

3.501	NUISANCES PROHIBITED
3.502	DEFINITION OF NUISANCE
3.503	NOTICE TO ABATE NUISANCE
3.504	CONTENTS OF NOTICE TO ABATE
3.505	METHOD OF SERVICE
3.506	REQUEST FOR HEARING AND APPEAL
3.507	ABATEMENT
3.508	COLLECTION OF COST OF ABATEMENT
3.509	PENALTY
3.510	RIGHT OF ENTRY

3.501 NUISANCES PROHIBITED. The creation or maintenance of a nuisance is prohibited.

3.502 DEFINITION OF NUISANCE. Whatever is injurious to health, indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property is a nuisance. Nuisance shall include, but not be limited to, the following matters related to private property, yards, junk, junk vehicles and buildings:

- a. The dense growth of weeds, vines, brush, or other vegetation so as to constitute a health, safety or fire hazard, including any accumulation of noxious weeds as defined by the Code of Iowa.
- b. Dead or diseased trees, not including neatly stacked firewood.
- c. Storing, accumulating, or allowing junk to remain on private property. Junk includes all old or scrap copper, brass, lead or other nonferrous metal; iron, steel or other old or scrap ferrous materials; old or discarded rope, rags, batteries, paper, trash, rubber, debris, waste or used lumber, or salvaged wood; dismantled vehicles, machinery or appliances or parts of such vehicles, machinery or appliances; old or discarded glass, tinware, plastic or old or discarded household goods or hardware; and construction materials.
- d. Storing, parking, or allowing junk vehicles to remain on private property. Junk vehicles include any vehicle with a broken or cracked windshield, window, headlight or taillight, or any other broken or cracked glass; any vehicle with a broken or loose fender, door, bumper, hood, wheel, steering wheel, trunk top or exhaust system; vehicle lacking an engine, or one or more wheels, or other structural parts which renders such vehicle totally inoperable; any vehicle, or part of a vehicle, which, because of its defective or obsolete condition, constitutes a threat to the public health and safety; any vehicle, or part of a vehicle, which has become a habitat for rats, mice, snakes, any other vermin or mosquitoes, wasps, hornets or other insects; any vehicle which contains gasoline or any other flammable fuel and is inoperable; any vehicle which is not capable of moving by its own intended power source in both forward and reverse gears.
- e. Any vehicle which does not properly display government issued plates or stickers indicating current registration as required by the Code of Iowa.

- f. Mere licensing of such a vehicle shall not constitute a defense to a finding that a vehicle is a junk vehicle according to this Code section.
- g. "Vehicle" means every device in, upon or by which a person or property is or may be transported or drawn upon a highway or street, excepting devices moved by human power or used exclusively upon stationary rails or tracks, and includes without limitation a motor vehicle, automobile, truck, motorcycle, tractor, buggy, wagon, farm machinery, any of which may be licensed or unlicensed, or any combination thereof.
- h. The provisions of this Chapter do not apply to:
  - (1) Any junk or junk vehicle stored within a garage or other completely enclosed structure for so long as the garage or structure is not in violation of any provision of the Municipal Code.
  - (2) A licensed motor vehicle or travel trailer dealer; and/or
  - (3) Any one operable race car currently being raced in sanctioned events provided that the vehicle is covered with a commercial tarpaulin constructed especially for motor vehicles, sufficient in size to cover the entire vehicle.

3.503 NOTICE TO ABATE NUISANCE. Whenever a nuisance is found to exist, a notice shall be served by the City upon the owner, agent, or occupant of the property on which the nuisance is located or upon the person causing or maintaining the nuisance ordering the abatement of the nuisance.

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

- (a) an order to abate the nuisance;
- (b) location of nuisance, if stationary;
- (c) description of what constitutes the nuisance;
- (d) statement of action or actions necessary to abate the nuisance;
- (e) statement that the person may appeal the order of abatement by requesting a hearing within seven (7) calendar days in accordance with Section 3.506;
- (f) statement that if the nuisance is not abated as directed and no appeal of the order is made within the time prescribed, the City may abate the nuisance and assess the cost against such person.

3.505 METHOD OF SERVICE. The notice to abate shall be served by the City Administrator or designees upon the named person either by mailing by certified mail or by serving the notice in person. Proof of service shall be made by filing in the City Administrator's office a copy of the notice with the notation thereon indicating the date of mailing or the date of personal service.

3.506 REQUEST FOR HEARING AND APPEAL.

(a) Any persons ordered to abate a nuisance may appeal the order of abatement to the Mayor to determine whether a nuisance exists. The appeal shall be in writing, shall request a hearing before the Mayor and be filed with the City Administrator's office within seven (7) calendar days of the date of the service of the notice to abate. If not timely appealed, it will be conclusively presumed that the nuisance exists and the order of abatement is then deemed final. The appeal hearing must be held within a reasonable time after the appeal is filed.

(b) Following the hearing, the Mayor shall render a written decision as to whether a nuisance exists. If the Mayor finds that a nuisance exists, the Mayor shall affirm the order of abatement. The Mayor's decision may allow additional time, which must be reasonable under the circumstances, to correct the nuisance. The Mayor's decision for purposes of appeal shall be deemed final upon its filing with the City Administrator's office.

(c) The interested parties may appeal within thirty (30) calendar days the Mayor's decision by petition filed with the Iowa District Court. Any appeal to the Iowa District Court shall not stay the effect of the final order of abatement.

3.507 ABATEMENT. If the person so notified neglects or fails to abate the nuisance as directed, the City Administrator may cause the nuisance to be abated and shall keep an accurate account of the expenses incurred.

3.508 COLLECTION OF COST OF ABATEMENT. The City Administrator shall mail a statement of the total cost to the person failing to abide by the notice to abate and if the amount shown by the statement has not been paid within one month, the City Administrator shall certify the cost to the County Auditor and it shall then be collected with and in the same manner as general property taxes.

3.509 PENALTY. Any person who has or maintains a nuisance in violation of this chapter shall, upon conviction, be guilty of a simple misdemeanor punishable as provided by law. Each day of the continuance of such violation shall constitute a separate and distinct offense.

3.510 RIGHT OF ENTRY. The City Code Enforcement Officer, or designee, designated to enforce the provisions of the Winterset Municipal Code and abate Nuisances pursuant to this Chapter, is hereby authorized to enter onto any property upon which a junk, unlicensed or unregistered vehicle is located for the purpose of carrying out any and all actions required by this Chapter. Such person shall have the right to demand that the property owner prove that the vehicle is capable of being operated under its own power in accordance with this Chapter.