



Windsor
Heights
the heart of it all

Windsor FAQ's – Nuisance Ordinance

What is a public nuisance?

A nuisance is defined in Chapter 31 of the Windsor Heights' Municipal Code as, "...whatever is injurious to health, indecent or offensive to the senses or an obstruction to the free use of property so as essentially to interfere with the comfortable enjoyment of life or property." This definition is based on the Iowa State Code. Nuisances can include offensive smells, filth, tall grass, abandoned appliances, junk, etc.

What is a nuisance ordinance?

A nuisance ordinance defines what a City considers a nuisance and details what actions the City can lawfully take to abate or correct a nuisance, establishes the procedures for taking action and sets out the penalties that will apply if a property owner fails to comply.

Is there currently a nuisance ordinance in place?

Yes. The City of Windsor Heights has a nuisance ordinance. It is Chapter 31 of the City's Municipal Code and can be viewed in its entirety at www.windsorheights.org.

What does the nuisance ordinance under consideration accomplish?

There are some basic differences between the City's current ordinance and the draft ordinance under consideration by the Council. First, the draft ordinance removes simple misdemeanor penalties for violating the nuisance ordinance. Violation of the ordinance constitutes a municipal infraction.

The major difference between the current and draft ordinances is the section related to damaged and inoperable vehicles. The draft ordinance expands the definition of damaged or inoperable vehicles to include vehicles that "...appear to be dismantled or partially dismantled, which cannot be made operable without the addition or replacement of vital parts or mechanisms," and, "Any vehicle or partially dismantled vehicle on private property outside of an enclosed building that has not been operated on a public roadway within the previous 180 days or more." The ordinance also mandates that any vehicle that is deemed damaged or inoperable be stored entirely within an enclosed structure. Currently, the ordinance permits that such vehicles can be tarped on a hard surface. There is an exception for restoration of classic or antique vehicles.

Will this ordinance be able to address every car that might be considered an eye-sore?

The City's proposed ordinance strengthens the City's ability to address nuisances, but is not intended to set an aesthetic standard. While some may believe that a certain property is an eyesore, it may not rise to the level of a nuisance under the City's municipal code or State of Iowa law.

I am a car enthusiast. What does this ordinance mean to me?

Individuals restoring an antique or classic car¹ can obtain a permit which is good for a 12-month period of time with one renewal available. The individual must submit evidence satisfactory to the City Clerk that the vehicle will be appropriately covered during any period of outdoor storage.

¹ As defined by the Antique Automobile Club of America or Classic Car Club of America.

My son purchased an older car and wants to fix it up. Will it be affected?

If it is licensed and runs, it would not be considered a nuisance under this ordinance. However, if it does not operate and is not stored entirely within an enclosed structure, and is not eligible for the restoration permit, it would be considered a nuisance under this ordinance.

There is a tarped car sitting in the driveway next to me. It has been there for more than a month. Does it have to be moved?

The ordinance under consideration indicates that an inoperable vehicle can be defined as, “Any vehicle or partially dismantled vehicle on private property outside of an enclosed building that has not been operated on a public roadway within the previous 180 days or more.” The car in the situation above could be determined to be a damaged or inoperable vehicle. If you make a complaint, the time will start and the car will be checked again for any signs of movement after the appropriate period of time has elapsed. If at that time, the car has not been driven on the public roadway within the specified time period, it is determined to be a nuisance. However, if the property owner starts the vehicle and drives it on the public roadway, it would not be considered to be a nuisance under the Municipal Code.

My neighbor has a car that has been sitting there for quite some time that belongs to an out-of-town family member. Is this a nuisance?

This is not necessarily a nuisance, however it would likely be in violation of the City’s zoning code. Vehicle storage for more than 21 days constitutes an Industrial use type and is not permitted in residential areas.

How do I make a complaint?

Nuisances are handled on a complaint basis. To lodge a nuisance complaint, you can contact the Windsor Heights Code Enforcement Officer at 515/279-3662. You can also mail a complaint to City Hall at 1133 66th Street, Windsor Heights, IA 50311. Finally, you can log onto www.windsorheights.org and fill out an on-line code violation form. Complaints cannot be anonymous.

What happens after I make a complaint?

When the City receives a complaint, the Code Enforcement Officer investigates it. If the Code Enforcement Officer determines that a violation exists, the Code enforcement Officer tries to contact the property owner via telephone to make them aware of the violation and inform them a letter documenting the nuisance is coming to them, in an attempt to work toward an informal solution to have the nuisance abated without additional formal action. The owner is given ten (10) calendar days to correct the violation. If the violation is not corrected within that time period, an Abatement Notice is sent out. This notice also gives the property owner ten (10) days to abate the violation. Again, if the problem is not abated within the time period, fines will be issued, \$500.00 for the first day and \$750.00 for each additional day the violation occurs. In the case of rental property, the issuance of an abatement letter will immediately void and/or revoke the rental certificate and fines may also be imposed. While this process may seem to take a long time, especially when some problems seems so easily resolved, it is necessary to take the appropriate steps in order to give the property owner due process. If you have any questions regarding what action has been taken on a nuisance complaint that you have filed, please feel free to call City Hall and check where we are in the process.

In a true emergency, the City may abate a nuisance immediately. These emergencies are rare, and the City is cautious in exercising this authority because the importance of property owners’ rights to enjoy their property without undue interference by the City.

What is a private nuisance?

A private nuisance is the interference with an individual's peaceful enjoyment of one's property, which can be the basis for a lawsuit both for damages caused by the nuisance and an order (injunction) against continuing the noxious (offensive) activity or condition.

How do I pursue a private nuisance?

A private nuisance may be abated by an individual property owner, by initiating a complaint in Polk County District Court, alleging the nuisance and requesting that the nuisance be abated at the cost of the property owner whose property constitutes a nuisance. After hearing, the court will decide whether a nuisance exists, and the remedies to which the complaining party is entitled (including abatement of the nuisance.) Informal neighborhood mediation may also be available to resolve the difficulties among neighbors. The court also has a mediation process that parties to a lawsuit may utilize to informally resolve their dispute. If you need additional information about these procedures, please contact your private attorney.

What happens if I violate the nuisance code?

If you are found to be in violation of the nuisance code and you do not abate the violation, you could be given a municipal infraction. The fine is up to \$500 for the first violation and up to \$750 for each reoccurrence. Every day the violation continues constitutes a separate violation.

Can I park my car in the public right-of-way?

No, cars are not currently permitted to park in the public right-of-way portion of the driveway. This ordinance does not change that provision.