



Nuisance Abatement Best Practices

MICKEY SHIELDS, IOWA LEAGUE OF CITIES

Region XII

April 2, 2024

Before You Begin

- Plan to address nuisance properties, including abandoned and derelict buildings
- Budgetary considerations
 - City must be prepared to fund some nuisance activities, especially abandoned and derelict buildings
- City programs

State and City Code

- Defining nuisances
 - State Code Chapter 657
 - “Whatever is injurious to health...”
- Specific examples:
 - Injurious and dangerous to health or property of individuals or the public
 - Houses of “ill fame”
 - Dense growth of weeds or other vegetation that creates a health, safety or fire hazard
 - The emission of dense smoke, noxious fumes or fly ash in cities

State and City Code

- City ordinances
 - Need definitions (may want additional local regulations)
 - Grass height, weed growth, trash/debris, number of junk vehicles, unsafe/derelict/abandoned buildings, etc.
 - Property maintenance standards
 - General condition of home/building (including accessory structures) and specific items (roof, windows, doors, etc.)
- How code will be enforced
 - Actions city may take, including penalties, assessment of costs and more

State and City Code

- Other items your code should include (especially for work related to derelict buildings):
 - Right to enter property to inspect, cite violation, abate nuisance
 - Emergency abatement procedures (imminent danger, city may abate nuisance without prior notice)
 - Posting signs on derelict and abandoned homes/buildings

Identifying Nuisances

- Basis must be in state and city code
- Who will identify nuisances?
 - Code enforcement officer, city clerk, city manager, council members
- Citizen complaints used?
- Administrative search warrants may be necessary

Identifying Nuisances

- Compile evidence
 - Citizen complaints
 - Witness statements
 - Photos/Videos
- Communicate with citizens
 - Annual announcements (spring cleaning, mowing policies, snow removal, etc.)

Enforcement

- Fair and consistent enforcement is necessary
- Involve city attorney from start, especially with abandoned and derelict buildings
- Avoid issues that are not public nuisances or public safety issues

Nuisance Abatement Processes

- Informal Process
 - Phone call, knock on door, informal letter
 - Works well for most minor issues
 - Still document city efforts (in case they are needed later)

Nuisance Abatement Processes

- Administrative Process
 - Use for relatively minor nuisances, such as overgrown weeds/grass, trash/debris, snow/ice accumulation
 - Some flexibility in how the process moves along, but again, be fair and consistent

Nuisance Abatement Processes

- Administrative Process
 - Use an Order to Abate Nuisance to begin formal procedures
 - Location/description of nuisance
 - Order to abate by taking specific action
 - Order to abate by specific date
 - Right to hearing
 - Advise that if nuisance is not abated, city may:
 - Abate the nuisance and assess actual costs in same manner as property taxes
 - File civil citation

Nuisance Abatement Processes

- Municipal Infractions
 - Allowed under Section 364.22 of the state code
 - Use for more serious violations, such as junk vehicles or dangerous buildings
 - May speed up the abatement process by involving the court immediately

Nuisance Abatement Processes

- Municipal Infractions
 - Civil citation issued to property owner, describes infraction and penalties
 - Name and address of defendant
 - Name and description of infraction
 - Location and time of infraction
 - Amount of civil penalty (state code allows up to \$750 for first offense, \$1,000 for each repeat offense)
 - Manner, location and time penalty may be paid
 - Penalty for failure to appear in court
 - Legal description of property (not street address)

Nuisance Abatement Processes

- Municipal Infractions
 - Civil citation filed with court, which provides due process and court jurisdiction
 - Court can hold owner in contempt, impose civil penalty, authorize city to abate nuisance, enter judgment to city
- The lis pendens list
 - If city notifies court of municipal infraction on property and owner attempts to sell it, potential third parties are notified (and could be subject to the infraction)

Nuisance Abatement Processes

- Collecting costs
 - Bill property owners for work performed by city to abate nuisance (may only charge for actual costs)
 - Court may order property owner to pay (typically occurs in municipal infraction cases)

Nuisance Abatement Processes

- Collecting costs
 - Assess costs under Section 364.12
- Must prepare assessment schedule
 - Description and parcel number of each lot to be assessed
 - Valuation of each lot (assessor's valuation is often best)
 - Amount to be assessed
 - City clerk prepares, signs and files schedule with city council

Nuisance Abatement Processes

- Collecting costs
 - Adopt resolution, within 10 days of filing of schedule, approving:
 - Assessments
 - Number of payment installments
 - Interest rate on unpaid assessments
 - Time when assessments are payable
 - Direct city clerk to certify schedule to county treasurer and publish notice (once per week for two weeks, first notice shall not be more than 15 days from schedule filing date)
 - Send notice by mail on or before second published notice (personal service should also be considered)

Tax Sales

- Properties delinquent on property tax payments may be added to tax sale
- Typically held in June in most counties
- Tax sale certificate holders must provide written notice to owners and interest holders of their right to redeem property

Tax Sales

- City must also file affidavit of service to the property owner with county treasurer
- Property owners have the right to “redeem” property before title is transferred (different redemption periods)
- If property is not redeemed within redemption period, tax sale deed is issued to certificate holder

Tax Sales

- Holder must then return certificate of purchase and remit deed issuance fee and recording fee to county treasurer within 90 days
- After receiving tax sale deed, city may also file 120 day notice by filing affidavit with county recorder that gives anyone claiming interest in the property 120 days to challenge the deed

Tax Sales

- Tax Sale Processes
 - City negotiation for voluntary assignment of tax sale certificate (Section 446.31)
 - City purchase of abandoned housing property at tax sale (Section 446.19A)
 - City purchase of tax sale certificate for abandoned housing property from certificate holder (Section 446.19A)
 - Redeveloper purchase of tax sale certificate at “public nuisance” tax sale (Section 446.19B)

Award of Title to Abandoned Property

- Award of Title to Abandoned Property by Court (Section 657A.10B)
 - Must submit petition providing evidence the property is abandoned
 - Court may enter judgment awarding title to city free of any claims, liens or encumbrances
 - City takes possession; must maintain until a new owner takes over

The Bottom Line

- USE YOUR CITY ATTORNEY!!!
- Develop strong, clear ordinances
- Communicate regulations, work with public
- Enforce fairly and consistently
- Take action

Thank You!

Mickey Shields

mickeyshields@iowaleague.org

(515) 974-5316

