

CITY OF AVOCA

TITLE III: PUBLIC SAFETY

CHAPTER 8: NUISANCE ABATEMENT PROCEDURE

8.01 NUISANCES PROHIBITED. The creation, causation, or maintenance of a nuisance as defined in this Code of Ordinances is strictly prohibited.

8.02 NUISANCE ABATEMENT. Whenever the City Manager or other authorized municipal officer finds that a nuisance exists, the officer shall cause to be served upon the property owner a written notice to abate the nuisance within a reasonable time after notice.

8.03 NOTICE TO ABATE. The notice to abate shall contain:

1. Description of Nuisance. A description of what constitutes the nuisance or other condition.
2. Location of Nuisance. The location of the nuisance or condition.
3. Acts Necessary to Abate. A statement of the act or acts necessary to abate the nuisance or condition.
4. Reasonable Time. A reasonable time within which to complete the abatement.
5. A statement that the owner has a right to a hearing before the City Manager, or his or her designee, by filing a written request therefore with such officer within a reasonable time.
6. Assessment of City Costs. 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 will abate it and assess the costs against such person.

8.04 METHOD OF SERVICE. The notice may be delivered by a law enforcement official or sent by certified mail to the property owner. If a certified mailing has not been signed for by the property owner within 10 days of mailing, reasonable notice will be considered to have been given.

8.05 REQUEST FOR HEARING. Any person ordered to abate a nuisance may have a hearing with the City Manager, or his or her designee, as to whether a nuisance exists. A request for a hearing must be made in writing and delivered to the City Manager, or his or her designee, 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 City Manager, or his or her designee, at a time and place fixed by the City Manager, or his or her designee. The findings of the hearing officer shall be conclusive and, if a nuisance is found to exist, it shall be ordered abated within a reasonable time under the circumstances.

8.06 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.

(Code of Iowa, Chapter 364.12 [3h])

8.07 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. Costs of the abatement incurred by the City shall be recovered from the property owner as follows:

1. 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 thirty (30) days after the statement was sent, the Clerk shall certify the costs to the county auditor and it shall then be collected with, and in the same manner, as general property taxes.

(Code of Iowa, Chapter 364.12 [3h])

2. If the amount expended to abate the nuisance or condition exceeds one hundred (100) dollars, the City shall 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 as benefited property.

(Code of Iowa, Chapter 364.13)

8.08 ABATEMENT BY CIVIL ACTION. In lieu of abatement by the City, a court of competent jurisdiction may:

1. Order such person or legal entity to remove, correct, cease and desist, abate, and/or otherwise come into compliance with the City Code of Avoca;
2. Restrain and enjoin such person, firm, partnership, corporation, or other legal entity from operating, conducting or maintaining a business contrary to the City Code of Avoca;

3. Order such person, firm, partnership, corporation, or other legal entity to repair, rehabilitate, demolish or remove the building, structure, or appendage;
4. Enter any order with specific terms deemed just and equitable by the court intended to achieve any of the purposes set forth in the subsections above;
5. Grant the City of Avoca authority to achieve any of the purposes set forth in the subsections above with the costs and administrative fees associated therewith being taxed to such person, firm, partnership, corporation, or other legal entity for collection in the same manner as taxes and to be a lien against real property as provided by the Code of Iowa.

8.09 INTERFERENCE WITH ENFORCEMENT. Any person who shall interfere in any way with the enforcement provision of this Chapter may be charged with a violation of this Code.

8.10 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 shall be in violation of this Code.

8.11 HABITUAL VIOLATORS: If the City determines a person or legal entity to be a habitual violator, the City may file an order of the court allowing the City to abate further violations without notice and assess the abatement costs thereof to the owner of the private property involved.