

ORDINANCE NO. 2015-01

AN ORDINANCE AMENDING Title II, Article IX, (NUISANCES) 2-9.1 ENTITLED "NUISANCES DEFINED" OF THE CITY OF SALEM MUNICIPAL CODE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SALEM, IOWA:

Section 1. AMENDMENT

AMENDMENT. Title II, Article IX, (Nuisances) 2-9.1 of the City of Salem Municipal Code, entitled "Nuisances Defined" is hereby amended to delete subparagraphs (a) through (k) and substitute the following:

- a. 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.
- b. Accumulation of rubbish, trash, refuse, junk and other abandoned materials, metals, lumber or other things.
- c. 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.
- d. 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.
- e. All unnecessary or unauthorized noises and annoying vibration, including animal noises.
- f. 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.
- g. 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.

- h. 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.
- i. 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.
- j. 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.
- k. Dense smoke, noxious fumes, gas, soot or cinders, in unreasonable quantities.
- l. The causing or suffering of any offal, filth or noisome substance to be collected or remain in any place to the prejudice of others.
- m. The obstructing or encumbering by fences, buildings, or otherwise, of the public roads, private ways, streets, alleys, commons or burying grounds.
- n. Houses of ill fame, kept for the purpose of prostitution and lewdness.
- o. 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.
- p. 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.
- q. 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.
- r. 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.
- s. 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.
- t. Unoccupied buildings or unoccupied portions of buildings which are unsecured or abandoned.
- u. 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.


- v. 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.
- w. 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.
- x. Trees infected with infectious disease as identified by the city public works director; or any dead, diseased or damaged trees or plant materials which may harbor serious insect or disease pests or disease injurious to other trees or plant materials, or any healthy tree in such a state of deterioration that any part of such tree is likely to fall and damage property or cause injury to persons.
- y. 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.
- z. 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.
- aa. 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.
- bb. 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.
- cc. 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.

- dd. Creating, maintaining, causing or allowing to exist for a continuous period of more than thirty (30) days, any man-made 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.
- ee. 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.
- ff. All real property defaced by graffiti vandalism which is visible to the public view.
- gg. 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.
- hh. Any thing or condition on property creating an imminent threat to human health or in violation of any health or sanitation law.
- ii. Any violation of junk vehicles set forth in Article X of this Code.

Section 2. 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 3. EFFECTIVE DATE. This Ordinance shall be in effect after its final passage, approval and publication as provided by law.

DATED this 4th day of August, 2015.

X 
Dan Paterson, Mayor

The above Ordinance was passed and approved on the 4th day of August, 2015, and was signed by the Mayor on the 4th day of August, 2015.

ATTEST:

Laci Shull

Laci Shull, Clerk

1st Reading June 02, 2015

2nd Reading July 07, 2015

3rd Reading August 04, 2015

I hereby certify that the foregoing was published as Ordinance No. 2015-01 in the Mt. Pleasant News on the _____ day of _____, 2015.

Laci Shull

Laci Shull, Clerk

	AYES	NAYES	ABSTAIN	ABSENT
Warren Barton	<u>X</u>	_____	_____	_____
Jeremy Hunold	<u>X</u>	_____	_____	_____
Bruce Eltrich	<u>X</u>	_____	_____	_____
Bill Wixom	<u>X</u>	_____	_____	_____
Chuck Kramer	<u>X</u>	_____	_____	_____

TITLE II - COMMUNITY PROTECTION

ARTICLE IX NUISANCES

2-9.1 Nuisances defined:

Nuisances include those matters defined as nuisances in Section of the Code of Iowa, and as that section is amended hereafter, and shall be prohibited, and include the following:

(a) The erecting, continuing, or using 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 substance 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 obstructing or encumbering by fences, buildings, or otherwise the public roads, private ways, streets, alleys, commons, or burying grounds;

(e) Houses of ill fame, kept for the purposes of prostitution and lewdness, gambling houses, or places resorted to by persons using controlled substances, as defined in Chapter 204, 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 disturbances of others;

(f) Billboards, signboards, and advertising signs, whether erected or constructed on public or private property, which so obstruct and impair the view of any portion of the street, avenue, highway, boulevard, or alley as to render dangerous the use thereof;

(g) The depositing or storing of inflammable junk, such as old rags, rope, cordage, rubber, bones, and paper, by dealers in such articles within the city, unless it is in a building of fireproof construction;

(h) The emission of dense smoke, noxious fumes, or fly ash so as to constitute a health, safety, or fire hazard;

(i) Dense growth of all weeds, vines, brush, or other vegetation so as to constitute a health, safety, or fire hazard;

(j) Trees infected with Dutch elm disease that cannot be treated;

(k) 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 either public or private.

2-9.2 Nuisances Prohibited:

The creation or maintenance of a nuisance is prohibited, and a nuisance, public or private, may be abated in the manner provided in this ordinance, or any manner provided under the laws and regulations of the State of Iowa.

2-9.3 Other Conditions Prohibited:

The following actions are required and may also be abated in the manner provided in this ordinance:

- (a) The removal of diseased trees or dead wood;
- (b) The removal, repair, or dismantling of a dangerous building or structure;
- (c) The connection to public drainage systems from abutting property when necessary for public health or safety;
- (d) The connection to public sewer system from abutting property, and the installation of sanitary toilet facilities and removal of other toilet facilities on such property when necessary for public health or safety;
- (e) The cutting or destruction of weeds or other growth which constitutes a health, safety or fire hazard.

2-9.4 Notice to Abate Nuisance or Condition:

Whenever the mayor or the council find that a nuisance or other condition listed in 2-9.1 exists, the mayor or the council may cause to be served upon the owner, agent or occupant of the property on which the nuisance is located or on the person causing or maintaining the same a written notice to abate the nuisance or condition within a reasonable time after notice.

2-9.5 Contents of Notice to Abate:

The notice shall contain:

- (a) A description of what constitutes the nuisance or other condition;
- (b) The location of the nuisance or condition;
- (c) A statement of what action is required to abate or remove the nuisance or condition;
- * (d) A statement of the time permitted to abate or remove the nuisance or condition, or in which to submit a written appeal protesting the abatement order, said period to be that period of time which the mayor or council deems reasonably necessary to abate or remove the nuisance or condition;
- (e) 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 may abate it and assess the costs against such person, that such expenses may be certified to the county auditor and collected as general property tax; that suit may be filed in Henry County District Court, and that a citation may issue pursuant to Section 2-9.12 of the Code of the City of Salem.

2-9.6 Method of Service.

The notice may be certified personally, by certified mail, or by ordinance, to the owner, agent or occupant of the property on which the nuisance or condition is located, or on the person causing or maintaining the same; in all cases where the nuisance or condition is located on private property, notice shall be given to the property owner as shown by the records of the Henry County Auditor.

2-9.7 Request for Hearing and Appeal.

Any person ordered to abate a nuisance or condition may submit in writing a written appeal and request for hearing. Said appeal and request for hearing must be submitted to the Clerk within the time stated in the notice, or it will be conclusively presumed that a nuisance or prohibited condition exists and it must be abated as ordered.

2-9.8 Hearing on Appeal.

Hearings on appeals shall be scheduled and held at the next regular session of the council following submission of the written appeal and request for such hearing, or at such special session of the council called for the purpose of the hearing. The mayor shall cause a written notice of the time and place of hearing to be served upon the appellant in the same manner as in service of notice of the order of abatement. The hearing shall be before the council, which shall issue a written decision as to whether a nuisance or prohibited condition exists, and where appropriate the time in which the nuisance or prohibited condition must be abated or removed. The findings of the council shall be conclusive and, if a nuisance or prohibited condition is found to exist, it shall be ordered abated within a time reasonable under the circumstances.

2-9.9 Abatement in Emergency:

If it is determined that an emergency exists by reason of the continuing maintenance of a nuisance or prohibited condition, the city may preform any action which may be required under this ordinance without prior notice. The city shall assess the costs as provided in Section 2-9.11 of this ordinance, after notice and opportunity for appeal and hearing have been provided in the same manner as set for in Section 2-9.6 through 2-9.8.

2-9.10 Abatement by Municipality.

If the person notified to abate the 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 city clerk, and said expenses shall be paid for by the city.

2-9.11 Collection of Cost of Abatement.

The clerk shall mail a statement of the total expense incurred to the person or persons ordered to abate the nuisance or condition. If the amount shown by the statement has not been paid within one month, the Council may (a) direct the clerk to certify the costs to the county auditor and it shall then be collected with, and in the same manner, as general property taxes, or (b) file an action in the Henry County District Court to collect such expenses in appropriate cases.

2-9.12 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 shall be in violation of the city code.