

Staff Report

ADDITIONAL TOOLS FOR PROPERTY MAINTENANCE ENFORCEMENT

June 20, 2023

BACKGROUND:

In Summer 2020, staff had several code enforcement cases that they were struggling to achieve compliance with, which resulted in several communications from neighbors to the Council. At the City Council meeting on August 25, 2020, Council requested a memo from staff regarding recommendations for potential additions or changes to the Property Maintenance Code that would provide staff with additional enforcement tools.

Staff reviewed the Municipal Code and found that sections enforced by the Community Codes Liaison (CCL) spanned nine different chapters within the Code, resulting in contradictions and inconsistent language and enforcement processes. Additionally, staff reviewed ordinances from numerous other jurisdictions and found that most had one comprehensive property maintenance code that encompassed many of our existing codes and provided swift and effective compliance techniques.

On May 25, 2021, Staff presented the Council with a very rough draft of a proposed property maintenance ordinance ([report](#)) that consolidated current code requirements, added a few new sections based on previous complaints, added additional enforcement tools, and added an appeal process. Council requested that a workshop be scheduled to receive public input and that a website be established to gather input from those unable to attend a workshop.

A press release was issued after the Council meeting notifying citizens of the workshop on June 15, 2021 ([Staff Report](#)), and providing a [link](#) to an online survey on the proposed ordinance. This was also emailed to neighborhood associations and other interested parties (landlords, realtors, etc.) for their input. The workshop and survey results provided an abundance of input from the community (20 citizens spoke at the workshop and about 250 provided survey responses). Council decided to work with staff to set another workshop or place items by category on a future agenda for discussion.

PROPOSED ORDINANCE:

In preparation for a future meeting, staff compiled and studied the survey responses (Attachment A) and public input. The findings were incorporated into a second draft of the ordinance in hopes that it would provide clarification (many comments were that the ordinance was vague) and alternatives based on the feedback.

This Staff Report is broken down into four categories: (1) Protection of General Public (Traffic and Pedestrian Safety), (2) **Public Health** (Garbage, Junk, Vermin and Junk Vehicles), (3) **Protection of Property From Damage and/or Decay** (Vegetation, Structural, and Unoccupied and Unsecured Structures), and (4) **Other Considerations** (Graffiti and Parking). Attachment B summarizes this report and includes the initial proposed language, public comments, revised staff proposal based on comments and a possible motion for each item.

Protection of General Public:

Traffic and Pedestrian Safety:

1. **Vegetation over 12 inches in ROW** – Tall vegetation in the right-of-way may create visibility issues and sidewalk/roadway accessibility hurdles. The proposed section does not restrict the type of vegetation planted in the ROW, but limits it to 12 inches in height.

Initial Proposed Language from May 25, 2021 City Council Meeting:

Allowing vegetation located in the City right-of-way to grow in excess of 12 inches in height or to obstruct visibility to vehicle or pedestrian traffic is prohibited.

This proposal has been one of the most contentious of all. Many of those that spoke or provided comments appreciate the diversity of vegetation in the ROW. Some owners have planted native plantings, gardens, and flowers, all knowing that they may need to be removed for ROW work. Most comments acknowledged that if the vegetation created a visibility concern it should be addressed. It was clear the general consensus was to allow plantings in the ROW (at the property owner's expense and risk), but to restrict vegetation that creates visibility issues.

Staff supports requiring a buffer between the vegetation and the street or sidewalk (allowing vehicle access from the curb) and allowing vegetation that causes visibility concerns to be removed at staff's discretion instead of regulating overall height.

Possible Alternative based on Feedback from June 15, 2021 Workshop:

Plantings in the right-of-way would be prohibited from exceeding 12 inches in the area within one foot of the sidewalk or street. Plantings that cause visibility issues would be subject to removal, regardless of height, at the City's discretion. Non-vegetative materials such as trellises or chicken wire are prohibited in the right-of-way.

- 2. Vegetation hanging over/into ROW** – Historically, staff has required tree branches to be a minimum of 16 feet above the street (based on the height of Cy-Ride buses) and 10 feet above a sidewalk/bike path (to accommodate bicyclists). Staff has also required vegetation to be cut back so that it does not encroach into the sidewalk/bike path or roadway. However, these standards are not codified, making it much more difficult to educate property owners.

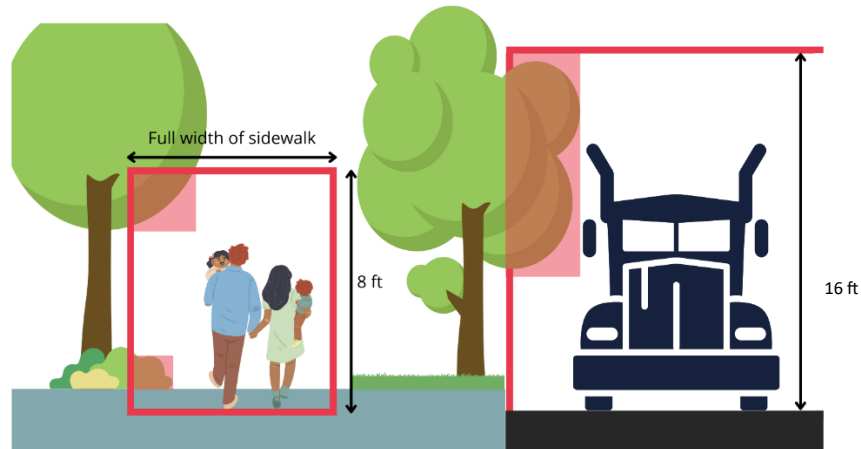
Initial Proposed Language from May 25, 2021 City Council Meeting:

Vegetation located on private property that hangs over or into public streets with less than 16 feet of clearance above the public street or vegetation located on private property that hangs over or into public sidewalks with less than 10 feet clearance above the sidewalk is prohibited.

Most of the comments in opposition to this section were concerns that the proposed minimum heights were too tall and that most homeowners would have a hard time trimming to this height. Comments indicated confusion over who had the responsibility to trim trees that originate on private property and hang over the ROW. Currently, that responsibility resides with the property owner of the tree. Additionally, multiple commentors thought the minimum height over a sidewalk should be reduced to eight feet. The Department of Transportation (DOT) requires a minimum of 10 feet above the sidewalk for any project receiving federal funding. **Staff recommends adhering to the DOT standard of 10 feet above sidewalks, including bike paths.**

Possible Alternative based on Feedback from June 15, 2021 Workshop:

Vegetation located on private property that hangs over or into public streets with less than 16 feet of clearance above the public street or vegetation located on private property that hangs over or into public sidewalks with less than 10 feet of clearance above the sidewalk is prohibited.



3. **Dangerous trees** – To be deemed dangerous, the tree must pose an immediate threat to the safety of persons or property in the right-of-way.

Initial Proposed Language from May 25, 2021 City Council Meeting:

Trees infected with infectious disease as identified by the City Forester or designee; or any dead, diseased or damaged trees or vegetation which may harbor serious insect or disease pests or disease injurious to other trees or vegetation, or any tree in such a state of deterioration that any part of such tree is likely to fall and damage adjacent property or cause injury to persons, must be removed.

Most of the concerns regarding this proposal were centered around the cost of tree removal and the burden it may place on low-income households. Clarification of the proposed language is provided in the alternative below. **Staff is not proposing to regulate trees that do not impact the right-of-way.**

Possible Alternative based on Feedback from June 15, 2021 Workshop:

Trees in such a state of deterioration, as determined by the City Forester, that any part of such tree presents an immediate threat to the safety of persons or property in the right-of-way must be removed.

4. **Placing/pushing snow/ice onto public streets** – Although Municipal Code currently prohibits the accumulation of snow and ice on public sidewalks, an issue that is frequently encountered during snow removal operations is the depositing of that snow and ice onto the streets after they have been plowed. These accumulations are susceptible to re-freezing, which can be a hazard to drivers and makes subsequent snow removal operations more difficult.

Initial Proposed Language from May 25, 2021 City Council Meeting:

Depositing ice or snow from private property, sidewalks, or driveways onto the traveled way of a public street so as to obstruct gutters, or impede the passage of vehicles upon the street or alley or to create a hazardous condition therein is prohibited.

The vast majority of comments regarding this proposal were concerns about City plows blocking driveways with snow or about having little space to put shoveled snow. The main concern is that snow placed on the street after plows have been through causes traffic issues and requires the plows to pass through a second time. **Staff recommends adding language that clarifies that this section only applies after the street has been cleared.**

Possible Alternative based on Feedback from June 15, 2021 Workshop:

Depositing ice or snow from private property, sidewalks, or driveways onto the traveled way of a public street after the street has been cleared so as to obstruct gutters or impede the passage of vehicles upon the street or alley or to create a hazardous condition therein is prohibited.

- 5. Depositing mud/gravel/etc. on sidewalks** – The current code prohibits owners from allowing snow to accumulate on public sidewalks due to increased safety concerns related to slips and falls. Often, similar safety concerns arise when leaves, grass clippings, mud, or gravel runoff from private property is allowed to accumulate on public sidewalks. The proposed ordinance would allow these accumulations to be addressed.

Initial Proposed Language from May 25, 2021 City Council Meeting:

The depositing or allowing the depositing of any mud, dirt, gravel, or other debris on any public street, sidewalk, or other public property is prohibited.

There were few concerns regarding the proposed section. Concerns that were raised were related to the amount of time debris could be on the sidewalk before becoming a violation and what to do about those properties with gravel driveways where gravel on the sidewalk may be a regular occurrence.

As a reminder, the current Municipal Code, ([Sec. 22.2](#)), already requires snow, ice and accumulations to be removed from the sidewalk within 10 daylight hours of the cause of accumulation. The proposed section is just specifying other types of debris that also need to be removed. These are currently enforced under “accumulations”. **Staff recommends the addition of mud, gravel, grass**

clippings and leaves to the understanding of what is consider “accumulations”.

Possible Alternative based on Feedback from June 15, 2021 Workshop:

No owner shall, for a period of ten (10) daylight hours after the cessation of the storm or cause of accumulation, permit snow, ice, mud, gravel, grass clippings, leaves or other accumulations to remain on the adjoining and abutting sidewalks. (this is the current standard in Sec. 22.2(2) of the Municipal Code – with the addition of mud, gravel, grass clippings, and leaves)

- 6. Open holes/excavations for up to 30 days** – Open construction sites, wells, etc. can be a safety hazard. These holes would need to be secured or covered. This issue excludes fire pits and window wells.

Initial Proposed Language from May 25, 2021 City Council Meeting:

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 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 is prohibited from existing for more than 30 days. Upon a finding by the enforcement officer that the owner of the lot or parcel of land has violated the provisions of this 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.

Many of the comments received were in support of this concept but needed more clarification on what an active building project was and wanted the time frame to be shorter. An active building project would be one for which there is a valid building permit on file and work is progressing in a typical time frame. Some comments questioned if the section included egress window wells or fire pits. **Staff recommends eliminating the timeframe and exempting window wells and fire pits.**

Possible Alternative based on Feedback from June 15, 2021 Workshop:

Any 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 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 is prohibited from existing. Upon a finding by the enforcement officer that the owner of the lot or parcel of land has violated the provisions of this 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. Exceptions: egress window wells, fire pits, or excavations completely secured by a fence or similar method.

Public Health:

Garbage and Junk Accumulation on Property:

- 1. Leaving garbage receptacles at the curb for more than 24 hours** – The [Rental Code](#), (Section 13.410.2), currently prohibits leaving garbage receptacles out for more than 24 hours, but there is no requirement for owner-occupied properties. Receptacles left at the curb can cause visibility issues and can be blown over, depositing litter onto neighboring properties.

Initial Proposed Language from May 25, 2021 City Council Meeting:

Garbage or refuse set outdoors in any bag or container other than a trash disposal container is prohibited. Trash disposal containers must be constructed of a hard water-tight material. Containers cannot be left at the curb for more than 24 hours and must be placed behind the front yard or indoors when not set out for pick-up, unless located in an enclosure shown on an approved site plan.

Most of the comments on this item were regarding the time frame the receptacles can be left out. It's important to clarify that the receptacle would have to be left out for more than 24 hours, then a citizen would have to report that the receptacle has been left out. Upon receiving a complaint, an inspection would be conducted over a 24-hour timeframe to confirm the receptacle has not moved. If it is determined the receptacle has not moved, staff will contact the property owner, educate them on the code requirement, and ask for compliance.

Comments in opposition to this proposal were that it was 'government overreach' and 'nitpicky'. The intent of this section was mainly to bring the same standard to owner-occupied properties as is imposed on rental properties. While tipped over receptacles can cause litter issues and may obstruct visibility from time-to-time, the number of occurrences and complaints for this issue are few and far between.

Staff supports increasing the time frame that the trash receptacle can remain at the curb from 24 hours to 48 hours and requiring the receptacle to be stored inside or behind the front yard. However, in order to be consistent with the Rental Code, Staff will be requesting a similar change at a later date for rental units.

Possible Alternative based on Feedback from June 15, 2021 Workshop:

a) *Garbage or refuse set outdoors in any bag or container other than a trash disposal container is prohibited. Trash disposal containers must be constructed of a hard water-tight material. Containers cannot be left at the curb for more than 48 hours and must be placed behind the front yard or indoors when not set out for pick-up, unless located in an enclosure shown on an approved site plan.*

2. **Allowing garbage, junk, yard waste to be stored** – This is currently prohibited under the outdoor storage section of the Zoning Code, which defines outdoor storage as items stored for more than 72 hours. The Initial Proposed Language Presented on May 25, 2021 Council Meeting: combines garbage and junk into one section and prohibits outdoor storage for up to 48 hours rather than 72 hours. Yard waste will be allowed to be stored outdoors for up to seven days and may remain as long as composting is being conducted in accordance with State of Iowa code.

Initial Proposed Language from May 25, 2021 City Council Meeting:

Allowing refuse, garbage, junk, noxious substances, or hazardous wastes to be collected or to remain in any place for more than 48 hours is prohibited.

The majority of those in opposition to this section did not approve of the 48-hour timeframe. The change from 72 to 48 hours is primarily to help expedite enforcement. **However, staff recommends keeping the timeframe at 72 hours.**

Possible Alternative based on Feedback from June 15, 2021 Workshop:

Allowing refuse, garbage, junk, noxious substances, or hazardous wastes to be collected or to remain in any place for more than 72 hours is prohibited.

As proposed, the yard waste standard would not change from what is currently in the code (allowed to remain for 7 days). Additionally, many comments questioned the ability to compost. Composting is currently, and will continue to be, allowed under the proposed code.

Existing Municipal Code Language [Sec. 10.9](#):

Yard Waste stored on the exterior of a property in anything other than a trash disposal container for longer than seven days. Yard waste may be retained for longer than seven days if composting is being completed. Composting shall comply with the state regulations contained in Chapter 105 of the Iowa Administrative Code.

(a) Composting piles may include: yard waste including leaves, grass clippings, straw and hay, sawdust, and finely chopped shredded tree and shrub prunings; kitchen scraps including fruit and vegetable trimmings (including rhubarb leaves), coffee grounds, and eggshells; shredded newspapers; wood ashes (no more than one cup per bushel of compost).

(b) Composting piles cannot include: human or animal feces; diseased plant material or weeds that have gone to seed; kitchen scraps that include animal meat, bones or fat; and all other materials not listed in subsection (a) above.

Insect Breeding Grounds and Vermin Habitat:

- 1. Allowing stagnant water to pool** – Stagnant water creates a breeding ground for mosquitos. Stagnant water means standing water that is trapped and does not circulate. (This excludes: bird baths, koi ponds, landscape water features)

Initial Proposed Language from May 25, 2021 City Council Meeting:

Allowing to exist any stagnant water standing on any property, including any open container or material kept in such a condition that water can accumulate and stagnate therein, creating a breeding ground or habitat for insects or rodents is prohibited.

Most of the comment card concerns regarding stagnant water had to do with defining what stagnant water was. The proposed ordinance defines stagnant water as: **Standing water that is trapped and does not circulate.**

This definition does not include bird baths or regularly used recreational pools. Additional concerns were regarding the length of time the water would need to be stagnant before considered a violation. **Staff recommends adding a 48-hour timeframe to the proposed language. This would allow water to dissipate**

after heavy rain events and still give staff the ability to enforce on situations that become nuisances.

Possible Alternative based on Feedback from June 15, 2021 Workshop:
Allowing to exist any stagnant water on any property for more than 48 hours, including any open container or material kept in such a condition that water can accumulate and stagnate therein, creating a breeding ground or habitat for insects or rodents is prohibited.

- 2. Conditions that harbor vermin** – These conditions are currently described in the Junk Vehicle Code, but there are times when conditions such as this may need enforcement where no junked vehicle is involved.

Initial Proposed Language from May 25, 2021 City Council Meeting:
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 is prohibited.

Opposition to this proposal was primarily due to uncertainty as to what constituted vermin. It's likely that if there were an issue with vermin on a property, there are also other violations such as garbage or outdoor storage. **Staff supports eliminating the initial proposed language from the May 25, 2021 City Council Meeting.**

Junk Vehicles:

- 1. Junk Vehicles** - Are currently regulated through [Chapter 30](#) of the Municipal Code. This chapter prohibits vehicles that have been deemed 'junked vehicles' from remaining on a property for more than 48 hours. It also prohibits vehicles that are not deemed 'junk vehicles' from being kept on residential property for more than 15 days and on commercial property for more than one year. Exemptions from the junked vehicle prohibitions include junked vehicles parked inside enclosed structures, behind opaque walls at least six feet in height, covered with a tight-fitting vehicle cover, or upon the premises of an authorized salvage yard.

Most of the other jurisdictions surveyed did not specify a timeframe for how long a junked vehicle could be stored on a property before a violation occurs. This means that having a junked vehicle on the property at any time would constitute a violation. The City of Clive prohibits junked vehicles after they have been on the

property for 24 hours; a few other cities prohibit junked vehicles after 48 hours, as is currently the standard in Ames.

Regarding vehicles that have not been declared junked, only one other jurisdiction, the City of Norwalk, regulates the amount of time they can be stored on a property. It appears the Ames Municipal Code and Norwalk Code are identical and prohibit the storage of operable vehicles on private property for longer than 15 days without moving.

Existing Language:

“Junked” means any vehicle, trailer, or semitrailer stored for 48 hours within the corporate limits of Ames, Iowa, whether currently licensed or not, which because of any one of the following characteristics constitutes a threat to the public health, welfare, and/or safety;

- (a) Any vehicle, trailer, or semitrailer which is rendered inoperable because of a missing or broken windshield or window glass, fender, door, bumper, hood, steering wheel, driver’s seat, trunk, fuel tank, two or more wheels, engine, drive shaft, differential, battery, generator or alternator or other component of an electrical system, or any component or structural part;*
- (b) Any vehicle, trailer, or semitrailer which has become the habitat of rats, mice, snakes or any other vermin or insects;*
- (c) Any vehicle, trailer, or semitrailer which contains stored gasoline or other fuel, paper, cardboard, wood or other combustible materials, garbage, refuse, solid waste, debris, etc.;*
- (d) Any vehicle, trailer or semitrailer used for storage purposes or harborage, cage or dwelling for animals of any kind;*
- (e) Any other vehicle, trailer, or semitrailer which because of its defective or obsolete condition in any other way constitutes a threat to the public health or safety of the citizens of Ames, Iowa;*
- (f) Any vehicle which contains gasoline or any flammable fuel and is inoperable.*

It is hereby declared that the storage of any junked vehicles, trailers, or semitrailers on private property within the corporate limits of Ames, Iowa, for 48 hours, is unlawful, unless exempt by Section 30.9 of this chapter, and constitutes a threat to the health, welfare and safety of the citizens thereof, and is declared to be a nuisance.

Exemptions:

- 1. Vehicles, trailers or semitrailers stored within a garage or other enclosed structure or which are kept concealed and enclosed behind*

an opaque wall at least six feet in height, or completely covered by a tight fitting opaque cloth vehicle cover or tight fitting cloth tarpaulin;

2. *Vehicles, trailers, or semitrailers stored upon the premises of a duly authorized salvage yard or junk yard and meeting the requirement of the Ames Municipal Code.*

In as much as it is found that the storage of motor vehicles, which are not deemed to be junked, out of doors can detract from the beneficial use and enjoyment of neighboring properties, certain special regulations are established as follows:

1. *No person shall keep, store or display one or more motor vehicles out of doors on property zoned for residential use, or permit the parking out of doors of a motor vehicle on residentially zoned property under their ownership, possession or control for more than fifteen (15) days without movement and use of said vehicle as an operating motor vehicle.*
2. *No person shall store or display one or more motor vehicles out of doors on property zoned for commercial use, or permit the parking out of doors of a motor vehicle on commercially zoned property under their ownership, possession or control for more than one year without movement and use of said vehicle as an operating motor vehicle.*
3. *The provision of subsection (2) notwithstanding the keeping, parking or storage, out of doors, of any wrecked or demolished motor vehicle, or motor vehicle stripped for parts, at the same commercially zoned site for more than one hundred eighty days is prohibited.*
4. *The following shall be exempt from the regulations of this section:*
 - a. *Vehicles kept in a garage or other enclosed structure or which are kept concealed and enclosed behind an opaque wall at least six feet in height, or completely covered by a tight fitting opaque cloth vehicle cover or tight fitting cloth tarpaulin.*
 - b. *Vehicles kept in commercial automobile salvage yards lawfully established and existing prior to January 1, 1982.*
 - c. *A "motor home", pickup truck with camper top, converted bus or van, or similar recreational vehicle, which is currently licensed for operation on the public highways.*
 - d. *A motor vehicle currently licensed for operation on the public highways and lawfully parked off the streets while the owner or other person in lawful possession and control thereof, if a*

resident of this city, is out of the city for more than fifteen (15) days but not more than one hundred eighty days.

- e. Vehicles which are immobilized pursuant to an immobilization order of the District Court.*

The proposed language was intended to keep the same regulations as the existing, but in a condensed format. Many of the comments in opposition to regulating junked vehicles were regarding the definition of junked vehicle (this was not published with the survey, so respondents did not know how the code defined a junked vehicle).

Staff maintains that the existing definition of junked vehicle adequately addresses inoperable vehicles or those in major disrepair. Staff recommends that the 48-hour timeframe be retained as it is no change from the current ordinance and is enforceable. Increasing the timeframe makes it harder to prove the junked vehicle has not moved for enforcement purposes.

Most of the comments regarding the requirement to move an operable vehicle on private property every 15 days were against the restriction. Many felt that operable vehicles should not be regulated at all or that the timeframe should be increased. **Staff currently has difficulties enforcing the 15-day requirement, so lengthening it would not be recommended. Instead, staff recommends removing this regulation and enforcing only on junked vehicles.**

Possible Alternative based on Feedback from June 15, 2021 Workshop:
Remove the following language from Chapter 30, Sec. 30.10.

(1) No person shall keep, store or display one or more motor vehicles out of doors on property zoned for residential use, or permit the parking out of doors of a motor vehicle on residentially zoned property under their ownership, possession or control for more than fifteen (15) days without movement and use of said vehicle as an operating motor vehicle.

(4)(d) A motor vehicle currently licensed for operation on the public highways and lawfully parked off the streets while the owner or other person in lawful possession and control thereof, if a resident of this city, is out of the city for more than fifteen (15) days but not more than one hundred eighty days.

Protection of Property From Damage and/or Decay

Vegetation:

- 1. Dense growth of vegetation** – Dense vegetation may cause issues with ingress/egress from a structure, can be a fire hazard, and may provide concealment for criminals.

Initial Proposed Language from May 25, 2021 City Council Meeting:

Dense growth of all vines, brush or other vegetation, including dead bushes, and dead woody plants, or other overgrown or unkempt bushes or other growth is prohibited.

Those with concerns on this proposal were primarily concerned with the ambiguity regarding the word 'dense'. **Staff supports adding language that specifically addresses the ability to egress and ingress a structure instead of addressing vegetation.**

Possible Alternative based on Feedback from June 15, 2021 Workshop:

Vines, brush or other vegetation, including dead bushes, dead woody plants, overgrown or unkempt bushes that restrict egress from or ingress to the inside of a structure is prohibited.

Structural Integrity:

- 1. Exterior structural requirements (siding, roofing, decks)** – Inadequate coverings (roofing, siding, paint, etc.) allow rain, snow, and vermin to enter. These conditions can cause rapid deterioration of a structure. Currently, there are no standards for structural maintenance until the structure is in such disrepair that it can be deemed dangerous. The ability to facilitate the abatement of these issues early increases the life of the structure, minimizes the overall impact to the home, and maintains property values for adjacent properties.

Initial Proposed Language from May 25, 2021 City Council Meeting:

All structures, including detached accessory structures, on any commercial, residential, agricultural or industrial property shall be free from significant structural defects. The term "free from significant structural defect" means:

- (a) The roof and roofing material are of such a nature and condition that they do not permit water, snow or ice to penetrate the structure. Roofing materials shall be in good condition and made up of consistent materials and consistent coloration throughout the roof area.*

- (b) *Drainage gutters and downspouts, if present, are securely attached to the structure and in proper functioning order.*
- (c) *All exterior trim and exterior exposed surfaces, including siding materials, must be sound, in good condition and securely attached to the structure.*
- (d) *Exterior walls must be free of holes and made of a consistent material, such that patches or repairs consisting of dissimilar materials or colors compared to the prevailing surface material of the exterior walls are not present.*
- (e) *The foundation of the structure is sound, capable of supporting the structure and not deteriorated to the point that failure is judged to be inevitable, but not necessarily imminent. The foundation shall be plumb and free from cracks, breaks and holes to prevent the entry of animals.*
- (f) *Windows and doors, including outer screen or storm windows and doors, must be intact, containing no holes, squarely hung with properly operating latches or locks to be securely closed, and where the windows have intact glass or normal window material that allows the entry of light with no holes in said window surface areas. No plastic wrap material or tarps shall be used to substitute for doorways or windows.*
- (g) *All exterior components serving doors and windows, including, but not limited to, steps, porches, ramps, landings, handrails, and guardrails must be of a secure and safe design, be made of standard building materials and be intact, with no protruding or loose boards or surface materials causing a hazard.*
- (h) *Exterior wall surfaces are properly painted and/or maintained with appropriate exterior wall materials, including wood, vinyl, steel or metal siding materials, stucco or exterior insulation finish system (EIFS) materials, brick or similar masonry materials, that are in all cases intact, not in a condition of deterioration, are of uniform coloration and are not patched with dissimilar materials. Plastic wrap material shall not be considered an acceptable siding material. No flaking or chipped paint or outer loose material dominates or detracts from the exterior appearance of the structure.*
- (i) *All fencing, including gates, shall be maintained in good condition, free from damage, breaks, holes or missing structural members. All fencing shall be of consistent materials and coloration.*
- (j) *All exterior wires which are hanging or unsecured on the exterior of the structure must be fastened to the structure in order to avoid life safety issues.*

Many of the comments on this item were regarding a homeowner's ability to make needed repairs and the vagueness of the proposal. **Staff maintains that the**

proposed language above adequately defines significant structural defects, addressing many of the citizen’s concerns, and staff is not recommending any alternatives at this time.

Unoccupied & Unsecured Structures:

- 1. Vacant, unsecured structures** – These structures allow people to enter the structure (squatters), and dangerous conditions have resulted (e.g., fires) in some instances. A shed or garage on the same property as one’s home is not considered to be vacant.

Initial Proposed Language from May 25, 2021 City Council Meeting:

Unoccupied buildings or unoccupied portions of buildings which are unsecured are prohibited.

The majority of the comments regarding this proposal stated that clarification was needed to understand the type of structures the restrictions would be imposed on. Many concerns were raised about having to lock sheds on residential properties. The intent of the section is to help keep vacant properties secure. Sheds located on properties that have an occupied primary structure would not fall into this category. **Staff recommends adding language that clarifies how this section applies to accessory structures.**

Possible Alternative based on Feedback from June 15, 2021 Workshop:

Unoccupied buildings or unoccupied portions of buildings which are unsecured are prohibited. Accessory structures on properties where the primary structure is occupied are not considered unoccupied buildings.

Other Considerations:

Graffiti:

- 1. Graffiti removal** – Rapid graffiti remediation is essential in reducing the amount of graffiti. The proposed ordinance will prohibit graffiti from being left on any property for more than 48 hours. **Graffiti removal is currently addressed in the Rental Code but is often found on commercial properties that are not rentals, leaving staff with no enforcement ability.** For purposes of this issue, graffiti is paintings or markings made without the consent and direction of the property owner.

Initial Proposed Language from May 25, 2021 City Council Meeting:

All real property defaced by graffiti vandalism, which is visible to the public view and has not been removed within 48 hours of notification by the enforcement officer is prohibited.

Comments regarding the proposed graffiti language were mainly focused at defining graffiti. Some respondents felt that 48 hours was too short of a timeline to have graffiti removed because it can be an extensive process. **Staff recommends adding the following definition of graffiti and extending the timeframe to 7 days.**

Any marking, inscription, drawing, picture, letter, number, symbol or other defacement or other written communication, etched, scratched, or made with spray paint, paint, ink, chalk, dye, or similar substance, or in any manner, on any public or private property, including, but not limited to, streets, sidewalks, buildings, walls, bridges, fences, or other structures which was made without the consent and under the direction of the owner of such property.

Possible Alternative based on Feedback from June 15, 2021 Workshop:

All real property defaced by graffiti vandalism, which is visible to the public view and has not been removed within 7 days of notification by the enforcement officer is prohibited.

Vehicle Storage:

- 1. Recreational vehicle parking** - Is currently allowed up to 72 hours when parked behind the front yard setback on an approved surface and not used for habitation.

Existing Language:

Manufactured homes, mobile homes, travel trailers, or recreational vehicles shall not be parked, stored, or occupied on any property which is not part of an approved manufactured home park, or the permanent installed site of a manufactured home. However, the parking of one (1) unoccupied travel trailer or recreational vehicle, boat, or boat trailer is permitted behind the front yard setback of the lot in any district, provided the travel trailer or recreational vehicle, boat, or boat trailer is not used for living quarters or business purposes.

In addition to the above code language regarding the parking of recreational vehicles, development standards in the Zoning Code prohibit the storage of vehicles for more than 72 hours. In summary, existing code would allow

recreational vehicles to be parked behind the front of the house on an approved surface for up to 72 hours without moving.

In an effort to consolidate code section into one chapter, staff will no longer be utilizing the development standards within the Zoning Code for enforcement purposes. Therefore, the proposed ordinance would allow the parking of recreational vehicles behind the front of the house for any period of time as long as the vehicle is not being used for habitation or business purposes and it is parked on an approved surface. Staff recommends adding trailers to the list of permitted items as they are currently not regulated.

Possible Alternative based on Feedback from June 15, 2021 Workshop:
Travel trailers, recreational vehicles, boats, and boat trailers parked in the front yard are prohibited. Parking of travel trailers, recreational vehicles, boats, and boat trailers are permitted behind the front yard so long as they are not being used for habitation or business purposes and they are parked on an approved parking surface.

Grass Height:

- 1. Turf grasses exceeding 12 inches on private property** – Currently, registered rental properties are required to keep their turf grasses under 12 inches per the [Rental Code \(Sec. 13.406.9\)](#). There is no equivalent standard for other property types, which makes it possible that two properties right next to each other would be held to different standards. By calling out turf grasses specifically, owners that would like to have taller native vegetation are still able to do so.

Initial Proposed Language from May 25, 2021 City Council Meeting:
Allowing turf grasses to exceed 12 inches in height is prohibited.

Opposition to this proposal was primarily the result of owners wanting to have native vegetation on their property. The ordinance, as proposed, only restricts the height of turf grasses and does not address other vegetation including native species, flowers, bushes, trees, gardens, etc.. **Staff recommends a 12 inch maximum height for turf grasses.**

ASSISTANCE PROGRAMS:

One of the most common comments in the comment cards and during public input was that the proposed ordinance would have a disproportionate impact among property

owners with low incomes, disabilities, or mental health issues. Many of those that spoke thought that the City should have some program to help those in need. Staff reviewed a handful of other jurisdictions with similar ordinances to determine how these cases are handled.

Current Ordinance:

The Ames Municipal Code currently has a provision in the Dangerous Building Section of Chapter 5 that addresses abatement for low-income and elderly persons:

Sec. 5.414. Cost of Abatement; Low Income, Elderly Persons.

- 1.) *Policy. Notwithstanding the other provisions of this code, the cost of abating a dangerous building may be waived for low income and elderly persons, if upon application it appears to the Building Official that the conditions set forth in subsection (2) are met.*
- 2.) *Eligibility. To be eligible for waiver of abatement costs a person must be classified as "low income", defined as having household income of not more than 50% of the Story County median income.*
- 3.) *Other eligibility requirements. Additionally, all persons wishing to qualify for waiver or nuisance abatement costs must:*
 - a. *Furnish proof of the income requirements as set forth above in the manner and form designated by the Building Official; and*
 - b. *Must own, or be in the process of purchasing the property from which the nuisance is abated; and*
 - c. *The property from which the nuisance is abated must be their primary residence.*
- 6.) *Amount. The Building Official shall have the authority to waive up to \$1,000 per calendar year, for any one parcel of real property or any one person. Requests for waiver in excess of that granted by the Building Official shall be subject to approval of the City Council.*

Other Local Options:

The Story County Housing Trust offers an owner-occupied repair program with reimbursement up to \$8,000. Repairs of major building systems (roof, foundation, electrical, etc.), repairs that will delay or prevent major replacement, or repairs that have been delayed addressing other priority concerns.

The Volunteer Center of Story County (now closed) used to operate 'Ames Repair and Care', a program that matched homeowner needs with volunteers to complete specific tasks related to the property (mowing, painting, debris removal, etc.). There has been recent success with the 'Repair Café' where citizens can bring household items to volunteers with the knowledge to repair such items. 'Rummage Rampage' has also had success benefiting local non-profits through volunteerism (there are 80 organizations registered this year). Staff suggests establishing a program similar to 'Ames Repair and Care' that utilizes the time and talent of our citizens to benefit the community and help those in need.

Other Jurisdictions:

Staff surveyed several other jurisdictions that have similar maintenance ordinances and found that many have financing programs for homeowners under the area median income within their jurisdiction. The City of Iowa City offers \$10,000 to \$40,000, 20-year loans, at 2.75% for home improvements. Another program they have offers zero interest loans. The City of Cedar Falls offers grants up to \$20,000 for rehabilitation projects to meet local codes and up to \$10,000 for general repairs.

The Des Moines metro area has a Metro Home Improvement Program and includes the cities of Ankeny, Altoona, Bondurant, Grimes, Polk City, Urbandale, West Des Moines, Windsor Heights and Dallas County. This program offers a 5-year forgivable loan for up to \$12,500 for home improvements. Applicants must have an income less than 80% of the area median income for Polk County, their property must be assessed at under \$200,000 and the property must be their primary residence.

APPEAL PROCESS:

Because the code sections currently utilized are scattered throughout the Municipal Code, the appeal processes vary. Currently, three different Boards have jurisdiction over the types of violations the proposed ordinance addresses: Property Maintenance Appeals Board, Building Board of Appeals, and Zoning Board of Adjustment.

It is important that any person affected by enforcement action under the new ordinance has the ability to appeal the violation determination the same as they would under the current code. It is equally important that the appeal process be accessible and easy to follow for the appellant. **For this reason, the new ordinance proposes the creation of a separate board to hear appeals of this Chapter.** The proposed appeal process mimics that of the Property Maintenance Appeal Board and the Building Board of

Appeals. The make-up of the Board includes neighborhood representatives from each ward, much like the City Council, and will meet monthly.

ENFORCEMENT PROCESS:

There were many concerns during the workshop and in the survey responses about the enforcement process. The current enforcement process offers many opportunities for compliance before a citation is issued. For example, an outdoor storage case would go through the following process:

1. Inspection to verify a violation exists
2. Initial notice to property owner regarding the violation with a compliance date (usually 7-10 days)
3. Re-inspection to determine if property is in compliance
4. If not in compliance, a second violation notice will be issued to the property owner with a compliance date (7-10 days)
5. Re-inspection to determine if property is in compliance
6. If not in compliance, a final notice sent by certified mail with a compliance date (7-10 days)
7. Re-inspection to determine if property is in compliance
8. If property is not in compliance, staff must take photos for four consecutive days to show that the item has not moved in that time.
9. If still not compliant on day 4 a citation will be issued (or other form of enforcement)

This process is extremely lengthy and could take up to 6-8 weeks. Council should remember that staff follows a philosophy of compliance through education. Citations are not typically used as 'punishment'. Rather, they are issued so that staff can get a court order to be allowed on the property and abate the violation.

Unfortunately, even after staff completes the nine steps highlighted above, the citation process that follows could take up to an additional 3-4 months. Once a citation is forwarded to the Legal Department, it is reviewed by an attorney and then sent by certified mail. The postal service has two weeks to attempt service (there have been instances when the citation has been unable to be served). Once served, a court date is set for the defendant to plead guilty or not guilty. If they enter a plea of not guilty, a court date is set, which is roughly 30 days out. Meanwhile, the violation continues to exist, and enforcement is put on hold. It is only when the court finds the defendant guilty that the City can then request permission from the court to enter the property, abate the violation,

and assess the abatement costs back to the owner. However, it's always possible the court denies the request leaving staff with no tools for compliance.

Because the citation process is lengthy and costly and not always effective; staff has included the addition of an abatement tool in the proposed ordinance. With this abatement tool, City staff may enter the property to address the nuisance, then bill costs back to the owner. If the owner fails to pay the costs, the City Council may approve assessing those costs to the owner's property. This mechanism is similar to the existing process for sidewalk snow and ice removal enforcement, where timeliness is important. It is not a requirement that abatement be utilized, and it does not prohibit a citation from being issued. Research of other jurisdictions shows that many ordinances allow for abatement as an enforcement tool instead of relying on a citation.

NEXT STEPS:

The "Possible Alternatives" outlined in this report take into consideration the feedback received on each topic and are incorporated into a draft ordinance that includes customer driven alternatives. While still very preliminary, the draft ordinance allows the public an opportunity to see the proposals in context and incorporates definitions. This should eliminate some of the concerns about sections being vague and provide them more substance to comment on.

Staff would recommend the following process:

- 1.) Council should utilize Attachment B, to make a motion on each of the following categorized topics:
 - a. Vegetation over 12 inches in ROW
 - b. Vegetation hanging over/into ROW
 - c. Dangerous trees
 - d. Placing/pushing snow/ice onto public streets
 - e. Depositing mud/gravel/etc. on sidewalks
 - f. Open holes/excavations for up to 30 days
 - g. Leaving garbage receptacles at the curb for more than 24 hours
 - h. Allowing garbage, junk, yard waste to be stored
 - i. Allowing stagnant water to pool
 - j. Conditions that harbor vermin
 - k. Junk Vehicles

- l. Dense growth of vegetation
 - m. Exterior structural requirements
 - n. Vacant, unsecured structures
 - o. Graffiti
 - p. Recreational vehicle parking
 - q. Turf grasses exceeding 12 inches on private property
- 2.) Direct Staff to bring back a draft ordinance with Council's revisions on the June 27 City Council Meeting for public input and final council discussion.
- 3.) Direct Staff to place a proposed ordinance that incorporates the preferred alternatives on the July 11 City Council Meeting for approval on first reading.

STAFF COMMENTS:

The tools in the proposed ordinance will have a major benefit when it comes to enforcement of nuisance issues. However, staff understands that some of the new regulations may be contentious to property owners. It will be important to balance the freedoms of property ownership with the freedom to enjoy one's property.

Staff recognizes the significance of this proposed ordinance and has attempted to maximize the number of customer feedback opportunities by utilizing multiple press releases, hosting a dedicated Property Maintenance Code webpage, conducting a communitywide survey, multiple City Council Meetings, and hosting two workshops. The proposed ordinance is based on customer driven feedback and over a decade of experiences from the City's Community Codes Liaison working with customer and their concerns with the current codes and lack thereof.

Summary of Proposed Revisions

1. Vegetation in ROW

Initial Staff Proposal: 12" maximum vegetation height in ROW

Public Comments: Want the ability to plant a variety of species. Supportive of prohibiting vegetation causing visibility issues. Not supportive of 12" maximum.

Revised Staff Proposal: 12" maximum within 1' of sidewalk or street. No other maximum height. Vegetation can be removed if causing a visibility issue.

Possible Motion: Direct staff to add to the ordinance being presented on June 27th the alternative language that prohibits plantings in the ROW from exceeding 12" within 1' of the street and sidewalk and allows staff to require any vegetation creating a visibility issue to be removed.

2. Vegetation Encroaching into ROW

Initial Staff Proposal: Vegetation hanging over streets must have a 16' clearance and vegetation hanging over sidewalks and bike paths must have a 10' clearance.

Public Comments: Confusion over who maintained these areas. Height over sidewalk should be 8' so that homeowners can reach it.

Revised Staff Proposal: Same as initial as 10' is DOT standard.

Possible Motion: Direct staff to add to the ordinance being presented on June 27th the initial proposed language that requires a 16' clearance over public streets and a 10' clearance over sidewalks and bike paths.

3. Dangerous Trees

Initial Staff Proposal: Prohibits dangerous trees that could fall and damage adjacent property or people.

Public Comments: Tree removal is expensive.

Revised Staff Proposal: Prohibits dangerous trees that pose an immediate threat to people or property in the ROW.

Possible Motion: Direct staff to add to the ordinance being presented on June 27th the alternative language that prohibits dangerous trees that pose a threat to the ROW.

4. **Placing Snow/Ice Onto Public Streets**

Initial Staff Proposal: Prohibits snow and ice from being pushed onto the public street.

Public Comments: The City blocks driveways. Little space for shoveled snow.

Revised Staff Proposal: Prohibits snow and ice from being pushed onto the public street after the street has been cleared.

Possible Motion: Direct staff to add to the ordinance being presented on June 27th the alternative language that prohibits snow and ice from being pushed onto the public street once the street has been cleared.

5. **Depositing Mud/Gravel/Etc. on Sidewalks**

Initial Staff Proposal: Prohibits depositing mud, dirt, gravel and other debris on sidewalk.

Public Comments: Specify amount of time debris can remain.

Revised Staff Proposal: Prohibits snow ice, mud, gravel, grass clippings, leaves, etc. to remain for more than daylight 10 hours after the cause of the accumulation.

Possible Motion: Direct staff to add to the ordinance being presented on June 27th the alternative language that prohibits accumulations of snow ice, mud, gravel, grass clippings, leaves, etc. from remaining on a sidewalk for more than 10 hours after the cause of the accumulation.

6. **Open Holes/Excavations**

Initial Staff Proposal: Prohibits open holes from continuing for more than 30 days.

Public Comments: Define active building project. Shorter timeframe. Does it include egress window wells or fire pits.

Revised Staff Proposal: Prohibits holes from existing for any period of time and exempts egress window wells, fire pits, active building permits, etc.

Possible Motion: Direct staff to add to the ordinance being presented on June 27th the alternative language that prohibits holes from existing and clarifying exceptions.

7. Leaving Garbage Receptacles at the Curb

Initial Staff Proposal: Garbage containers cannot be left at the curb for more than 24 hours and must be placed behind the front yard or indoors when not at the curb.

Public Comments: 24 hours is not long enough.

Revised Staff Proposal: Garbage containers cannot be left at the curb for more than 48 hours and must be placed behind the front yard or indoors when not at the curb.

Possible Motion: Direct staff to add to the ordinance being presented on June 27th the alternative language that prohibits containers from being left at the curb for more than 48 hours and requires them to be stored behind the front of the house or indoors.

8. Allowing Garbage, Junk and Yard Waste to be Stored

Initial Staff Proposal: Prohibits refuse, garbage, junk, etc. from being stored for more than 48 hours.

Public Comments: 48 hours is too short. Keep at 72 hours.

Revised Staff Proposal: Prohibits refuse, garbage, junk, etc. from being stored for more than 72 hours.

Possible Motion: Direct staff to add to the ordinance being presented on June 27th the alternative language that prohibits refuse, garbage, junk from being stored for more than 72 hours.

9. Allowing Stagnant Water to Pool

Initial Staff Proposal: Prohibits stagnant water from pooling on a property.

Public Comments: Define stagnant water. Length of time before deemed stagnant.

Revised Staff Proposal: Prohibits stagnant water from existing for more than 48 hours.

Possible Motion: Direct staff to add to the ordinance being presented on June 27th the alternative language that prohibits stagnant water from remaining on a property for more than 48 hours.

10. Conditions that Harbor Vermin

Initial Staff Proposal: Prohibits conditions that harbor vermin.

Public Comments: Define vermin.

Revised Staff Proposal: Eliminate this section.

Possible Motion: Direct staff to not include the vermin section in the ordinance being presented on June 27th.

11. Junk Vehicles

Initial Staff Proposal: Currently junked vehicles are prohibited from remaining on a property longer than 48 hours and operable vehicles are prohibited from remaining for more than 15 days.

Public Comments: Define junked vehicle. Operable vehicles should not be regulated.

Revised Staff Proposal: Eliminates the 15 day prohibition on operable vehicles.

Possible Motion: Direct staff to remove the 15 day prohibition on storage of operable vehicles from the ordinance being presented on June 27th.

12. Dense Growth of Vegetation

Initial Staff Proposal: Prohibits dense growth of vegetation.

Public Comments: Dense is ambiguous.

Revised Staff Proposal: Prohibits vegetation that restricts ingress or egress of a structure and removes 'dense'.

Possible Motion: Direct staff to add to the ordinance being presented on June 27th the alternative language that prohibits vegetations that impede ingress or egress.

13. Exterior Structural Requirements

Initial Staff Proposal: Requires structures to be free from significant structural defect.

Public Comments: Vague. What about those that cannot afford this.

Revised Staff Proposal: Requires structures to be free from significant structural defect.

Possible Motion: Direct staff to add to the ordinance being presented on June 27th the initial proposed language.

14. Vacant, Unsecured Structures

Initial Staff Proposal: Prohibits unoccupied buildings from being unsecured.

Public Comments: Clarification on sheds.

Revised Staff Proposal: Prohibits unoccupied buildings from being unsecured. Exempts accessory structures on properties with the primary structure is occupied.

Possible Motion: Direct staff to add to the ordinance being presented on June 27th the alternative language that prohibits unoccupied buildings from being unsecured and allows accessory structures to remain unsecured if the primary structure is occupied.

15. Graffiti

Initial Staff Proposal: Graffiti is required to be removed within 48 hours of notification by the enforcement officer.

Public Comments: Define graffiti. 48 hours isn't enough time.

Revised Staff Proposal: Requires graffiti to be removed within 7 days of notification by the enforcement officer.

Possible Motion: Direct staff to add to the ordinance being presented on June 27th the alternative language that prohibits graffiti from remaining for longer than 7 days after notification.

16. Recreational Vehicle Parking

Initial Staff Proposal: Existing ordinance allows one RV to be parked behind the front yard as long as it's not used for habitation.

Public Comments: None.

Revised Staff Proposal: Staff added 'trailer' to the existing list. RVs would not have a time limit on storage behind the front yard as long as they are on an approved surface and not used for habitation.

Possible Motion: Direct staff to add to the ordinance being presented on June 27th the alternative language that allows RVs and trailers to be parked behind the front yard as long as they are on an approved surface and not used for habitation.

17. Turf Grass on Private Property

Initial Staff Proposal: Turf grasses over 12” in height are prohibited.

Public Comment: Allow native vegetation.

Revised Staff Proposal: Same as initial. Only restricts turf grasses.

Possible Motion: Direct staff to add to the ordinance being presented on June 27th the initial proposed language that prohibits turf grasses from exceeding 12” in height.

18. Appeal Process

Initial Staff Proposal: Creation of an additional appeal board to hear appeals of the ordinance.

Public Comment: Mixed comments – some in favor, others saw it as bigger government.

Revised Staff Proposal: Staff recommends the addition of an appeal board comprised of neighborhoods representatives to ensure citizens have a voice.

Possible Motion: Direct staff to add to the ordinance being presented on June 27th a process establishing an appeal board and procedures.

19. Abatement Tool

Initial Staff Proposal: Creation of an abatement tool that would allow staff to abate nuisances in a timely manner without going through the lengthy court process.

Public Comment: Many comments against abatement because of cost and bigger government.

Revised Staff Proposal: Staff recommends creating the abatement tool as an alternative to issuing a citation. It is not required to be used but would give staff additional options when a quicker response is needed.

Possible Motion: Direct staff to add to the ordinance being presented on June 27th an abatement tool that would authorize staff the choice to abate nuisances when not resolved through education and established enforcement procedures.