

ORDINANCE 07-14

AN ORDINANCE amending the Code of Ordinances of the City of Laurens, Iowa, 2014 by amendment to NUISANCE ABATEMENT PROCEDURE .

BE IT ENACTED by the council of the City of Laurens, Iowa:

SECTION 1. NEW CHAPTER. The Code of Ordinances of the City of Laurens, Iowa is amended by repealing Chapter 50, NUISANCE ABATEMENT PROCEDURE; and replacing with the new Chapter 50, NUISANCE ABATEMENT PROCEDURE to read as follows:

CHAPTER 50

NUISANCE ABATEMENT PROCEDURE

50.01 Definition of Nuisance
50.02 Nuisances Enumerated
50.03 Other Conditions
50.04 Nuisances Prohibited

50.05 Inspection Report
50.06 Abatement of Nuisance or Condition
50.07 Abatement of Nuisance by Written Notice
50.08 Municipal Infraction Abatement Procedure

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.

(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:

(Code of Iowa, Sec. 657.2)

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.
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.
3. **Impeding Passage of Water.** Obstructing or impeding without legal authority the passage of water.
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.
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.
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 62.06)**

7. Storing of Flammable Junk. Depositing or storing of flammable junk, such as old rags, rope, cordage, rubber, bones and paper, by any person, including a dealer in such articles, unless it be in a building of fire-resistant construction. **(See also Chapter 51)**
8. Air Pollution. Emission of dense smoke, noxious fumes or fly ash.
9. 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. **(See also Chapter 52)**
10. Dutch Elm Disease. Trees infected with Dutch Elm Disease, and dead, rotting or decaying trees, shrubs and brush. **(See also Chapter 151)**
11. 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.
12. 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.
13. Drainage Obstructions. Any article or substance placed upon a street, alley, sidewalk, public ground, or in any ditch, waterway or gutter so as to obstruct the drainage.
14. Accumulation of Trash. Accumulations of rubbish or trash tending to harbor vermin or rodents, and rank growth of weeds or other vegetation and plants, which is conducive to hazard.
15. Cottonwood Trees. Newly planted cotton-bearing cottonwood trees and all other cotton-bearing poplar trees in the City.

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. Junk and Junk Vehicles **(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. Property Maintenance (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 INSPECTION REPORT. Whenever the Mayor or other authorized City officer (Zoning Administrative Officer) is informed that a nuisance or other condition exists which is listed in this chapter, the Mayor or other authorized City officer shall provide that an inspection report be prepared within a reasonable time and given to the Mayor and Council. The report shall contain, but not be limited to:

1. A legal description of the property and a site map, if applicable.

2. A description of the nuisance and conditions that exist that caused the nuisance designation to be applied.
3. A statement of the acts necessary to abate the nuisance or condition.
4. A reasonable time within which to complete the abatement.
5. An estimate of the cost to abate the nuisance. If the abatement notice is regarding a dilapidated or junk building, the inspection report shall compare the cost of abatement with a project cost of reconstruction of the structure.

50.06 ABATEMENT OF NUISANCE OR CONDITION

1. **VOLUNTARY ABATEMENT.** The objective of this Code being the abatement of violations, person violating this Code shall, except in emergency situations, be given notice of the violation and allowed a reasonable amount of time to voluntarily remedy the violation before action to assess costs or penalties for committing a municipal infraction are undertaken. Consideration will be given to evidence of a good faith effort to correct the violation; whether an imminent health or safety hazard exists; whether the person has previously been notified of or charged with violations of a similar nature; and other factors.

2. **EMERGENCY CONDITION.** If the Enforcement Officer judges that an emergency exists which creates a dangerous and imminent health or safety hazard to person, property or the general public which requires immediate action, the City may order such action as may be necessary to meet the emergency. Any orders issued pursuant to this paragraph shall be effective immediately or in the time and manner prescribed in the order itself.

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

3. **PROCEDURE.** Whenever Enforcement Officer finds that a nuisance or other condition that is listed in this chapter exists, the Enforcement Officer has the authority to determine on a case-by-case basis whether to utilize the nuisance abatement procedure described in Section 50.07 of this chapter or the municipal infraction procedure referred to in Section 50.08.

50.07 ABATEMENT OF NUISANCE BY WRITTEN NOTICE. Any nuisance, public or private, may be abated in the manner provided for in this section:

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

1. Contents of Notice to Property Owner. The notice to abate shall contain: †
 - A. A legal description of the property and a site map, if applicable.
 - B. A description of the nuisance and conditions that exist that caused the nuisance designation to be applied.
 - C. A statement of the acts necessary to abate the nuisance or condition.
 - D. A reasonable time within which to complete the abatement.
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E. An estimate of the cost to abate the nuisance. If the abatement notice is regarding a dilapidated or junk building, the notice shall compare the cost of abatement with a project cost of reconstruction of the structure.

F. 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 the property owner.

2. Method of Service. When service of a notice to abate is required, the following methods of service shall be deemed adequate:

A. By personal service upon the person or persons in possession of the property in violation or the owner of the property upon which the nuisance exists.

B. If, after reasonable effort, personal service cannot be made, service shall be made by sending the notice by certified mail, return receipt requested to the last known address of person or persons in possession of the property.

3. 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.

4. 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])

5. Collection of Costs. The Clerk shall send a statement of the total expense incurred by certified mail or by service in the manner of an original notice 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 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])

6. 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)

7. 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.

50.08 MUNICIPAL INFRACTION ABATEMENT PROCEDURE. In lieu of the abatement procedures set forth in Section 50.07, the requirements of this chapter may be enforced under the procedures applicable to municipal infractions as set forth in Chapter 3 of this Code of Ordinances.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. 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 4. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed by the Council the 4th day of August, 2014, and approved this 4th day of August, 2014.

Rod Johnson, Mayor

ATTEST:

Barbara Smith, City Clerk

1st Reading: July 21, 2014

2nd Reading: August 4, 2014

3rd Reading: Waived

I certify that the foregoing was published as Ordinance 06-14 on the 13th day of August, 2014.

Barbara Smith, City Clerk