

TITLE II: PUBLIC HEALTH

CHAPTER III.

NUISANCE

SECTION 1. NUISANCE - WHAT CONSTITUTES - ACTION TO ABATE.

Whatever is injurious to health, indecent, or offensive to the senses, or an obstruction to the free use of property, so as essentially to interfere 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 same and to recover damages sustained on account thereof.

SECTION 2. WHAT IS DEEMED A NUISANCE.

The following are nuisances:

- a. The erecting, continuing, or using of any building or other place for the exercise of any trade, employment, or manufacture, which, by occasioning noxious exhalations, offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort, or property of individuals or the public.
- b. The causing or suffering of any offal, filth, or noisome substances to be collected or to remain in any place to the prejudice of others.
- c. The 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.
- d. The depositing or storing of inflammable junk, such as old rags, rope, cordage, rubber, bones, and paper, by dealers in such articles within the fire limits of any city, unless it be in a building of fireproof construction, is a public nuisance.
- e. The emission of dense smoke, noxious fumes, or fly ash in cities is a nuisance and cities may provide the necessary rules for inspection, regulation and control.
- f. Dense growth of all weeds, vines, brush, or other vegetation in any city, town, subdivision, or mobile home park so as to constitute a health, safety or fire hazard is a public nuisance.
- g. Trees infected with disease in cities and towns - any dead tree.
- h. Inadequate or unsanitary sewage or plumbing facilities.
- i. The unlawful disposal of the carcasses of dead animals, fish or fowl.
- j. Failure to secure areas, buildings, equipment or places against unauthorized access where such access threatens the health or safety of individuals.
- k. Any attractive nuisance, which may prove detrimental to life, health or safety whether in building, on the premises of a building or upon an unoccupied lot. This includes any abandoned well shaft, basement, or abandoned, unattended, or used refrigerators, ice boxes and similar containers, equipped with airtight door or lid, snap lock or other locking

device which may not be released from the inside. The duties of this chapter are imposed alike on the owner of the nuisance and the owner or occupant of the premise where the nuisance is permitted to remain.

SECTION 3. ANIMALS.

Any animal or fowl, whether pet or otherwise, kept for any purpose within the boundaries of Muscatine County shall be kept in such a manner as not to create a nuisance as defined in Chapter 657.1, Code of Iowa, 1973.

SECTION 4. GARBAGE.

- a. The term garbage shall be interpreted to mean all putrescible waste, except sewage and body wastes, including vegetable and animal offal and carcasses of dead animals, but excluding recognized industrial by-products, and shall include all such substances from all public and private establishments and from all residences.
- b. All garbage and refuse shall be collected sufficiently frequent to prevent nuisance and shall be collected in covered vehicles approved by the health officer.
- c. No person, firm or corporation shall collect garbage or refuse who does not possess a permit from the Environmentalist.

SECTION 5. RAT HARBORAGE.

- a. Rat harborage shall mean any condition which provides shelter or protection for rats, thus favoring their multiplication and continued existence in, under or outside, of any structure.
- b. It shall be unlawful for any person to place, leave, dump or permit to accumulate any garbage, rubbish or trash in any structure or on any property so that the same may afford food or harborage for rats.
- c. It shall be unlawful for any person to permit to accumulate on any property, any articles or materials that may constitute a rat harborage. Such materials or articles shall be placed on racks that are elevated not less than eighteen (18) inches above the ground and evenly piled or stacked.
- d. Upon receipt of a written notice or order from the local board of health, the owner of any property specified therein shall take immediate measure for rat control. In the event such control measures are not instigated within the time designated, this board may instigate condemnation and destruction proceedings or take such action as deemed necessary.

SECTION 6. PENALTY - ABATEMENT.

Whoever is convicted of erecting, causing, or continuing a public or common nuisance as provided in these regulations, or at common law when the same has not been modified or repealed by statute, where no other punishment therefore is specifically provided, shall be fined not exceeding one hundred dollars (\$100), or be imprisoned in the county jail for not more than thirty (30) days. Each additional day of neglect or failure to comply with such provision, rule or lawful order after notice of violation by the local board of health shall constitute a separate offense.

SECTION 7. PROCESS.

When upon indictment, complaint, or civil action any person is found guilty of erecting, causing, or continuing a nuisance, the court before whom such finding is had, may, in addition to the fine imposed, if any, or the judgment for damages or cost for which a separate execution may issue, order that such nuisance be abated or removed at the expense of the defendant, and, after inquiry into and estimating as nearly as may be the sum necessary to defray the expenses of such abatement, the court may issue a warrant therefore.

SECTION 8. STAY OF EXECUTION.

Instead of issuing such warrant, the court may order the same to be stayed upon motion of the defendant, and upon his entering into an undertaking to the county, is such sum and with such surety as the court may direct, conditioned either that the defendant will discontinue said nuisance, or that, within a time limited by the court, and not exceeding six (6) months, he will cause the same to be abated and removed, as either is directed by the court; and, upon his failure to perform the condition of his undertaking, the same shall be forfeited, and the court, upon being satisfied of such default, may order such warrant forthwith to issue and action may be brought on such undertaking.

SECTION 9. EXPENSES - HOW COLLECTED.

The expense of abating a nuisance by virtue of a warrant can be collected by the officer in the same manner as damages and costs are collected on execution, except that the materials of any building, fences, or other things that may be removed as a nuisance may be first levied upon and sold by the officer, and if any of the proceeds remain after satisfying the expense of the removal, such balance must be paid by the officer to the defendant, or to the owner of the property levied upon; and if said proceeds are not sufficient to pay such expense, the officer must collect the residue thereof.

SECTION 10. ADOPTION OF 1997 UNIFORM CODE FOR ABATEMENT OF DANGEROUS BUILDINGS.

There is hereto adopted in full the 1997 Uniform Code for the Abatement of Dangerous Buildings, with the following amendments:

Chapter 1 - Title and Scope.

Section 102.1 shall be amended by omitting the words *Housing Code*.

Section 102.2 shall be amended to read:

"The provisions of this code shall apply to all dangerous buildings, as herein defined, which are now in existence or may hereafter become dangerous in this jurisdiction. No part of this code shall apply to buildings or structures that are by reason of use or nature primarily adapted for agricultural purposes.

Section 103 shall be amended to read:

"All buildings or structures which are required to be repaired under the provisions of this code shall be subject to the provisions of the Muscatine County Construction Code."

Chapter 2 - Enforcement.

Section 204 shall be amended to read:

“All buildings or structures within the scope of this code and all construction or work for which a permit is required shall be subject to inspection by the building official in accordance with and in the manner provided by this code and the Muscatine County Construction Code.”

Section 205.1 shall be amended by adding:

“For purposes of this code, the Board of Appeals shall be the Building Board of Appeals as approved for hearing appeals of the Muscatine County Construction Code.”

Chapter 3 - Definitions.

Section 301 shall be amended as follows:

The definition of Building Code is amended to read *“Building Code is the Muscatine County Construction Code as adopted by this jurisdiction.”*

The definition of Housing Code is omitted.

Section 302.12 is amended by removing the words *Housing Code*.

Chapter 8 - Performance of Work of Repair or Demolition.

Section 801.1 is amended to read:

“When any work of repair or demolition is to be done pursuant to Section 701.3, Item 3, of this code, the building official shall issue a Request for Proposal soliciting bids from private contractors to perform such work under the direction of said official. Plans and specifications therefore may be prepared by said official, or the official may employ such architectural and engineering assistance on a contractual basis as deemed reasonably necessary. Any work completed by private contract shall be accomplished through standard Muscatine County contractual procedures.”

Section 802.1 is amended by replacing the words *“director of public works”* with *“Building Official”*.

Chapter 9 - Recovery of Cost of Repair or Demolition.

Section 901 is amended by replacing the words *“director of public works”* with the words *“Building Official”* and the word *“director”* with *“Official”*.

The full provisions of the above-listed code are incorporated herein by reference without being set out in full as authorized by Section 331.302(11) of the Code of Iowa.