

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. *(Ord. 581)*

(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:

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. *(Ord. 581)*

(Code of Iowa, Sec. 657.2[1])

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.

(Code of Iowa, Sec. 657.2[2])

3. **Impeding Passage of Navigable River.** Obstructing or impeding without legal authority the passage of any navigable river, harbor or collection of water.

(Code of Iowa, Sec. 657.2[3])

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.

(Code of Iowa, Sec. 657.2[4])

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.

(Code of Iowa, Sec. 657.2[5])

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 62.09)**

(Code of Iowa, Sec. 657.2[7])

7. (Repealed by Ordinance No. 604)

8. 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)**

(Code of Iowa, Sec. 657.2[10])

9. Air Pollution. Emission of dense smoke, noxious fumes or fly ash.

(Code of Iowa, Sec. 657.2[11])

10. 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.

(Code of Iowa, 657.2[12])

11. Dutch Elm Disease. Trees infected with Dutch Elm Disease. **(See also Chapter 151)**

(Code of Iowa, Sec. 657.2[13])

12. 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.

(Code of Iowa, Sec. 657.2[9])

13. 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.

(Code of Iowa, Sec. 657.2[6])

14. Accumulation of Litter. Accumulation of litter, as defined in Chapter 105 of this Code of Ordinances, on any premises, improved or vacant, or on any public place.

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. Inoperable Vehicles and Junk (See Chapter 51)
2. Dangerous Buildings (See Chapter 145)
3. Storage and Disposal of Solid Waste (See Chapter 105)
4. Trees (See Chapter 151)
5. Drug Paraphernalia (See Chapter 52)

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 the Mayor or other authorized municipal officer finds that a nuisance exists, such officer may cause to be served upon the property owner, or any person in possession thereof, a written notice to abate the nuisance within a reasonable time after notice.

(Ord. 696 – Jun. 02 Supp.)

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

50.06 NOTICE TO ABATE: CONTENTS. The notice to abate shall contain:

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

1. Description of Nuisance. A description of what constitutes the nuisance.
2. Location of Nuisance. The location of the nuisance.
3. Acts Necessary to Abate. A statement of the act or acts necessary to abate the nuisance.
4. Reasonable Time. A reasonable time within which to complete the abatement.

5. **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.

6. **Notice of Subsequent Violation.** A statement that in the event such nuisance is abated by the City, a subsequent like nuisance which occurs on the same property within 365 days of the date of the notice may be abated by the City without prior notice to such person and with the costs assessed to such person.

(Ord. 732 – Oct. 03 Supp.)

50.07 METHOD OF SERVICE. The notice may be served upon the property owner or person in possession thereof by personal service, certified mail, regular mail or publication in the Glenwood Opinion Tribune. If the owner of the property or the person in possession thereof is unknown or their whereabouts are unknown, notice may be provided by posting a dated and signed placard in a conspicuous place on the property in violation of this chapter.

(Ord. 748 – Nov. 04 Supp.)

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

50.08 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.

50.09 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 50.11 after notice to the property owner under the applicable provisions of Sections 50.05, 50.06 and 50.07 and hearing as provided in Section 50.08.

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

50.10 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[3h])

50.11 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 (1) 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])

50.12 INSTALLMENT PAYMENT OF COST OF ABATEMENT. If the amount expended to abate the nuisance or condition exceeds one hundred dollars (\$100.00), 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)

50.13 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.

50.14 FINE FOR FAILURE TO ABATE. Any person who fails to abate either a public or private nuisance, after (1) being served with a notice to abate and not requesting a hearing within the time prescribed in the notice as provided in Section 50.08, or (2) after being ordered to abate a nuisance by the Council after hearing and within the time so provided in the order of the Council, shall be subject to the fine as established in Section 1.10 of this Code of Ordinances. Every day that the nuisance continues after the date of (1) or (2) above, shall be considered a separate violation of this section. The issuance of a complaint or citation under this section shall not be considered the sole remedy of the City and shall not be deemed to restrict the City's ability to seek additional relief under this statute or the Code of Iowa. *(Ord. 647 – Nov. 99 Supp.)*

50.15 SUBSEQUENT VIOLATION WITHIN 365 DAYS. If a person allows a subsequent nuisance to exist within 365 days of being served with a previous nuisance abatement notice involving the same subject matter and property as the previous nuisance and for which the City abated the previous nuisance pursuant to Section 50.10, the City shall have the right to abate the subsequent nuisance without prior notice to such person and to immediately certify the costs thereof to the County Treasurer. *(Ord. 813 – Aug. 08 Supp.)*

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.