

NUISANCE REGULATION

APPLICABILITY

This regulation is promoted pursuant to the Nebraska Revised Statutes §23-174.10 and shall be applicable to all property in the County, except that within the limits of any incorporated city or village or within the area over which zoning jurisdiction has been granted to any city or village.

DEFINITIONS

County shall mean Douglas County, Nebraska.

Building Inspector shall mean Douglas County Building Inspector.

Health Department shall mean Douglas County Health Department.

Sheriff shall mean Douglas County Sheriff.

Nuisance - For the purposes of this regulation, a nuisance exists when a person fails to perform a duty or permits any condition, animal, plant, or thing to exist, which act, omission, condition or thing either:

1. injures or endangers the comfort, repose, health or safety of others;
2. offends decency;
3. is offensive to the senses;
4. unlawfully interferes with, obstructs or tends to obstruct or renders dangerous for passage any public or private street, alley, highway, sidewalk, stream, ditch or drainage;
5. in any way renders other persons insecure in life or the use of property; or
6. essentially interferes with the quiet enjoyment of life and property, or tends to depreciate the value of the property of others.

Additional Illustrations

Nuisance also shall mean the maintaining, using, placing, depositing, leaving or permitting to be or remain on the public or private property of any of the following items, conditions or actions is hereby declared to be and to constitute a nuisance; however, this enumeration shall not be deemed or construed to be conclusive, limiting or restrictive:

1. Conditions which provide harborage for snakes, rats, mice, and other vermin;
2. A building or other structure in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to health of

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people residing in the vicinity thereof, or contains lead-based paint in a deteriorated condition, or presents a fire hazard in the vicinity where it is located;

3. Unnecessary or unauthorized noises and annoying vibrations, including but not limited to, animal noises;
4. Disagreeable or obnoxious gases, odors and/or fumes, as well as the conditions, substances or other causes which give rise to the emission or generation of such gases, odors and/or fumes;
5. The dressed or undressed carcasses of fish, animals or fowl, wild game or domestic animals, not disposed of, processed, or removed from the general public view;
6. The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, dead animals, creamery or industrial wastes, or other substances;
7. Accumulation of stagnant water permitted or maintained on any lot or property;
8. Dense smoke, noxious fumes, gas, soot or cinders, in unreasonable quantities;
9. Any method of human excreta disposal which does not conform to the provisions of this regulation, state law, rule or regulation;
10. Animal and/or fowl waste not disposed of properly;
11. Leaking or defective water pipes, sewer pipes, septic system, hydrants, cisterns, wells, gutters drains, rain spouts or seepage in or about any structure used for human occupancy or the surrounding earth;
12. Abandoned or open wells, septic tanks, cisterns or cellars;
13. The discharge of any filthy or offensive water, swill, liquid or waste from any residential or commercial establishment into or on any street, alley, sidewalk, gutter, vacant lot, stream or river; (also refer to the provisions of the Stormwater Management Regulation for illicit discharge detection and elimination).
14. Building, construction, and demolition debris except debris defined as beneficial fill in Title 132 and issued a valid permit by the Permits and Inspection Division with the approval of the Douglas County Health Department.
15. A building or structure, including the ground on which it sits, that is used for the unlawful manufacture, cultivation, growth, production, processing, sale, possession, or storage of any controlled substance as defined in Neb. Rev. Stat. §28-401 and 405 (Reissue 1995);
16. An act or thing done, made, permitted, allowed or continued on any property, whether public or private, detrimental to the health or likely to injure any of the inhabitants of the County.

NUISANCE PROHIBITED

It shall be unlawful for any person to cause, permit, maintain or allow the creation of a nuisance.

ENFORCEMENT

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This regulation shall be administered and enforced by the Building Inspector, the Director of the Health Department, and/or by any other County employee as directed by the Board of County Commissioners.

NOTICE TO ABATE

- A. Whenever a nuisance is found to exist within the County, the Building Inspector, or the Director of the Health Department, or the person designated by the Director of the Health Department shall give written notice to the owner and to the person causing or maintaining the nuisance (if other than the owner).
- B. The notice to abate a nuisance issued under the provisions of this regulation, unless otherwise specifically provided in a subsequent regulation, shall contain:
1. an order to abate the nuisance;
 2. a procedure available to the party or parties being noticed for the purpose of convening a hearing (as provided for in "Procedure for Hearing") on the sufficiency of the notice and/or requirement to abate the alleged nuisance;
 3. the location of the nuisance (legal and street address), if the same is stationary;
 4. a description of what constitutes the nuisance;
 5. a statement of acts necessary to abate the nuisance;
 6. a statement that, if the nuisance is not abated as directed and no request for hearing (as provided for in "Procedure for Hearing") is made within the prescribed time, the County may abate such nuisance and assess the cost thereof against such person;
 7. a statement indicating that the penalty for violating this regulation is a Class III Misdemeanor according to Nebraska Revised Statutes §23-174.
- C. The notice to abate a nuisance shall be deemed sufficiently served by delivery of a copy thereof personally to the owner or owners of the property; or by leaving a copy thereof at the usual place of residence of the owner or owners; or if the owner of the property is a non-resident of the County, by causing the notice to be served by certified mail, return receipt requested at the last known residence of the owner. If the owner or owners cannot be identified, the notice including legal and street address shall be served by publication for three (3) days in the official paper of the County, provided, however, that when said notice is published as aforesaid, the owner or owners of the property shall have ten (10) days from the last day of publication within which to comply therewith.

PROCEDURE FOR HEARING

The Director of the County's Health Department, or designee, shall:

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- A. Schedule a hearing requested by any person receiving a Notice to Abate as set forth in this regulation, at which hearing the sufficiency of the alleged nuisance shall be determined.
- B. Hold a hearing and hear such testimony as the Building Inspector, Sheriff, Health Department employees, or the owner, occupant or other person having an interest in the matter considered shall offer relative to the nuisance.
- C. Make written findings of fact from testimony and evidence offered as to whether or not the item, condition or action complained of is a nuisance within the terms of this regulation.
- D. Issue an order based upon findings of fact made commanding the owner, occupant and/or all other persons having an interest in the matter considered to abate the nuisance.
- E. Report to the Douglas County Attorney the name(s) of each person(s) not complying with the order provided for in this regulation.

PENALTY FOR VIOLATIONS

Any person who violates any of the provisions of this Regulation shall be guilty of a Class III Misdemeanor according to Nebraska Revised Statutes §23-174. Each day such violation continues after notice of violation has been given to the offender may be considered a separate offense.

SEVERABILITY

If any section, clause, provision, or part or portion of any section, clause or provision of this regulation or the application thereof to any person or circumstance is held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or application of any other section, clause, provision or part or portion of this regulation.