



IN-DEPTH ITEM – CITY COUNCIL

DATE: 2/11/21

STAFF: Andrew Fangman, Assistant Community Development Director

SUBJECT FOR DISCUSSION

Proposed changes to City Code regarding the regulation of nuisance vehicles.

EXECUTIVE SUMMARY

Staff has prepared an ordinance that would update regulations regarding nuisance vehicles which are contained within Chapter 3 of Title 9 of City Code.

GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

1. Does City Council support the proposed change to City Code relating to nuisance vehicles?
2. Does City Council have any feedback on the proposed draft language?

BACKGROUND/DISCUSSION

As part of a continuing effort to improve City Code (with the intent of making City Code easier to understand and enforce) the attached draft ordinance proposes changes to City Code as it pertains to nuisance vehicles, including both junked and unregistered vehicles. The intent of the proposed changes is not to radically change how nuisance vehicles are regulated, but rather to improve on the current approach. This improvement would result from adding needed clarity by doing the following:

- Creating a detailed definition of a “vehicle”. This is necessary to encompass the wide variety of vehicles which can potentially become a nuisance.
- Clarifying that a vehicle may still meet the definition of a “junked vehicle” and classified as nuisance under this chapter, even if said vehicle is currently register as required by state law
- Creating a more detailed definition of a “junked vehicle” by using criteria that is both objective and easy to observe through a simple visual inspection.

Chapter 3 of Title 9 of the City Code regulates nuisances. This chapter defines what constitutes a nuisance and sets forth the procedure by which the City may take direct action to have a nuisance abated. When a vehicle is found to be a nuisance, abatement almost always takes the form of the vehicle that is creating being towed away.

Nuisances are broadly defined in Section 9-3-1 of City Code and by Section 657.1 of the Code of Iowa as: *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.*



Section 9-3-3 of City contains a list of specific conditions that constitute a nuisance, this includes subsection N which states: *“Vehicles. Any unused, abandoned, junked, or obsolete cars or motor vehicles whether on private or public property.”*

Current City Code (Section 9-3-2-D) contains the following definition: A *“junked or obsolete car or motor vehicle” shall be a car or motor vehicle, or a portion thereof, not in running condition or not licensed for the current year as provided by law. This definition shall not apply to a vehicle, or part thereof stored within a building, or protected with a fitted cover designed specifically as a vehicle cover. The use of tarps, blankets, or similar temporary covers shall not be deemed acceptable under this Section.*

The proposed code change would replace the current definition of “junked or obsolete car or motor vehicle”, with the following three definitions.

- **“Vehicle” means a machine propelled or pushed or pulled by power other than human power designed to travel along the ground or in water by use of wheels, treads, runners or slides and transport persons or property or pull machinery and shall include, without limitation, automobiles, trucks, trailers, motorcycles, motorbikes, motor scooters, tractors, go-carts, 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.”**

Because vehicles in addition to those that are intended to be operated on public streets can become a nuisance, adding the proposed definition will make it clear that any type of vehicle can potentially be classified a junked or unregistered vehicle, is it meets the relevant criteria.

- **“Junked Vehicle” means any vehicle, which exhibits any one or more of**
The following characteristics:
 1. **Any vehicle if designed to be capable of moving itself when in proper repair, 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, or trunk lid.**
 6. **Any vehicle with a missing, broken or shattered windshield or any exposed broken glass edges.**
 7. **Any vehicle that is the habitat of rats, mice, snakes or any other vermin or insects.**



The proposed definition of junked vehicle uses easily observed criteria in defining what constitutes a junked vehicle. This would be a major improvement over current definition defining a junked vehicle as one that is not in running conditions. Using a standard of “not in running condition” as the definition of a junked vehicle can make it difficult to enforce a prohibition on junked vehicles. Frequently it is not possible to determine, through a simple visual observation, if a parked vehicle is in running condition or not.

- **“Unregistered Vehicle” means a vehicle for which state law requires registration, but which is not currently registered. This definition includes vehicles with expired registration.”**

Creating a specific definition for unregistered vehicles is one part of a set of proposed changes intended to clarify the fact that simply registering a vehicle does not necessarily preclude a vehicle from meeting the criteria for classification as junked vehicle.

The proposed ordinance would replace the current Section 9-3-3 (N) with the following text:

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. In a carport 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. Tarps and 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.



This proposed change is intended to improve City Code in two ways. First this change provides clarity that a vehicle can become a nuisance by meeting the criteria to be classified as either or both. Current code is often interpreted that a vehicle with valid registration does not meet the criteria to be classified as a nuisance, regardless of the actual physical condition of the vehicle in question. Many vehicles are in such poor physical shape that the negative impact that they have on the surrounding area is not improved by simply registering the vehicle with the state.

The other proposed change moves the requirements for legally storing junked and unregistered vehicles out of the definition subsection of the Chapter and into the section that contains regulations for junked and unregistered. Regulatory language should not be included within the definition of a term. The definition section of a regulatory document is not where most would look to find the actual rules governing a particular situation. The proposed language on this issue is largely the same as existing code, aside from language providing additional clarity.

Following feedback and a consensus to move forward on this proposed change to City Code, staff will bring back an ordinance, reflecting any changes desired by Council, to adopted the proposed change into City Code.

ATTACHMENTS

Proposed ordinance language

ORDINANCE NO.
**AN ORDINANCE UPDATING THE REGULATIONS OF NUISANCE
VEHICLES, CHAPTER 3 – NUISANCE OF TITLE 9 – HEALTH AND
SANITARY REGULATIONS, OF CITY CODE**

WHEREAS, Chapter 3 of Title 9 of the City Code regulates nuisances, which are defined as conditions that are injurious to health, indecent, or unreasonably offensive to the senses, or obstruct the free use of property, interfering unreasonably with the comfortable enjoyment of life or property; and

WHEREAS, said nuisance regulations currently address the circumstances under which a vehicle can be constituted as a nuisance; and

WHEREAS, with the intent of making nuisance regulations as they relate to vehicles easier to understand and enforce, as well to make the implementation of said regulations better achieve their intent, this ordinance makes a number of changes to Chapter 3 of Title 9 of City Code; and

WHEREAS, it is necessary to clarify that a vehicle may still meet the definition of a “junked vehicle” and classified as nuisance under this chapter, even if said vehicle is currently registered as required by state law; and

WHEREAS, a detailed definition of a “junked vehicle” using objective and easy to observe criteria is necessary; and

WHEREAS, a detailed definition of a “vehicle” is necessary to encompass the wide variety of vehicles which can potentially become a nuisance.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MUSCATINE, IOWA:

SECTION 1. The following sections of Chapter 3 of Title 9 of City Code are hereby deleted:

Section 9-3-2(D); and

Section 9-3-3(N).

SECTION 2. The following text is added as **Section 9-3-2(D):**

**“D. “Junked Vehicle” means any vehicle, which exhibits any one or more of
The following characteristics:**

- 1. Any vehicle if designed to be capable of moving itself when in proper repair, 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, or trunk lid.
6. Any vehicle with a missing, broken or shattered windshield or any exposed broken glass edges.
7. Any vehicle that is the habitat of rats, mice, snakes or any other vermin or insects.”

SECTION 3. The following text is added as Section 9-3-2(F):

“ F. “Unregistered Vehicle” means a vehicle for which state law requires registration, but which is not currently registered. This definition includes vehicles with expired registration.”

SECTION 4. The following text is added as Section 9-3-2(G):

“ G. “Vehicle” means a machine propelled or pushed or pulled by power other than human power designed to travel along the ground or in water by use of wheels, treads, runners or slides and transport persons or property or pull machinery and shall include, without limitation, automobiles, trucks, trailers, motorcycles, motorbikes, motor scooters, tractors, go-carts, 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.”

SECTION 5. The following text is added as Section 9-3-3(N):

“ 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. **In a carport 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. Tarps and 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

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SECTION 6. 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 7. Any Ordinance or part thereof in conflict or inconsistent with the provisions of this Ordinance is repealed.

SECTION 8. This ordinance shall be in effect from and after the passage and approval an publication of this ordinance, as provided by law

PASSED, APPROVED AND ADOPTED this 18th day of February, 2021.

Attest

**By the City Council of the City of
Muscatine, Iowa**

Diana L. Broderson, Mayor

Carol Webb
City Clerk

First Reading:
Second Reading:
Third Reading:
Publication: