

CLAY COUNTY ORDINANCE NO. _____
NUISANCE ORDINANCE

An ordinance prohibiting the maintenance of a nuisance in Clay County, Iowa, and providing for the abatement and prosecution of nuisances.

SECTION 1. Nuisances Prohibited. The creation or maintenance of a nuisance is hereby prohibited, and a nuisance, public or private, may be abated or penalized in the manner provided in this ordinance.

SECTION 2. Nuisance Defined. A nuisance shall be defined as whatever is injurious to health, indecent or offensive to the senses or an obstacle to the free use of property so as essentially to interfere with the comfortable enjoyment of life or property. The following are specifically declared to be nuisances:

1. The erecting, continuing or using any building or other place where the exercise of any trade, employment, or manufacture, which, by occasioning noxious exhalations, unreasonably offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort, or property of individuals or the public.

2. The causing or suffering any offal, filth, or noisome substance to be collected or to remain in any place to the prejudice of others.

3. The obstructing or impeding without legal authority the passage of any navigable river, harbor, or collection of water.

4. The corrupting or rendering unwholesome or impure the water of any river, stream, or pond, or unlawfully diverting the same from its natural course or state, to the injury or prejudice of others.

5. The obstructing or encumbering by fences, buildings, or otherwise the public roads, private ways, streets, alleys, commons, landing places, or burying grounds.

6. The depositing or storing of flammable junk, such as old rags, rope, cordage, rubber, bones, and paper, unless it be in a structure of fireproof construction.

7. The dumping or storing of any industrial, commercial or household appliances outside of a permitted salvage yard, storage facility or sanitary landfill. The storing, other than in an enclosed building, of a junk vehicle. A junk vehicle is a vehicle that has been left on a property for more than thirty days and lacks current license plates or lacks two or more tires or other parts which render the vehicle inoperable.

8. The excessive storing of tires, batteries, scrap metal, dismantled or partially dismantled motor vehicles, vehicle parts, wooden pallets, or unused and discarded lumber not associated with a permitted salvage yard, storage facility or sanitary landfill.

SECTION 3. Notice to Abate Nuisance. Whenever the Clay County Sanitarian, Clay County Board of Health, or other authorized county officer finds that a nuisance exists, she shall cause to be served upon the property owner as shown by the records of the County Auditor a written notice to abate the nuisance within a reasonable time after notice. Property owner is defined as a contract purchaser if there is one of record; otherwise, the record holder of legal title.

SECTION 4. Contents of Notice to Abate. The notice to abate shall contain:

1. A description of what constitutes the nuisance.
2. The location of the nuisance.
3. A statement of the act or acts necessary to abate the nuisance.
4. A reasonable time within which to complete the abatement.
5. A statement that if the nuisance is not abated as directed and no request for hearing has been made within the time prescribed, the county may prosecute the owner or abate the nuisance and assess the costs against the property owner.

SECTION 5. Method of Service. The notice may sent by certified mail to the property owner as shown by the records of the county auditor or may be served by the Clay County Sheriff.

SECTION 6. Request for Hearing and Appeal. Any person ordered to abate a nuisance may have a hearing before the Clay County Board of Health as to whether a nuisance exists. A request for hearing must be made in writing and delivered to the Board of Health within the time for abatement stated in the notice, or it will be conclusively presumed that a nuisance exists and the county may proceed with abatement as provided in Section 7.

At the conclusion of the hearing, if any, the Board of Health shall render a written decision as to whether a nuisance exists. If it finds that a nuisance exists, it shall order it abated and prescribe additional time which must be reasonable under the circumstances.

SECTION 7. Abatement by County. If the person notified to abate a nuisance neglects or fails to abate as directed, the county may perform the required action to abate, and assess the costs against the property for collection in the same manner as a property tax.

SECTION 8. Abatement in Emergency. If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance, the county may perform any action which may be required to abate the nuisance without prior notice and assess the costs against the property for collection after notice to the property owner and hearing.

SECTION 9. Installment Payment of Costs of Abatement. If any amount assessed against property for abatement of a nuisance exceeds \$100.00, a county may permit the assessment to be paid in up to ten annual installments in the same manner and with the same interest rates as special assessments on benefitted property.

SECTION 10. Right to Enter Premises. The Board of Health or its authorized agent may enter any building, property, or other place for the purpose of examining any possible nuisance. The Board of Health or its authorized agent may request the Clay County Sheriff's Office to assist in the discharge of the Board of Health's duties under this section. Any person who interferes with the discharge of the Board of Health's duties under this section shall be deemed guilty of a simple misdemeanor under Section 11 of this Ordinance.

SECTION 11. Criminal Prosecution. Any person violating any provision of this ordinance shall be deemed guilty of a simple misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$500.00 and/or by imprisonment of not more than thirty days in the Clay County jail. Each and every day during which such illegal action exists or continues may be deemed a separate offense.