

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING CHAPTERS 50 (NUISANCE ABATEMENT  
PROCEDURE) AND 51 (JUNK AND JUNK VEHICLES) OF THE CITY CODE OF  
ORDINANCES**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF INDEPENDENCE,  
IOWA:**

**SECTION 1. PURPOSE.** The purpose of this ordinance is to amend certain provisions of Chapters 50 and 51 of the City Code to provide additional options for addressing nuisance and problematic properties within the City of Independence and to ensure consistency across the Code of Ordinances;

**SECTION 2. SECTIONS REPLACED.**

Section 50.02 is hereby removed and replaced as follows. No underlined or struck through text is included as the whole of section 50.02 is being removed and replaced.

**CHAPTER 50  
NUISANCE ABATEMENT PROCEDURE**

**50.02 NUISANCES ENUMERATED.** The following subsections include, but do not limit the conditions that are deemed to be nuisances in the City:

1. Noxious weeds and other rank vegetation. Dense growth of all weeds, vines, brush or other vegetation in the city so as to constitute a health, safety or fire hazard.
2. Accumulation of rubbish, trash, refuse, junk and other abandoned materials, metals, lumber or other things.
3. Creating, maintaining, causing or allowing to exist, conditions which are conducive to the harborage or breeding of vermin; or allowing to exist infestations of vermin, such as rats, mice, skunks, snakes, bats, starlings, pigeons, wasps, cockroaches or flies.
4. Any real property which is in such a dilapidated condition that it is unfit for human habitation, kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, presents a more than ordinarily dangerous fire hazard in the vicinity where it is located, or becomes so defective, unsightly, or in such condition of deterioration or disrepair that the same causes substantial depreciation of the property values of the surrounding properties or is materially detrimental to properties and improvements.
5. All unnecessary or unauthorized noises and annoying vibration, including animal noises.
6. 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.
7. The causing, preventing or allowing any refuse, solid waste, garbage, noxious substances, hazardous wastes, junk or salvage materials to be collected or to remain in any place. The term "noxious substances" shall include, but not be limited to, substances, solid or fluid, which are offensive, detrimental to health, hurtful or dangerous, including any dead animal or portion thereof, together with human or animal excrement.
8. The corrupting or rendering unwholesome or impure of the water of any river, stream or pond, or unlawfully diverting the river, stream or pond from its natural course or state, to the injury or prejudice of others.
9. Any building, structure or other place or location where any activity which is violation of local, state or federal law is conducted, performed or maintained.
10. Creating, maintaining, causing or allowing to exist any stagnant water standing on any property, including any container or material kept in such a condition that water can accumulate and stagnate therein.
11. Dense smoke, noxious fumes, gas, soot or cinders, in unreasonable quantities.

12. The causing or suffering of any offal, filth or noisome substance to be collected or remain in any place to the prejudice of others.
13. The obstructing or encumbering by fences, buildings, or otherwise, of the public roads, private ways, streets, alleys, commons or burying grounds.
14. Houses of ill fame, kept for the purpose of prostitution and lewdness.
15. Gambling houses or houses resorted to for the use of drugs, or houses where drunkenness, quarreling, fighting or breaches of the peace are carried on or permitted, to the disturbance of others.
16. Any object or structure hereafter erected within one thousand (1,000) feet of the limits of any municipal or regularly established airport or aerial place which may endanger or obstruct aerial navigation, unless such object or structure constitutes a proper use or enjoyment of the land on which it is located.
17. Any accumulation of snow and/or ice upon the sidewalks or that portion of the sidewalk extended across a driveway which has not been removed within a reasonable time after a snowfall or storm.
18. The obstructing or impeding, without legal authority, of the passage of any navigable river, harbor or collection of water.
19. Creating, maintaining, causing or allowing to exist any ditch, drain or water course which is now or hereafter may be constructed so as to prevent or unduly interfere with the surface and overflow water drainage from adjacent lands, or any storm water detention basin not properly maintained.
20. Facilities for the storage or processing of sewage, such as septic tanks, cesspools and drain fields, which have failed or do not function properly, or which are overflowing, leaking or emanating odors; or septic tanks, cisterns and cesspools which are abandoned or no longer in use, unless properly emptied and filled with clean fill; or any cesspool or septic tank which does not comply with the county department of health regulations.
21. Any gathering of persons or vehicles upon a public street or sidewalk or any use of property abutting a public street or sidewalk which obstructs pedestrian or vehicular traffic or other lawful use of streets or sidewalks, except as permitted by permit or ordinance.
22. Unoccupied buildings or unoccupied portions of buildings which are unsecured or abandoned.
23. 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.
24. The depositing of inflammable junk, such as old rags, rope, cordage, rubber, bones and paper, by dealers in such articles, within the corporate limits of the city, unless it is in a building of fireproof construction.
25. The depositing or allowing the depositing of any mud, dirt, gravel, grass or other debris on any public street, alley, sidewalk, or other public property.
26. The following items, when stored continuously in excess of 48 hours, on any portion of any property outside of a totally enclosed structure located on the property, in outdoor areas or in partially enclosed sheds, lean-tos or other structures not totally enclosed by structural walls, roof and properly functioning doors: building materials not part of an active building project authorized by a current city building permit; auto parts; miscellaneous steel, plastic, rubber or metal parts or junk; tires, packing boxes, wooden pallets, tree limbs, brush piles, discarded lumber, not including neatly stacked and cut fire wood; broken or unused furniture and appliances, any upholstered or finished furniture intended for indoor usage such as couches, beds, mattresses, desks, chairs, shelving or wooden tables, other broken or unused household furnishings or equipment including carpeting, appliances and other typical household items intended for indoor usage; plastic tarps, trash bags containing leaves, debris, garbage or other items, trash and garbage not properly contained within a trash disposal container; or any other discarded or miscellaneous item or items not normally required in the day to day use of the exterior area of the property.
27. Any attractive nuisance dangerous to children in the form of abandoned vehicles, abandoned or broken equipment, including abandoned refrigerators, hazardous pools, ponds, excavations, materials, including building material, debris, or neglected machinery.

28. Any wall, fence or hedge in such condition as to constitute a hazard to persons or property or to cause depreciation in the value of any adjacent or nearby property.
29. Any discarded or unused material on real property that is not consistent with the condition and visual appearance of surrounding adjacent real properties. Types of unacceptable materials include those items enumerated in subsection (w) and also include dirt and gravel piles, rock piles, incomplete landscaping projects, eroded soil areas, pits, holes and excavations.
30. The causing of the accumulation of building debris and/or construction materials, tools, equipment or machinery on any property within the city limits of the city after the expiration of a building permit, the occasioning of which becomes injurious and dangerous to the health, comfort, or property of individuals or the public.
31. Creating, maintaining, causing or allowing to exist for a continuous period of more than thirty (30) days, any manmade excavation, hole, or other depression in the ground in or on any lot or parcel of land in the city of a depth of more than three (3) feet below the surrounding grade, other than as part of the active construction of a building or other structure on the lot which will ultimately close in and completely cover such excavation, hole or depression. Upon a finding by the court that the owner of the lot or parcel of land has violated the provisions of the subsection, the lot owner shall be required to fill in any such excavation, hole or depression and grade the same to a topographic elevation equal to or level with the surrounding adjacent grade, and seed the site with grass or similar vegetative ground cover, and take reasonable measures to ensure the proper germination of the planted vegetation.
32. On properties being used by an allowable commercial use, any items stored on the property that are not normally utilized in the daily operation of the commercial use must be stored in structures totally enclosed by structural walls, roof and properly functioning doors.
33. All real property defaced by graffiti vandalism which is visible to the public view.
34. Any hazardous thing or condition on property which may contribute to injury of any person present on the property, including, but not limited to, open holes, open foundation, open wells or cisterns, or dangerous trees or limbs.
35. Anything or condition on property creating an imminent threat to human health or in violation of any health or sanitation law.

### **SECTION 3. SECTIONS AMENDED.**

The following sections are hereby amended as follows with underlined text indicating language added and struck through text indicating language removed.

**50.03 OTHER CONDITIONS.** The following chapters of this Code of Ordinances contain regulations prohibiting or restricting other conditions that are deemed to be nuisances:

1. 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).

**51.01 DEFINITIONS.** For use in this chapter, the following terms are defined:

1. “Junk vehicle” means any having any of the following characteristics:
  - A. Broken Glass. Any vehicle with a broken or cracked windshield, window, headlight or tail light, or any other cracked or broken glass.
  - B. Broken, Loose, or Missing Part. Any vehicle with a broken, loose, or missing fender, door, bumper, hood, steering wheel or trunk lid.
  - C. Habitat for Nuisance Animals or Insects. Any vehicle that has become the habitat for rats, mice, snakes, or any other vermin or insects.
  - D. Flammable Fuel. Any vehicle that contains gasoline or any other flammable fuel.
  - E. Inoperable. Any motor vehicle that lacks an engine or two or more wheels or other structural parts, rendering said motor vehicle totally inoperable, or that

cannot be moved under its own power or has not been used as an operating vehicle for a period of 30 days or more.

- F. Defective or Obsolete Condition. Any other vehicle that, because of its defective or obsolete condition, in any other way constitutes a threat to the public health and safety.

Mere licensing of such vehicle shall not constitute a defense to the finding that the vehicle is a junk vehicle.

- 2. “Vehicle” means any implement of conveyance designed or used for the transportation of people or materials on land, water, or air, including, but not limited to, automobiles, trucks, motorcycles, snowmobiles, boats, airplanes, helicopters, tractors, trailers, campers, motor homes, wagons, etc.

**SECTION 4. REPEALER.** All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

**SECTION 5. SEVERABILITY.** 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 6. EFFECTIVE DATE.** This ordinance shall be in effect after its final passage, approval and publication as provided by law.

**PASSED AND APPROVED** by the City Council of Independence, Iowa, on this \_\_\_\_ day of \_\_\_\_\_ 2023.

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Brad Bleichner, Mayor of the City of Independence, IA

ATTEST:

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Susi Lampe, IaCMC, IaCFO, City Clerk/Treasurer of the City of Independence, IA

First Reading:     September 11, 2023  
Second Reading:    \_\_\_\_\_  
Third Reading:     \_\_\_\_\_

I certify that the foregoing was published as Ordinance No. 2023-\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 2023.

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Susi Lampe, IaCMC, IaCFO, City Clerk/Treasurer of the City of Independence, IA