

TITLE 9

HEALTH AND SANITARY REGULATIONS

<u>SUBJECT</u>	<u>CHAPTER</u>
Food Establishments and Hotel Sanitation	1
Health Regulations	2
Nuisance	3
Natural Water Course; Drains and Drainage	4
Weeds	5

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 Request for Hearing
- 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 Generally.

- 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 any metal or wood, whether usable or not, stored in such a manner that it constitutes a health or safety hazard.
- D. 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.
- E. "Refuse" means any material not junk, garbage, or filth deposited upon property in an unsightly or unhealthy condition.

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. Vehicles. Any unused, abandoned, junked, or obsolete cars or motor vehicles whether on private or public property.
 - 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.

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 Request for Hearing. 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. 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 it will be conclusively presumed a nuisance exists and it must be abated as stated in the Notice to Abate.

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 9-3-11 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 Adoption of Iowa Code 657A.1A-657A.10.

- A. Applicability. Effective July 1, 2019, and pursuant to Iowa Code section 657A.10B, the City of Muscatine elects that the provisions of Iowa Code Sections 657A.1 A through 657A.10, inclusive, shall apply to structures within its jurisdiction.
- B. Appointed Building Official. The City appoints Community Development Director, or his or her designee, as the responsible building official as defined in Iowa Code section 657A.1(8)
- C. Fees. The fee for a building inspection, and for preparation of the official's writing finding, pursuant to Iowa Code section 657A.1.A(3), shall be a\$50, OR AS MAY FROM TIME TO TIME BE AMENDED BY RESOLUTION OF Council and set forth in the Schedule of Fees in Appendix C to this Code of Ordinances, and shall be payable in advance to the City Clerk.

**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.