

THE  
*Lee Arnold*  
SYSTEM OF REAL ESTATE INVESTING



# State by State

## Nuisance & Abatement Laws

## State by State Nuisance and Abatement Laws

### **DISCLAIMER**

#### **Legal Information Is Not The Same as Legal Advice**

This booklet provides information about foreclosure law designed to help users safely determine their own legal needs. Please understand that legal information is not the same as legal advice. The application of law varies with an individual's specific circumstances as well as within the municipality and city. The laws of every state are in constant change, and although we do everything we can to make sure our information is accurate and useful, we recommend you consult a lawyer if you want professional assurance that this information, and your interpretation of it, is appropriate to your particular situation.

These codes may not be the most recent version. Each state may have more current or accurate information. We make no warranties or guarantees about the accuracy, completeness, or adequacy of the information contained in this booklet or the information linked to on the state site. Please check official sources.

All rights reserved.

© Copyright 2018 by The Lee Arnold System of Real Estate Investing

To order more booklets, please call 800-341-9918

All rights reserved. No portion of this book may be reproduced in any manner, mechanical or electronic, without written permission from the publisher, except for brief portions, which may be quoted in articles or reviews.

Alabama	6-7	Nebraska	60-61
Alaska	8-9	Nevada	62-63
Arizona	10-12	New Hampshire	64-65
Arkansas	13-16	New Jersey	66-67
California	17-18	New Mexico	68
Colorado	19-23	New York	69-72
Connecticut	24-27	North Carolina	73-74
Delaware	28-31	North Dakota	75-76
Florida	32-34	Ohio	77-79
Georgia	35-36	Oklahoma	80-83
Hawaii	37	Oregon	84
Idaho	38-39	Pennsylvania	85
Illinois	40	Rhode Island	86
Indiana	41	South Carolina	87-88
Iowa	42-43	South Dakota	89
Kansas	44-45	Tennessee	90-92
Kentucky	46	Texas	93-96
Louisiana	47	Utah	97-100
Maine	48	Vermont	101
Maryland	49-50	Virginia	102-103
Massachusetts	51	Washington	104
Michigan	52-53	West Virginia	105-108
Minnesota	54-55	Wisconsin	109-113
Mississippi	56	Wyoming	114-115
Missouri	57-58	NOTES	116-117
Montana	59		

## What is a Nuisance Property?

A *nuisance* (sometimes called a *private nuisance* to distinguish it from a *public nuisance*, which is a completely different subject) is an interference with the right to use and enjoy real property. Physical invasions onto the property are *trespasses*, so a nuisance can be called a non-trespassory interference with the use of real property.

A property owner doesn't have the absolute right to use his/her land any way he/she can imagine. Such a right would be impossible because one person's right to do whatever she wanted on her land would sometimes conflict with another person's right to do whatever he wanted on his land.

So the law of nuisance in theory gives every property owner the same right: the right to use and enjoy his or her property reasonably, without unreasonable interference by others.

A *nuisance* is an unreasonable interference with a person's use and enjoyment of her property. Many types of activities may be nuisances, especially ones that cause the following:

- Noise
- Odors
- Dust and smoke
- Pollution of air or water
- Bugs, rodents, and other pests
- Explosions and other vibrations
- Illness
- Crime
- Light

Some activities are generally considered nuisances at law or *per se*. Such activities are always nuisances as a matter of law, regardless of the circumstances. An activity is a *nuisance per se* in the following cases:

- The activity is illegal. When a statute specifically prohibits certain conduct that affects use of land, engaging in such conduct is inherently unreasonable and therefore is a nuisance.
- The activity is inherently and unavoidably dangerous to life or property.
- **The location of the properties and the character of the surrounding area:** An activity may be appropriate in some locations and unreasonable in other locations. For example, a gas station may be appropriate in a commercial area but not in the middle of a residential neighborhood.

**The extent of the harm to the plaintiff landowner:** To evaluate the extent of the harm, the court considers:

- The character of the defendant's activity and interference with the use of land
- How much the activity actually interferes with the plaintiff's land use
- How often it interferes
- In some cases, the alternatives available to the plaintiff

**The benefits of the defendant's activity:** Courts weigh the harm to the plaintiff against the benefits of the defendant's nuisance-causing activity, not just to the defendant but also to the community.

Evaluating the benefit includes considering the cost of alternatives that wouldn't interfere with the plaintiff's land use. The more easily the defendant could conduct its activity without interfering with the plaintiff's land use, the more likely the activity is a nuisance.

**Who was there first:** Courts consider which of the conflicting land uses began first. If the defendant's lawful land use was first, it may seem less fair for the plaintiff to come along later and make the earlier use stop or change because it conflicts with how the plaintiff wants to use her land.

But this is just one of many considerations, because it may also seem unfair for a nuisance-causing land use to begin operation somewhere and then forever prevent others from using their nearby land productively because of the pre-existing objectionable use of land.

**Zoning:** An activity is more likely to be a nuisance if it violates an applicable zoning ordinance, and it's less likely to be a nuisance if it complies with an applicable zoning ordinance.

## **How to Use this Book:**

This booklet is meant to give you an overview of the state laws regarding nuisance and abatement. Not all aspects of the law regarding nuisance and abatement are in this booklet. Links have been provided to give you more information. Just copy and paste the links in your browser.

To get a more granular view of your local area, it's best to research the municipality laws and city codes.



## Alabama Nuisance and Abatement Law

*As always, do your own due diligence regarding local and state laws.*

### WHAT

Code of Alabama. Title 22. **Enumeration of conditions, etc., constituting public nuisances menacing public health. § 22-10-1.**

The following things, conditions and acts, among others, are hereby declared to be public nuisances per se, menacing public health and unlawful:

- (1) Animals (including fish, birds, fowls and insects), other than human beings, infected with or acting as, or likely to act as, conveyors of disease or infection whereby they are likely to become menaces to public health;
- 1 (2) Insanitary buildings, yards, premises, places, privies, ponds, marshes, swamps and dumps which are, or are likely to become, menaces to public health;
- 2 (3) Insanitary clothing, bedding, furniture, vehicles, containers, receptacles, appliances and equipment which are, or are likely to become, nuisances to public health;
- 3 (4) Unwholesome, or decayed or infected meats, fish, fruits or other food or foodstuffs, medicines, drugs, beverages or drinking waters which are, or are likely to become, menaces to public health;
- 4 (5) Such other acts, things or conditions as may, from time to time, be by the rules and regulations of the State Board of Health declared to be public nuisances per se, menacing public health;
- 5 (6) The ownership, possession, management, control, maintenance, permitting or use of any of the things or conditions described or referred to in this section or in any rule or regulation adopted under subdivision (5) of this section;
- 6 (7) The conducting of a business, trade, industry or occupation or the doing of a thing, not inherently insanitary or a menace to public health, in such a manner as to make it a menace, or likely to become a menace, to public health; and
- 7 (8) The conducting of a business, trade or industry or occupation or the doing of a thing lawful, but inherently insanitary or a menace to public health, without complying with safeguards for the protection of health as may, from time to time, be prescribed by the rules and regulations of the State Board of Health.

### HOW

Alabama Code Title 11. Counties and Municipal Corporations § 11-53A-23

- (a) The notice shall require the owner to abate the nuisance within the time stated in the notice or to request a hearing before the administrative officer designated by the mayor or council to determine whether

there has been a violation. The notice shall apprise the owner of the facts of the alleged nuisance and shall name the particular date, time, and place for the hearing, if requested. The notice shall contain the names of all owners and lienholders of the property, a legal description of the property, and the nature of the proceeding.

(b) The notice shall be sent to the person shown by the records of the county tax collector to have been the last person assessed for payment of ad valorem tax on the property where the nuisance is situated. It shall be the responsibility of the person to promptly advise the appropriate city official of any change of ownership or interest in the property. The appropriate city official shall cause a copy of each building nuisance notice to be recorded in the office of the judge of probate.

(c) The notice shall require the owner to complete abatement of the nuisance within 120 days from the date of the notice, provided the appropriate city official may stipulate additional time, but in no case more than a total of 150 days.

(d) The notice may also require the immediate vacation of a building or structure and prohibit its occupation until the required repairs and improvements have been completed, inspected, and approved by the appropriate city official. In these cases, the official shall post at each entrance to the building or structure a sign stating "THIS STRUCTURE IS UNSAFE. ITS USE OR OCCUPANCY HAS BEEN PROHIBITED BY THE CITY OF \_\_\_\_\_", or words of similar import, and shall be signed and dated. The sign shall remain until the required repairs and improvements have been made or the structure has been demolished and removed. The sign shall not be removed without permission of the official whose name is affixed thereon. No person shall enter the structure except for the purpose of making the required repairs or demolishing the structure.

(e) A hearing before the administrative official may be requested within five days of the date of the notice of the appropriate city official. The appropriate city official shall notify the owner by personal service or by first-class mail of the determination of the administrative official. If the administrative official determines that a nuisance exists, the owner shall comply with the initial order to abate issued by the appropriate city official, with any modifications as may be made by the administrative official.

**SOURCES:**

<https://law.justia.com/codes/alabama/2016/title-22/title-1/chapter-10/section-22-10-1/>

<https://law.justia.com/codes/alabama/2006/8577/11-53a-23.html>



## Alaska Nuisance and Abatement Law

*As always, do your own due diligence regarding local and state laws.*

### WHAT

The following words used in this chapter shall have the following meanings unless the context clearly requires otherwise:

- A. "Abate" means to bring to a halt, eliminate, or where that is not possible or feasible, to suppress, reduce and minimize.
- B. "Leasehold interest" means a lessor's or lessee's interest in a parcel under a verbal or written lease agreement.
- C. "Legal or equitable interest" means every legal and equitable interest, title, estate, tenancy and right of possession recognized by law or equity in a parcel, including but not limited to, freeholds, life estates, future interests, condominium rights, time-share rights, leasehold interests, ownership interests, easements, licenses, liens, deeds of trust, contractual rights and any right or obligation to manage or act as agent or trustee for any person holding any of the foregoing interests in a parcel.
- D. "Notice and order" means a notice of violation of public nuisance ordinance and order to abate and otherwise comply with public nuisance ordinance issued in accordance with this chapter.
- E. "Ownership" or "ownership interest" means a fee interest in title to a parcel.
- F. "Parcel" means any lot or other unit of real property upon which hotels or lodges are located. This term does not include real property upon which government offices, jails, courthouses, hospitals or drug or alcohol treatment facilities are located.
- G. "Public nuisance" means the occurrence of two (2) or more separate violations within a ninety- (90-) day period even if the persons accused of such violations are not convicted, have not entered no contest pleas or entered default judgments within the ninety- (90-) day period in which the separate violations occurred.

### HOW

- A. Every abatement order issued under this chapter shall set forth the reasons for its issuance; shall be reasonably specific in its terms; shall describe in reasonable detail the acts and conditions authorized, required or prohibited; and shall be binding upon the parcel, the person issued the notice and order, all persons with a legal or equitable interest in the parcel, and their agents, employees or other representatives.
- B. Abatement orders shall be narrowly tailored to address the particular kinds of separate violations that form the basis of the alleged public nuisance. Such orders may:



1. Require those bound by the order to take specified steps to abate the public nuisance;
2. Require those bound by the order to require certain named individuals to stay away from the parcel at all times or for some specified reasonable period of time;
3. Allow city officials and employees to access to the parcel to inspect it for compliance with an abatement order; and
4. Require all actions which are necessary for the purposes of abating the public nuisance or preventing the public nuisance from occurring or recurring; provided, however, that no such order shall require the seizure of, the forfeiture of title to, or the temporary or permanent closure of, a parcel, or the appointment of a special receiver to protect, possess, maintain or operate a parcel. [Ord. 02-06 § 2.]

**SOURCE:**

<http://www.codepublishing.com/AK/Bethel/html/Bethel09/Bethel0936.html>



## Arizona Nuisance and Abatement Law

*As always, do your own due diligence regarding local and state laws.*

### WHAT

- A. Residential property that is regularly used in the commission of a crime is a nuisance, and the criminal activity causing the nuisance shall be enjoined, abated and prevented.
- B. If there is reason to believe that a nuisance as described in subsection A of this section exists, the attorney general, the county attorney, the city attorney or a resident of a county or city who is affected by the nuisance may bring an action in superior court against the owner, the owner's managing agent or any other party responsible for the property to abate and prevent the criminal activity.
- C. The court shall not assess a civil penalty against any person unless that person knew or had reason to know of the criminal activity.
- D. An injunction that is ordered pursuant to this article shall be necessary to protect the health and safety of the public or prevent further criminal activity.
- E. An order shall not affect the owner's interest in the property unless all of the following apply:
1. The owner is a defendant in the action.
  2. The owner knew of the criminal activity.
  3. The owner failed to take reasonable, legally available actions to abate the nuisance.
- F. If the owner, the owner's managing agent or the party responsible for the property knows or has reason to know of the criminal activity and fails to take reasonable, legally available actions to abate the nuisance, a governmental authority may abate the nuisance. The court may assess the owner for the cost of abating the nuisance. On recording with the county recorder in the county in which the property is located, the assessment is prior to all other liens, obligations or encumbrances except for prior recorded mortgages, restitution liens, child support liens and general tax liens. A city, town or county may bring an action to enforce the assessment in the superior court in the county in which the property is located.
- G. For purposes of this section, an owner, the owner's managing agent or the party responsible for the property is deemed to know or have reason to know of the nuisance if the owner, the owner's managing agent or the party responsible for the property has received notice from a governmental authority of documented reports of criminal offenses occurring on the residential property.
- H. A law enforcement agency, a city attorney, a county attorney, the attorney general or any other person who is at least twenty-one years of age may serve the notice provided for in subsection G of this section, either personally or by certified mail. If personal service or service by certified mail cannot be completed or the address of the person to be notified is unknown, notice may be served by publishing the notice three

times within ten consecutive days in a newspaper of general circulation in the county in which the property is located. In all cases a copy of the notice shall be posted on the premises where the nuisance exists.

## HOW

A notice of a nuisance action has been delivered to your property owner or managing agent (landlord). A copy of that notice is attached. If your property owner or managing agent does not remedy the problem, the appropriate government authority is authorized to abate, or end, the nuisance. This could include a closing order that may require you to move out and remove all your belongings. If you do not exercise your right to appear in the case, you may lose your right to contest a closing order or present other concerns.

You may request the court, the name of which is on the attached notice, to permit you to appear in the action.

E. Any action filed pursuant to this article shall not be stayed or dismissed due to the failure to serve notice pursuant to subsection C of this section if a good faith attempt is made to serve the notice.

F. A person who is directed to abate criminal activity pursuant to a temporary restraining order issued pursuant to subsection A of this section may request a hearing within ten days after receiving the notice. If a hearing is requested, the person shall file a verified answer to the complaint with the request for a hearing and shall serve notice of the request on the plaintiff. The temporary restraining order remains in effect until the hearing is completed.

G. A hearing shall be scheduled within ten days after a verified answer and request for a hearing is filed. The court may order any discovery that it considers to be reasonably necessary and appropriate.

H. Any legal occupant who claims an interest related to the property that is the subject of the action and who is so situated that the disposition of the action may as a practical matter impair or impede the person's ability to protect that interest shall be permitted to intervene in the action.

I. At the hearing, evidence of the general reputation of the property, building or place is admissible for the purpose of proving the existence of the nuisance.

J. If at the hearing the court determines that reasonable grounds exist to believe that a nuisance, as described in section 12-991, exists, the court shall issue a permanent injunction abating the criminal activity and may do any of the following:

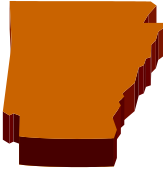
1. Issue any other order that is reasonably necessary to abate the criminal activity, including orders to pay damages.
2. Award expenses incurred in abating the nuisance, including the costs of investigation and enforcement of the restraining order, temporary injunction or permanent injunction, the costs of compensation for a temporary receiver, the expenditures incurred by a temporary receiver and reasonable attorney fees.
3. Order a civil penalty of not more than ten thousand dollars.

4. Order the appointment of a temporary receiver pursuant to section 12-996.
5. Issue a closing order pursuant to section 12-997.
- K. If an answer to the complaint is not filed or a hearing is not requested, the allegations are deemed to be admitted. The court shall enter judgment for the plaintiff and shall issue a permanent injunction abating the criminal activity.
- L. On entry of a second or subsequent injunction under this section within a three year period, the court may order the property owner to pay three times the costs of the abatement. For the purposes of this subsection, "costs" includes all of the costs provided for in subsection J of this section.
- M. The court shall terminate a restraining order and dismiss the complaint that was issued solely based on criminal activity committed by a tenant if the defendant attempts a forcible entry and detainer action against the tenant, unless the court finds that the defendant prosecuted the forcible entry and detainer action in bad faith.

**Sources:**

<https://law.justia.com/codes/arizona/2005/title12/00992.html>

<https://law.justia.com/codes/arizona/2005/title12/00991.html>



## Arkansas Nuisance and Abatement Law

*As always, do your own due diligence regarding local and state laws.*

### WHAT

**(a)** As used in this section, "owner" means a person in whom is vested the ownership and title of property and who is the owner of record, including without limitation a local, city, state, or federal governmental entity.

**(b) (1)** A store, shop, warehouse, dwelling house, building, boat, airplane, or other property or structure used for the purpose of unlawfully selling, storing, keeping, manufacturing, using, or donating a controlled substance, precursor, or analog under the Uniform Controlled Substances Act, § 5-64-101 et seq., is detrimental to the public morals and is a common nuisance, and a court shall order that the common nuisance be enjoined, abated, and prevented.

**(2)** Costs of enjoyment, abatement, and prevention and damages may be recovered against a person or entity found to be the owner of the common nuisance property.

### HOW

**(a) Intent.** The intent of the General Assembly in this section is to enact civil remedies that eliminate the availability of any premises for use in the commission of a continuing series of criminal offenses.

**(b) Common Nuisance Declared.** Any premises, building, or place used to facilitate the commission of a continuing series of three (3) or more criminal violations of Arkansas law is declared to be detrimental to the law-abiding citizens of the state and may be subject to an injunction, a court-ordered eviction, or a cause of action for damages as provided for in this subchapter.

**(c) Action to Abate--Permanent Injunction--Verification of Complaint.** (1) When there is reason to believe a common nuisance under subsection (b) of this section is kept or maintained, or exists in any county, the prosecuting attorney of the county in the name of the state, or the city attorney of any incorporated city, or any citizen of the state or a resident of the county in his or her own name, may enjoin permanently the person conducting or maintaining the nuisance and the owner, lessee, or agent of the building or place in or upon which the nuisance exists from directly or indirectly maintaining or permitting the nuisance.

**(2)** Unless filed by the prosecuting attorney, the complaint in the action shall be verified.

**(d) Inspection Warrant.** When there is reasonable cause to believe that any premises is being maintained in violation of this section, any judicial officer may, upon the petition of the prosecuting attorney, issue an inspection warrant for the premises.

- (e) Temporary Injunction--Bond Required--Exceptions. (1) If the existence of the nuisance is shown in the action to the satisfaction of the court, the court shall allow a temporary writ of injunction to abate and prevent the continuance or recurrence of the nuisance.
- (2)(A) On granting the temporary writ, the court shall require a bond on the part of the applicant to the effect that the applicant shall pay to the enjoined defendant such damages, not exceeding an amount to be specified, as the defendant sustains by reason of the injunction should the court finally decide that the applicant was not entitled to the injunction.
- (B) No bond is required when the proceeding is instituted by the prosecuting attorney or city attorney.
- (f) Precedence of Action--Exceptions. The action shall be filed in the circuit court and have precedence over all other actions except election contests and hearings on injunctions.
- (g) Dismissal for Want of Prosecution. If the complaint is filed by a citizen, it shall not be dismissed by him or her or for want of prosecution except upon a sworn statement made by him or her setting forth the reasons why the action shall be dismissed, and by dismissal ordered by the court.
- (h) Costs. If the action is brought by a citizen and the court finds there was reasonable ground or cause for the action, costs shall be assessed against him or her.
- (i) Order of Abatement--Lien for Costs--Enforcement. (1) If the existence of the nuisance is established in the action, an order of abatement shall be entered as part of the judgment in the case, and the plaintiff's costs in carrying out the order are a lien upon the building or place.
- (2) The lien is enforceable and collectible for execution issued by order of the court.
- (j) Order of Abatement--Damages. (1) If the existence of the nuisance is established in the action, an order of abatement shall be entered as part of the judgment, and the order shall direct the removal from the building or place of all fixtures and other movable property used in conducting, maintaining, aiding, or abetting the nuisance and shall direct their sale in the manner provided for the sale of chattels under execution.
- (2)(A) The order shall provide for any appropriate equitable relief as determined by the court to be necessary to abate the nuisance and may further provide, if determined to be the least restrictive alternative available to effectively accomplish the abatement, for the effectual closing of the building or place for such period of time as determined to be necessary by the court as adequate to abate the nuisance.
- (B) An alternative to closure may be considered only as provided in this section.
- (3)(A)(i) If the court finds that any vacancy resulting from closure of the building or place may create a nuisance or that closure is otherwise harmful to the community, in lieu of ordering the building or place closed, the court may order the person who is seeking to keep the premises open to pay damages in an

amount equal to the fair market rental value of the building or place, for such period of time as determined appropriate by the court, to the city attorney or county prosecutor.

(ii) These funds are to be used to investigate and litigate future nuisance abatement actions, or the funds are to be used by the city or county in whose jurisdiction the nuisance is located for the purpose of carrying out its drug prevention and education programs.

(iii) If awarded to a city, eligible programs may include those developed as a result of cooperative programs among schools, community agencies, and the local enforcement agency.

(iv) If awarded to a county, funds shall be used for those programs that are part of any county program in place or used by the county law enforcement agency.

(v) These funds shall not be used to supplant existing city, county, state, or federal resources used for drug prevention and education programs.

(B)(i) For purpose of this subdivision (j)(3), the actual amount of rent being received for the rent of the building or place, or the existence of any vacancy in the building or place, may be considered, but shall not be the sole determinant of the fair market rental value.

(ii) Expert testimony may be used to determine the fair market rental value.

(4)(A) In addition, the court may award damages equal to the plaintiff's cost in the investigation and litigation of the abatement action, not to exceed five thousand dollars (\$5,000), against any defendant based upon the severity of the nuisance and its duration.

(B) The damages may be collected in any manner provided for the collection of any civil judgment.

(k) Custody of Building. While the order of abatement remains in effect, the building or place is in the custody of the court.

(l) Fees--Closing of Building or Place. For removing and selling the movable property, the city, county, or responsible law enforcement agency is entitled to charge and receive the same fees as could be charged and received for levying upon and selling like property on execution, and for closing the premises and keeping the premises closed, a reasonable sum shall be allowed by the court.

(m) Disposition of Sale Proceeds. The proceeds of the sale of the movable property shall be applied as follows:

- (1) First, to the fees and costs of the removal and sale;
- (2) Second, to the allowances and costs of closing and keeping closed the building or place;
- (3) Third, to the payment of the plaintiff's costs in the action; and
- (4) Fourth, the balance, if any, to the owner of the property.

(n) Release of the Building to Owner. (1) If the owner of the building or place has not been guilty of any contempt of court in the proceedings and appears and pays all costs, fees, and allowances that are liens on the building or place and files a bond in the full value of the property conditioned that the owner shall immediately abate any nuisance that may exist at the building or place and prevent it from being a nuisance within a period of one (1) year thereafter, the court may, if satisfied of the owner's good faith, order the building or place to be delivered to the owner and the order of abatement cancelled so far as it may relate to the property.

(2) The release of property under a provision of this section does not release it from any judgment, lien, penalty, or liability to which it may be subject.

(o) Fine as Lien--Enforcement. (1) When the owner of a building or place upon which the act or acts constituting contempt have been committed, or the owner of any interest in the building or place, has been guilty of contempt of court and fined in any proceeding under this subchapter, the fine is a lien upon the building or place to the extent of his or her interest in it.

(2) The lien is enforceable and collectible by execution issued by order of the court.

(p) Violations--Criminal Penalties. A violation of or disobedience of an injunction or order for abatement is punishable as contempt of court by a fine of not less than two hundred dollars (\$200) nor more than one thousand dollars (\$1,000) or by imprisonment in the county jail for not less than one (1) month nor more than six (6) months, or by both.

(q) Forfeiture. (1) This section does not provide for the property to be forfeited to the state.

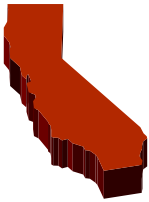
(2) However, the state may at any time amend its petition to seek forfeiture if the property is subject to forfeiture under other Arkansas law.

#### **SOURCES:**

<https://law.justia.com/codes/arkansas/2016/title-16/subtitle-7/chapter-105/subchapter-4/section-16-105-402>

<http://codes.findlaw.com/ar/title-5-criminal-offenses/ar-code-sect-5-74-201.html>





## California Nuisance and Abatement Law

*As always, do your own due diligence regarding local and state laws.*

### **WHAT**

A “nuisance” includes but is not limited to the violation of any ordinance, resolution, regulation or policy adopted by the City Council, as defined within any such ordinance, resolution, regulation or policy, or any condition within the City found to be a potential threat to the general health, safety and welfare of the public.

### **HOW**

A. The City Manager, or his designated employee, shall notify, in writing, the property owner of any parcel upon which is believed to exist a public nuisance that said nuisance exists. Said nuisance may be directly upon said parcel, an easement, or license benefiting said property or adjacent thereto if, in the opinion of the City Manager, the nuisance was created by, or for the direct or indirect use or benefit of, the parcel or parcel owner. If a nuisance is believed to exist within the City and, in the opinion of the City Manager, is caused by, created for, directly or indirectly, the owner of a parcel of land within the City, then, in that event, the owner of that parcel, in addition to being notified to abate the nuisance, shall be notified that if said nuisance is abated with cost to the City, that the cost shall be reimbursed to the City, and if not, shall be assessed to that owner’s parcel.

B. The notice referred to in this chapter shall be effected if by certified or registered mail is addressed to the owner of record on the last published assessment tax roll of the County Assessor’s office. The notice shall specify the nuisance believed to exist together with a request to abate same, advise the property owner of the right to a public hearing before the City Manager or his designated employee, where the owner may present evidence in defense, and advise the owner that the City may assess the real property owned within the City for the cost of abatement if the City is required to abate the nuisance.

C. Said hearing must be requested, in writing, to the City Manager within 10 days after mailing the above notice. If the property owner does not desire to appear in person, statements in writing may be submitted for consideration, sworn under penalty of perjury by the author.

D. The decision of the City Manager shall be made in writing within 10 days of the public hearing. The decision of the City Manager shall be final, except upon the filing of a written request for appeal to the City Council. Said appeal must be filed within 10 days of the date the decision of the City Manager is mailed to the property owner. If a nuisance is determined to exist, the City Manager shall specify in his decision the time allowed to abate same by the responsible party. If the nuisance is not abated within the time specified, the City may abate the nuisance and charge the cost of the abatement, including administrative costs thereof

and reasonable interest therefor, from the date of said abatement, to the person found to be responsible for the nuisance.

E. If the cost of abatement, as referred to in subsection D of this section is not reimbursed to the City within 30 days of the date of notice of same is mailed to the responsible party, the City may assess a lien on the property owned by the responsible party within the City. The lien shall be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure and sale in the case of delinquency as provided for ordinary municipal taxes. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to such special assessment. (Ord. 57 § 2, 1982)

**SOURCE:**

<http://www.codepublishing.com/CA/Poway/html/poway08/poway0872.html#8.72.020>



## Colorado Nuisance and Abatement Law

*As always, do your own due diligence regarding local and state laws.*

### **WHAT**

The following are a class 3 public nuisance:

- (a) The conducting or maintaining of any business, occupation, operation, or activity prohibited by a statute of this state; or
- (b) The continuous or repeated conducting or maintaining of any business, occupation, operation, activity, building, land, or premises in violation of a statute of this state; or
- (c) Any building, structure, or land open to or used by the general public, the condition of which presents a substantial danger or hazard to public health or safety; or
- (d) Any dilapidated building of whatever kind which is unused by the owner, or uninhabited because of deterioration or decay, which condition constitutes a fire hazard, or subjects adjoining property to danger of damage by storm, soil erosion, or rodent infestation, or which becomes a place frequented by trespassers and transients seeking a temporary hideout or shelter; or
- (e) Any unlawful pollution or contamination of any surface or subsurface waters in this state, or of the air, or any water, substance, or material intended for human consumption, but no action shall be brought under this paragraph (e) if the state department of public health and environment or any other agencies of state or local government charged by and acting pursuant to statute or duly adopted regulation have assumed jurisdiction by the institution of proceedings on that pollution or contamination. Nothing in this paragraph (e) shall abridge the right of any person to institute a private nuisance action or of any district attorney to institute a public nuisance action under the common law or other statutory law of this state.
- (f) Any activity, operation, or condition which, after being ordered abated, corrected, or discontinued by a lawful order of an agency or officer of the state of Colorado, continues to be conducted or continues to exist in violation of:
  - (I) Any statute of this state;
  - (II) Any regulation enacted pursuant to the authority of a statute of this state; or
- (g) Any condition declared by a statute of this state to be a class 3 public nuisance.

### **HOW**

- (1) The several district courts of this state shall have original jurisdiction of proceedings under this part 3.
- (1.5) No judgment of forfeiture of property in any forfeiture proceeding shall be entered unless and until an owner of the property is convicted of an offense listed in section 16-13-301 or 16-13-303, or a lesser

included offense of an eligible offense if the conviction is the result of a negotiated guilty plea. Nothing in this section shall be construed to require the conviction to be obtained in the same jurisdiction as the jurisdiction in which the forfeiture action is brought. In the event criminal charges arising from the same activity giving rise to the forfeiture proceedings are filed against any individual claiming an interest in the property subject to the forfeiture proceeding, the trial and discovery phases of the forfeiture proceeding shall be stayed by the court until the disposition of the criminal charges. A stay shall not be maintained during an appeal or post-conviction proceeding challenging a criminal conviction. Nothing in this section shall be construed to prohibit or prevent the parties from contemporaneously resolving criminal charges and a forfeiture proceeding arising from the same activity.

(1.6) Upon acquittal or dismissal of a criminal action against a person named in a forfeiture action related to the criminal action, unless the forfeiture action was brought pursuant to one or more of paragraphs (a) to (f) of subsection (1.7) of this section, the forfeiture claim shall be dismissed and the seized property shall be returned as respects the subject matter property or interest therein of that person, if the case has been adjudicated as to all other claims, interests, and owners, unless possession of the property is illegal. If the forfeiture action is dismissed or judgment is entered in favor of the claimant, the claimant shall not be subject to any monetary charges by the state for storage of the property or expenses incurred in the preservation of the property, unless at the time of dismissal the plaintiff shows that those expenses would have been incurred to prevent waste of the property even if it had not been seized.

(1.7) Notwithstanding the provisions of subsection (1.5) of this section:

(a) (I) A person shall lack standing for and shall be disallowed from pursuit of a claim or defense in a civil forfeiture action upon a finding that a warrant or other process has been issued for the apprehension of the person, and, in order to avoid criminal prosecution, the person:

(A) Purposely leaves the state; or

(B) Declines to enter or reenter the state to submit to its jurisdiction; or

(C) Otherwise evades the jurisdiction of the court in which a criminal case is pending against the person or from which a warrant has been issued, by failing to appear in court or surrender on a warrant; and

(D) Is not known to be confined or held in custody in any other jurisdiction within the United States for commission of criminal conduct in that jurisdiction.

(II) If a person lacks standing pursuant to this paragraph (a), the forfeiture action may proceed and a judgment of forfeiture may be entered without a criminal conviction of an owner, upon motion and notice as provided in the rules of civil procedure.

(b) If, following notice to all persons known to have an interest, or who have asserted an interest in the property subject to forfeiture, an owner fails to file an answer or other appropriate pleading with the court claiming an interest in the subject matter property, or no person establishes standing to contest the

forfeiture action pursuant to section 16-13-303 (5), a forfeiture action may proceed and a judgment of forfeiture may be entered without a criminal conviction of an owner.

(c) If the plaintiff proves by clear and convincing evidence that the property was instrumental in the commission of an offense listed in section 16-13-303 (1) or that the property is traceable proceeds of the offense or related criminal activity by a nonowner and the plaintiff proves by clear and convincing evidence that an owner is not an innocent owner pursuant to section 16-13-303 (5.2) (a), a judgment of forfeiture may be entered without a criminal conviction of an owner.

(d) If an owner of the property who was involved in the public nuisance act or conduct giving rise to the claim of forfeiture subsequently dies, and was not an innocent owner pursuant to section 16-13-303 (5.2) (a), a judgment of forfeiture may be entered without a criminal conviction of an owner.

(e) If an owner received a deferred judgment, deferred sentence, or participated in a diversion program, or in the case of a juvenile a deferred adjudication or deferred sentence or participated in a diversion program for the offense, a judgment of forfeiture may be entered without a criminal conviction.

(f) A defendant or claimant shall be permitted to waive the requirement of a criminal conviction in order to settle a forfeiture action.

(1.8) Nothing in this section shall be construed to limit the temporary seizure of property for evidentiary, investigatory, or protective purposes.

(2) An action to abate a public nuisance shall be brought in the county in which the subject matter of the action, or some part thereof, is located or found or in the county where the public nuisance act, or any portion thereof, was committed.

(2.5) All forfeiture actions shall proceed in state district court if the property was seized by a local or state law enforcement agency as a result of an ongoing state criminal investigation and the owner is being prosecuted in state court. Unless directed by an authorized agent of the federal government, no state or local law enforcement agency may transfer any property seized by the state or local agency to a federal agency for forfeiture under federal law unless an owner of the property is being prosecuted in federal court.

(3) Except as otherwise provided in this part 3, the practice and procedure in an action to abate a public nuisance shall be governed by the Colorado rules of civil procedure.

(3.5) An action brought pursuant to this part 3 regarding a class 1 public nuisance shall be filed within sixty-three days following the seizure of the property pursuant to section 16-13-315. The plaintiff may file the complaint after the expiration of sixty-three days from the date of seizure only if the complaint is accompanied by a written petition for late filing. Such petition for late filing shall demonstrate good cause for the late filing of the complaint. The sixty-three-day time limitation established by this subsection (3.5) shall not apply where the seizure of the property occurred pursuant to a warrant authorizing such seizure or otherwise under any statute or rule of criminal procedure, if the property is held as evidence in a pending

criminal investigation or in a pending criminal case.

(4) An action to abate a public nuisance may be brought by the district attorney, or the attorney general with the consent of the district attorney, in the name of the people of the state of Colorado or in the name of any officer, agency, county, or municipality of this state whose duties or functions include or relate to the subject matter of the action. Any action to abate a class 3 public nuisance as defined by section 16-13-305 (1) (f) may be brought only upon the request of the agency or officer issuing the order or under whose authority the order was issued when such order relates to unlawful pollution or contamination.

(5) An action to abate a public nuisance, other than a class 4 public nuisance, and any action in which a temporary restraining order, temporary writ of injunction, or preliminary injunction is requested, shall be commenced by the filing of a complaint, which shall be verified or supported by affidavit. Summons shall be issued and served as in civil cases; except that a copy of the complaint and copies of any orders issued by the court at the time of filing shall be served with the summons.

(6) During all discovery procedures in actions brought pursuant to this part 3, a witness or party may refuse to answer any question if said witness or party makes a good faith assertion that the disclosure would tend to identify, directly or indirectly, a confidential informant for a law enforcement agency, unless the district attorney intends to call said informant as a witness at any adversarial hearing. On a motion to compel discovery, no witness or party shall be sanctioned in any manner for withholding information pursuant to this subsection (6).

(7) Actions to abate a public nuisance shall be heard by the court, without a jury, at all stages of the proceedings.

(8) Repealed.

(9) Part 2 of article 41 of title 38, C.R.S., shall not apply to any action under this part 3.

(10) (a) Continuance of the trial of a public nuisance action shall be granted upon stipulation of the parties or upon good cause shown.

(b) (Deleted by amendment, L. 2003, p. 897, § 8, effective July 1, 2003.)

(c) Public nuisance actions shall be included in the category of "expedited proceedings" specified in rules 16 and 26 of the Colorado rules of civil procedure; except that each party may conduct limited discovery as provided for in rule 26 (b) (2) of the Colorado rules of civil procedure. In addition, each party may move the court to authorize additional discovery upon good cause shown.

(11) No claim for relief shall be asserted by any party other than the plaintiff in a public nuisance action; except that the defendant may make a request for the return of property seized pursuant to this part 3.

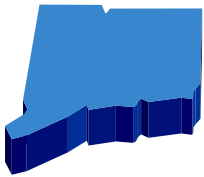
(12) If a public nuisance trial pursuant to this part 3 results in an order to return subject personal property and the prosecution states an intent to appeal and proceeds to appeal that judgment or order, the court

shall stay the judgment or order pending appeal, unless the court finds that the appeal was taken in bad faith or for the purpose of delay. No appeal bond shall be required, but the court may make appropriate orders to preserve the value of the property pending appeal.

Unknown persons who may claim an interest in the property, persons whose whereabouts are unknown despite a diligent good faith search, and persons upon whom the plaintiff has been unable to effect service as otherwise provided in the Colorado rules of civil procedure despite diligent good faith efforts may be served pursuant to a court order by publishing a copy of a summons twice in a newspaper of general circulation. The summons shall describe the property and state where the complaint and attendant documents may be obtained, and a party shall have thirty-five days after the last publication date to respond.

**SOURCE:**

<https://law.justia.com/codes/colorado/2016/title-16/code-of-criminal-procedure/article-13/part-3/section-16-13-307/>



## Connecticut Nuisance and Abatement Law

*As always, do your own due diligence regarding local and state laws.*

### WHAT

- (a) For the purposes of sections 19a-343 to 19a-343h, inclusive, a person creates or maintains a public nuisance if such person erects, establishes, maintains, uses, owns or leases any real property or portion thereof for (1) any of the purposes enumerated in subdivisions (1) to (6), inclusive, of subsection (c) of this section, or (2) on which any of the offenses enumerated in subdivisions (1) to (14), inclusive, of subsection (c) of this section have occurred.
- (b) The state has the exclusive right to bring an action to abate a public nuisance under this section and sections 19a-343a to 19a-343h, inclusive, involving any real property or portion thereof, commercial or residential, including single or multifamily dwellings, provided there have been three or more arrests, the issuance of three or more arrest warrants indicating a pattern of criminal activity and not isolated incidents or the issuance of three or more citations for a violation of a municipal ordinance as described in subdivision (14) of subsection (c) of this section, for conduct on the property documented by a law enforcement officer for any of the offenses enumerated in subdivisions (1) to (14), inclusive, of subsection (c) of this section within the three hundred sixty-five days preceding commencement of the action.
- (c) Three or more arrests, the issuance of three or more arrest warrants indicating a pattern of criminal activity and not isolated incidents or the issuance of three or more citations for a violation of a municipal ordinance as described in subdivision (14) of this subsection, for the following offenses shall constitute the basis for bringing an action to abate a public nuisance:
- (1) Prostitution under section 53a-82, 53a-83, 53a-86, 53a-87, 53a-88 or 53a-89.
  - (2) Promoting an obscene performance or obscene material under section 53a-196 or 53a-196b, employing a minor in an obscene performance under section 53a-196a, importing child pornography under section 53a-196c, possessing child pornography in the first degree under section 53a-196d, possessing child pornography in the second degree under section 53a-196e or possessing child pornography in the third degree under section 53a-196f.
  - (3) Transmission of gambling information under section 53-278b or 53-278d or maintaining of a gambling premises under section 53-278e.
  - (4) Offenses for the sale of controlled substances, possession of controlled substances with intent to sell, or maintaining a drug factory under section 21a-277, 21a-278 or 21a-278a or use of the property by persons possessing controlled substances under section 21a-279. Nothing in this section shall prevent the state from also proceeding against property under section 21a-259 or 54-36h.
  - (5) Unauthorized sale of alcoholic liquor under section 30-74 or disposing of liquor without a permit under



section 30-77.

(6) Maintaining a motor vehicle chop shop under section 14-149a.

(7) Inciting injury to persons or property under section 53a-179a.

(8) Murder or manslaughter under section 53a-54a, 53a-54b, 53a-55, 53a-56 or 53a-56a.

(9) Assault under section 53a-59, 53a-59a, subdivision (1) of subsection (a) of section 53a-60 or section 53a-60a or 53a-61.

(10) Sexual assault under section 53a-70 or 53a-70a.

(11) Fire safety violations under section 29-292, subsection (b) of section 29-310, or section 29-315, 29-320, 29-329, 29-337, 29-349 or 29-357.

(12) Firearm offenses under section 29-35, 53-202aa, 53-203, 53a-211, 53a-212, 53a-216, 53a-217 or 53a-217c.

(13) Illegal manufacture, sale, possession or dispensing of a drug under subdivision (2) of section 21a-108.

(14) Violation of a municipal ordinance resulting in the issuance of a citation for (A) excessive noise on nonresidential real property that significantly impacts the surrounding area, provided the municipality's excessive noise ordinance is based on an objective standard, (B) owning or leasing a dwelling unit that provides residence to an excessive number of unrelated persons resulting in dangerous or unsanitary conditions that significantly impact the safety of the surrounding area, or (C) impermissible operation of (i) a business that permits persons who are not licensed pursuant to section 20-206b to engage in the practice of massage therapy, or (ii) a massage parlor, as defined by the applicable municipal ordinance, that significantly impacts the safety of the surrounding area.

## HOW

(a) The Chief State's Attorney or a deputy chief state's attorney, state's attorney or assistant or deputy assistant state's attorney desiring to commence an action to abate a public nuisance shall attach his proposed unsigned writ, summons and complaint to the following documents:

(1) An application directed to the Superior Court to which the action is made returnable, for the remedies requested to abate the public nuisance; and

(2) An affidavit sworn to by the state or any competent affiant setting forth a statement of facts showing by probable cause the existence of a public nuisance upon the real property or any portion thereof.

(b) The court, or if the court is not in session, any judge of the Superior Court, may order that a show cause hearing be held before the court or a judge thereof to determine whether or not the temporary relief requested should be granted and the court shall direct the state to give notice to any defendant of the pendency of the application and of the time when it will be heard by causing a true and attested copy of the application, the proposed unsigned writ, summons, complaint, affidavit and of its order to be served upon

the defendant by some proper officer or indifferent person. Such hearing shall be scheduled within ten days after service is effected by the state

(c) If in the application, the state requests the issuance of a temporary ex parte order for the abatement of a public nuisance, the court, or if the court is not in session, any judge of the Superior Court, may grant a temporary ex parte order to abate the public nuisance. The court or judge shall direct the state to give notice and service of such documents, including a copy of the ex parte order, in accordance with subsection (b) of this section. At such hearing, any defendant may show cause why the abatement order shall be modified or vacated. No such ex parte order may be granted unless it appears from the specific facts shown by affidavit and by complaint that there is probable cause to believe that a public nuisance exists and the temporary relief requested is necessary to protect the public health, welfare or safety. Such show cause hearing shall be scheduled within five business days after service is effected by the state. The affidavit may be ordered sealed by the court or judge upon a finding that the state's interest in nondisclosure substantially outweighs the defendant's right to disclosure. A copy of the state's application and the temporary order to cease and desist shall be posted on any outside door to any building on the real property.

(d) Such a public nuisance proceeding shall be deemed a civil action and venue shall lie in the superior court for the judicial district within which the real property alleged to constitute a public nuisance is located. Service of process shall be made in accordance with chapter 896. In addition, service of process may be made by an inspector of the Division of Criminal Justice or sworn member of a local police department or the Division of State Police.

(e) At the show cause hearing, the court shall determine whether there is probable cause to believe that a public nuisance exists, and that the circumstances demand the temporary relief requested be ordered, or the temporary ex parte order be continued during the pendency of the public nuisance proceeding. The court may, upon motion by the state or any defendant, enter such orders as justice requires. The court shall schedule the evidentiary hearing within ninety days from the show cause hearing.

(f) The record owner of the real property, any person claiming an interest of record pursuant to a bona fide mortgage, assignment of lease or rent, lien or security in the property and any lessee or tenant whose conduct is alleged to have contributed to the public nuisance shall be made a defendant to the action, except that the state shall exempt as a defendant any owner, lienholder, assignee, lessee, tenant or resident who cooperates with the state in making bona fide efforts to abate the nuisance or any tenant or resident who has been factually uninvolved in the conduct contributing to such public nuisance. If the state exempts as a defendant any record owner or any person claiming an interest of record pursuant to a mortgage, assignment of lease or rent, lien or security in the property, notice of the commencement of a nuisance proceeding shall be given by certified mail, return receipt requested, with a copy of such summons and complaint and a notice of exemption and right to be added as a party to any such person at his usual place of abode or business. Any such exempted person may, at his option, enter an appearance and participate in the nuisance proceeding to protect his property rights. Notice of the commencement of such a public

nuisance proceeding shall be given by certified mail to the highest elected official of the municipality in which the real property is located.

(g) If the defendant is a financial institution and the record owner of the real property, or if the defendant is a financial institution claiming an interest of record pursuant to a bona fide mortgage, assignment of lease or rent, lien or security in the real property and is not determined to be a principal or an accomplice in the conduct constituting the public nuisance, the court shall not enter any order against such defendant. The state shall have the burden of proving by a preponderance of the evidence that any such defendant claiming an interest of record under this subsection is a principal or an accomplice in the alleged conduct constituting the public nuisance. Any such defendant may offer evidence by way of an affirmative defense that such defendant has taken reasonable steps to abate the public nuisance, but has been unable to abate the nuisance. Any affirmative defense offered by such defendant shall be proven by a preponderance of the evidence. For the purposes of this subsection, "financial institution" means a bank, as defined in section 36a-2, an out-of-state bank, as defined in section 36a-2, an institutional lender or any subsidiary or affiliate of such bank, out-of-state bank or institutional lender that directly or indirectly acquires the real property pursuant to strict foreclosure, foreclosure by sale or deed-in-lieu of foreclosure, and with the intent of ultimately transferring the property, or other lender licensed by the Department of Banking.

(h) For any defendant who fails to appear, the court may enter a default following an evidentiary showing by the state in support of the relief requested, which shall include affidavits or the testimony of witnesses. When the court enters a judgment upon default, the court may enter such orders as appear reasonably necessary to abate the public nuisance.

(i) At the evidentiary hearing upon the public nuisance complaint, the state shall have the burden of proving, by a preponderance of the evidence, the existence of a public nuisance upon the real property as provided in section 19a-343. If the state establishes by a preponderance of the evidence that there have been three or more arrests, the issuance of three or more arrest warrants indicating a pattern of criminal activity and not isolated incidents or the issuance of three or more citations for a violation of a municipal ordinance as described in subdivision (14) of subsection (c) of section 19a-343, for conduct on the real property or any portion thereof documented by a law enforcement officer for any of the offenses enumerated in subdivisions (1) to (14), inclusive, of subsection (c) of section 19a-343, within the three hundred sixty-five days preceding commencement of the action, such evidence shall create a rebuttable presumption of the existence of a public nuisance. Any defendant may offer evidence by way of an affirmative defense that such defendant has taken reasonable steps to abate the public nuisance, but has been unable to abate the nuisance.

**SOURCES:**

<https://law.justia.com/codes/connecticut/2012/title-47a/chapter-832/section-47a-32/>

[https://www.cga.ct.gov/2015/pub/chap\\_368m.htm#sec\\_19a-343a](https://www.cga.ct.gov/2015/pub/chap_368m.htm#sec_19a-343a)



## Delaware Nuisance and Abatement Law

*As always, do your own due diligence regarding local and state laws.*

### WHAT

- a. Diminished real property value related to nuisances associated with drug activity, illegal firearms, criminal gangs, violent felonies, prostitution, and other public nuisances in or near the property;
- b. Increased fear of residents to walk through or in public areas, including sidewalks, streets, and parks, due to the presence of nuisances associated with drug activity, illegal firearms, criminal gangs, violent felonies, prostitution, and other public nuisances;
- c. Increased volume of vehicular and pedestrian traffic to and from the property that is related to nuisances associated with drug activity, illegal firearms, criminal gangs, violent felonies, prostitution, and other public nuisances;
- d. An increase in the number of police calls to the property that are related to nuisances associated with drug activity, illegal firearms, criminal gangs, violent felonies, prostitution, and other public nuisances;
- e. Bothersome solicitations or approaches by persons wishing to engage in prostitution or to sell controlled substances or drug paraphernalia on or near the property;
- f. The presence, use, or display or discharge of illegal firearms at or near the property;
- g. Investigative purchases of controlled substances or drug paraphernalia, or investigative actions relating to prostitution by undercover law-enforcement officers at or near the property;
- h. Arrests of persons on or near the property for criminal conduct relating to nuisances associated with drug activity, illegal firearms, criminal gangs, violent felonies, prostitution, and other public nuisances;
- i. Search warrants served or executed at the property relating to nuisances associated with drug activity, illegal firearms, criminal gangs, violent felonies, prostitution, and other public nuisances;
- j. A substantial number of complaints made to law-enforcement and other government officials regarding nuisances associated with drug activity, illegal firearms, criminal gangs, violent felonies, prostitution, and other public nuisances;
- k. Increased number of housing or health code violations relating to nuisances associated with drug activity, illegal firearms, criminal gangs, violent felonies, prostitution, and other public nuisances;
- l. Any other impact the Court deems to be relevant and consistent with safeguarding the public health, safety, and welfare of the community.

**HOW**

(a) To bring a civil action for abatement relief pursuant to this chapter, the Office of the Attorney General, or any other person authorized, may file a complaint seeking temporary relief by alleging that the premises constitute a criminal nuisance which adversely impacts the community. Upon receipt of the complaint, the Court, on application of the plaintiff, may issue an ex parte temporary abatement order prohibiting the defendants and all other persons from committing or permitting any act or acts of waste to the premises, or to the personal property and contents thereof, and from knowingly tampering with any evidence likely to be used by any party in any judicial proceeding until the decision of the Court granting or refusing the temporary abatement order thereon. Absent such ex parte relief by the Court, the Court shall order a preliminary hearing which shall be held no later than 10 days from the date upon which service upon all parties was completed, unless otherwise agreed to by the parties. In the event that service cannot be completed in time to give the owners or tenants the minimum notice required by this subsection, the Court may set a new hearing date.

(b) A copy of the complaint together with a notice of the time and place of the hearing of the application for a temporary abatement order shall be served upon the defendants at least 5 days before the hearing. If the hearing be then continued at the instance of any defendant, the temporary writ as prayed shall be granted as a matter of course.

(c) Each defendant so notified shall serve upon the complainant, or the complainant's attorney, a verified answer on or before the date fixed in the notice for the hearing and such answer shall be filed with the prothonotary's office wherein the cause is triable, but the Court may allow additional time for so answering, providing such extension of the time shall not prevent the issuing of the temporary writ as prayed for. The allegations of the answer shall be deemed to be denied without further pleading.

(d) If the Court finds:

(1) That the premises constitute a criminal nuisance that adversely impacts the community,

(2) That at least 10 days prior to the filing of the complaint seeking temporary abatement relief, the owner or the owner's agent (or tenant, where such is an in personam defendant) had been notified by certified letter of the criminal nuisance, and

(3) That the public health, safety or welfare immediately requires a temporary closing order and unless the owner or the owner's agent shows to the satisfaction of the Court that the criminal nuisance complained of has been sufficiently abated, or that such person proceeded forthwith to enforce his or her rights under this chapter as more fully set forth herein,

the Court shall issue a temporary abatement order to close the premises involved, the portions appropriate in the circumstances, or any other temporary abatement remedy requested by the Attorney General's Office. The order shall direct actions necessary to physically secure the premises, or appropriate portions

thereof, against use for any purpose. The temporary abatement order may also prohibit the defendant and all persons from removing or in any manner interfering with the furniture, fixtures and movable or personal property located on or within the premises constituting the criminal nuisance. Where a tenant is a defendant, the Court may issue a closing order prohibiting him or her from residing at or having contact with the premises.

(e) To determine whether the health, safety, or welfare of the community immediately requires a temporary abatement order, the Court shall consider any relevant evidence presented concerning any attendant circumstances, including but not limited to:

- (1) The extent and duration of the criminal nuisance and severity of the impact on the community;
- (2) The proximity of the property to other residential structures;
- (3) The number of times the owner or tenant has been notified of criminal nuisance related problems at the property;
- (4) The prior efforts, or lack of efforts, by the defendant to abate the criminal nuisance;
- (5) The involvement of the owner or tenant in the criminal nuisance;
- (6) The costs incurred by the jurisdiction or community based organizations in investigating or attempting to correct the criminal nuisance;
- (7) Whether the criminal nuisance is continuous or recurring;
- (8) Whether the criminal nuisance involves the use or threat of violence; or
- (9) Any other factor the Court deems relevant and in the interests of the public health, safety, or welfare of the community.

(f) If the Court finds that the premises constitute a criminal nuisance but that immediate closing of the premises is not required pursuant to subsection (d) of this section, the Court may abate the criminal nuisance by issuing an order prohibiting the defendants and all other persons from conducting, maintaining, aiding, abetting or permitting events constituting the criminal nuisance, or from otherwise having contact with the premises. Additionally, the Court may issue an order appointing a temporary receiver to manage or operate the premises or order that any defendant take immediate actions including, but not limited to, the remedies listed in § 7113(c)(7) of this title. A temporary receiver shall have such powers and duties specifically authorized pursuant to § 7113 of this title.

(g) Notwithstanding the Delaware Rules of Evidence, any police report concerning the premises, and any witness statements contained therein, may be admitted into evidence in determining the existence of a criminal nuisance or whether any form of temporary abatement relief is appropriate.

(h) The abatement order shall be served pursuant to the procedures set forth in § 7108 of this title, and by

both such delivery and posting. The officer serving such abatement order shall forthwith make and return into Court an inventory of the personal property and contents situated in and used in conducting or maintaining the criminal nuisance. The parties may enter into a consent order in relation to or with respect to temporary abatement relief or permanent abatement relief. Any such order must be approved by the Court. Any violation of such abatement order shall be a contempt of court, and where such order is so posted, mutilation or removal thereof, while the same remains in force, shall be a contempt of court, provided such posted order contains thereon or therein a notice to that effect.

(i) The temporary abatement order shall remain in place until a permanent abatement hearing. Any violation of the Court's temporary abatement order shall be contempt of court, to be punished as provided in this chapter.

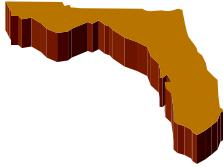
(j) The owner or owners of any real or personal property so closed or prohibited, or to be closed or prohibited, may petition the Court for an expedited schedule for the permanent abatement hearing.

(k) The release of any real or personal property under this section shall not release it from any judgment, lien, penalty, or liability to which it may be subjected by law.

**SOURCES:**

<http://delcode.delaware.gov/title10/c071/>

<http://codes.findlaw.com/de/title-10-courts-and-judicial-procedure/de-code-sect-10-7111.html>



## Florida Nuisance and Abatement Law

*As always, do your own due diligence regarding local and state laws.*

### WHAT

Places and groups engaged in criminal gang-related activity declared a nuisance; massage establishments engaged in prohibited activity; may be abated and enjoined.—

(1) Whoever shall erect, establish, continue, or maintain, own or lease any building, booth, tent or place which tends to annoy the community or injure the health of the community, or become manifestly injurious to the morals or manners of the people as described in s. 823.01, or any house or place of prostitution, assignation, lewdness or place or building where games of chance are engaged in violation of law or any place where any law of the state is violated, shall be deemed guilty of maintaining a nuisance, and the building, erection, place, tent or booth and the furniture, fixtures, and contents are declared a nuisance. All such places or persons shall be abated or enjoined as provided in ss. 60.05 and 60.06.

(2)(a) As used in this subsection, the terms “criminal gang,” “criminal gang member,” “criminal gang associate,” and “criminal gang-related activity” have the same meanings as provided in s. 874.03.

(b) A criminal gang, criminal gang member, or criminal gang associate who engages in the commission of criminal gang-related activity is a public nuisance. Any and all such persons shall be abated or enjoined as provided in ss. 60.05 and 60.06.

(c) The use of a location on two or more occasions by a criminal gang, criminal gang members, or criminal gang associates for the purpose of engaging in criminal gang-related activity is a public nuisance. Such use of a location as a public nuisance shall be abated or enjoined as provided in ss. 60.05 and 60.06.

(d) Nothing in this subsection shall prevent a local governing body from adopting and enforcing laws consistent with this chapter relating to criminal gangs and gang violence. Where local laws duplicate or supplement this chapter, this chapter shall be construed as providing alternative remedies and not as preempting the field.

(e) The state, through the Department of Legal Affairs or any state attorney, or any of the state’s agencies, instrumentalities, subdivisions, or municipalities having jurisdiction over conduct in violation of a provision of this chapter may institute civil proceedings under this subsection. In any action brought under this subsection, the circuit court shall proceed as soon as practicable to the hearing and determination. Pending final determination, the circuit court may at any time enter such injunctions, prohibitions, or restraining orders, or take such actions, including the acceptance of satisfactory performance bonds, as the court may deem proper.



(3) A massage establishment as defined in s. 480.033(7) that operates in violation of s. 480.0475 or s. 480.0535(2) is declared a nuisance and may be abated or enjoined as provided in ss. 60.05 and 60.06.

## HOW

(1) When any nuisance as defined in s. 823.05 exists, the Attorney General, state attorney, city attorney, county attorney, or any citizen of the county may sue in the name of the state on his or her relation to enjoin the nuisance, the person or persons maintaining it, and the owner or agent of the building or ground on which the nuisance exists.

(2) The court may allow a temporary injunction without bond on proper proof being made. If it appears by evidence or affidavit that a temporary injunction should issue, the court, pending the determination on final hearing, may enjoin:

- (a) The maintaining of a nuisance;
- (b) The operating and maintaining of the place or premises where the nuisance is maintained;
- (c) The owner or agent of the building or ground upon which the nuisance exists;
- (d) The conduct, operation, or maintenance of any business or activity operated or maintained in the building or on the premises in connection with or incident to the maintenance of the nuisance.

The injunction shall specify the activities enjoined and shall not preclude the operation of any lawful business not conducive to the maintenance of the nuisance complained of. At least 3 days' notice in writing shall be given defendant of the time and place of application for the temporary injunction.

(3) Evidence of the general reputation of the alleged nuisance and place is admissible to prove the existence of the nuisance. No action filed by a citizen shall be dismissed unless the court is satisfied that it should be dismissed. Otherwise the action shall continue and the state attorney notified to proceed with it. If the action is brought by a citizen and the court finds that there was no reasonable ground for the action, the costs shall be taxed against the citizen.

(4) On trial if the existence of a nuisance is shown, the court shall issue a permanent injunction and order the costs to be paid by the persons establishing or maintaining the nuisance and shall adjudge that the costs are a lien on all personal property found in the place of the nuisance and on the failure of the property to bring enough to pay the costs, then on the real estate occupied by the nuisance. No lien shall attach to the real estate of any other than said persons unless 5 days' written notice has been given to the owner or his or her agent who fails to begin to abate the nuisance within said 5 days. In a proceeding abating a nuisance pursuant to s. 823.10 or s. 823.05, if a tenant has been convicted of an offense under chapter 893 or s.

796.07, the court may order the tenant to vacate the property within 72 hours if the tenant and owner of the premises are parties to the nuisance abatement action and the order will lead to the abatement of the nuisance.

(5) If the action was brought by the Attorney General, a state attorney, or any other officer or agency of state government; if the court finds either before or after trial that there was no reasonable ground for the action; and if judgment is rendered for the defendant, the costs and reasonable attorney's fees shall be taxed against the state.

**SOURCES:**

[http://www.leg.state.fl.us/statutes/index.cfm?App\\_mode=Display\\_Statute&Search\\_String=&URL=0800-0899/0823/Sections/0823.05.html](http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0800-0899/0823/Sections/0823.05.html)

[http://www.leg.state.fl.us/statutes/index.cfm?App\\_mode=Display\\_Statute&Search\\_String=&URL=0800-0899/0823/Sections/0823.05.html](http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0800-0899/0823/Sections/0823.05.html)



## Georgia Nuisance and Abatement Law

*As always, do your own due diligence regarding local and state laws.*

### **WHAT**

A nuisance is anything that causes hurt, inconvenience, or damage to another and the fact that the act done may otherwise be lawful shall not keep it from being a nuisance. The inconvenience complained of shall not be fanciful, or such as would affect only one of fastidious taste, but it shall be such as would affect an ordinary, reasonable man.

### **HOW**

Upon filing of a petition as provided in Code Section 41-2-2, any nuisance which tends to the immediate annoyance of the public in general, is manifestly injurious to the public health or safety, or tends greatly to corrupt the manners and morals of the public may be abated by order of a judge of the superior court of the county in which venue is proper.

(a) It is found and declared that in the counties and municipalities of this state there is the existence or occupancy of dwellings or other buildings or structures which are unfit for human habitation or for commercial, industrial, or business occupancy or use and not in compliance with the applicable state minimum standard codes as adopted by ordinance or operation of law or any optional building, fire, life safety, or other codes relative to the safe use of real property and real property improvements adopted by ordinance in the jurisdiction where the property is located; or general nuisance law and which constitute a hazard to the health, safety, and welfare of the people of this state; and that a public necessity exists for the repair, closing, or demolition of such dwellings, buildings, or structures. It is found and declared that in the counties and municipalities of this state where there is in existence a condition or use of real estate which renders adjacent real estate unsafe or inimical to safe human habitation, such use is dangerous and injurious to the health, safety, and welfare of the people of this state and a public necessity exists for the repair of such condition or the cessation of such use which renders the adjacent real estate unsafe or inimical to safe human habitation. Whenever the governing authority of any county or municipality of this state finds that there exist in such county or municipality dwellings, buildings, or structures which are unfit for human habitation or for commercial, industrial, or business uses due to dilapidation and not in compliance with applicable codes; which have defects increasing the hazards of fire, accidents, or other calamities; which lack adequate ventilation, light, or sanitary facilities; or where other conditions exist rendering such dwellings, buildings, or structures unsafe or unsanitary, or dangerous or detrimental to the health, safety, or welfare, or otherwise inimical to the welfare of the residents of such county or municipality, or vacant, dilapidated dwellings, buildings, or structures in which drug crimes are being committed, power is conferred upon such county or municipality to exercise its police power to repair, close, or demolish the aforesaid dwellings, buildings, or structures in the manner provided in this Code

section and Code Sections 41-2-8 through 41-2-17.

(b) All the provisions of this Code section and Code Sections 41-2-8 through 41-2-17 including method and procedure may also be applied to private property where there exists an endangerment to the public health or safety as a result of unsanitary or unsafe conditions to those persons residing or working in the vicinity. A finding by any governmental health department, health officer, or building inspector that such property is a health or safety hazard shall constitute prima-facie evidence that said property is in violation of this Code section and Code Sections 41-2-8 through 41-2-17.

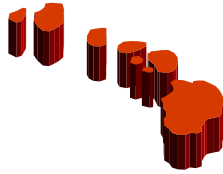
(c) The exercise of the powers conferred upon counties in this Code section and in Code Sections 41-2-8 through 41-2-17 shall be limited to properties located in the unincorporated areas of such counties.

**SOURCES:**

<https://law.justia.com/codes/georgia/2010/title-41/chapter-1/41-1-1/>

<https://law.justia.com/codes/georgia/2014/title-41/chapter-2/section-41-2-1/>

<https://law.justia.com/codes/georgia/2014/title-41/chapter-2/section-41-2-7/>



## Hawaii Nuisance and Abatement Law

*As always, do your own due diligence regarding local and state laws.*

### HOW

If the existence of a nuisance is established in a suit as provided herein, an order of abatement shall be entered as a part of the judgment in the case, which order shall include a provision permanently prohibiting the person or persons causing, maintaining, aiding, abetting, or permitting the nuisance, if said person or persons are a party to the proceeding, from residing in or entering into the building, premises, or place in or upon which the nuisance exists. The court, on the application of the person, may suspend the prohibition if the person is participating in a court-approved treatment and monitoring program which addresses the person's conduct which caused the nuisance. If the court determines that the person has successfully completed the program and that the person is not likely to again create a nuisance, the court may dissolve the injunction against the person. In the event that the court determines that an injunction against the person or persons causing, maintaining, aiding, abetting, or permitting the nuisance will not completely abate the nuisance or that one or more of the persons causing, maintaining, aiding, abetting, or permitting the nuisance are not parties to the proceeding, the court shall also direct the effectual closing of the building, premises, or place, against its use for any purpose, and that it be kept closed for a period not exceeding one year, unless sooner released, as provided by section 712-1277. While the order remains in effect as to closing, the building, premises, or place shall remain in the custody of the court. The court's orders may also include, but are not limited to, an order suspending or revoking any business, professional, operational, or liquor license.

Any attorneys' fees, costs, expenses, and fines imposed against any owner of a business, premises or place in any proceedings under this part shall be a misdemeanor upon such business, premises, or place, to the extent of the interest of such person therein, enforceable and collectible by execution issued by the order of the court.

### SOURCE:

[https://www.lawserver.com/law/state/hawaii/hi-statutes/hawaii\\_statutes\\_712-1275](https://www.lawserver.com/law/state/hawaii/hi-statutes/hawaii_statutes_712-1275)



## Idaho Nuisance and Abatement Law

*As always, do your own due diligence regarding local and state laws.*

### WHAT

Anything which is injurious to health or morals, or is indecent, or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, stream, canal, or basin, or any public park, square, street, or highway, is a nuisance. The foreclosure sale must take place on the date, at the time and at the place specified in the notice. However, the sale may be postponed and held at a new time and place, so long as it is within thirty (30) days of the originally scheduled sale.

Any condition or use of a premise which:

1. Creates a fire hazard; and/or
2. Creates a condition for the harborage of rodents and insects; and/or
3. Is otherwise injurious to the health, safety and welfare of the inhabitants of the city; and/or
4. 4. Any condition or use of a premises which involves the depositing and keeping of:
  - a. Lumber, paper, junk, trash, boxes or debris;
  - b. Abandoned, discarded or unused objects, personal property and/or equipment such as furniture, stoves, refrigerators, freezers, cans, containers, tools or parts of personal property;
  - c. Partially dismantled, wrecked, junked, discarded or otherwise nonoperating motor vehicles or parts thereof; and/or
  - d. Personal property [objects] in an untidy and/or overfilled manner [clutter].
5. Involves the presence of any noxious or invasive weed, as defined by the Idaho State Department of Agriculture pursuant to the noxious weed rules in the Idaho Administrative Procedure Act "IDAPA" 02-06-22 Section 100 or any amendment or recodification thereof.

### HOW

The mayor and city council may, after notice and/or in the event of a contested case and in addition to the filing of a complaint for violation of this chapter, after finding that a nuisance does in fact exist, cause the abatement of said "nuisance" as hereinabove defined. Pursuant to the authority of Idaho Code section 50-334, the expense of such abatement shall be assessed as a special assessment against the real property involved and shall be due and payable to the city treasurer and, if not paid within thirty (30) days after

mailing of notification of assessment, shall be declared delinquent and be certified to the tax collector of the county by the city clerk, not later than August 1, and shall be by said tax collector placed upon the tax roll and collected in the same manner and subject to the same penalties as other city taxes. All money received on these special assessments shall be held by the city treasurer as a special fund to be applied to the payment or reimbursement of the expenses for the abatement of the nuisance.

**Sources:**

<http://cityofwilder.org/0601.pdf>

[https://www.lawsolver.com/law/state/idaho/id-code/idaho\\_code\\_52-101](https://www.lawsolver.com/law/state/idaho/id-code/idaho_code_52-101)

<https://legislature.idaho.gov/statutesrules/idstat/title50/t50ch3/sect50-334/>



## Illinois Nuisance and Abatement Law

*As always, do your own due diligence regarding local and state laws.*

### WHAT

Anything which is injurious to health or morals, or is indecent, or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, stream, canal, or basin, or any public park, square, street, or highway, is a nuisance.

### HOW

The Attorney General of this State or the State's Attorney of the county wherein the nuisance exists may commence an action to abate a public nuisance as described in Section 37-1 of this Act, in the name of the People of the State of Illinois, in the circuit court. Upon being satisfied by affidavits or other sworn evidence that an alleged public nuisance exists, the court may without notice or bond enter a temporary restraining order or preliminary injunction to enjoin any defendant from maintaining such nuisance and may enter an order restraining any defendant from removing or interfering with all property used in connection with the public nuisance. If during the proceedings and hearings upon the merits, which shall be in the manner of "An Act in relation to places used for the purpose of using, keeping or selling controlled substances or cannabis", approved July 5, 1957, [FN1] the existence of the nuisance is established, and it is found that such nuisance was maintained with the intentional, knowing, reckless or negligent permission of the owner or the agent of the owner managing the building, the court shall enter an order restraining all persons from maintaining or permitting such nuisance and from using the building for a period of one year thereafter, except that an owner, lessee or other occupant thereof may use such place if the owner shall give bond with sufficient security or surety approved by the court, in an amount between \$1,000 and \$5,000 inclusive, payable to the People of the State of Illinois, and including a condition that no offense specified in Section 37-1 of this Act shall be committed at, in or upon the property described and a condition that the principal obligor and surety assume responsibility for any fine, costs or damages resulting from such an offense thereafter.

### SOURCES:

[https://www.lawserver.com/law/state/idaho/id-code/idaho\\_code\\_52-101](https://www.lawserver.com/law/state/idaho/id-code/idaho_code_52-101)

<http://codes.findlaw.com/il/chapter-720-criminal-offenses/il-st-sect-720-5-37-4.html>





## Indiana Nuisance and Abatement Law

*As always, do your own due diligence regarding local and state laws.*

### WHAT

Whatever is:

- (1) injurious to health;
- (2) indecent;
- (3) offensive to the senses; or
- (4) an obstruction to the free use of property; so as essentially to interfere with the comfortable enjoyment of life or property, is a nuisance, and the subject of an action.

### HOW

An action to abate or enjoin a nuisance may be brought by any person whose:

- (1) property is injuriously affected; or
  - (2) personal enjoyment is lessened;
- by the nuisance.
- (b) A civil action to abate or enjoin a nuisance may also be brought by:
- (1) an attorney representing the county in which a nuisance exists; or
  - (2) the attorney of any city or town in which a nuisance exists.
- (c) A county, city, or town that brings a successful action under this section (or IC 34-1-52-2 or IC 34-19-1-2 before their repeal) to abate or enjoin a nuisance caused by the unlawful dumping of solid waste is entitled to recover reasonable attorney's fees incurred in bringing the action.
- (d) A forestry operation that successfully defends an action under this section is entitled to reasonable costs and attorney's fees incurred in defending the action.

### SOURCE:

[https://iga.in.gov/static-documents/8/f/b/4/8fb4ab51/TITLE32\\_AR30\\_ch6.pdf](https://iga.in.gov/static-documents/8/f/b/4/8fb4ab51/TITLE32_AR30_ch6.pdf)



## Iowa Nuisance and Abatement Law

*As always, do your own due diligence regarding local and state laws.*

### WHAT

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.

### HOW

Whenever any authorized municipal officer finds that a nuisance exists, such officer has the authority to determine on a case-by-case basis whether to utilize the nuisance abatement procedure described in Section 50.06 of this chapter or the municipal infraction procedure referred to in Section 50.07.

1. Contents of Notice. The notice to abate shall contain:

- A. Description of Nuisance. A description of what constitutes the nuisance.
- B. Location of Nuisance. The location of the nuisance.
- C. Acts Necessary to Abate. A statement of the act or acts necessary to abate the nuisance.
- D. Reasonable Time. A reasonable time within which to complete the abatement.
- E. Assessment of City Costs and Fines. A statement that if the nuisance or condition is not abated as directed and no request for hearing is made within the time prescribed, the City may abate it and assess the costs (and/or implement fines set by the Council) against such person.

2. 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[3/i])

3. Request for 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 hearing will be before the Council at a time and place fixed by the Council. The findings 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.

4. 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 subsection 6 of this section

after notice to the property owner under the applicable provisions of subsection 1 and 2, and the hearing as provided in subsection 3. (Code of Iowa, Sec. 364.12[3/i])

5. 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. (Code of Iowa, Sec. 364.12[3/i])

6. 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 to the County Treasurer and such costs shall then be collected with, and in the same manner, as general property taxes. (Code of Iowa, Sec. 364.12 [3h])

7. 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)

8. 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.

**SOURCE:**

<https://www.lemarsiowa.com/DocumentCenter/Home/View/568>



## Kansas Nuisance and Abatement Law

*As always, do your own due diligence regarding local and state laws.*

### WHAT

It shall be unlawful for any person to maintain or permit any nuisance within the city as defined, without limitation, as follows:

- (a) Filth, excrement, lumber, rocks, dirt, cans, paper, trash, metal or any other offensive or disagreeable thing or substance thrown or left or deposited upon any street, avenue, alley, sidewalk, park, public or private enclosure or lot whether vacant or occupied;
- (b) All dead animals not removed within 24 hours after death;
- (c) Any place or structure or substance which emits or causes any offensive, disagreeable or nauseous odors;
- (d) All stagnant ponds or pools of water;
- (e) All grass or weeds or other unsightly vegetation not usually cultivated or grown for domestic use or to be marketed or for ornamental purposes;
- (f) Abandoned iceboxes or refrigerators kept on the premises under the control of any person, or deposited on the sanitary landfill, or any icebox or refrigerator not in actual use unless the door, opening or lid thereof is unhinged, or unfastened and removed therefrom;
- (g) All articles or things whatsoever caused, kept, maintained or permitted by any person to the injury, annoyance or inconvenience of the public or of any neighborhood;
- (h) Any fence, structure, thing or substance placed upon or being upon any street, sidewalk, alley or public ground so as to obstruct the same, except as permitted by the laws of the city.

### HOW

In addition to, or as an alternative to prosecution as provided in Section 7, the public officer may seek to remedy violations of this ordinance in the following manner. If a person to whom an order has been served pursuant to Section 5 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in Section 6, the public officer may present a resolution to the governing body for adoption authorizing the public officer or other agents of the city to abate the conditions causing the violation at the end of 10 days after passage of the resolution. The resolution shall further provide that the costs incurred by the city shall be charged against the lot or parcel of ground on which the nuisance was located as provided in Section 10. A copy of the resolution shall be served upon the person in violation in one of the following ways:

(a) Personal service upon the person in violation;

(b) Certified mail, return receipt requested; or

(c) In the event the whereabouts of such person are unknown and the same cannot be ascertained in the exercise of reasonable diligence, an affidavit to that effect shall be made by the public officer and filed with the city clerk, and the serving of the resolution shall be made by publishing the same once each week for two consecutive weeks in the official city newspaper and by posting a copy of the resolution on the premises where such condition exists.

(d) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding twenty-four month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail.

**SOURCE:**

<http://www.caak.us/resources/ordinances/d/Nuisances/2008%20Conference%20Papers%20-%20Ordinances.pdf>



## Kentucky Nuisance and Abatement Law

*As always, do your own due diligence regarding local and state laws.*

### WHAT

Property where nuisance activity occurs regularly is a blight on the entire neighborhood. The nuisances frighten away law-abiding residents, discourage reinvestment, and consume police and other city services. Responsible property owners can and usually do take steps to discourage nuisances from occurring on their property.

A common nuisance is a condition of things which is prejudicial to the health, comfort, safety, property, sense of decency, or morals of the citizens at large, resulting either:

- (a) from an act not warranted by law, or
- (b) from neglect of a duty imposed by law.

### HOW

Whenever any such aforesaid nuisance, source of filth, or cause or probable cause of sickness, shall be found by the board to exist on any private or public property within such county, including the municipalities therein, in violation of said laws or regulations, which said violation injuriously affects or may affect the health of the residents of said county or section thereof, the board shall have the power and authority to order in writing the owner or occupant or user thereof, by appropriate action, at the expense of such owner, occupant or user, to correct and remove said nuisance, source of filth, or cause or probable cause of sickness, within twenty-four (24) hours or within such reasonable time as the board may order.

In case of a failure on the part of any person, firm or corporation, or persons, firms or corporations, to comply with any lawful order of the board, or with process, or in case of the refusal of any witness to testify concerning any matter on which he may be lawfully interrogated, the Circuit Court or a judge thereof, having jurisdiction in such county, may, on application of the board or of any member thereof, compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from such a court, or a refusal to testify therein.

### SOURCE:

[http://www.florence-ky.gov/document\\_center/Police%20Department/Chronic%20Nuisance%20Ordinance%20Overview%20FAQ%20\(2014-03-27\).pdf](http://www.florence-ky.gov/document_center/Police%20Department/Chronic%20Nuisance%20Ordinance%20Overview%20FAQ%20(2014-03-27).pdf)

<http://www.lrc.ky.gov/Statutes/statute.aspx?id=8645>



## Louisiana Nuisance and Abatement Law

*As always, do your own due diligence regarding local and state laws.*

### **WHAT**

When one person's use of land interferes with another's use and enjoyment of a neighboring tract, courts seek the solution to the resulting controversy in that part of the law of torts called "nuisance" and characterize defendant's conduct as the maintenance of a nuisance if plaintiff is entitled to relief. A nuisance and a trespass are similar in that both interfere with the interests of an occupant of land. They differ, however, in that a trespass is usually a physical invasion of land complete in one instance, while a nuisance is ordinarily a continuing activity on a neighboring tract of land which produces such interferences as noise, smoke, or odors.

### **HOW**

The district attorney, in the name and on behalf of the parish and without the payment of any costs, the sheriff or the parish governing authority through its parish attorney or other designated representative, in the name of and on behalf of the parish and without the payment of any costs, or any ten residents of the election precinct wherein any nuisance described in R.S. 13:4721 exists, whether natural or artificial persons, shall have the right to file a suit in the district court having jurisdiction thereof in this state, or in the Civil District Court for the Parish of Orleans in the event it has jurisdiction, to abate the nuisances described in R.S. 13:4721 and to have the owner, lessee, sublessee, agent or other occupant thereof declared guilty of maintaining a public nuisance.

### **SOURCES:**

<https://digitalcommons.law.lsu.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=2238&context=lalrev>

<https://law.justia.com/codes/louisiana/2014/code-revisedstatutes/title-13/rs-13-4722/>



## Maine Nuisance and Abatement Law

*As always, do your own due diligence regarding local and state laws.*

### HOW

When on indictment, complaint or action any person is adjudged guilty of a nuisance, the court, in addition to the fine imposed, if any, or to the judgment for damages and costs for which a separate execution shall issue, may order the nuisance abated or removed at the expense of the defendant. After inquiring into and estimating, as nearly as may be, the sum necessary to defray the expense thereof, the court may issue a warrant therefor substantially in the form following

"STATE OF MAINE

....., ss. To the sheriff of our county of ....., or either of his deputies, Greetings.

Whereas, by the consideration of our honorable ..... Court, at a term begun and held at ....., within and for said county, upon indictment," (or "complaint," or "action in favor of A. B.," as the case may be,) "C. D., of ....., &c., was adjudged guilty of erecting," ["causing," or "continuing,"] "a certain nuisance, being a building in ....., in said county," (or "fence," or other thing, describing particularly the nuisance and the place,) "which nuisance was ordered by said court to be abated and removed: We therefore command you forthwith to cause said nuisance to be abated and removed; also that you levy of the materials by you so removed, and of the goods, chattels and lands of said C. D., a sum sufficient to defray the expense of removing and abating the same, not to exceed ..... dollars," (the sum estimated by the court,) "together with your lawful fees, and thirty-three cents more for this writ. And, for want of such goods and estate to satisfy said sums, we command you to take the body of said C. D., and him commit unto our jail in ..... in said county, and there detain until he pays such sums or is legally discharged. And make return of this warrant, with your doings thereon, within thirty days. Witness, A. B., Esq., at ....., this ..... day of ....., in the year of our Lord 20....

### SOURCE:

<http://www.mainelegislature.org/legis/statutes/17/title17sec2702.html>





## Maryland Nuisance and Abatement Law

*As always, do your own due diligence regarding local and state laws.*

### WHAT

A nuisance as defined in Maryland, is anything that unlawfully annoys or does damage to another. It is traditionally a condition on premises or adjacent thereto that is offensive or harmful to those who are off the premises. A public nuisance is a criminal offense involving an interference with the community at large. A private nuisance is a “nontrespassory invasion of another’s interest in the private use and enjoyment of the land.” Unlike trespass, a cause of action for nuisance is not contingent upon whether the defendant physically impinged upon another’s property, but rather whether the defendant substantially and unreasonably interfered with the plaintiff’s use and enjoyment of his property.

### HOW

- (a) Conditions which constitute a state of nuisance. -- If, after investigation, the Secretary or a local health officer finds that a nuisance exists that presents an immediate hazard to public health, the Secretary or local health officer may summarily abate the nuisance.
- (b) Abatement order -- Service. -- Before summarily abating a nuisance under this section, the Secretary or a local health officer shall:
- (1) Serve an abatement order on the owner of the property where the nuisance exists or, if the owner cannot be found, on the occupant or tenant of the property; or
  - (2) If the property is unoccupied and the owner cannot be found, attach an abatement order to the property where the nuisance exists.
- (c) Abatement order -- Contents and requirements. --
- (1) The abatement order shall require and state:
    - (i) A time period within which the owner, occupant, or tenant of the property where the nuisance exists shall abate the nuisance; and
    - (ii) The work and materials necessary to abate the nuisance.
  - (2) The time period within which to abate the nuisance may not be less than 24 hours nor more than 5 days from the date and hour that the order is served.
- (d) Abatement of nuisance by Secretary or local health officer. --
- (1) If the owner, occupant, or tenant served with an abatement order fails to abate or only partially abates the nuisance within the time specified in the order, the Secretary, local health officer, or the representative

of the Secretary or local health officer shall:

(i) Enter on the property; and

(ii) At the expense of the owner, occupant, or tenant of the property, do any work and use any materials necessary to abate the nuisance.

(2) The Secretary or local health officer may not expend more than \$ 5,000 to abate the nuisance.

(e) Payment and collection of costs of abatement. -- If, within 60 days after the Secretary or local health officer has completed an abatement under this section, the owner, occupant, or tenant does not pay to the Secretary or local health officer the cost of the abatement, the Secretary or local health officer shall file suit against the owner, occupant, or tenant in the District Court for the county where the nuisance was abated.

(f) Interference with or refusal to allow abatement prohibited. -- A person may not:

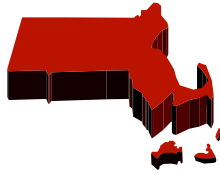
(1) Interfere with the Secretary, local health officer, or the representative of the Secretary or local health officer summarily abating a nuisance under this section; or

(2) Refuse to allow the Secretary, local health officer, or the representative of the Secretary or local health officer to enter on any property for the purpose of summarily abating a nuisance under this section.

**SOURCES:**

[https://www.marylandaccidentattorneyblog.com/2009/02/maryland\\_causes\\_of\\_action\\_for.html](https://www.marylandaccidentattorneyblog.com/2009/02/maryland_causes_of_action_for.html)

<https://law.justia.com/codes/maryland/2014/health-general/title-20/subtitle-3/part-ii/section-20-308/>



## Massachusetts Nuisance and Abatement Law

*As always, do your own due diligence regarding local and state laws.*

### HOW

Whenever there is reason to believe that such a nuisance is kept or maintained or exists in any town, either the district attorney for the district, or the attorney general, in the name of the commonwealth, or a citizen in his own name, may bring a civil action perpetually to enjoin the person conducting or maintaining the same, and the owner, lessee or agent of the building or place in or upon which such nuisance exists and their assignees from directly or indirectly maintaining or permitting such nuisance.

The aldermen or selectmen in any city or town may, after written notice to the owner of a burnt, dilapidated or dangerous building or other structure, or his authorized agent, or to the owner of a vacant parcel of land, and after a hearing, make and record an order adjudging it to be a nuisance to the neighborhood, or dangerous, and prescribing its disposition, alteration or regulation. The city or town clerk shall deliver a copy of the order to an officer qualified to serve civil process, who shall forthwith serve an attested copy thereof in the manner prescribed in section one hundred and twenty-four of chapter one hundred and eleven, and make return to said clerk of his doings thereon.

The aldermen or selectmen shall have the same power to abate and remove any such nuisance as is given to the board of health of a town under sections one hundred and twenty-three to one hundred and twenty-five, inclusive, of chapter one hundred and eleven.

If the owner of any such premises shall pay all costs of the proceedings, and file with the court a bond with sureties approved by the clerk in the full value of such premises as ascertained by the court, or, when the court is not in session, by the clerk, payable to the court and conditioned that the owner of the premises found to be a nuisance will immediately abate such nuisance and prevent the same from being established or kept therein within one year thereafter, the court or justice may, if satisfied of the owner's good faith, order the premises so closed to be delivered to such owner and the order of abatement to be so modified as to dissolve the order that the premises remain closed for one year; provided, that such modification shall not release such premises from any judgment, lien, penalty or liability to which it may be subject.

### SOURCES:

<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXX/Chapter139/Section6>

<http://codes.findlaw.com/ma/part-i-administration-of-the-government-ch-1-182/ma-gen-laws-ch-139-sect-11.html>



## Michigan Nuisance and Abatement Law

*As always, do your own due diligence regarding local and state laws.*

### WHAT

(1) A building, vehicle, boat, aircraft, or place is a nuisance if 1 or more of the following apply:

(a) It is used for the purpose of lewdness, assignation, prostitution, or gambling.

(b) It is used by, or kept for the use of, prostitutes or other disorderly persons.

(c) It is used for the unlawful manufacture, transporting, sale, keeping for sale, bartering, or furnishing of a controlled substance.

(d) It is used for the unlawful manufacture, transporting, sale, keeping for sale, bartering, or furnishing of vinous, malt, brewed, fermented, spirituous, or intoxicating liquors or mixed liquors or beverages, any part of which is intoxicating.

(e) It is used for conduct prohibited by section 49 of the Michigan penal code, 1931 PA 328, MCL 750.49.

(f) It is used for conduct prohibited by chapter LXVIIA of the Michigan penal code, 1931 PA 328, MCL 750.462a to 750.462h.

(g) It is used to facilitate armed violence in connection with the unlawful use of a firearm or other dangerous weapon.

(2) All furniture, fixtures, and contents of a building, vehicle, boat, aircraft, or place described in subsection (1) and all intoxicating liquors in the building, vehicle, boat, aircraft, or place are also declared a nuisance.

(3) All controlled substances and nuisances shall be enjoined and abated as provided in this act and the court rules.

(4) A person, or a servant, agent, or employee of the person, who owns, leases, conducts, or maintains a building, vehicle, or place described in subsection (1) is guilty of a nuisance.

(5) As used in this section, "controlled substance" means that term as defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

### HOW

(1) All claims based on or to abate nuisance may be brought in the circuit court. The circuit court may grant injunctions to stay and prevent nuisance.

(2) When the plaintiff prevails on a claim based on a private nuisance, he may have judgment for damages and may have judgment that the nuisance be abated and removed unless the judge finds that the abatement of the nuisance is unnecessary.

(3) If the judgment is that the nuisance shall be abated, the court may issue a warrant to the proper officer, requiring him to abate and remove the nuisance at the expense of the defendant, in the manner that public nuisances are abated and removed. The court may stay the warrant for as long as 6 months to give the defendant an opportunity to remove the nuisance, upon the defendant giving satisfactory security to do so.

(4) The expense of abating and removing the nuisance pursuant to such warrant, shall be collected by the officer in the same manner as damages and costs are collected upon execution, excepting that the materials of any buildings, fences, or other things that may be removed as a nuisance, may be sold by the officer, in like manner as goods are sold on execution for the payment of debts. The officer may apply the proceeds of such sale to defray the expenses of the removal, and shall pay over the balance thereof, if any, to the defendant upon demand. If the proceeds of the sale are not sufficient to defray the said expenses, he shall collect the residue thereof as before provided.

(5) Actions under this section are equitable in nature unless only money damages are claimed.

**SOURCES:**

[http://www.legislature.mi.gov/\(S\(mmk5ufpb5bn1ztkbaiwtobml\)\)/mileg.aspx?page=GetObject&objectname=mcl-600-2940](http://www.legislature.mi.gov/(S(mmk5ufpb5bn1ztkbaiwtobml))/mileg.aspx?page=GetObject&objectname=mcl-600-2940)

[http://www.legislature.mi.gov/\(S\(rjbjwaningnvsb03epvhgvq2\)\)/mileg.aspx?page=GetObject&objectname=mcl-600-3801](http://www.legislature.mi.gov/(S(rjbjwaningnvsb03epvhgvq2))/mileg.aspx?page=GetObject&objectname=mcl-600-3801)



## Minnesota Nuisance and Abatement Law

*As always, do your own due diligence regarding local and state laws.*

### WHAT

A “nuisance” is an activity that, in one way or another, affects the right of an individual to enjoy the use of a specified property.

### HOW

(a) When a nuisance is maintained or permitted at or in any place, the city attorney shall by personal service or by certified mail, provide to the following persons the written notice described in paragraph (b) of this section:

(1) The owner of the place at or in which a nuisance is maintained or permitted. (2) The owner's agent, if known to the city attorney. (3) All other persons known to the city attorney who maintain or permit the nuisance and all agents of such other persons known to the city attorney. (b) The written notice provided by the city attorney shall state: (1) That a nuisance, as defined in section 386.10 is maintained or permitted at or in a specified place. (2) That the recipient shall appear at the time and place listed in the notice to arrange to take action to abate the nuisance. (3) That failure to appear at the listed time and place may result in the filing of a complaint to enjoin use of the place specified in the notice for one (1) year.

The notice shall also include a summary of the evidence that a nuisance is maintained or permitted at or in the specified place, including the dates on which nuisance related activities occurred. (94-Or-159, § 1, 11-10-94)

386.30. - Meeting.

(a) The city attorney shall meet with all persons receiving notice pursuant to section 386.20 at the time and place listed in said notice. The meeting shall take place no earlier than fourteen (14) days from the mailing or seven (7) days from personal service of the notice.

(b) Within ten (10) days of the conclusion of said meeting, the city attorney shall provide to each notice recipient, by personal service or certified mail, reasonable recommendations designed to abate the nuisance. (94-Or-159, § 1, 11-10-94)

386.40. - Filing complaint.

(a) The city attorney may file a complaint against any or all of the persons receiving notice pursuant to section 386.20 in any of the following circumstances:

(1) The notice recipient does not appear at the time and place listed in the notice required by section 386.20. (2) The notice recipient appears as required but does not affirmatively agree to follow reasonable

recommendations by the city attorney designed to abate the nuisance. (3) The notice recipient agrees to follow the city attorney's recommendations, but subsequently fails to comply with those recommendations. (4) The notice recipient otherwise fails to make a good faith effort to abate the nuisance. A notice recipient who has complied with the recommendations made by the city attorney under section 386.30, paragraph (b), shall be deemed to have made a good faith effort to abate the nuisance. (b) In cases in which the prompt failure to file a complaint would not result in irreparable harm, loss, or damage, the city attorney shall, before filing of the complaint, provide the notice recipient with written notification by personal service or certified mail sent to the notice recipient's last known address that the notice recipient has failed to satisfactorily comply with the requested recommendations and that the city attorney intends to file a complaint to abate the nuisance. (94-Or-159, § 1, 11-10-94)

386.50. - Relief.

(a) When a complaint is filed under section 386.40, the city attorney may seek any or all of the following forms of relief:

(1) A judgment restraining the defendants from using for any purpose the place at or in which a nuisance has been maintained or permitted for a period of one (1) year. (2) A judgment perpetually restraining the defendants from maintaining or permitted any nuisance, as defined in section 386.10, in the City of Minneapolis. (3) An order directing the Hennepin County Sheriff to remove from the place at or in which the nuisance has been maintained or permitted all fixtures and moveable property used in conducting or aiding or abetting the nuisance, and to sell the fixtures and moveable property in the manner provided by law for the sale of chattels in the enforcement of a judgment for the payment of money. (4) An order directing the owner to more effectively manage the owner's property, including but not limited to the following actions: a. Make capital improvements to the owner's property. b. Improve exterior or interior lighting. c. Install surveillance cameras. d. Employ security guards. e. Post signs warning against illegal activity. f. Participate in neighborhood or local merchants' associations. g. Screen prospective tenants. h. Attend property management training programs. (94-Or-159, § 1, 11-10-94)

386.60. - Proceeds of sale.

The proceeds of any sale pursuant to court order of fixtures and moveable property used in conducting or aiding or abetting the nuisance shall be applied to payment of the costs of the proceeding and the balance, if any, shall be used to fund community crime prevention programs.

#### **SOURCES:**

<http://www.house.leg.state.mn.us/hrd/pubs/nuislaws.pdf>

[https://library.municode.com/mn/minneapolis/codes/code\\_of\\_ordinances?nodeId=COOR\\_TIT15OFIS\\_CH386NUAB](https://library.municode.com/mn/minneapolis/codes/code_of_ordinances?nodeId=COOR_TIT15OFIS_CH386NUAB)



## Mississippi Nuisance and Abatement Law

*As always, do your own due diligence regarding local and state laws.*

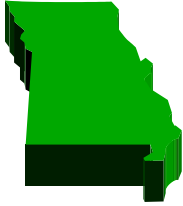
### HOW

If the existence of the nuisance be admitted, or established in an action as provided in this chapter, an order of abatement shall be entered as a part of judgment in the case, which order shall direct the removal from the place of all personal property and contents used in conducting the nuisance, and not already released under authority of the court as provided in Section 95-3-11, and shall direct the sale in the manner provided for the sale of chattels under execution of such personal property as belong to the defendants notified or appearing. Such order shall also require the renewal for one year of any bond furnished by the owner of the real property as provided in Section 95-3-11, or, if not so furnished, shall continue for one year any closing order issued at the time of granting the temporary injunction, or, if no such closing order was issued, shall include an order directing the effectual closing of the place against its use for any purpose, and so keeping it closed for a period of one year, unless sooner released; provided, however, that the owner of any place so closed and not released under bond as hereinbefore provided in Section 95-3-11, may at this time appear and obtain such release in the manner and upon fulfilling the requirements as hereinbefore provided. The release of the property under any of the provisions of this chapter shall not release it from any judgment, lien, penalty, or liability to which it may be subject by law. Owners of unsold personal property and contents so seized must appear and claim same within ten days after such order of abatement is made and prove innocence, to the satisfaction of the court, of any knowledge of said use thereof and that with reasonable care and diligence they could not have known thereof. Every defendant in the action shall be presumed to have had knowledge of the general reputation of the place. If such innocence be so established, such unsold personal property and contents shall be delivered to the owner, otherwise it shall be sold as hereinbefore provided. If any person shall break and enter or use a place so directed to be closed, he shall be punished as for contempt as provided hereinafter. For removing and selling the personal property and contents, the officer shall be entitled to charge and receive the same fees he would for levying upon the selling like property on execution; and for closing the place and keeping it closed, a reasonable sum shall be allowed by the court.

### SOURCE:

<https://law.justia.com/codes/mississippi/2010/title-95/3/95-3-15/>





## Missouri Nuisance and Abatement Law

*As always, do your own due diligence regarding local and state laws.*

### WHAT

The law of nuisance recognizes two conflicting rights: (1) property owners have a right to control their land and use it to benefit their best interests; and (2) the public and neighboring landowners have a right to prevent unreasonable use that substantially impairs the peaceful use and enjoyment of their land.

For a private nuisance to exist, the alleged harm to a landowner must be substantial, involving more than a slight inconvenience or petty annoyance. The harm is determined by the standard of normal persons or property in the particular locality. Courts recognize that the use of property in one locality and under some circumstances may be reasonable, while such use in another locality and under other circumstances would be unreasonable and constitute a nuisance. Accordingly, whether a particular use is or is not a nuisance must be determined from the facts in each case, such as the (1) locality; (2) character of the neighborhood; (3) nature of the use; (4) extent and frequency of the injury; (5) effect upon the enjoyment of life, health and property of those affected; and (6) diminishment of the property value of those affected, and the like.

### HOW

City of \_\_\_\_\_

(Address)

### NOTICE OF VIOLATION AND NUISANCE AND ORDER TO ABATE

DATE: \_\_\_\_\_

TO: Property Owner and/or Occupant of \_\_\_\_\_ City of \_\_\_\_\_ , Missouri, County of \_\_\_\_\_ , State of Missouri

Notice by: Personal Service

Regular Mail

Posting on Property

Notice of Violation and Order to Abate

The weeds, high grass, and/or brush growing on the property located at the above referenced address are more than seven (7) inches in height and, therefore, pursuant to Section \_\_\_\_\_ of the Municipal Code of the City of \_\_\_\_\_, the high weeds, grass and/or brush are hereby deemed a public nuisance.

You must abate such nuisance by cutting the high weeds, grass and/or brush to an appropriate height. Keep in mind that weeds, grass and brush may not exceed seven (7) inches in height at any time. You must abate such nuisance within five (5) days of the date of this Notice.

#### *Notice of Hearing*

The (building official or code official) will conduct a hearing with regard to this matter on \_\_\_\_\_ at City Hall; the address for City Hall is shown at the top of this Notice. You may appear and present any evidence regarding the violation(s) described herein, including any evidence showing that the weeds, grass and brush on the property are all below seven inches in height or otherwise in compliance with city ordinance.

#### *Notice of City's Intention to Abate Violations*

If you fail to abate the violations as ordered, the City will immediately cut and/or remove, or cause to be cut and/or removed, the said weeds, high grass or brush which is causing the nuisance. The costs of cutting and/or removal will be certified to the City Clerk who will cause a special tax bill to be issued and a lien placed upon the property.

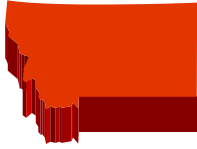
[For those cities covered by Section 71.285 R.S.Mo.:

Per state law and ordinance, this is the only notice that you will receive in this growing season. If the weeds, grass and brush, again, exceed seven (7) inches in height later in this growing season, the City will abate the nuisance without further notice.]

#### **SOURCES:**

<http://www.weisslawstl.com/2011/12/01/a-primer-on-private-nuisance-law-in-missouri>

<http://c.ymcdn.com/sites/www.mocities.com/resource/resmgr/onestopshop/noticeofviolationkarr.pdf>



## Montana Nuisance and Abatement Law

*As always, do your own due diligence regarding local and state laws.*

### WHAT

(1) Anything that is injurious to health, indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, or that unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, river, bay, stream, canal, or basin or any public park, square, street, or highway is a nuisance.

(2) Nothing that is done or maintained under the express authority of a statute may be deemed a public or private nuisance.

(3) An agricultural or farming operation, a place, an establishment, or a facility or any of its appurtenances or the operation of those things is not or does not become a public or private nuisance because of its normal operation as a result of changed residential or commercial conditions in or around its locality if the agricultural or farming operation, place, establishment, or facility has been in operation longer than the complaining resident has been in possession or commercial establishment has been in operation.

(4) Noises resulting from the shooting activities at a shooting range during established hours of operation are not considered a public nuisance.

### HOW

(1) A public nuisance may be abated and the persons maintaining the nuisance and the possessor of the premises who permits the nuisance to be maintained may be enjoined from the conduct by an action in equity in the name of the state of Montana by the county attorney or any resident of the state.

(2) Upon the filing of the complaint in the action, the judge may issue a temporary injunction.

(3) In an action, evidence of the general reputation of the premises is admissible for the purpose of proving the existence of the nuisance.

(4) If the existence of the nuisance is established, an order of abatement must be entered as part of the judgment in the case. The judge issuing the order may:

(a) confiscate all fixtures used on the premises to maintain the nuisance and either sell them and transmit the proceeds to the county general fund, destroy them, or return them to their rightful ownership;

(b) close the premises for any period not to exceed 1 year, during which period the premises must remain in the custody of the court;

(c) allow the premises to be opened upon posting bond sufficient in amount to ensure compliance with the order of abatement. The bond must be forfeited if the nuisance is continued or resumed. The procedure for forfeiture or discharge of the bond is as provided in 46-9-502 and 46-9-503.

(d) impose any combination of subsections (4)(a) through (4)(c).

### SOURCE:

<http://leg.mt.gov/bills/mca/27/30/27-30-101.htm> / <http://leg.mt.gov/bills/mca/45/8/45-8-112.htm>



## Nebraska Nuisance and Abatement Law

*As always, do your own due diligence regarding local and state laws.*

### HOW

- (1) A person commits the offense of maintaining a nuisance if he erects, keeps up or continues and maintains any nuisance to the injury of any part of the citizens of this state.
- (2) The erecting, continuing, using, or maintaining of any building, structure, or other place for the exercise of any trade, employment, manufacture, or other business which, by occasioning noxious exhalations, noisome or offensive smells, becomes injurious and dangerous to the health, comfort, or property of individuals or the public; the obstructing or impeding, without legal authority, of the passage of any navigable river, harbor, or collection of water; or the corrupting or rendering unwholesome or impure of any watercourse, stream, or water; or unlawfully diverting any such watercourse from its natural course or state to the injury or prejudice of others; and the obstructing or encumbering by fences, building, structures or otherwise of any of the public highways or streets or alleys of any city or village, shall be deemed nuisances.
- (3) A person guilty of erecting, continuing, using, maintaining or causing any such nuisance shall be guilty of a violation of this section, and in every such case the offense shall be construed and held to have been committed in any county whose inhabitants are or have been injured or aggrieved thereby.
- (4) Maintenance of nuisances is a Class III misdemeanor.
- (5) The court, in case of conviction of such offense, shall order every such nuisance to be abated or removed.

The Attorney General, any one of the assistant attorneys general assigned to the commission when directed by the commission, or the county attorney in the county where such nuisance exists or is kept or maintained may maintain an action by injunction, in the name of the State of Nebraska, to abate and temporarily or permanently to enjoin such nuisance. The court shall have the right to make temporary and final orders as in other injunction proceedings. The plaintiff shall not be required to give bond in such action, and upon final judgment against the defendant, such court shall also order that such room, house, building, structure, boat, or place of any kind shall be closed and padlocked for a period of not less than three months nor more than two years and until the owner, lessee, tenant, or occupant thereof gives bond with sufficient surety to be approved by the court making the order, in the penal sum of not less than one thousand dollars, payable to the State of Nebraska and conditioned that no alcoholic liquors will thereafter be manufactured, possessed, sold, bartered, given away, furnished, or otherwise disposed of thereon or therein, or kept thereon or therein with intent to sell, barter, give away, or otherwise dispose of the same, contrary to the Nebraska Liquor Control Act, and that he or she and his or her surety will pay all fines and costs assessed for any violation of the act. If any condition of such bond is violated, the whole amount may be recovered as a

penalty for the use of the State of Nebraska; and in such suit on the bond, both the principal and surety shall be joined as party defendants, and satisfaction may be had from either of them. In such action a notice to nonresident defendants may be given by publication as authorized by law under the code of civil procedure, or upon their agents for service in this state, if any.

**SOURCES:**

<https://law.justia.com/codes/nebraska/2006/s28index/s2813021000.html>

<http://nebraskalegislature.gov/laws/statutes.php?statute=53-199>



## Nevada Nuisance and Abatement Law

*As always, do your own due diligence regarding local and state laws.*

### WHAT

(a) Anything which is injurious to health, or indecent and offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property;

(b) A building or place used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, using or giving away a controlled substance, immediate precursor or controlled substance analog;

(c) A building or place which was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog and:

(1) Which has not been deemed safe for habitation by the board of health; or

(2) From which all materials or substances involving the controlled substance, immediate precursor or controlled substance analog have not been removed or remediated by an entity certified or licensed to do so within 180 days after the building or place is no longer used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog; or

(d) A building or place regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of, crimes by the criminal gang, is a nuisance, and the subject of an action. The action may be brought by any person whose property is injuriously affected, or whose personal enjoyment is lessened by the nuisance, and by the judgment the nuisance may be enjoined or abated, as well as damages recovered.

### HOW

1. Whenever a written complaint is filed with the county clerk alleging the existence of a nuisance, as defined in [NRS 40.140](#), within the county, the county clerk shall notify the board of county commissioners, who, except as otherwise provided by subsections 5 and 6, shall forthwith fix a date to hear the proof of the complainant and of the owner or occupant of the real property whereon the alleged nuisance is claimed to exist not less than 30 nor more than 40 days subsequent to the filing of the complaint.

2. At the time of fixing the hearing, the board of county commissioners shall order and cause notice of the hearing to be published at least once a week for 2 weeks next preceding the date fixed for the hearing in a newspaper of general circulation published in the county and, if none is so published in the county, then in a newspaper having a general circulation in the county.

3. At the time fixed for hearing, the board of county commissioners shall proceed to hear the complaint

and any opponents. The board may adjourn the hearing from time to time, not exceeding 14 days in all. At the hearing, it shall receive the proofs offered to establish or controvert the facts set forth in the complaint, and on the final hearing of the complaint, the board shall by resolution entered on its minutes determine whether or not a nuisance exists and, if one does exist, order the person or persons responsible for such nuisance to abate the same. If the order is not obeyed within 5 days after service of a copy upon the person or persons responsible for the nuisance, the board of county commissioners shall cause the abatement of the nuisance and make the cost of abatement a special assessment against the real property.

4. The special assessment may be collected at the same time and in the same manner as ordinary county taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary county taxes. All laws applicable to the levy, collection and enforcement of county taxes shall be applicable to such special assessment.

5. As an alternative to the procedure set forth in subsections 1, 2, 3 and 4, the board of county commissioners, upon receipt from the county clerk of notice of the filing of a complaint alleging the existence of a nuisance, may direct the district attorney to notify the person responsible for such nuisance to abate it, and if such notice is not obeyed after service thereof, within a reasonable time under the circumstances, as specified by the board, to bring legal proceedings for abatement of the nuisance, and for recovery of compensatory and exemplary damages and costs of suit. Such proceedings shall be under the control of the board of county commissioners in the same manner as other suits to which the county is a party.

6. Notwithstanding the abatement procedures set forth in the preceding subsections, any board of county commissioners in this State may, by ordinance, direct the district attorney of the county in which the board has jurisdiction to bring all necessary civil actions on behalf of the county in any court of competent jurisdiction to enjoin, abate or restrain the continued violation of any ordinance, rule or regulation enacted, adopted or passed by said board and having the effect of law, the violation of which is designated as a nuisance in such ordinance, rule or regulation. If the board of county commissioners decides to direct the district attorney as herein provided, it shall enact an ordinance empowering the district attorney to file all necessary civil actions in the name of the county in any court of competent jurisdiction to enforce any such ordinance, rule or regulation of the board having the effect of law.

#### **SOURCES:**

<https://law.justia.com/codes/nevada/2010/title3/chapter40/nrs40-140.html>

[https://www.lawserver.com/law/state/nevada/nrs/nevada\\_revised\\_statutes\\_244-360](https://www.lawserver.com/law/state/nevada/nrs/nevada_revised_statutes_244-360)



## New Hampshire Nuisance and Abatement Law

*As always, do your own due diligence regarding local and state laws.*

### HOW

Collection of Nuisance Abatement Costs. – A municipality which has incurred costs for the removal or destruction of a public health nuisance pursuant to RSA 147:4-6, 147:11, 147:13, 147:17, or 147:17-a, may, as an alternative to a civil action to recover such costs, institute collection of such costs using the following procedure:

- I. After obtaining the consent of the municipal governing body, the health officer shall issue an order for costs, bearing the title "Order for Abatement Costs Pursuant to RSA 147:7-b" containing:
  - (a) A copy of any notice or order sent pursuant to RSA 147:7-a and a statement that such notice or order was not complied with within the time specified; or, in the case of removal without notice pursuant to RSA 147:6, a statement of what the nuisance or other danger to the public health was, and a statement of the circumstances justifying the removal without notice.
  - (b) A statement of what corrective action was taken by the municipality.
  - (c) An expense account of the municipality's costs in taking the corrective action, including the cost of issuing and serving orders under RSA 147:7-a and this section.
  - (d) A statement that such costs constitute a lien against the real estate, enforceable in the same manner as real estate taxes, including possible loss of the property for nonpayment, and, if no written objection is filed with the health officer within 30 days, the account will be committed to the tax collector.
  - (e) The address of the office of the health officer, where any objection must be filed.
  - (f) A copy of this section.
- II. The order shall be served upon the record owner of the property or such owner's agent, and upon the person to whom taxes are assessed for the property, if other than the owner, in the same manner provided for service of a summons in a civil action.
- III. Within 30 days after such service, any person served may file a written objection with the health officer, stating with specificity the basis for the objection.
- IV. If no such objection is filed, the health officer shall forward a copy of the order, together with proof of service and a certification that no objection was received, to the selectmen or other officers responsible in that municipality for issuing tax warrants under RSA 76:10. The selectmen or other officers shall commit the expense account to the municipal tax collector, together with a warrant requiring the collector to collect the same from the person to whom real estate taxes are assessed for the premises upon which such corrective action was taken, and to pay the amount so collected to the municipal treasurer. Within 30 days after the receipt of such warrant, the collector shall send a bill as provided in RSA 76:11. Interest as provided in RSA



76:13 shall be charged on any amount not paid within 30 days after the bill is mailed. The collector shall have the same rights and remedies as in the collection of taxes, as provided in RSA 80.

V. If an objection is filed, the health officer may file a motion to affirm the order in the district court of the district in which the property is located if the amount does not exceed the limits of the district court's civil damages concurrent jurisdiction as set forth in RSA 502-A:14, or otherwise in the superior court. The filing shall include copies of the order and the objection. The clerk shall schedule a hearing on the motion, and shall give notice of the hearing by registered mail upon the person filing the objection, at least 20 days prior to the hearing. At the hearing, the technical rules of evidence shall not apply, but the court may admit any evidence deemed material and proper. Following the hearing, or upon default, the court shall enter judgment affirming, correcting if necessary, or denying the order for abatement costs. If the order is affirmed, the expense account shall be amended to reflect the municipality's expenses in connection with the motion, including filing fees, service fees, witness fees, attorneys' fees and traveling expenses.

VI. Orders of the health officer under this section shall be deemed prima facie lawful and reasonable. The owner's lack of responsibility for creating the nuisance or danger to health shall not constitute a defense. The court shall not deny the order except upon the following grounds, the burden of proof for which shall lie with the owner:

(a) That the actions taken were clearly outside the authority of the health officer, or constituted a gross abuse of discretion; or

(b) That the owner did not receive any order pursuant to RSA 147:7-a, and that the nuisance or other danger to health was not one for which an owner may be held strictly liable under either state or federal law, and further, that neither the owner nor any agent of the owner knew, had any reason to know, or in the exercise of due care in the ownership and maintenance of property or any other legal duty could have had any reason to know, of the circumstances constituting the nuisance or other danger to health.

VII. If the order is affirmed in whole or in part, the health officer shall forward it for collection in the manner provided by paragraph IV of this section.

**SOURCE:**

<https://law.justia.com/codes/new-hampshire/2015/title-x/chapter-147/section-147-7-b>



## New Jersey Nuisance and Abatement Law

*As always, do your own due diligence regarding local and state laws.*

### WHAT

A nuisance as a legal term is a condition or use of a property that interferes with neighbors' use or enjoyment of their property, endangers life, health or safety, or is offensive to others. Under the Abandoned Property Rehabilitation Act, abandoned properties are presumed to be nuisances, because of their "negative effects on nearby properties and the residents or users of those properties." Because of the harm they do to others, New Jersey law authorizes local governments to use their police powers to compel the owners of nuisance properties to correct those conditions. If the owner fails to do so, the municipality can step in and correct, or abate, the conditions itself. This process is known as nuisance abatement.

### HOW

**Step 1: The public officer can act on complaints from citizens charging property nuisance conditions, or can act directly on conditions she has identified.** Where there is a basis for charges, the public officer issues a complaint stating the charges. The complaint must be served on all parties with a legal interest in the property, including the owner and any lien or mortgage holder. The complaint must be served on the parties personally or by registered mail, posted on the premises affected by the complaint, and filed with the county recording officer. If any parties cannot be found, publication in a newspaper is also required (N.J.S.A.40:48-2.7).

**Step 2: The public officer must hold a hearing on the complaint no less than seven and no more than 30 days after serving the complaint,** at which the owners and parties in interest can contest the findings in the complaint. If, after the hearing, the public officer "determines that the building under consideration is unfit for human habitation or occupancy or use," she must issue written findings of fact, and serve an order on the owner and parties in interest.

**Step 3: The order is served on the parties in the same manner as the complaint.** The order must specify:

- The actions that the owner must take to abate the nuisance
- The time period the owner is given to take action

An owner or party in interest has 30 days from the service of the order to seek an injunction barring the public officer from carrying out the order.

**Step 4: The owner either carries out the steps required by the order during the time permitted, or fails to do so.** It is reasonable to assume that the public officer can extend the time for good cause, although it is not explicitly provided in the statute. In so doing, however, the public officer must carefully weigh the impact of allowing the nuisance conditions to continue against the good faith effort of the owner.

If the owner abates the nuisance, the matter is at an end. As noted above, however, if the nuisance is abated by vacating a previously occupied property, without repairing the conditions that led to the order, the owner is potentially subject to further municipal action, beginning six months after the property has been vacated, under the provisions of the Abandoned Properties Rehabilitation Act.

**Step 5: If the owner fails to abate the nuisance in timely fashion, the public officer must determine whether to act; and if so, what action to take.** This is a critically important step. *All too often, in this situation the public officer will routinely have the building vacated, if occupied, or demolished, if vacant, and will not seriously investigate the feasibility of having the building repaired or improved.* While there are many situations where there is no realistic alternative to vacating or demolishing a building, it must also be recognized that vacating a building will in many cases only hasten its further deterioration, while demolition may permanently eliminate a building with potential reuse value.

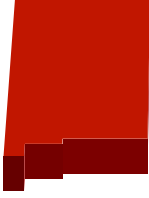
The decision to repair rather than vacate or demolish is based on financial considerations, in two respects. One is the cost of the repairs, and whether they can be justified by the present or future value of the property. Second, even if the cost is reasonable, the public officer needs to have a source of funds that can be speedily accessed to carry out the repairs.

One way local governments can deal with the latter issue is to enact a landlord security deposit ordinance. Under such an ordinance, owners of rental property are required to put up funds—in the form of cash or a bond—which the municipality can draw upon to make repairs in the event the owner fails to do so. The ability of a municipality to enact such an ordinance was upheld in a case involving the town of Ridgely as a legitimate use of the municipal police power. While state law does not give municipalities explicit authority to enact ordinances imposing fees or other obligations on property owners to address nuisance conditions, the Ridgely decision indicates that such ordinances may be found to be within the municipal police power. In light of the compelling evidence that abandoned properties impose increased costs on the municipality, imposing a fee on the owners of abandoned properties might well withstand legal challenge.<sup>36</sup> Another route, described below, is to create a revolving fund for nuisance abatement, which could use funds from the municipal budget or from a city's Community Development Block Grant allocation.

**Step 6: The public officer places a lien on the property for the cost of the action.** The municipality can seek to recover of its costs for abating the nuisance by placing a lien on the property. The lien can include both the actual cost of the repair, vacating or demolition, as the case may be, as well as any associated costs of litigation, title searches, and the like incurred by the municipality. The lien is a municipal lien, and as such has the same priority as tax liens over any private lien or mortgage on the property (N.J.S.A.40:48-2.5[f]).

**SOURCE:**

<http://www.hcdnnj.org/nuisance-abatement>



## New Mexico Nuisance and Abatement Law

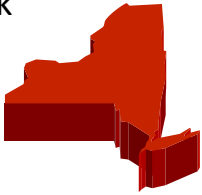
*As always, do your own due diligence regarding local and state laws.*

### **HOW**

- A. Except as herein provided, an action for the abatement of a public nuisance shall be governed by the general rules of civil procedure.
- B. A civil action to abate a public nuisance may be brought, by verified complaint in the name of the state without cost, by any public officer or private citizen, in the district court of the county where the public nuisance exists, against any person, corporation or association of persons who shall create, perform or maintain a public nuisance.
- C. When judgment is against the defendant in an action to abate a public nuisance, he shall be adjudged to pay all court costs and a reasonable fee for the complainant's attorney, when the suit is not prosecuted exclusively by the attorney general or a district attorney.

### **SOURCE:**

<https://law.justia.com/codes/new-mexico/2009/chapter-30/article-8/section-30-8-8>



## New York Nuisance and Abatement Law

*As always, do your own due diligence regarding local and state laws.*

### HOW

Whenever required by the governor, the commissioner shall make an examination concerning nuisances or questions affecting the security of life and health in any locality, and shall report the results thereof to the governor, within the time prescribed by him therefor.

The report of every such examination, when approved by the governor, shall be filed in the office of the secretary of state, and the governor may declare the matters public nuisances, which may be found and certified in any such report to be nuisances, and may order them to be changed, abated or removed as he may direct.

Every such order shall be presumptive evidence of the existence of such nuisance; and the governor may, by a precept under his hand and official seal, require the district attorney, sheriff and other officers of the county where such nuisance is maintained, to take all necessary measures to execute such order and cause it to be obeyed, and the acts of any such county officer in the abatement of any such nuisance, reasonable or necessary for such abatement, shall be lawful and justifiable and the order of the governor a sufficient protection to such officer.

The expense of such abatement shall be paid by the municipality where the nuisance occurs, and shall be a debt recoverable by such municipality of all persons, maintaining it or assisting in its maintenance, and a lien and charge upon the lands upon which the nuisance is maintained, which may be enforced by a sale of such lands to satisfy the same.

Whenever requested by the commissioner, the board of health of any health district may appoint one of its members to act with and assist the commissioner during the investigation or examination of any nuisance, or for the purpose of determining whether a public nuisance exists.

Such representative may take part in such examination, but the final determination of the questions involved shall rest solely with the commissioner.

Every local board of health and local health officer shall receive and examine into all complaints made by any inhabitant concerning nuisances, or causes of danger or injury to life and health within the health district, and may enter upon or within any place or premises where nuisances or conditions dangerous to life and health or which are the cause of nuisances existing elsewhere are known or believed to exist, and by its members or other persons designated for that purpose, inspect and examine the same.

The local board of health or local health officer having the powers of a local board of health shall furnish the owners, agents and occupants of the premises with a written statement of the results and conclusions of any examination conducted pursuant to the provisions of sections one thousand three hundred three to one thousand three hundred five , inclusive, of this chapter.

Every local board of health shall order the suppression and removal of all nuisances and conditions detrimental to life and health found to exist within the health district.

Whenever the commissioner shall by notice to the presiding officer of any local board of health, direct him to convene such local board to take certain definite proceedings concerning which the commissioner shall be satisfied that the action recommended by him is necessary for the public good, and is within the jurisdiction of such board of health, such presiding officer shall convene such local board of health, which shall take the action directed.

The local health officer of a health district having no local board of health and each county health commissioner shall have authority equal to a local board of health to investigate and abate public nuisances which may affect health.

The owners, agents and occupants of any premises shall permit sanitary examinations and inspections to be made pursuant to the provisions of this article.

If the owner or occupant of any premises whereon any nuisance or condition deemed to be detrimental to the public health exists or the cause of the existence elsewhere, fails to comply with any order or regulation of any local board or health officer having the power of a local board of health for the suppression and removal of any such nuisance or other matter, in the judgment of the board or health officer detrimental to the public health, made, served or posted as required in this article, such board or its agents or employees may enter upon the premises to which such order or regulation relates, and suppress or remove such nuisance or other matter.

The expense of suppression or removal of a nuisance or conditions detrimental to health shall be paid by the owner or occupant of the premises, or by the person who caused or maintained such nuisance or other matters, and the board of health of the municipality or county wherein the premises are located may maintain an action in the name of the municipality or county to recover such expense, and the same when recovered shall be paid to the treasurer of the municipality or county, or if it has no treasurer to its chief fiscal officer, to be held and used as the funds of the municipality or county.

Whenever the suppression or removal of such nuisance or conditions detrimental to health demand the immediate expenditure of money, every local board of health, local health officer of a health district having no board of health or county health commissioner shall be authorized to use for such purpose any money in the hands of the board, or may call on the governing body of the municipality or county as the case may be for such money. All such moneys so expended shall be immediately repaid to the fund or source whence they were received on the recovery of the same by action or otherwise from the persons responsible for the expenses of suppression or removal.

If execution upon a judgment for the recovery of the expense of the suppression or removal of a nuisance or other matter, pursuant to an order or regulation of any local board of health is returned wholly or in part

unsatisfied, such judgment, if docketed in the place and manner required by law to make a judgment of a court of record a lien upon real property, shall be a first lien upon such premises, having preference over all other liens and encumbrances whatever. Notwithstanding the foregoing, such lien shall not have preference over any mortgage or other encumbrance for the benefit of the state of New York or a public benefit corporation thereof.

The board may cause such premises to be sold for a term of time for the payment and satisfaction of such lien and the expenses of the sale, provided, however, that where such premises are encumbered by a mortgage or other encumbrance for the benefit of the state of New York or a public benefit corporation thereof, the consent of that entity shall first be obtained.

Notice of such sale shall be published for twelve weeks successively, at least once in each week, in a newspaper of the city, village or town, or if no newspaper is published therein, in the newspaper published nearest to such premises. If the owner or occupant of the premises, or his agent, is known, a copy of such notice shall be served upon him, either personally, at least fourteen days previous to the sale, or by mail at least twenty-eight days prior thereto.

The premises shall be sold to the person offering to take them for the shortest time, paying the amount unpaid on such judgment and interest and the expenses of the notice and sale. A certificate of the sale, signed and acknowledged by the president and secretary of the board, shall be made and delivered to the purchaser, and may be recorded as a conveyance of real property, and the purchaser shall thereupon be entitled to the immediate possession of such premises, and, if occupied, may maintain an action or proceeding to recover the possession thereof against the occupant, as against a tenant of real property holding over after the expiration of his term; and the cost of any such action or proceeding, if not paid by the occupant, shall also be a lien upon such premises, having the same preference as the lien of such judgment, and the right of the purchaser to such premises shall be extended for a longer term, which shall bear the same proportion to the original term as the amount of such costs bears to the amount paid by the purchaser on such sale.

The term of the purchaser at any such sale shall commence when he shall have acquired possession of the premises sold.

At any time within six months after recording such certificate of sale, the owner of the premises or any lessee, mortgagee or incumbrancer, thereof, or of any part of the same, may redeem the premises or any such part from such sale by paying to the purchaser the amount paid by him on the sale, and all cost and expenses incurred by him in any action or proceeding to recover possession with interest at the rate of ten per centum per annum thereon. If redemption is made by the owner, the right of the purchaser shall be extinguished; if by a lessee, the amount paid shall be applied as a payment upon any rent due or which may accrue upon his lease; if by a mortgagee or an incumbrancer, the amount paid shall be added to his

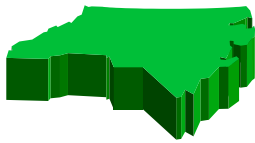
mortgage, incumbrance or other lien, or if he have more than one to the oldest, and shall thereafter be a part of such mortgage, lien or incumbrance and enforceable as such.

It shall be the duty of local boards of health to enforce the public health law, the state sanitary code and local sanitary codes whether promulgated by the county or any of the political subdivisions within said county. A local board of health is hereby authorized to make an ex parte application for a temporary restraining order and upon sufficient proof to satisfy it, the court may grant such an order, where there is a violation within the jurisdiction of the local board of health which requires immediate relief.

**SOURCE:**

<http://codes.findlaw.com/ny/public-health-law/pbh-sect-1301.html> (Start here and click the "Next" button several times for all content)





## North Carolina Nuisance and Abatement Law

***As always, do your own due diligence regarding local and state laws.***

### **WHAT**

(a) The erection, establishment, continuance, maintenance, use, ownership or leasing of any building or place for the purpose of assignation, prostitution, gambling, illegal possession or sale of alcoholic beverages, illegal possession or sale of controlled substances as defined in the North Carolina Controlled Substances Act, or illegal possession or sale of obscene or lewd matter, as defined in this Chapter, shall constitute a nuisance. The activity sought to be abated need not be the sole purpose of the building or place in order for it to constitute a nuisance under this Chapter.

(b) The erection, establishment, continuance, maintenance, use, ownership or leasing of any building or place wherein or whereon are carried on, conducted, or permitted repeated acts which create and constitute a breach of the peace shall constitute a nuisance.

(b1) The erection, establishment, continuance, maintenance, use, ownership or leasing of any building or place wherein or whereon are carried on, conducted, or permitted repeated activities or conditions which violate a local ordinance regulating sexually oriented businesses so as to contribute to adverse secondary impacts shall constitute a nuisance.

(b2) The erection, establishment, continuance, maintenance, use, ownership, or leasing of any building or place for the purpose of carrying on, conducting, or engaging in any activities in violation of G.S. 14-72.7.

(c) The building, place, vehicle, or the ground itself, in or upon which a nuisance as defined in subsection (a), (b), or (b1) of this section is carried on, and the furniture, fixtures, and contents, are also declared a nuisance, and shall be enjoined and abated as hereinafter provided.

(d) No nuisance action under this Article may be brought against a place or business which is subject to regulation under Chapter 18B of the General Statutes when the basis for the action constitutes a violation of laws or regulations under that Chapter pertaining to the possession or sale of alcoholic beverages.

### **HOW**

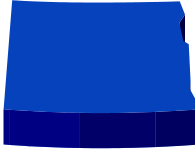
Wherever a nuisance is kept, maintained, or exists, as defined in this Article, the Attorney General, district attorney, county, municipality, or any private citizen of the county may maintain a civil action in the name of the State of North Carolina to abate a nuisance under this Chapter, perpetually to enjoin all persons from maintaining the same, and to enjoin the use of any structure or thing adjudged to be a nuisance under this Chapter; provided, however, that no private citizen may maintain such action where the alleged nuisance involves the illegal possession or sale of obscene or lewd matter.

Upon request from the Attorney General, district attorney, county or municipality, including the sheriff or chief of police of any county or municipality, the Alcohol Law Enforcement Section of the Department of Public Safety or any other law enforcement agency with jurisdiction may investigate alleged public nuisances and make recommendations regarding actions to abate the public nuisances.

If an action is instituted by a private person, the complainant shall execute a bond prior to the issuance of a restraining order or a temporary injunction, with good and sufficient surety to be approved by the court or clerk thereof, in the sum of not less than one thousand dollars (\$1,000), to secure to the party enjoined the damages he may sustain if such action is wrongfully brought, not prosecuted to final judgment, or is dismissed, or is not maintained, or if it is finally decided that the temporary restraining order or preliminary injunction ought not to have been granted. The party enjoined shall have recourse against said bond for all damages suffered, including damages to his property, person, or character and including reasonable attorney's fees incurred by him in making defense to said action. No bond shall be required of the prosecuting attorney, the Attorney General, county, or municipality, and no action shall be maintained against any public official or public entity, their employees, or agents for investigating or maintaining an action for abatement of a nuisance under the provisions of this Chapter.

**SOURCE:**

<http://law.onecle.com/north-carolina/19-offenses-against-public-morals/index.html>



## North Dakota Nuisance and Abatement Law

*As always, do your own due diligence regarding local and state laws.*

### WHAT

A nuisance consists in unlawfully doing an act or omitting to perform a duty, which act or omission:

1. Annoys, injures, or endangers the comfort, repose, health, or safety of others;
2. Offends decency;
3. Unlawfully interferes with, obstructs or tends to obstruct, or renders dangerous for passage, any lake, navigable river, bay, stream, canal, basin, public park, square, street, or highway; or
4. In any way renders other persons insecure in life or in the use of property

### HOW

Who may bring abatement. The attorney general, the state health officer, the state's attorney, or any citizen of the county where a nuisance exists or is maintained, may bring an action in the name of the state to abate and perpetually enjoin the nuisance. 42-02-02.

Injunction - Proceedings. If the action is brought by a citizen, that citizen shall give a bond in an amount sufficient to cover the costs of such action as the court may direct. An injunction shall be granted at the commencement of an action for the abatement of a nuisance in the usual manner of granting injunctions, except that the affidavit or complaint, or both, may be made by the state's attorney, the attorney general, or an assistant, upon information and belief. When an injunction, either temporary or permanent, has been granted under the provisions of this section, it shall be binding on the defendant or defendants throughout the entire state. 42-02-03.

Temporary injunction - When officers take possession of property. If, at the time of granting the temporary injunction, an affidavit shall be presented to the court or judge stating or showing that acts are being committed contrary to law upon the premises where said nuisance is located, the court or judge must issue the court's or judge's warrant commanding the officer serving said writ of injunction, at the time of service, to take possession and custody of any articles or property used or employed contrary to law. The officer shall take and hold the possession of such property until final judgment is entered, or until the possession of such property shall be disposed of by an order of the court or judge upon a hearing had before it for such purpose. The expense for such holding shall be taxed as a part of the costs in the action. 42-02-04.

Nuisance - Abatement. If a place is found, upon the judgment of a jury, court, or judge having jurisdiction, to be a nuisance, a law enforcement officer of the county or city where the nuisance is located shall close and abate such place by taking possession thereof, together with all personal property used in keeping and

maintaining the nuisance, and close the same against use by anyone and keep it closed for a period of one year from the date of the judgment decreeing it to be a nuisance. After judgment, such officer publicly shall destroy the personal property used in keeping and maintaining the nuisance. Any person breaking open said building, erection, or place or using the premises so ordered to be closed shall be punished for contempt as provided by this chapter.

**SOURCE:**

<http://www.legis.nd.gov/cencode/t42c02.pdf#nameddest=42-02-04>



## Ohio Nuisance and Abatement Law

*As always, do your own due diligence regarding local and state laws.*

### WHAT

(A) Any person, who uses, occupies, establishes, or conducts a nuisance, or aids or abets in the use, occupancy, establishment, or conduct of a nuisance; the owner, agent, or lessee of an interest in any such nuisance; any person who is employed in that nuisance by that owner, agent, or lessee; and any person who is in control of that nuisance is guilty of maintaining a nuisance and shall be enjoined as provided in sections 3767.03 to 3767.11 of the Revised Code.

(B) A criminal gang that uses or occupies any building, premises, or real estate, including vacant land, on more than two occasions within a one-year period to engage in a pattern of criminal gang activity is guilty of maintaining a nuisance and shall be enjoined as provided in sections 3767.03 to 3767.11 of the Revised Code. As used in this division, "criminal gang" and "pattern of criminal gang activity" have the same meanings as in section 2923.41 of the Revised Code.

### HOW

(A) If the existence of a nuisance is admitted or established in the civil action provided for in section 3767.03 of the Revised Code or in a criminal action, an order of abatement shall be included in the judgment entry under division (D) of section 3767.05 of the Revised Code. The order shall direct the removal from the place where the nuisance is found to exist of all personal property and contents used in conducting or maintaining the nuisance and not already released under authority of the court as provided in division (C) of section 3767.04 of the Revised Code and shall direct that the personal property or contents that belong to the defendants notified or appearing be sold, without appraisal, at a public auction to the highest bidder for cash. The order also shall require the renewal for one year of any bond furnished by the owner of the real property under section 3767.04 of the Revised Code; if a bond was not so furnished, shall continue for one year any closing order issued at the time of granting the temporary injunction; or, if a closing order was not then issued, shall include an order directing the effectual closing of the place where the nuisance is found to exist against its use for any purpose and keeping it closed for a period of one year unless sooner released. The owner of any place closed and not released under bond may appear and obtain a release in the manner and upon fulfilling the requirements provided in section 3767.04 of the Revised Code. The release of property under this division shall not release it from any judgment, lien, penalty, or liability to which it may be subject.

(B) Owners of unsold personal property or contents seized pursuant to division (A) of this section shall appear and claim the personal property or contents within ten days after the order of abatement is issued and prove to the satisfaction of the court their lack of any actual knowledge of the use of the personal

property or contents in the conduct or maintenance of the nuisance and that with reasonable care and diligence they could not have known of that use. Every defendant in the action shall be presumed to have had knowledge of the general reputation of the place where the nuisance is found to exist. If an owner establishes the lack of actual or constructive knowledge of the use of his personal property or contents in the conduct or maintenance of the nuisance, the unsold personal property and contents shall be delivered to the owner. If an owner does not so establish, the personal property or contents shall be sold or otherwise disposed of as provided in division (A) of this section. For removing and selling the personal property and contents, the officer involved shall be entitled to charge and receive the same fees as he would for levying upon and selling similar property on execution. For closing the place where the nuisance is found to exist and keeping it closed, a reasonable sum shall be allowed by the court.

(C) There is hereby established in the state treasury the attorney general nuisance abatement fund. Except as otherwise provided in sections 3767.07 to 3767.11 of the Revised Code, all proceeds from the sale of personal property or contents seized pursuant to a civil action commenced or otherwise prosecuted by the attorney general under sections 3767.03 to 3767.11 of the Revised Code shall be deposited into the state treasury and credited to the fund. The attorney general shall use the fund solely to defray expenses and costs associated with those types of civil actions.

(D) All proceeds from the sale of personal property or contents seized pursuant to a civil action commenced or otherwise prosecuted under sections 3767.03 to 3767.11 of the Revised Code by a village solicitor, city director of law, or other similar chief legal officer of a municipal corporation initially shall be applied to the payment of the costs incurred in the prosecution of the civil action and the costs associated with the abatement and sale ordered pursuant to division (A) of this section, including, but not limited to, court costs, reasonable attorney's fees, and other litigation expenses incurred by the complainant. Except as otherwise provided in sections 3767.07 to 3767.11 of the Revised Code, any proceeds remaining after that initial application shall be deposited into the city or village treasury and credited to the general fund.

(E) All proceeds from the sale of personal property or contents seized pursuant to a civil action commenced or otherwise prosecuted under sections 3767.03 to 3767.11 of the Revised Code by a prosecuting attorney initially shall be applied to the payment of the costs incurred in the prosecution of the civil action and the costs associated with the abatement and sale ordered pursuant to division (A) of this section, including, but not limited to, court costs, reasonable attorney's fees, and other litigation expenses incurred by the complainant. Except as otherwise provided in sections 3767.07 to 3767.11 of the Revised Code, any proceeds remaining after that initial application shall be deposited into the county treasury and credited to the general fund.

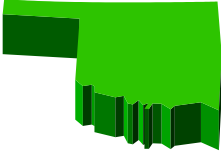
(F) All proceeds from the sale of personal property or contents seized pursuant to a civil action commenced under sections 3767.03 to 3767.11 of the Revised Code by a person who is a citizen of the county where the nuisance is found to exist initially shall be applied to the payment of the costs incurred in the prosecution of

the civil action and the costs associated with the abatement and sale ordered pursuant to division (A) of this section, including, but not limited to, court costs, reasonable attorney's fees, and other litigation expenses incurred by the complainant. Except as otherwise provided in sections 3767.07 to 3767.11 of the Revised Code, any proceeds remaining after that initial application shall be deposited into the county treasury and credited to the general fund.

**SOURCES:**

[https://law.justia.com/codes/ohio/2006/orc/jd\\_376702-cddf.html](https://law.justia.com/codes/ohio/2006/orc/jd_376702-cddf.html)

[https://law.justia.com/codes/ohio/2006/orc/jd\\_376706-32c5.html](https://law.justia.com/codes/ohio/2006/orc/jd_376706-32c5.html)



## Oklahoma Nuisance and Abatement Law

*As always, do your own due diligence regarding local and state laws.*

### WHAT:

A nuisance consists in unlawfully doing an act, or omitting to perform a duty, which act or omission either:

First. Annoys, injures or endangers the comfort, repose, health, or safety of others; or

Second. Offends decency; or

Third. Unlawfully interferes with, obstructs or tends to obstruct, or renders dangerous for passage, any lake or navigable river, stream, canal or basin, or any public park, square, street or highway; or

Fourth. In any way renders other persons insecure in life, or in the use of property, provided, this section

**shall not apply to preexisting agricultural activities.**

### HOW

A. A municipal governing body may cause property within the municipal limits to be cleaned of trash and weeds or grass to be cut or mowed in accordance with the following procedure:

1. At least ten (10) days' notice shall be given to the owner of the property by mail at the address shown by the current year's tax rolls in the county treasurer's office before the governing body holds a hearing or takes action. The notice shall order the property owner to clean the property of trash, or to cut or mow the weeds or grass on the property, as appropriate, and the notice shall further state that unless such work is performed within ten (10) days of the date of the notice the work shall be done by the municipality and a notice of lien shall be filed with the county clerk against the property for the costs due and owing the municipality. At the time of mailing of notice to the property owner, the municipality shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailer. However, if the property owner cannot be located within ten (10) days from the date of mailing by the municipal governing body, notice may be given by posting a copy of the notice on the property or by publication, as defined in Section 1-102 of this title, one time not less than ten (10) days prior to any hearing or action by the municipality. If a municipal governing body anticipates summary abatement of a nuisance in accordance with the provisions of subsection B of this section, the notice, whether by mail, posting or publication, shall state: that any accumulations of trash or excessive weed or grass growth on the owner's property occurring within six (6) months from and after the date of this notice may be summarily abated by the municipal governing body; that the costs of such abatement shall be assessed against the owner; and that a lien may be imposed on the property to secure such payment, all without further prior notice to the property owner;



2. The owner of the property may give written consent to the municipality authorizing the removal of the trash or the mowing of the weeds or grass. By giving written consent, the owner waives the owner's right to a hearing by the municipality;
3. A hearing may be held by the municipal governing body to determine whether the accumulation of trash or the growth of weeds or grass has caused the property to become detrimental to the health, benefit, and welfare of the public and the community or a hazard to traffic, or creates a fire hazard to the danger of property;
4. Upon a finding that the condition of the property constitutes a detriment or hazard, and that the property would be benefited by the removal of such conditions, the agents of the municipality are granted the right of entry on the property for the removal of trash, mowing of weeds or grass, and performance of the necessary duties as a governmental function of the municipality. Immediately following the cleaning or mowing of the property, the municipal clerk shall file a notice of lien with the county clerk describing the property and the work performed by the municipality, and stating that the municipality claims a lien on the property for the cleaning or mowing costs;
5. The governing body shall determine the actual cost of such cleaning and mowing and any other expenses as may be necessary in connection therewith, including the cost of notice and mailing. The municipal clerk shall forward by mail to the property owner specified in paragraph 1 of this subsection a statement of such actual cost and demanding payment. If the cleaning and mowing are done by the municipality, the cost to the property owner for the cleaning and mowing shall not exceed the actual cost of the labor, maintenance, and equipment required. If the cleaning and mowing are done on a private contract basis, the contract shall be awarded to the lowest and best bidder;
6. If payment is not made within thirty (30) days from the date of the mailing of the statement, then within the next thirty (30) days, the municipal clerk shall forward a certified statement of the amount of the cost to the county treasurer of the county in which the property is located and the same shall be levied on the property and collected by the county treasurer as other taxes authorized by law. Once certified by the county treasurer, payment may only be made to the county treasurer except as otherwise provided for in this section. In addition the cost and the interest thereon shall be a lien against the property from the date the cost is certified to the county treasurer, coequal with the lien of ad valorem taxes and all other taxes and special assessments and prior and superior to all other titles and liens against the property, and the lien shall continue until the cost shall be fully paid. At the time of collection the county treasurer shall collect a fee of Five Dollars (\$5.00) for each parcel of property. The fee shall be deposited to the credit of the general fund of the county. If the county treasurer and the municipality agree that the county treasurer is unable to collect the assessment, the municipality may pursue a civil remedy for collection of the amount owing and interest thereon by an action in person against the property owner and an action in rem to foreclose its lien against the property. A mineral interest, if severed from the surface interest and not owned by the surface owner,

shall not be subject to any tax or judgment lien created pursuant to this section. Upon receiving payment, if any, the municipal clerk shall forward to the county treasurer a notice of such payment and directing discharge of the lien; and

7. The municipality may designate by ordinance an administrative officer or administrative body to carry out the duties of the governing body in subsection A of this section. The property owner shall have a right of appeal to the municipal governing body from any order of the administrative officer or administrative body. Such appeal shall be taken by filing written notice of appeal with the municipal clerk within ten (10) days after the administrative order is rendered.

B. If a notice is given by a municipal governing body to a property owner ordering the property within the municipal limits to be cleaned of trash and weeds or grass to be cut or mowed in accordance with the procedures provided for in subsection A of this section, any subsequent accumulations of trash or excessive weed or grass growth on the property occurring within a six-month period may be declared to be a nuisance and may be summarily abated without further prior notice to the property owner. At the time of each such summary abatement the municipality shall notify the property owner of the abatement and the costs thereof. The notice shall state that the property owner may request a hearing within ten (10) days after the date of mailing the notice. The notice and hearing shall be as provided for in subsection A of this section. Unless otherwise determined at the hearing the cost of such abatement shall be determined and collected as provided for in paragraphs 5 and 6 of subsection A of this section. This subsection shall not apply if the records of the county clerk show that the property was transferred after notice was given pursuant to subsection A of this section.

C. The municipal governing body may enact ordinances to prohibit owners of property or persons otherwise in possession or control located within the municipal limits from allowing trash to accumulate, or weeds to grow or stand upon the premises and may impose penalties for violation of said ordinances.

D. As used in this section:

1. "Weed" includes but is not limited to poison ivy, poison oak, or poison sumac and all vegetation at any state of maturity which:

a. exceeds twelve (12) inches in height, except healthy trees, shrubs, or produce for human consumption grown in a tended and cultivated garden unless such trees and shrubbery by their density or location constitute a detriment to the health, benefit and welfare of the public and community or a hazard to traffic or create a fire hazard to the property or otherwise interfere with the mowing of said weeds,

b. regardless of height, harbors, conceals, or invites deposits or accumulation of refuse or trash,

c. harbors rodents or vermin,

d. gives off unpleasant or noxious odors,

e. constitutes a fire or traffic hazard, or

f. is dead or diseased.

The term "weed" shall not include tended crops on land zoned for agricultural use which are planted more than one hundred fifty (150) feet from a parcel zoned for other than agricultural use;

2. "Trash" means any refuse, litter, ashes, leaves, debris, paper, combustible materials, rubbish, offal, or waste, or matter of any kind or form which is uncared for, discarded, or abandoned;

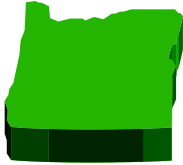
3. "Owner" means the owner of record as shown by the most current tax rolls of the county treasurer; and

4. "Cleaning" means the removal of trash from property.

E. The provisions of this section shall not apply to any property zoned and used for agricultural purposes or to railroad property under the jurisdiction of the Oklahoma Corporation Commission. However, a municipal governing body may cause the removal of weeds or trash from property zoned and used for agricultural purposes pursuant to the provisions of this section but only if such weeds or trash pose a hazard to traffic and are located in, or within ten (10) yards of, the public right-of-way at intersections.

**SOURCES:**

<https://law.justia.com/codes/oklahoma/2014/title-50/section-50-1/>



## Oregon Nuisance and Abatement Law

*As always, do your own due diligence regarding local and state laws.*

### **WHAT**

Every act or thing done, or anything existing within the limits of any city referred to in ORS, which is or may be declared by any law of this state or by any ordinance of such city to be a nuisance, hereby is declared to be a nuisance, and shall be considered and treated as such in all actions, suits and proceedings whatsoever, unless such law or ordinance is declared void by a court of competent jurisdiction.

### **HOW**

Any person whose property or personal enjoyment thereof is affected by a private nuisance, may maintain an action for damages therefor. If judgment is given for the plaintiff in the action, the plaintiff may, on motion, in addition to the execution to enforce the judgment, obtain an order allowing a warrant to issue to the sheriff to abate the nuisance. The motion must be made at the term at which judgment is given, and shall be allowed of course, unless it appears on the hearing that the nuisance has ceased or that such remedy is inadequate to abate or prevent the continuance of the nuisance, in which latter case the plaintiff may proceed to have the defendant enjoined. [Amended by 1979 c.284 §96]

### **SOURCES:**

<https://www.oregonlaws.org/ors/221.915>

<https://www.oregonlaws.org/ors/105.505>



## Pennsylvania Nuisance and Abatement Law

*As always, do your own due diligence regarding local and state laws.*

### WHAT

Pennsylvania defines a nuisance as "a class of wrongs that arise from the unreasonable, unwarrantable, or unlawful use by a person of his own property . . . to the right of another, or the public, producing such material annoyance, inconvenience, discomfort or hurt that the law will presume a consequential damage."<sup>1</sup> Simply put, nuisance is one property owner's use of his property in a way which causes harm to another.

### HOW

**(a) Abatement by city after notice.**--If a public nuisance has not been abated at the expiration of 30 days after notice has been provided or within additional time as the department or appeals board may grant, taking into consideration the provisions of section 127A06(c) (relating to appeal after notice and hearing), the department shall have the authority to enter upon the property for the purpose of abatement.

**(b) Statement of costs.**--Upon abatement in accordance with this section, the department shall file with the city treasurer or other financial officer of the city designated by council a statement of costs of the abatement, which shall include the administrative fee and civil penalty provided by this chapter.

In addition to any other remedy available at law or in equity, a municipality may institute the following actions against the owner of any real property that is in serious violation of a code or for failure to correct a condition which causes the property to be regarded as a public nuisance:

- (1) (i) An in personam action may be initiated for a continuing violation for which the owner takes no substantial step to correct within six months following receipt of an order to correct the violation, unless the order is subject to a pending appeal before the administrative agency or court.
- (ii) Notwithstanding any law limiting the form of action for the recovery of penalties by a municipality for the violation of a code, the municipality may recover, in a single action under this section, an amount equal to any penalties imposed against the owner and any costs of remediation lawfully incurred by or on behalf of the municipality to remedy any code violation.

- (2) A proceeding in equity.

### SOURCES:

[https://pennstatelaw.psu.edu/\\_file/aglaw/Pennsylvania\\_Nuisance\\_Law.pdf](https://pennstatelaw.psu.edu/_file/aglaw/Pennsylvania_Nuisance_Law.pdf)

<https://law.justia.com/codes/pennsylvania/2016/title-11/chapter-127a/section-127a07/>

<http://www.legis.state.pa.us/cfdocs/legis/LI/consCheck.cfm?txtType=HTM&ttl=53&div=0&chpt=61>



## Rhode Island Nuisance and Abatement Law

*As always, do your own due diligence regarding local and state laws.*

### WHAT

(1) "Nuisance" or "common nuisance" means and includes any place as defined in this section in or upon which lewdness, assignation, or prostitution is conducted, permitted, continued, or exists, and the personal property used in conducting or maintaining any place for that purpose, and all buildings, places, or tenements used as houses of ill fame, for illegal gaming, or where intemperate, idle, dissolute, noisy, or disorderly persons are in the habit of resorting;

(2) "Person" includes any individual, corporation, association, partnership, trustee, lessee, agent, or assignee; and

(3) "Place" includes any building, structure, or tenement, or any separate part or portion of a building or structure, or the ground itself.

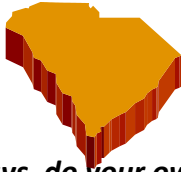
### HOW

Whenever a nuisance is alleged to exist, the attorney general or any citizen of the state may bring an action in the name of the state, upon the relation of the attorney general or of an individual citizen, to abate the nuisance and to perpetually enjoin the person or persons maintaining the nuisance and any or all persons owning any legal or equitable interest in the place from further maintaining or permitting the nuisance either directly or indirectly. The complaint shall be duly sworn to by the complaining party, unless brought by the attorney general, and shall set forth the names of the parties, the object of the action, a description of the place complained of, and a statement of the facts constituting the alleged nuisance.

### SOURCES:

<https://law.justia.com/codes/rhode-island/2012/title-11/chapter-11-30/chapter-11-30-1/>

<https://law.justia.com/codes/rhode-island/2012/title-10/chapter-10-1/chapter-10-1-1/>



## South Carolina Nuisance and Abatement Law

*As always, do your own due diligence regarding local and state laws.*

### HOW

Whenever any municipality of this State finds that there exist in such municipality dwellings which are unfit for human habitation due to (a) dilapidation, (b) defects increasing the hazards of fire, accidents or other calamities, (c) lack of ventilation, light or sanitary facilities or (d) other conditions rendering such dwellings unsafe or insanitary, dangerous or detrimental to the health, safety or morals or otherwise inimical to the welfare of the residents of such municipality, such municipality may exercise its police powers to repair, close or demolish any such dwelling in the manner herein provided.

**SECTION 31-15-30.** Provisions permitted to be included in ordinances relating to unfit dwellings.

Upon the adoption of an ordinance finding that dwelling conditions of the character described in Section 31-15-20 exist within a municipality, the governing body of such municipality may adopt ordinances relating to the dwellings within such municipality which are unfit for human habitation. Such ordinances may include the following provisions:

- (1) That a public officer be designated or appointed to exercise the powers prescribed by the ordinances;
- (2) That whenever a petition is filed with the public officer by a public authority or by at least five residents of the municipality charging that any dwelling is unfit for human habitation or whenever it appears to the public officer (on his own motion) that any dwelling is unfit for human habitation, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and all parties in interest in such dwelling a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer or his designated agent at a place therein fixed not less than ten days nor more than thirty days after the serving of such complaint; that the owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person or otherwise and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer;
- (3) That if, after such notice and hearing, the public officer determines that the dwelling under consideration is unfit for human habitation he shall state in writing his findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order
  - (a) if the repair, alteration or improvement of the dwelling can be made at a reasonable cost in relation to the value of the dwelling (the ordinance of the municipality may fix a certain percentage of such cost as being reasonable for such purpose), requiring the owner, within the time specified in the order, to repair, alter or improve such dwelling to render it fit for human habitation or to vacate and close the dwelling as a human habitation or

(b) if the repair, alteration or improvement of the dwelling cannot be made at a reasonable cost in relation to the value of the dwelling (the ordinance of the municipality may fix a certain percentage of such cost as being reasonable for such purpose), requiring the owner, within the time specified in the order, to remove or demolish such dwelling;

(4) That, if the owner fails to comply with an order to repair, alter or improve or to vacate and close the dwelling, the public officer may cause such dwelling to be repaired, altered or improved or to be vacated and closed; that the public officer may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful";

(5) That, if the owner fails to comply with an order to remove or demolish the dwelling, the public officer may cause such dwelling to be removed or demolished; and

(6) That the amount of the cost of such repairs, alterations or improvements, vacating and closing, or removal or demolition by the public officer shall be a lien against the real property upon which such cost was incurred and shall be collectible in the same manner as municipal taxes.

(7) If a municipality in demolishing unfit dwellings as permitted by this article contracts with a third party not employed by the municipality to do the work, it must bid the work in conformity with the procurement code applicable to the municipality.

In South Carolina, lenders may foreclose on a mortgage in default by using the judicial foreclosure process.

**SOURCES:**

<http://www.scstatehouse.gov/code/t31c015.php>





## South Dakota Nuisance and Abatement Law

*As always, do your own due diligence regarding local and state laws.*

### WHAT

Acts and omissions constituting nuisances. A nuisance consists in unlawfully doing an act, or omitting to perform a duty, which act or omission either:

- (1) Annoys, injures, or endangers the comfort, repose, health, or safety of others;
- (2) Offends decency;
- (3) Unlawfully interferes with, obstructs, or tends to obstruct, or renders dangerous for passage, any lake or navigable river, bay, stream, canal, or basin, or any public park, square, street, or highway;
- (4) In any way renders other persons insecure in life, or in the use of property.

### HOW

Remedies against nuisances enumerated. Remedies against any nuisance are:

- (1) A civil action;
- (2) Abatement; and
- (3) In cases of public nuisance only, the additional remedy of indictment or information as prescribed by statute and rules relating thereto.

Abatement of nuisance--Notice required--Taxing cost of abatement--Civil action. A public nuisance may be abated without civil action by any public body or officer as authorized by law. Any municipality, county, or township may defray the cost of abating a public nuisance by taxing the cost thereof by special assessment against the real property on which the nuisance occurred. If the nuisance abated is an unsafe or dilapidated building, junk, trash, debris, or similar nuisance arising from the condition of the property, the municipality, county, or township may commence a civil action against the owner of the real property for its costs of abatement in lieu of taxing the cost by special assessment.

Any private person may also abate a public nuisance which is specially injurious to such person or any private nuisance injurious to such person by removing or if necessary destroying that which constitutes the nuisance without committing a breach of the peace or doing unnecessary injury. If a private nuisance results from a mere omission of the wrongdoer, and cannot be abated without entering upon the wrongdoer's land, reasonable notice shall be given to the wrongdoer before entering to abate it.

### SOURCE:

[http://sdlegislature.gov/Statutes/Codified\\_Laws/DisplayStatute.aspx?Type=Statute&Statute=21-10](http://sdlegislature.gov/Statutes/Codified_Laws/DisplayStatute.aspx?Type=Statute&Statute=21-10)



## Tennessee Nuisance and Abatement Law

*As always, do your own due diligence regarding local and state laws.*

### WHAT

- "A nuisance has been defined as anything which annoys or disturbs the free use of one's property, or which renders its ordinary use or physical occupation uncomfortable." *Pate v. City of Martin*, 614 S.W.2d 46, 47 (Tenn. 1981). A nuisance is either temporary or permanent and the law in Tennessee is well settled as to the proper measure of damages for each category." 121 S.W.3d at 671.
- "A temporary nuisance is defined as:
  - [one] which can be corrected by the expenditure of labor or money . . . . Where the nuisance is temporary, damages to property affected by the nuisance are recurrent and may be recovered from time to time until the nuisance is abated. 'The measure of such damages [is] the injury to the value of the use and enjoyment of the property, which may be measured to a large extent by the rental value of the property, and extent that rental value is diminished.

### HOW

**(a)** If, upon the trial, the existence of the nuisance is established under § 29-3-101(a)(2)(A), an order of abatement shall be entered as part of the judgment or decree of the court, which order shall direct the removal from the building or place where the nuisance exists or is maintained of all means, appliances, fixtures, appurtenances, materials, supplies and instrumentalities used for the purpose of conducting, maintaining or carrying on the unlawful business, occupation, game, practice or device constituting the nuisance; and shall direct the sale thereof, or such portion thereof as may be lawfully sold, upon such terms as the court may order, and the payment of the proceeds into court to be applied to costs or paid over to the owner, and the destruction of such portion thereof, if any, as cannot be lawfully sold within this state; and the judgment or decree shall perpetually enjoin the defendant from engaging in, conducting, continuing, or maintaining the nuisance, directly or indirectly, by the defendant or defendant's agents or representatives, and perpetually forbidding the owner of the building from permitting or suffering the nuisance to be done in the building.

**(b) (1)** Upon any hearing or trial, the establishment of a criminal gang as a nuisance under § 29-3-101(a)(2) (B) need only be proven by clear and convincing evidence, notwithstanding any references under this chapter to the criminal code. Neither a criminal conviction nor a finding of juvenile delinquency is required in order to prove, by clear and convincing evidence, that particular conduct is gang related conduct to be abated as a nuisance under this chapter. Gang related conduct to be abated as a nuisance may be proven through the testimony of a fact witness, an expert witness, or a combined fact-expert witness pursuant to

the rules of evidence.

**(2)** If, upon any hearing or trial, the existence of a gang related nuisance is established under § 29-3-101, an order of abatement shall be entered as part of the judgment or decree of the court. That order shall enjoin perpetually the defendant or defendants from engaging in, conducting, continuing, aiding or abetting the nuisance, directly or indirectly.

**(3)** In addition to the relief permitted in subdivision (b)(2), the court may designate a certain geographically defined area or areas in any temporary or permanent gang injunction, which are narrowly tailored in compliance with prevailing constitutional case law for one (1) or more of the following purposes:

**(A)** Preventing the gang from gathering in public in groups of two (2) or more members; and

**(B)** Preventing any gang member from entering any specific public park or parcel of property where the gang has been found to have carried out its operations.

**(4)** All gang injunctions shall also include an "opt out" provision permitting an individual to seek an order of dismissal from the injunction upon proper application to the court, with thirty (30) days' notice to the petitioner, truthfully stating that the individual renounces involvement with that particular gang, which is the subject of the gang injunction, and for the last two (2) years:

**(A)** Has not committed any crimes or engaged in any form of criminal conduct, not including any time spent incarcerated;

**(B)** Has not been in the company, or association, of any person found under this chapter to be a gang member, other than an immediate family member; and

**(C)** Has not obtained any new gang related tattoos.

**(c)** In the order of abatement, the court may also assess costs of public services required to abate or manage the nuisance, including, but not limited to, law enforcement costs, if any, caused by the public nuisance. The governmental entity shall submit evidence of such costs to the court.

**(d) (1)** Any person who is not specifically named in a gang injunction issued pursuant to subsection (b) may be subject to the injunction by service upon the person of:

**(A)** A petition by the original petitioner to amend the injunction to specifically include the person; or

**(B)** A summons and a copy of the injunction.

**(2)** Service of the petition or summons shall include a date, time, and place of a hearing, where the original petitioner shall be required to show why the person should be subject to the injunction.

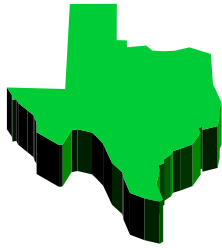
**(3)** A person who is added to the injunction under subdivision (d)(1) shall be subject to § 29-3-111 for any conduct occurring after the date the person is added to the injunction.

**(4)** A person who is added to the injunction under subdivision (d)(1) shall be afforded the same opt-out provisions under subdivision (b)(4).

**SOURCES:**

<https://www.johndaylegal.com/56-1-generally.html>

<https://law.justia.com/codes/tennessee/2014/title-29/chapter-3/section-29-3-110/>



## Texas Nuisance and Abatement Law

*As always, do your own due diligence regarding local and state laws.*

### WHAT

- (a) This section applies only to the unincorporated area of a county.
- (b) A person may not cause, permit, or allow a public nuisance under this section.
- (c) A public nuisance is:
  - (1) keeping, storing, or accumulating refuse on premises in a neighborhood unless the refuse is entirely contained in a closed receptacle;
  - (2) keeping, storing, or accumulating rubbish, including newspapers, abandoned vehicles, refrigerators, stoves, furniture, tires, and cans, on premises in a neighborhood or within 300 feet of a public street for 10 days or more, unless the rubbish or object is completely enclosed in a building or is not visible from a public street;
  - (3) maintaining premises in a manner that creates an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin, or other disease-carrying pests;
  - (4) allowing weeds to grow on premises in a neighborhood if the weeds are located within 300 feet of another residence or commercial establishment;
  - (5) maintaining a building in a manner that is structurally unsafe or constitutes a hazard to safety, health, or public welfare because of inadequate maintenance, unsanitary conditions, dilapidation, obsolescence, disaster, damage, or abandonment or because it constitutes a fire hazard;
  - (6) maintaining on abandoned and unoccupied property in a neighborhood a swimming pool that is not protected with:
    - (A) a fence that is at least four feet high and that has a latched and locked gate; and
    - (B) a cover over the entire swimming pool that cannot be removed by a child;
  - (7) maintaining on any property in a neighborhood in a county with a population of more than 1.1 million a swimming pool that is not protected with:
    - (A) a fence that is at least four feet high and that has a latched gate that cannot be opened by a child; or
    - (B) a cover over the entire swimming pool that cannot be removed by a child;
  - (8) maintaining a flea market in a manner that constitutes a fire hazard;

(9) discarding refuse or creating a hazardous visual obstruction on:

(A) county-owned land; or

(B) land or easements owned or held by a special district that has the commissioners court of the county as its governing body;

(10) discarding refuse on the smaller of:

(A) the area that spans 20 feet on each side of a utility line; or

(B) the actual span of the utility easement;

(11) filling or blocking a drainage easement, failing to maintain a drainage easement, maintaining a drainage easement in a manner that allows the easement to be clogged with debris, sediment, or vegetation, or violating an agreement with the county to improve or maintain a drainage easement;

(12) discarding refuse on property that is not authorized for that activity; or

(13) surface discharge from an on-site sewage disposal system as defined by Section 366.002.

(d) This section does not apply to:

(1) a site or facility that is:

(A) permitted and regulated by a state agency for the activity described by Subsection (c); or

(B) licensed or permitted under Chapter 361 for the activity described by Subsection (c); or

(2) agricultural land.

(d-1) This subsection applies only to a county with a population of 3.3 million or more and only in an unincorporated area in the county that is at least 5,000 feet outside the boundaries of a home-rule municipality. Subsections (c)(3) and (4) apply only to undeveloped land in the county for which:

(1) a condition on that land has been found to cause a public nuisance under those provisions in the preceding year; and

(2) a finding of public nuisance could have been applied to that condition when the condition first occurred.

(e) In Subsection (d), "agricultural land" means land that qualifies for tax appraisal under Subchapter C or D, Chapter 23, Tax Code.

#### HOW

The abatement procedures adopted by the commissioners court must be administered by a regularly salaried, full-time county employee. A person authorized by the person administering the abatement program may administer:

- (1) the prohibition or control of access to the premises to prevent a violation of Section 343.011(c)(1), (6), (9), or (10);
  - (2) the removal or demolition of the nuisance; and
  - (3) the abatement of a nuisance described by Section 343.011(c)(12).
- (b) The abatement procedures must require that written notice be given to:
- (1) the owner, lessee, occupant, agent, or person in charge of the premises; and
  - (2) the person responsible for causing a public nuisance on the premises when:
    - (A) that person is not the owner, lessee, occupant, agent, or person in charge of the premises; and
    - (B) the person responsible can be identified.
- (c) The notice must state:
- (1) the specific condition that constitutes a nuisance;
  - (2) that the person receiving notice shall abate the nuisance before the:
    - (A) 31st day after the date on which the notice is served, if the person has not previously received a notice regarding a nuisance on the premises; or
    - (B) 10th business day after the date on which the notice is served, if the person has previously received a notice regarding a nuisance on the premises;
  - (3) that failure to abate the nuisance may result in:
    - (A) abatement by the county;
    - (B) assessment of costs to the person responsible for causing the nuisance when that person can be identified; and
    - (C) a lien against the property on which the nuisance exists, if the person responsible for causing the nuisance has an interest in the property;
  - (4) that the county may prohibit or control access to the premises to prevent a continued or future nuisance described by Section 343.011(c)(1), (6), (9), or (10); and
  - (5) that the person receiving notice is entitled to submit a written request for a hearing before the:
    - (A) 31st day after the date on which the notice is served, if the person has not previously received a notice regarding a nuisance on the premises; or
    - (B) 10th business day after the date on which the notice is served, if the person has previously received a notice regarding a nuisance on the premises.
- (d) The notice must be given:
- (1) by service in person or by registered or certified mail, return receipt requested; or

(2) if personal service cannot be obtained or the address of the person to be notified is unknown, by posting a copy of the notice on the premises on which the nuisance exists and by publishing the notice in a newspaper with general circulation in the county two times within 10 consecutive days.

(e) Except as provided in Subsection (f), the abatement procedures must require a hearing before the county abates the nuisance if a hearing is requested. The hearing may be conducted before the commissioners court or any board, commission, or official designated by the commissioners court. The commissioners court may designate a board, commission, or official to conduct each hearing.

(f) A county may, before conducting a hearing, abate a nuisance under Section 343.011(c)(6) by prohibiting or controlling access to the premises on which the nuisance is located and installing a cover that cannot be opened by a child over the entire swimming pool, but only if the county conducts a hearing otherwise in accordance with Subsection (e) after the nuisance is abated.

**SOURCE:**

<http://www.statutes.legis.state.tx.us/Docs/HS/htm/HS.343.htm>





## Utah Nuisance and Abatement Law

*As always, do your own due diligence regarding local and state laws.*

### WHAT

(1) A nuisance is anything which is injurious to health, indecent, offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property. A nuisance may be the subject of an action.

(2) A nuisance may include the following:

(a) drug houses and drug dealing as provided in Section 78B-6-1107;

(b) gambling as provided in Title 76, Chapter 10, Part 11, Gambling;

(c) criminal activity committed in concert with two or more persons as provided in Section 76-3-203.1;

(d) criminal activity committed for the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802;

(e) criminal activity committed to gain recognition, acceptance, membership, or increased status with a criminal street gang as defined in Section 76-9-802;

(f) party houses which frequently create conditions defined in Subsection (1); and

(g) prostitution as provided in Title 76, Chapter 10, Part 13, Prostitution.

(3) A nuisance under this part includes tobacco smoke that drifts into any residential unit a person rents, leases, or owns, from another residential or commercial unit and the smoke:

(a) drifts in more than once in each of two or more consecutive seven-day periods; and

(b) creates any of the conditions under Subsection

### HOW

78B-6-1108 Nuisance -- Abatement by eviction.

(1) Whenever there is reason to believe that a nuisance under Sections 78B-6-1107 through 78B-6-1114 is kept, maintained, or exists in any county, the county attorney of the county, the city attorney of any incorporated city, any citizen or citizens of the state residing in the county, or any corporation, partnership or business doing business in the county, in his or their own names, may maintain an action in a court of competent jurisdiction to abate the nuisance and obtain an order for the automatic eviction of the tenant.

(2) The court may designate a spokesperson of any group of citizens who would otherwise have the right to maintain an action in their individual names against the defendant under this section.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1109 Abatement by eviction order -- Grounds.

An order of abatement by eviction may issue only upon a showing by the applicant by a preponderance of the evidence that:

- (1) the applicant will suffer irreparable harm unless the order of abatement by eviction issues;
- (2) the threatened injury to the applicant outweighs whatever damage the proposed order of abatement by eviction may cause the party so ordered;
- (3) the order of abatement by eviction, if issued, would not be adverse to the public interest; and
- (4) there is a substantial likelihood that the applicant will prevail on the merits of the underlying claim, or the case presents serious issues on the merits which should be the subject of further litigation.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1110 Prior acts or threats of violence -- Protection of witnesses.

At the time of application for abatement of the nuisance by eviction pursuant to Sections 78B-6-1108 and 78B-6-1109, if proof of the existence of the nuisance depends, in whole or in part, upon the affidavits of witnesses who are not peace officers, upon a showing of prior threats of violence or acts of violence by any defendant or other person, the court may issue orders to protect those witnesses, including, nondisclosure of the name, address, or any other information which may identify those witnesses.

78B-6-1111 Landlord, owner, or designated agent -- Necessary party -- Automatic eviction.

(1) A landlord, owner, or designated agent is a necessary party defendant in a nuisance action under Sections 78B-6-1107 through 78B-6-1114 for entry of an order to abate the nuisance by eviction where the acts complained of are those of third parties upon the premises of the landlord, owner, or designated agent.

(2) In the presence of the applicant, the tenant and the landlord, owner, or designated agent at the court's hearing on the action to abate the nuisance by eviction, the court shall notify the necessary parties of its finding that:

(a) a nuisance exists as defined in Section 78B-6-1107; and

(b) as a result, the court is issuing an order to evict the tenant subject to compliance with the security requirement in Section 78B-6-1112.

(3) In all cases, including default judgments, the order of abatement by eviction may be issued and enforced immediately.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1112 Security requirement -- Amount not a limitation -- Jurisdiction over surety.

(1) The court shall condition issuance of the order of abatement by eviction on the giving of security by the applicant, in such sum and form as the court determines proper, unless it appears that none of the parties will incur or suffer costs, attorney fees, or damage as the result of any wrongful order of abatement by eviction, or unless there exists some other substantial reason for dispensing with the requirement of security. No such security shall be required of the United States, the State of Utah, or of an officer, agency, or subdivision of either; nor shall it be required when it is prohibited by law.

(2) The amount of security shall not establish or limit the amount of costs, including reasonable attorney fees incurred in connection with the order of abatement by eviction, or damages that may be awarded to a party who is found to have been wrongfully evicted.

(3) A surety upon a bond or undertaking under this section submits to the jurisdiction of the court and irrevocably appoints the clerk of the court as agent upon whom any papers affecting the surety's liability on the bond or undertaking may be served. The surety's liability may be enforced on motion without the necessity of an independent action. The motion and such notice of the motion as the court prescribes may be served on the clerk of the court who shall immediately mail copies to the persons giving the security if their addresses are known.

(4) The plaintiff, upon demand, shall be granted a hearing to be held prior to the expiration of three

days from the date the defendant is served with notice of the plaintiff's giving of security as provided in Subsection 78B-6-1112(1).

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1113 Evidence of nuisance.

In any action for abatement by eviction instituted pursuant to Sections 78B-6-1107 through 78B-6-1114, all evidence otherwise authorized by law, including evidence of reputation in a community, is admissible to prove the existence of a nuisance by a preponderance of the evidence.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1114 Award of costs and attorney fees.

(1) The court may award costs, including the costs of investigation and discovery, and reasonable attorney fees, which are not compensated for pursuant to some other provision of law, to the prevailing party in any case in which a governmental agency, private citizen or citizens, corporation, partnership, or business seeks to abate the nuisance by eviction in or upon any building or place where the nuisance occurs as provided in Section 78B-6-1107.

(2) The court may award costs, including the costs of investigation and discovery, and reasonable attorney fees against a defendant landlord, owner, or designated agent only when the court finds that the defendant landlord, owner, or designated agent had actual notice of the nuisance action and willfully failed to take reasonable action within a reasonable time to abate the nuisance.

Renumbered and Amended by Chapter 3, 2008 General Session

## **SOURCE**

[https://le.utah.gov/xcode/Title78B/Chapter6/78B-6-S1101.html?v=C78B-6-S1101\\_1800010118000101](https://le.utah.gov/xcode/Title78B/Chapter6/78B-6-S1101.html?v=C78B-6-S1101_1800010118000101)



## Vermont Nuisance and Abatement Law

*Vermont is a difficult state to get solid lien abatement information. Below is some of what was found. As always, do your own due diligence regarding local and state laws.*

### **WHAT**

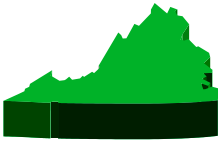
Any store, shop, warehouse, dwelling house, building, vehicle, boat, aircraft or any place whatever, which is resorted to by persons for the purpose of using regulated drugs or which is used for the illegal keeping or selling of the same, shall be deemed a common nuisance. No person shall keep or maintain such a common nuisance.

### **HOW**

The selectboard of a town in the name and behalf of such town or the town school district therein, as the case may be, and the trustees of an incorporated village, in the name and behalf of such village, may prefer complaint for relief by injunction for the abatement of public nuisances. The Superior Court shall have jurisdiction of such actions.

### **SOURCE:**

<http://legislature.vermont.gov/statutes/section/24/061/02291>



## Virginia Nuisance and Abatement Law

*As always, do your own due diligence regarding local and state laws.*

### WHAT

Nuisances not only cause problems for the creator of the nuisance but they adversely affect the innocent normally law abiding citizen also. Often nuisance crimes are the precursor of deterioration in communities and may lead to more serious criminal activity gaining a foothold. Nuisance abatement is an effort to reduce or terminate the nuisance issues plaguing neighborhoods in order that the attractiveness to criminals is reduced. This course will provide the participant an understanding of how existing laws may be used to abate nuisances and will provided methods to be more successful in court with such charges.

### HOW

When complaint is made to the circuit court of any county, or the corporation court of any city of this Commonwealth, by five or more citizens of any county, city or town, setting forth the existence of a public or common nuisance, the court, or the judge thereof in vacation, shall summon a special grand jury, in the mode provided by law, to the next term of such court, to specially investigate such complaint.

If upon a full investigation of the complaint mentioned in § 48-1 the grand jury is satisfied that the nuisance complained of is of a public nature, it shall proceed to make presentment against such person or persons as they may find have created or caused such nuisance.

Upon any such presentment the court shall order a copy thereof to be served upon the person or persons presented, or whose property is presented, in the manner prescribed by law as to the service of notices. To any such proceeding, if it be in rem, any person interested, or for and in behalf of the owner of such premises, may make defense.

Upon the trial of any such presentment the person or persons who have created, caused or permitted the continuation of any nuisance, if found guilty, shall be ordered to either abate said nuisance or to reimburse the locality for all costs of removal and abatement of said nuisance, if the locality has abated the nuisance pursuant to § 15.2-900, and further may be fined not more than \$25,000, in addition to other remedies available under the law.

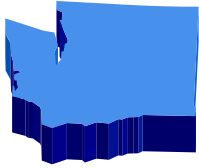
If the existence of the nuisance be established in such suit in equity, or in a criminal proceeding, an order of abatement shall be entered as a part of the judgment in the case, which order shall direct the removal from the building or place of all fixtures, furniture, musical instruments, or movable property used in conducting the nuisance, and shall direct the sale thereof in the manner provided for the sale of chattels under execution, and shall decree the effectual closing of the building or place against its use for any purpose, and so keeping it closed for a period of one year, unless sooner released. If any person shall break and enter or

use a building, erection, or place so directed to be closed he shall be punished as for contempt, as provided in § 48-11.

**SOURCES:**

<https://www.dcjs.virginia.gov/training-events/using-law-nuisance-abatement>

<https://law.justia.com/codes/virginia/2014/title-48/>



## Washington Nuisance and Abatement Law

*As always, do your own due diligence regarding local and state laws.*

### WHAT

Nuisance consists in unlawfully doing an act, or omitting to perform a duty, which act or omission either annoys, injures or endangers the comfort, repose, health or safety of others, offends decency, or unlawfully interferes with, obstructs or tends to obstruct, or render dangerous for passage, any lake or navigable river, bay, stream, canal or basin, or any public park, square, street or highway; or in any way renders other persons insecure in life, or in the use of property.

### HOW

(1) A code city that exercises its authority under chapter 7.48 RCW, RCW 35.22.280, 35.23.440, or 35.27.410, or other applicable law to abate a nuisance which threatens health or safety must provide prior notice to the property owner that abatement is pending and a special assessment may be levied on the property for the expense of abatement. Such special assessment authority is supplemental to any existing authority of a code city to levy an assessment or obtain a lien for costs of abatement. The notice must be sent by regular mail.

(2) A code city that exercises its authority under chapter 7.48 RCW, RCW 35.22.280, 35.23.440, or 35.27.410, or other applicable law to declare a nuisance, abate a nuisance, or impose fines or costs upon persons who create, continue, or maintain a nuisance may levy a special assessment on the land or premises where the nuisance is situated to reimburse the code city for the expense of abatement. A code city must, before levying a special assessment, notify the property owner and any identifiable mortgage holder that a special assessment will be levied on the property and provide the estimated amount of the special assessment. The notice must be sent by regular mail.

(3) The special assessment authorized by this section constitutes a lien against the property, and is binding upon successors in title only from the date the lien is recorded in the county where the affected real property is located. Up to two thousand dollars of the recorded lien is of equal rank with state, county, and municipal taxes.

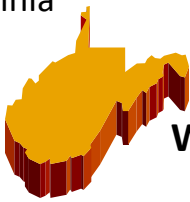
(4) A code city levying a special assessment under this section may contract with the county treasurer to collect the special assessment in accordance with RCW 84.56.035.

### Sources:

<http://app.leg.wa.gov/rcw/default.aspx?cite=7.48>

<http://app.leg.wa.gov/rcw/default.aspx?cite=35A.21.405>





## West Virginia Nuisance and Abatement Law

*As always, do your own due diligence regarding local and state laws.*

### WHAT

For the purposes of this article the terms "place," "person," "nuisance" are defined as follows: "Place" shall include any building, structure, erection or place, or any separate part or portion thereof, or the ground itself; "person" shall include any individual, corporation, association, partnership, trustee, lessee, agent or assignee; "nuisance" shall mean any place as above defined in or upon which lewdness, assignation, or prostitution is conducted, permitted, continued or exists, and the personal property and contents used in conducting or maintaining any such place for any such purpose.

### HOW

**Prima facie evidence of nuisance; prosecution of complaint; dismissal; costs; permanent injunction.** In such suit evidence of the general reputation of the place, or an admission or finding of guilt of any person under the criminal laws against prostitution, lewdness or assignation at any such place, shall be admissible for the purpose of proving the existence of such nuisance, and shall be prima facie evidence of such nuisance and of knowledge thereof and acquiescence and participation therein on the part of the person or persons charged with maintaining such nuisance as herein defined. If the complaint is filed by a person who is a citizen, resident or taxpayer of the county, it shall not be dismissed except upon a sworn statement by the complainant and his or its attorney, setting forth the reasons why the action should be dismissed and the dismissal approved by the prosecuting attorney in writing or in open court. If the court or judge is of opinion that the action ought not to be dismissed, he may direct the prosecuting attorney to prosecute such action to judgment at the expense of the county, and if any such action is continued more than one term of court, any person who is a citizen, resident or taxpayer of the county, or the attorney general, or the prosecuting attorney, may be substituted for the complainant and prosecute such suit to final decree. If the suit is brought by any person who is a citizen, resident or taxpayer of the county and the court finds and enters of record in the case that there were no reasonable grounds or cause for such suit, the costs may be taxed to such person. If the existence of the nuisance be established upon the trial, a decree shall be entered which shall perpetually enjoin the defendants and any other person or persons from further maintaining the nuisance at the place complained of and the defendants from maintaining such nuisance elsewhere within the county.

**Order of abatement; sale of personal property; renewal of bond or continuance of closing order; release of property; breaking in or entering closed property; sheriff's fees.** If the existence of such nuisance be admitted or established in a suit as provided in this article, an order of abatement shall be entered as part of the decree in the case, which order shall direct the removal from the place of all personal property and

contents used in conducting the nuisance, and not already released by and under the authority of the court as provided in section four of this article, and shall direct the sale of such thereof as belongs to the defendants notified or appearing in the manner provided for the sale of personal property under execution. Such order shall also require the renewal for one year of any bond furnished by the owner of the real property as provided in section four, or, if not so furnished, shall continue for one year any closing order issued at the time of granting the temporary injunction, or, if no such closing order was then issued, shall include an order directing the effectual closing of the place against its use for any purpose, and so keeping it closed for a period of one year unless sooner released: *Provided, however,* That the owner of any place so closed and not released under bond as hereinbefore provided may then or thereafter appear and obtain such release in the manner and upon fulfilling the requirements as hereinbefore provided. The release of the property under the provisions of this section shall not release it from any judgment, lien, penalty, or liability, to which it may be subject by law. Owners of unsold personal property and contents so seized shall appear and claim the same within ten days after such order of abatement is made, and if it has not been proved to the satisfaction of the court that such owner had knowledge of such use thereof, or, that with reasonable care and diligence, he could not have known thereof, such unsold personal property and contents shall be delivered to the owner, otherwise it shall be sold as hereinbefore provided. If any person shall break and enter or use any place so directed to be closed, he shall be punished as for contempt as provided hereinafter, in addition to any other penalties imposed by law. For removing and selling personal property and contents, the sheriff shall be entitled to charge and receive the same fees as he would for levying upon and selling like property on execution; and for closing the place and keeping it closed, a reasonable sum shall be allowed by the court.

**Nuisance disclosed in criminal proceedings; proceeds from sale of personal property.** In case the existence of such nuisance is established in a criminal proceeding in a court not having equitable jurisdiction, it shall be the duty of the prosecuting attorney to proceed promptly under this article to enforce the provisions and penalties thereof, and the finding of the defendant guilty in such criminal proceedings of any offense herein declared to be a nuisance, unless reversed or set aside, shall be conclusive as against such defendant as to the existence of the nuisance. The proceeds of the sale of the personal property, as provided in the preceding section of this article, shall be applied in payment of the costs of the suit and abatement, including the complainant's costs, or so much of the proceeds as may be necessary, except as hereinafter provided.

**Violation of injunction or closing order; trial; penalty.** In case of the violation of any injunction or closing order granted under the provisions of this article, or the commission of any contempt of court in proceedings under this article, the court, or a judge thereof in vacation, may summarily try and punish the offender. The proceedings shall conform to the practice in other suits in equity for violations of injunctions, and proceedings for contempt of court. The trial may be had upon affidavits, or either party may demand the production and oral examination of the witnesses. A party found guilty of contempt under the

provisions of this article shall be punished by a fine of not less than one hundred nor more than one thousand dollars, or by imprisonment in the county jail not more than six months, or by both such fine and imprisonment.

**Permanent injunction; tax imposed on property.** Whenever a permanent injunction is granted against any person or persons for maintaining a nuisance as in this article defined, there shall be imposed upon such nuisance and against the person or persons maintaining the same a tax of three hundred dollars: *Provided, however,* That such tax may not be imposed upon the personal property or against the owner or owners thereof who have proven innocence as hereinbefore provided, or upon the real property or against the owner or owners thereof who shall show to the satisfaction of the court or judge thereof, at the time of the granting of the permanent injunction, that he or they have in good faith permanently abated the nuisance complained of. The imposition of such tax shall be made by the court as a part of the proceedings, and the clerk of such court shall make and certify a return of the imposition of such tax thereon to the county assessor, who shall enter the same as a tax upon the property and against the persons upon which or whom the lien was imposed, as a proper tax and charge upon such real or personal property, when making up his assessments for the next ensuing year, unless the same shall have been paid before such books are made up; and the same shall be and remain a perpetual lien upon all property, both real and personal, used for the purposes of maintaining such nuisance, except as herein excepted, until fully paid. The payment of such tax shall not relieve the persons or property from any other taxes provided by law. The provisions of the laws relating to the collection of taxes in this state, the delinquency thereof, and sale of property for taxes, shall govern in the collection of the tax herein prescribed insofar as the same are applicable; and the said tax collected shall be applied in payment of any deficiency in the costs of the action and abatement on behalf of the state to the extent of such deficiency after the application thereto of the proceeds of the sale of the personal property as hereinbefore provided, and the remainder of such tax, together with the unexpended portion of the proceeds of personal property, shall be paid into the county treasury.

**Notice to collect tax.** When such nuisance has been found to exist under any equity proceedings as in this article provided, and the owner or agent of such place whereon the same has been found to exist was not a party to such proceedings and has not appeared therein, the said tax of three hundred dollars shall, nevertheless, be imposed against the person served or appearing and against the property as in this article set forth. But no such tax shall be certified to the assessor or enforced against such property, unless the owner thereof shall have appeared therein or shall be served with summons or notice therein, and the provisions of existing laws regarding the service of process shall be applied to service in proceedings under this article. The person in whose name the real estate affected by the action stands on the land books of the county for purposes of taxation shall be presumed to be the owner thereof, and in case of unknown persons having or claiming any ownership, right, title, or interest in property affected by the action, such may be made parties to the action by designating them in the summons and complaint as "all other persons unknown claiming any ownership, right, title, or interest in the property affected by the action," and service

thereon be had by publishing such summons in the same manner prescribed by law.

**Effect of holding any part of article unconstitutional.** Should any provision or section of this article be held unconstitutional, such fact shall not be held to invalidate the other provisions and sections hereof.

**SOURCE:**

<http://www.legis.state.wv.us/wvcode/ChapterEntire.cfm?chap=61&art=9>



## Wisconsin Nuisance and Abatement Law

*As always, do your own due diligence regarding local and state laws.*

### WHAT

A nuisance is an unreasonable activity or use of property that interferes substantially with the comfortable enjoyment of life, health, or safety of others.

### HOW

1. The address and other information that identifies the residential property.
2. The conditions of the residential property that constitute a nuisance and that resulted in the decision to apply for a receiver.
3. The name, address, and telephone number of the person or department where additional information can be obtained concerning the nuisance and the action necessary to abate the nuisance.
4. That the appointment of a receiver may be requested unless action is taken to abate the nuisance within 60 days after receipt of the notice.

**(c)** If a notice sent under par. (b) is recorded with the register of deeds in the county in which the residential property is located, the notice is considered to have been served, as of the date the notice is recorded, on any person claiming an interest in the residential property as a result of a conveyance from the owner of record unless the conveyance was recorded before the recording of the notice.

**(d)** A city, village, or town may not apply for the appointment of a receiver under this subsection if an interested party has commenced and is prosecuting in a timely fashion an action or other judicial or administrative proceeding to foreclose a security interest on the residential property, or to obtain specific performance of, or forfeit, the purchaser's interest in a land contract.

**(e)** Notice of the application for the appointment of a receiver under this section shall be served on all owners, owners' agents, and interested parties. At the time that the application is filed with the court, the applicant shall file a lis pendens.

**(f)** If, following the application for appointment of a receiver, one or more of the interested parties elects to abate the nuisance, the party or parties shall be required to post security in such an amount and character as the court considers appropriate to ensure timely performance of all work necessary to abate the nuisance, as well as satisfy such other conditions as the court considers appropriate for timely completion of the abatement.

**(g)** In the event that all interested parties elect not to act under par. (f) or to timely perform work

undertaken under par. (f), the court shall make a determination as to whether the residential property is a nuisance. The court shall determine the extent of the abatement necessary and the scope of work necessary to eliminate the conditions and shall appoint a receiver to complete the abatement.

**(h)** The court shall appoint a receiver who is one of the following:

- 1.** A housing authority, redevelopment company, redevelopment corporation, redevelopment authority, or community development authority under ss. 66.1201, 66.1301, 66.1331, 66.1333, or 66.1335.
- 2.** A nonprofit corporation, the primary purpose of which is the improvement of housing conditions within the city, village, or town in which the property is located.

**(i)** If the court is unable to appoint a receiver from one of the entities listed in par. (h), the court may appoint as a receiver any other person that the court determines to be competent.

**(j)** A receiver appointed by the court pursuant to this section shall not be required to give security or bond as a condition of the appointment.

**(3)** Authority of receiver; financing agreements; fee.

**(a)** A receiver appointed under sub. (2) (h) or (i) shall have the authority to do all of the following unless specifically limited by the court:

- 1.** Take possession and control of the residential property including the right to enter into and terminate tenancies, manage and maintain the property under chs. 704 and 799 and rules related to residential rental practices promulgated under s. 100.20 (2), and charge and collect rents derived from the residential property, applying the sum of those rents to the costs incurred due to the abatement and receivership.
- 2.** Negotiate contracts and pay all expenses associated with operation and conservation of the residential property including all utility, fuel, custodial, repair, or insurance expenses.
- 3.** Pay all accrued property taxes, penalties, assessments, and other charges imposed on the residential property by a unit of government including any charges accruing during the pendency of the receivership.
- 4.** Dispose of any or all abandoned personal property found at the residential property.
- 5.** Enter into contracts and pay for the performance of any work necessary to complete the abatement.

**(b)** In addition to the powers under par. (a), the receiver may, under such terms and conditions as a court shall allow, enter into financing agreements with public or private lenders and encumber the property so as to have moneys available to abate the nuisance. The receiver may give a holder of a purchase money security interest who received notice under sub. (2) the first opportunity to lend the money under this paragraph.

**(c)** A receiver may charge an administration fee at an hourly rate approved by the court or at a rate of 20% of the total cost of the abatement, whichever the court considers more appropriate.

**(4) Limits on landlord authority.**

**(a)** In this subsection, "anticipated action" means a statement or statements by a person authorized by ordinance to bring an action under this section that leads a landlord to conclude that an action under this section may be commenced.

**(b)** A landlord or receiver, or any agent of a landlord or receiver, of a residential rental unit that is the subject of any action, or anticipated action, to abate an alleged nuisance under this section may not with respect to the tenant of the rental unit, increase rent, decrease services, bring a court proceeding for possession of the unit, refuse to renew the rental agreement, or threaten or attempt to do any of the foregoing if the tenant, in a court proceeding commenced by the tenant, landlord, or receiver, establishes by a preponderance of the credible evidence that the foregoing conduct would not have occurred but for the bringing of an action for the abatement of a nuisance under this section with respect to the rental unit or the anticipation of such an action being brought. To prevail, the tenant must also establish by a preponderance of the evidence that one of the following applies:

1. No nuisance was found with respect to the rental unit.
2. The tenant was found not to cause a nuisance with respect to the rental unit.
3. If a nuisance exists under this section, the conduct specified in this paragraph is not necessary to abate the nuisance.

**(d)** Any action or inaction by a landlord, receiver, or agent described in par. (b) is subject to chs. 704 and 799, and any court proceeding regarding such an action or inaction shall be heard by the following court:

1. If the court proceeding is brought by a receiver, by the court that appointed the receiver.
2. If the court proceeding is brought by the tenant or landlord, in small claims court as an eviction action.

**(e)** In any action taken under par. (b), the notice given to the tenant must state the basis for the action and the right of the tenant to contest the action.

**(5) Review of expenditures by court; lien for unpaid expenses.**

**(a)** All moneys the receiver expends and all of the costs and obligations that he or she incurs in performing the abatement, including the receiver's administrative fee, shall be reviewed by the court for reasonableness and necessity. To the extent that the court finds the moneys, costs, or obligations to be reasonable and necessary, it shall issue an order reciting this fact as well as the amount found to be reasonable and necessary.

**(b)** If all of the costs and obligations that the court found to be reasonable and necessary under par. (a) have not been paid, the court shall issue a judgment for the unpaid amount and file that judgment with the office of the clerk of court within 60 days after the receiver files a statement of those unpaid costs and obligations

with the court and that judgment shall constitute a lien on the residential property from the date of the filing of the judgment.

**(6)** Effect on purchase money security interest of lien for unpaid abatement expenses.

**(a)** The issuance of the notice under sub. (2) (b) shall constitute a default for waste under any purchase money security interest relating to the residential property subject to the notice, and if any violations of the building code listed in the notice are not corrected within 30 days after the mailing of the notice, the vendor, mortgagee, or beneficiary under any purchase money security interest may commence proceedings to exercise the remedies set forth in the purchase money security interest.

**(b)** A lien created under sub. (5) (b) shall be prior and superior to any purchase money security interest in the residential property if all of the following apply to that purchase money security interest:

**1.** The city, village, or town gave the holder of the purchase money security interest and any vendee, mortgagor, or grantor under such purchase money security interest the notice under sub. (2) (b).

**2.** The holder of the purchase money security interest has not, prior to the appointment of a receiver under sub. (2) (g), initiated proceedings to foreclose the purchase money security interest, to abate the conditions resulting in issuance of the notice under sub. (2) (b) or to gain possession of the property.

**(c)** Except for property tax liens, assessment liens, and purchase money security interests not included in par. (b), a lien created under sub. (5) (b) shall be prior and superior to all other liens, mortgages, and encumbrances against the residential property upon which it is imposed without regard to the date the other liens, mortgages, or encumbrances were attached to the residential property.

**(7)** Termination of receivership.

**(a)** The receivership into which the court placed the residential property under sub. (2) (h) or (i) shall terminate only by an order of the court.

**(b)** The court shall terminate the receivership if the residential property's owner or owner's agent or an interested party or the receiver show the court all of the following:

**1.** That the abatement has been completed.

**2.** That the costs and obligations incurred due to the abatement, including the receiver's administrative fee, have been paid by an owner, owner's agent, or interested party or that a lien has been filed pursuant to sub. (5).

**3.** That the owner, owner's agent, or interested party will manage the residential property in conformance with applicable housing codes.

**(c)** The court shall terminate the receivership if the receiver shows the court one of the following:

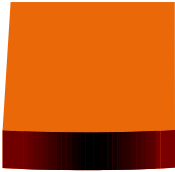
**1.** That the abatement is not feasible.



2. That the improvements on the property have been demolished by the city, village or town.

**SOURCE:**

<https://law.justia.com/codes/wisconsin/2012/chapter-823/section-823.23>



## Wyoming Nuisance and Abatement Law

*As always, do your own due diligence regarding local and state laws.*

### WHAT

Whoever maintains, uses, owns or leases any structure, boat or vehicle for the purpose of lewdness, assignation, prostitution or gambling, or for manufacture, possession, sale or disposition of intoxicating liquor or any controlled substance in violation of law, is guilty of a nuisance, and the structure, boat or vehicle and the ground upon which the structure is situated and the furniture, fixtures, musical instruments, gambling devices, and instruments of every kind or nature, and contents, are also declared a nuisance, and shall be enjoined and abated.

### HOW

(a) A board of county commissioners shall, by resolution, establish standards for determining when a site may be declared a nuisance under W.S. 18-2-101(a)(viii).

(b) A board of county commissioners may issue an order declaring a property to be a nuisance under W.S. 18-2-101(a)(viii) and shall provide written notice to the owner or occupant of the property describing with specificity the nature of the nuisance and the steps required for abatement. The order shall be in writing, shall state the grounds for the order and shall be filed in the office of the clerk of the district court of the county in which the property is situated. A copy of the order shall be served in accordance with the Wyoming Rules of Civil Procedure upon the owner or occupant with a written notice that the order has been filed and shall remain in force, unless the owner or occupant files his objections or answer with the clerk of the district court within twenty (20) days. A copy of the order shall be posted in a conspicuous place upon the property.

(c) Within twenty (20) days of service of an order issued under subsection (b) of this section, the owner or occupant may file with the clerk of the district court and serve upon the board of county commissioners issuing the order, an answer denying the existence of any of the allegations in the order. If no answer is filed and served, the order shall become a final order declaring the site a nuisance and fix a time when the order shall be enforced. If an answer is filed and served, the court shall hear and determine the issues raised as set forth in subsection (d) of this section.

(d) The court shall hold a hearing within twenty (20) days from the date of the filing of the answer. If the court sustains all or any part of the order, the court shall issue a final order and fix a time within which all or any part of the final order shall be enforced.

(e) An appeal from the judgment or final order of the district court may be taken by any party to the proceeding in accordance with the Wyoming Rules of Appellate Procedure.

**SOURCES:**

<https://law.justia.com/codes/wyoming/2016/title-18/chapter-2/section-18-2-115>

<https://law.justia.com/codes/wyoming/2014/title-6/chapter-6/article-2/>



