



City of Muscatine



AGENDA ITEM SUMMARY

DATE:
8-19-2021

City Council

STAFF

Andrew Fangman, Assistant Community Development Director

SUBJECT

An Ordinance Prohibiting the Parking of Semitrailers on Residential Parcels, Section 3 Nuisances Enumerated, Chapter 3 – Nuisance, Of Title 9 – Health and Sanitary Regulations, of City Code

EXECUTIVE SUMMARY

Staff has prepared an ordinance that adds semitrailers parked on residential parcels as an enumerated nuisance to Chapter 3 of Title 9. The proposed ordinance would address a gap in City Code by listing semitrailers parked on residential parcels as a specifically enumerated nuisance which allow them to be abated in the same manner that junked or unregistered vehicles are abated. The proposed ordinance is narrowly tailored to larger semitrailers (longer than 22 feet in length) and would not apply to the wide range of other type of trailers that are appropriate in a residential setting. The proposed ordinance also contains an exception for semitrailers which are being actively used to move a household in or out of a dwelling.

STAFF RECOMMENDATION

Staff recommends approval of the attached ordinance.

BACKGROUND/DISCUSSION

Nuisance are broadly defined in Section 9-3-1 of City Code and by Section 657.1 of the Code of Iowa as: *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, and a civil action by ordinary proceedings may be brought to enjoin and abate the nuisance and to recover damages sustained on account of the nuisance.*

Section 9-3-3 of City contains all list of specific conditions that constitute a nuisance. Currently a semitrailer parked on a residential parcel would not be classified as a nuisance if it was properly registered, did not meet the definition of a junked vehicle, and was parked on a hard surface.

Semitrailers parked on residential parcels in locations visible from the public right of way or neighboring properties are found to be a nuisance, and generate complaints from the neighbors, as they out of character for residential areas, and the long-term parking of semitrailer on residential parcels have been used to circumvent restriction on the placement of accessory buildings. All accessory buildings in residential areas, including those used for

storage, must be located behind the front of the main building, and meet all other required setback. Such restrictions do not apply to the parking of vehicles, a fact that allows for essential permanent storage to be created by the parking of a semitrailer, in locations to an accessory building would not be permitted.

The proposed ordinance would allow for this gap in City Code to be addressed specifically listing semitrailers parked on residential parcels as a specifically enumerated nuisance which allow them to be abated in the same manner that junked or unregistered vehicles are abated. The proposed ordinance is narrowly tailored to larger semitrailers, and would not apply to the wide range of other type of trailers that are appropriate in a residential setting. It also contains an exception for semitrailers which are being actively used to move a household in or out of a dwelling.

CITY FINANCIAL IMPACT

None

ATTACHMENTS

1. Proposed Ordinance

ORDINANCE NO. 2021-0236

**AN ORDINANCE PROHIBITING THE PARKING OF SEMITRAILERS ON
RESIDENTIAL PARCELS, SECTION 3 NUISANCES ENUMERATED,
CHAPTER 3 – NUISANCE, OF TITLE 9 – HEALTH AND SANITARY
REGULATIONS, OF CITY CODE**

WHEREAS, Chapter 3 of Title 9 of the City Code regulates nuisances, which are defined as conditions that are injurious to health, indecent, or unreasonably offensive to the senses, or obstruct the free use of property, interfering unreasonably with the comfortable enjoyment of life or property; and

WHEREAS, semitrailers parked on residential parcel in locations visible from the public right of way or neighboring properties are found to be a nuisance as they out of character for residential areas, and the long-term parking of semitrailer on residential parcels have been used to circumvent restriction on the placement of accessory buildings.

**NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE
CITY OF MUSCATINE, IOWA:**

SECTION 1. Subsection F of Section 2 of Chapter 3 of Title 9 of City Code is hereby renumbered as Subsection G of Section 2 of Chapter 3 of Title 9 of City Code; and Subsection G of Section 2 of Chapter 3 of Title 9 of City Code is hereby renumbered as Subsection H of Section 2 of Chapter 3 of Title 9 of City Code; and

SECTION 2. The following text is added as Section 9-3-2(F):

F. “Semitrailer” means every vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle; and is longer than 22 feet in length.”

SECTION 3. The following text is added as Section 9-3-3(T):

T. Semitrailers Parking on Residential Parcels

On any parcels where a residential dwelling or dwellings are established as the primary use, the parking of any semitrailer is hereby declared to be a public nuisance and prohibited. However, a semitrailer may be parked in a residentially zoned district if it is parked in in compliance with another applicable city ordinance; and either

- 1. Is parked in a fully enclosed structure or in an area that is completely screened (opaque fence or landscaping) in a lawful manner where it is not visible from the street or other public or private property including the public right of way; or**

2. Is actively involved in making a pickup or delivery as part of a household move.

SECTION 4. 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 5. Any Ordinance or part thereof in conflict or inconsistent with the provisions of this Ordinance is repealed.

SECTION 6. This ordinance shall be in effect from and after the passage and approval and publication of this ordinance, as provided by law

PASSED, APPROVED AND ADOPTED this 19th day of August, 2021.

Attest



By the City Council of the City of
Muscatine, Iowa

Diana L. Broderon

Diana L. Broderon (Aug 20, 2021 11:28 CDT)

Diana L. Broderon, Mayor

Carol Webb

Carol Webb (Aug 20, 2021 14:27 CDT)

Carol Webb
City Clerk

First Reading: July 15, 2021
Second Reading: August 5, 2021
Third Reading: August 19, 2021
Publication:

***** Proof of Publication *****

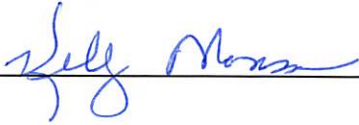
The undersigned, being first duly sworn, on oath does say that he/she is an authorized employee of THE MUSCATINE JOURNAL, morning edition, a daily newspaper printed and published by Lee Enterprises, Incorporated, in the City of Davenport, Scott County, Iowa, and that a notice, a printed copy of which is made a part of this affidavit, was published in said THE MUSCATINE JOURNAL, on the dates listed below.

CITY OF MUSCATINE- Legals account

215 Sycamore Street
MUSCATINE, IA 52761

ORDER NUMBER 103869

The affiant further deposes and says that all of the facts set forth in the foregoing affidavit are true as he/she verily believes.



Section: Notices & Legals

Category: 2635 Legal Ordinance

PUBLISHED ON: 08/30/2021

TOTAL AD COST: 84.55

FILED ON: 8/30/2021

Subscribed and sworn to before me by said affiant this 30 day of

Aug 2021.



Notary Public in and for Scott County, Iowa



*** Proof of Publication ***

NOTICE

ORDINANCE NO. 2021-0205

AN ORDINANCE UPDATING THE REGULATIONS OF NUISANCE VEHICLES, CHAPTER 3 – NUISANCE OF TITLE 9 – HEALTH AND SANITARY REGULATIONS, OF CITY CODE

WHEREAS, Chapter 3 of Title 9 of the City Code regulates nuisances, which are defined as conditions that are injurious to health, indecent, or unreasonably offensive to the senses, or obstruct the free use of property, interfering unreasonably with the comfortable enjoyment of life or property;

WHEREAS, said nuisance regulations currently address the circumstances under which a vehicle can constitute as a nuisance;

WHEREAS, with the intent of making nuisance regulations as they relate to vehicles easier to understand and enforce, as well to make the implementation of said regulations better achieve their intent, this ordinance makes a number of changes to Chapter 3 of Title 9 of City Code;

WHEREAS, it is necessary to clarify that a vehicle may still meet the definition of a "junked vehicle" and classified as nuisance under this chapter, even if said vehicle is currently register as required by state law;

WHEREAS, a detailed definition a "junked vehicle" using objective and easy to observe criteria is necessary;

WHEREAS, a detailed definition of a "vehicle" is necessary to encompass the wide variety of vehicles which can potentially become a nuisance; and

WHEREAS, recognizing that there can be circumstances with strict compliance with the deadline set by a "Notice to Abate a Nuisance" can be impractical, and that in such circumstances, the City should have the discretion to extend the deadline to abate such deadline, so long as such an extension does not endanger the life, health, or safety, or property.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MUSCATINE, IOWA:

SECTION 1. The following sections of Chapter 3 of Title 9 of City Code are hereby deleted:

Section 9-3-2(D); Section 9-3-3(N); and Section 9-3-8.

SECTION 2. The following text is added as Section 9-3-2(D):

"D. "Junked Vehicle" means any vehicle, which exhibits any one or more of the following characteristics:

Any vehicle designed to be capable of moving itself when in proper repair, but is incapable of being moved under its own power in its existing condition.

Any vehicle that is incapable of being operated for want of a major component of the vehicle.

Any vehicle that does not have all tires inflated.

Any dismantled or partially dismantled vehicle.

Any vehicle missing significant body parts such as, hood, fender, cab, door, wheel, or trunk lid.

Any vehicle with a missing or shattered windshield.

Any vehicle with any exposed broken glass edges.

Any vehicle that is the habitat of rats, mice, snakes or any other vermin or insects."

SECTION 3. The following text is added as Section 9-3-2(F):

"F. "Unregistered Vehicle" means a vehicle for which state law requires registration, but which is not currently registered. This definition includes vehicles with expired registration."

SECTION 4. The following text is added as Section 9-3-2(G):

"G. "Vehicle" means a machine propelled or pushed or pulled by power other than human power designed to travel along the ground or in water and transport persons or property or pull machinery and shall include as examples, but shall not be limited to, automobiles, trucks, trailers, motorcycles, motorbikes, motor scooters, tractors, go-carts, riding lawn mower, golf carts, campers, buggy and wagons, recreational and camping trailers, boats, boats on a trailer, camper shells, cargo /enclosed trailers, race car trailers, equipment trailers, car haulers, concession/specialty trailers, motorcycle-ATV-snowmobile trailers and landscape trailers."

SECTION 5. The following text is added as Section 9-3-3(N):

"N. Junked or Unregistered Vehicles

It shall be unlawful for any person to store, maintain or keep, any "junked vehicle" or "unregistered vehicle", as defined in this chapter, on any private property in the city; and it shall be

*** Proof of Publication ***

unlawful for any owner or manager or real property to permit or allow the storage, maintenance, or keeping of any such junked vehicle or unregistered vehicle on real property under their dominion or control. Except a junked or unlicensed vehicle may be kept as follows:

Residentially zoned districts:

In a fully enclosed garage or like structure.

Outdoors in locations not within the public right of way in which a vehicle may be lawfully parked. Provided that there is no more than one junked vehicle on the parcel, is fully covered with a commercial tarpaulin constructed especially for motor vehicles, sufficient in size to cover the entire vehicle. Such vehicle cover must be in good condition and must be replaced if it becomes torn, weather-beaten, or acquires any other defects. Makeshift covers do not satisfy the requirement of this subsection.

Non-Residentially zoned districts:

Junked or unregistered vehicles shall be stored in a fully enclosed structure or in an area that is completely screened (opaque fence or landscaping) in a lawful manner where it is not visible from the street or other public or private property including the public right of way.

Vehicle Sales

Upon parcels where there is a currently valid Motor Vehicle Dealer License issued by the Iowa Department of Transportation unregistered, but not junked vehicles may be stored in any location on a property upon which a vehicle can lawfully be parked.

SECTION 6. The following text is added as Section 9-3-8:

"9-3-8 Appeals and Extensions

Request for a Hearing to Appeal a Determination of a Nuisance

Any person to whom the Notice to Abate is directed may appeal the determination that the condition of the property constitutes a nuisance by requesting a hearing before the City Council.

The request must be in writing and be delivered to the City Clerk within ten (10) days from the date of the Notice to Abate or the decision will be final that a nuisance exists which must be abated as stated in the Notice to Abate.

Request for an Extension of a Notice to Abate

Any person to whom the Notice to Abate is directed may request an extension of time to complete any action to abate a nuisance.

Such request for an extension shall be made to the Community Development Department no later than at least one (1) business day prior to the deadline imposed by the Notice to Abate.

Approval of an extension to a Notice to Abate may be granted if the Community Development Department finds that:

Strict compliance with the deadline set by the Notice to Abate is impractical;

That the granting of such an extension does not violate the intent and purpose of City Code;

That granting the requested extension does not endanger the life, health, or safety, or property."

SECTION 7. 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 8. Any Ordinance or part thereof in conflict or inconsistent with the provisions of this Ordinance is repealed.

SECTION 8. This ordinance shall be in effect from and after the passage and approval and publication of this ordinance, as provided by law

PASSED, APPROVED AND ADOPTED
this 15th day of July, 2021.