction and the requirements of this Chapter may be enforced under the procedures applicable to municipal infractions and/or in lieu of the abatement procedures set forth in this Chapter.

9-3-14 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 Section 9-3-12 after notice to the property owner under the applicable provisions of Sections 9-3-6 and 9-3-7 and hearing as provided in Section 9-3-8.

9-3-15 Chronic Nuisance Property

Chronic Nuisance Property shall mean a property on which three (3) or more nuisance activities occur or exist within a twelve (12) month Period.

- A. Whenever the City determines that three (3) or more nuisance activities have occurred or exist on a property during a twelve (12) month period, the City may notify the property owner or the responsible party, as set forth in Muscatine City Code 9-3-5, that the property is a chronic nuisance property.
- B. The chronic nuisance notice shall:
 1. Identify the type and specific location of nuisance service call(s), including tenant or lessee names where applicable;
 2. Summarize the evidence of the nuisance occurring on the property;
 3. Provide the dates on which the nuisance calls for service were made on the property; and
 4. Warn the owner of the property and any tenant that future nuisance service calls may subject them jointly and severally to liability for the cost associated with any response to such nuisance service call, based upon the actual cost of the response.
- C. When a chronic nuisance notice has been property served as set forth in Section 9-3-7, the owner of the property and any tenant shall be jointly and severally responsible for each successive nuisance incident occurring on the property and shall be jointly, severally and individually responsible for payment of any and all costs associated with each successive nuisance service call within any twelve (12) month period, based upon the actual cost of the response. The cost of response shall include, without limitation, the gross salaries, including all benefits and overhead paid to the responding employees of the City, City administrative costs, the pro rata cost of all equipment and cost of repairs to any equipment or property owned by the City that is damaged in responding to the nuisance service call.
- D. The costs of the response shall be included in a statement of service costs, which shall be prepared and served subject to the provisions of Section 9-3-7 of this Code. If a statement of service cost is not timely paid, the City may cause a special assessment to be made upon the property pursuant to Section 9-3-11 of this Code.

- E. The costs of response for such chronic nuisance properties shall be in addition to any other costs and/or remedies allowed by Iowa Code or the Muscatine City Code.

TITLE 9 – HEALTH AND SANITARY REGULATIONS
CHAPTER 4 – NATURAL WATER COURSE; DRAINS AND DRAINAGE

SECTIONS:

- 9-4-1 Natural Water Courses
- 9-4-2 Owner to Construct Draining
- 9-4-3 Authority of City
- 9-4-4 Failure to Construct Drain

9-4-1 Natural Water Courses. No person shall obstruct a natural water course so as to endanger personal property or cause a returning or prevention of the natural flow of surface water.

9-4-2 Owner to Construct Draining. The Council shall have the power and authority to require the owner or leasee of any lot, part of lot, or tract of ground extending into, across, or bordering upon any natural water course for the drainage of surface water or a water course of any kind who shall, by grading or filling such lot, part of lot, or tract of ground, obstruct the ordinary flow of water through such ravine or water course, to build or construct, to the extent of such lot or filling, such a drain or passage way for water as will readily carry off and discharge such water naturally flowing thereon.

9-4-3 Authority of City. When the owner or leasee of any lot shall grade or fill said lot, part of lot or tract of ground extending into, across, or bordering on any hollow or ravine so as to obstruct the flow of water, the City Council shall have the power to order such owner or leasee to construct such drain within a reasonable amount of time to be designated by the City Council. Said order shall be served upon the owner or leasee of the said lot, part of lot, or tract of ground by certified mail with return receipt. If the owner or leasee of said tract of ground shall fail or refuse to construct said drain within the time and in the manner required, the Director of Public Works or his or her designee shall at once proceed to build such drain and report the expense thereof, with all costs arising there from, to the Council, whereupon the Council may, by resolution, levy and assess such sum as a special tax upon the property in which such drain is constructed.

9-4-4 Failure to Construct Drain. In all cases where the owner or leasee of any lot, part of lot, or tract of ground extending into, across, or bordering on any hollow or ravine which constitutes a drain for surface water, or water course of any kind, shall, without constructing a suitable drain, fill or grade such lot, part of lot, or tract of ground so as to obstruct the flow of water through such water course or ravine, and cause such water to accumulate on any street, alley, public place, private lot, or private ground, shall be considered to have caused a nuisance and shall be deemed guilty of a simple misdemeanor or municipal infraction as set out in the Schedule of Penalties in the Appendix of this Code of Ordinances.

**TITLE 9 – HEALTH AND SANITARY REGULATIONS
CHAPTER 5 – WEEDS**

SECTIONS:

- 9-5-1 Purpose
- 9-5-2 Definitions
- 9-5-3 Noxious Weeds
- 9-5-4 Duties of Owners
- 9-5-5 Notice
- 9-5-6 Proof of Service
- 9-5-7 Work Done by City
- 9-5-8 Cost of Work Done by City

9-5-1 Purpose. The purpose of this Chapter is to establish the procedure to be followed for the removal of noxious weeds on property within the City.

9-5-2 Definitions. For purposes of this Chapter, the following terms are defined:

- A. "Noxious weed" includes weeds such as jimson, burdock, ragweed, thistle, cocklebur, and any weeds, grass, or plants other than trees, bushes, flowers, or other ornamental plants, in excess of eight inches (8") in height.
- B. "Owner" means a record holder of legal title as shown on the records of the Muscatine County Assessor.

9-5-3 Noxious Weeds. It shall be a misdemeanor for the owner of real estate located within the Corporate Limits of the City to permit the growth of noxious weeds on any real estate as set out in this Chapter.

9-5-4 Duties of Owners. It shall be the duty of the owner to cut or remove, and to keep cut or removed, all noxious weeds from his, her, or its property and from all adjacent property between the property line and the improved street and/or alley line(s).

9-5-5 Notice. The City shall give notice to the property owners by one publication in a newspaper of general circulation within the City, stating that all property owners are required to destroy, cut, trim, or otherwise eradicate all noxious weeds on their property and the adjacent unimproved public right(s)-of-way within a reasonable time but not less than five days from the date of the said publication.

9-5-6 Proof of Service. In addition to the notice as set out in Section 9-5-5, the City shall mail a notice to the property owner believed to be violating the provisions of this Section advising that all noxious weeds located on his, her, or its property and adjacent public right(s)-of-way shall be destroyed, cut, trimmed, or otherwise eradicated within five (5) days from the delivery of mail in the ordinary course of delivery. Said notice shall be sent by ordinary mail to the last known address of the owner or as shown on the current County Assessors records. It shall be presumed that five (5) days is sufficient time for the delivery of mail within ordinary course. A copy of the publication as required in Section 9-5-5, together with a copy of the notice sent by regular mail as herein set out shall be deemed proof of service.

9-5-7 Work Done by City. When any owner fails to destroy, cut, trim, or eradicate noxious weeds within the notice period(s) contained in this Chapter, the City shall cause the noxious weeds to be cut or removed by private contractor or with City employees and equipment at City expense.

9-5-8 Cost of Work Done by City. The City Clerk shall submit an itemized statement to the City Council for all work performed under this Chapter. The itemized statement shall include the cost of cutting and/or removing the noxious weeds to include labor, equipment costs, and reasonable administrative costs. Upon receipt of the itemized statement, the Council shall audit it, and if allowed, shall by resolution assess the cost as a special assessment against the property. The City Clerk shall certify the assessment to the County Treasurer, to be collected as any other special assessment.