

CHAPTER 50: NUISANCE ABATEMENT PROCEDURE*(Ordinance NO. 2509, 1/12/25)*

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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. All diseased animals running at large.
2. Animals: Harboring or maintaining such number of dogs or cats or other animals, or combination thereof, as to create unhealthy or unsanitary conditions for the humans or animals occupying the premises.
3. Carcasses of animals not disposed of within 24 hours after death as provided by law.
4. Any pond, pool, or other body of water that contains stagnant or standing water and may create a nuisance or health hazard.
5. All trees, hedges, billboards or other obstructions which prevent persons from having a clear view of traffic approaching an intersection from cross streets in sufficient time to bring a motor vehicle driven at a reasonable speed to a full stop before the intersection is reached.
6. All buildings, walls, and other structures which have been damaged by fire, decay or otherwise to an extent exceeding one-half their original value, and which are so situated as to endanger the safety of the public.
7. Using non-display fireworks or allowing non-display fireworks to be used on any premises on dates and times not permitted by this Code of Ordinances or in violation of any state, federal or local law, code or ordinance.
8. All loud or unusual and unnecessary noises.
9. 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.

10. 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 dirt and gravel piles, rock piles, incomplete landscaping projects, eroded soil areas, pits, holes, and excavations.
11. 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.
12. Impeding Passage of Navigable River. Obstructing or impeding without legal authority the passage of any navigable river, harbor or collection of water.
13. 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.
14. 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. Sporting equipment is permitted so long as it is removed in sufficient time as to allow snow and leaf removal. Such items may not protrude into the traveled portion of any roadways or walkways. (Ordinance #1104, 5/16/11)
15. Depositing Mud, Dirt and Debris on Public Ways: The depositing or allowing the depositing of mud, dirt, gravel or other debris on public ways.
16. Storing of Flammable Junk. Depositing or storing of flammable junk, such as old rags, rope, cordage, rubber, bones and paper, by dealers in such articles within the fire limits of the City, unless in a building of fireproof construction. **(See also Chapter 51)**
17. Air Pollution. Emission of dense smoke, noxious fumes or fly ash.
18. 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.
19. Dutch Elm Disease. Trees infected with Dutch Elm Disease. **(See also Chapter 151)**
20. Emerald Ash Borer. Trees infected with the Emerald Ash Borer **(See also Chapter 151)**
21. All limbs of trees which are less than eight feet above the surface of any public sidewalk or street.
22. All trees, including dead or diseased, fallen trees or limbs or leaning trees, which constitutes a hazard of blocking or damming any stream over which there is a bridge, during a heavy rain or a flooding event.
23. Action which causes a reasonable person on his/her property to fear for personal safety or personal property of the person.
24. Intentional obstruction of a residence.

25. 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.
26. 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.
27. Miscellaneous: Any act done or committed by any person or any substance or thing kept, maintained, placed, or found in or on any public or private place which is annoying or damaging or injurious or dangerous to the public health, welfare, or safety and every action or thing done, permitted, maintained, allowed, or continued on any public or private property, by any person which is liable to or does endanger, annoy, damage, or injure any person or inhabitant of the City or property of said person or inhabitant.
28. Failure to pay to the City of Robins, when due, any fee or fine required by the Code of Ordinances.
29. Maintaining any violation of the Code of Ordinances.

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. Storage and Disposal of Solid Waste (**See Chapter 105**)
3. Trees (**See Chapter 151**)

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 NUISANCE ABATEMENT. Whenever the Mayor or other authorized municipal officer finds that a nuisance exists, such officer shall cause to be served upon the property owner a written notice to abate the nuisance within a reasonable time after notice.¹

EDITOR'S NOTE: A suggested form of notice for the abatement of nuisances is included in the appendix of this Code of Ordinances. Caution is urged in the use of this administrative abatement procedure, particularly where cost of abatement is more than minimal or where there is doubt as to whether or not a nuisance does in fact exist. If compliance is not secured following notice and hearings, we recommend you review the situation with your attorney before proceeding with abatement and assessment of costs. Your attorney may recommend proceedings in court under Chapter 657 of the Code of Iowa rather than this procedure.

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

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

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

1. Description of Nuisance. A description of what constitutes the nuisance.
2. Location of Nuisance. The location of the nuisance.
3. Acts Necessary to Abate. A statement of the act or acts necessary to abate the
a. nuisance.
4. Reasonable Time. A reasonable time within which to complete the abatement.
5. Right to request hearing. A statement advising that there is a right to request a hearing on the order to abate.
6. Assessment of City Costs. 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 such person.

50.07 METHOD OF SERVICE. The notice may be in the form of an ordinance or sent by certified mail to the property owner.

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

50.08 REQUEST FOR A 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 Council shall set a hearing date as soon as practicable after receiving a written appeal. At such meeting, the applicant shall be given an opportunity to be heard and show just cause why a nuisance does not exist or why an extension of time is needed. At the conclusion of the hearing, the Council shall render a written decision as to whether or not a nuisance exists. If the Council finds that a nuisance exists, it shall order the nuisance abated within an additional time which is reasonable under the circumstances. The hearing will be before the Council at a time and place fixed by the Council. The finds 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.

50.09 ABATEMENT IN EMERGENCY. If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance or condition, the City may perform any action which may be required under this chapter without prior notice. The City shall assess the costs as provided in Section 50.11 after notice to the property owner under the applicable provisions of Section 50.05, 50.06, and 50.07 and hearing as provided in Section 50.08.

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

50.10 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. The person issuing the order to abate a nuisance may enter into any building or place for the purpose of entering into property to remove or abate any nuisance.

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

50.11 COLLECTION OF COSTS. The Clerk shall send a statement of the total expense incurred by certified mail 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 of the County Treasurer and such costs shall then be collected with, and in the same manner, as general property taxes. If the Clerk is unable to certify the costs to the County Treasurer, collection may include referral to the debt collection program as administered by the Iowa Department of Revenue.

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

50.12 INSTALLMENT PAYMENT OF COST OF ABATEMENT. If the amount expended to abate the nuisance or condition exceeds five hundred dollars (\$500.00), 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)

50.13 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.

50.14 NUISANCE PROPERTY. Property may be deemed a nuisance property upon a determination by the Building Official or designee that any of the following conditions is true with respect to the property; except where otherwise indicated, a final adjudication of any of the violations listed is not a prerequisite to a property being deemed a nuisance property pursuant to this section:

- A. Four or more calls for service from the Robins Police Department within a six-month period. Calls for service relating to medical calls, fire calls or domestic disturbances, unless they are directly related to criminal activity, shall not be included in the number of calls attributed to the property for purposes of this code section.
- B. Having two or more founded code violations within a twelve-month period. A code violation is founded if:
 - (1) Upon inspection of a complaint an authorized City employee determines that a code violation or nuisance condition exists on the property or finds probable cause that such violation or condition has occurred.
 - (2) The Council affirms the existence of a nuisance on an appeal of an order to abate or other notice of violation.
 - (3) There is a finding by agreement or court order that a municipal infraction or nuisance condition exists or existed.

- C. The City has abated any condition on the property, including mowing and clearing snow or ice from sidewalks, two or more times during any twelve-month period.
- D. An order to abate has been issued by any authorized City employee for the same code violation two or more times within a twelve-month period. If said order to abate has been appealed successfully, that order to abate shall not be included in the number of orders to abate attributed to the property for purposes of this code section.