

Chapter 30 – ENVIRONMENTAL NUISANCES

Sec. 30-A GENERAL NUISANCES

Sec. 30-A-1 Definition

For the purposes of this article, the word "nuisance" is hereby defined as any person doing an unlawful act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist; which act, omission, condition or thing either:

1. Injures or endangers the comfort, repose, health or safety of others.
2. Offends decency.
3. Is offensive to the senses.
4. Unlawfully interferes with, obstructs or tends to obstruct or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch or drainage.
5. In any way renders other persons insecure in life or the use of property.
6. Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.

(Code 1979, § 15-1)

Sec. 30-A-2 Illustrative Enumeration

The maintaining, using, placing, depositing, leaving or permitting to be or remain on any public or private property of any of the following items, conditions or actions are hereby declared to be and constitute a nuisance; provided, however, this enumeration shall not be deemed or construed to be conclusive, limiting or restrictive:

1. Noxious weeds and other rank vegetation.
2. Accumulation of rubbish, trash, refuse, junk and other abandoned materials, metals, lumber or other things.
3. Any condition which provides harborage for rats, mice, snakes and other vermin.
4. Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, or presents a more than ordinarily dangerous fire hazard in the vicinity where it is located.
5. All unnecessary or unauthorized noises and annoying vibrations, including animal noises.
6. All disagreeable or obnoxious odors and stenches, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stenches.
7. The carcasses of animals or fowl not disposed of within a reasonable time after death.
8. The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, dead animals, creamery, industrial wastes or other substances.
9. Any building, structure or other place or location where any activity which is in violation of local, state or federal law is conducted, performed or maintained.
10. Any accumulation of stagnant water permitted or maintained on any lot or piece of ground.
11. Dense smoke, noxious fumes, gas, soot or cinders, in unreasonable quantities.

(Code 1979, § 15-2)

Sec. 30-A3 Prohibited

It shall be unlawful for any person to cause, permit, maintain or allow the creation or maintenance of a nuisance.

(Code 1979, § 15-3)

Sec. 30-A-4 Notice to Abate

Whenever a nuisance is found to exist within the County the Administrator of the County Health Department or some other duly designated officer of the County shall give written notice to the owner or occupant of the property upon which such nuisance exists or upon the person causing or maintaining the nuisance.

(Code 1979, § 15-4)

Sec. 30-A-5 Contents of Notice

The notice to abate a nuisance issued under the provisions of this article shall contain:

1. An order to abate the nuisance or to request a hearing within a stated time, which shall be reasonable under the circumstances.
2. The location of the nuisance, if it is stationary.
3. A description of what constitutes the nuisance.
4. A statement of acts necessary to abate the nuisance.
5. A statement that if the nuisance is not abated as directed and no request for hearing is made within the prescribed time, the County will abate such nuisance and assess the cost thereof against such person.

(Code 1979, § 15-5)

Sec. 30-A-6 Service of Notice

The notice to abate a nuisance shall be served as any other legal process may be served pursuant to law.

(Code 1979, § 15-6)

Sec. 30-A-7 Abatement by County

Upon the failure of the person upon whom notice to abate a nuisance was served pursuant to the provisions of this article to abate the nuisance, the Administrator of the County Health Department or other duly designated officer of the County shall proceed to abate the nuisance and shall prepare a statement of costs incurred in the abatement thereof.

(Code 1979, § 15-7)

Sec. 30-A-8 County's Costs Declared Lien

Any and all costs incurred by the County in the abatement of a nuisance under the provisions of this article shall constitute a lien against the property upon which such nuisance existed, which lien shall be filed, proven and collected as provided for by law. The lien shall be notice to all persons from the time of its recording, and shall bear interest at the legal rate thereafter until satisfied.

(Code 1979, § 15-8)

Sec. 30-B LEAF & YARD WASTE BURNING

Sec. 30-B-1 Definitions

- A. *Person*: A Person for the purpose of this Code (Ordinance) shall be any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, or any legal successor, representative, agent or agency of the foregoing.
- B. *Yard Waste*: Any waste generated as the result of tree trimming, lawn mowing, gardening, leaf raking, and other yard activities and consisting of trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, sod, shrubbery, yard trimmings and other plant waste from yard and garden sources.
- C. *Open Burning*: The combustion of any matter in such a way that the products of the combustion are emitted to the open air without originating in or passing through equipment for which a permit could be, and has been, issued under the Environmental Protection Act.

Except as specifically stated herein, or found within Section 1-2.- “Rules of construction and definitions” of the DeKalb County Code, the definitions of any terms used in this Code (Ordinance) shall have their regular and usual meaning as indicated by common dictionary definition.

Sec. 30-B-2 Declaration

Pursuant to the authority of 720 ILCS 5/47-5 and 35 Ill. Adm. Code 237.101, The County of DeKalb declares the unregulated burning of leaves and yard waste in nonconformance with the restrictions found within this Code (Ordinance) as a public nuisance, which must be addressed for the purposes of protecting the public health, safety, comfort, and general welfare of its residents.

Sec. 30-B-3 Applicability

This Code’s (Ordinance’s) regulations shall apply to all land within Unincorporated DeKalb County, which is located within 1,000 feet of the corporate boundary of any municipality that prohibits landscape/yard/leaf waste burning within its boundaries.

Any person, including, but not limited to, the subject property’s owner, agent, and/or tenant of the property who violates any provisions of this Code (Ordinance) shall be liable for such violation as further set forth herein.

Sec. 30-B-4 Prohibited Activity

The open burning of leaves and/or other yard waste as defined herein is prohibited and therefore, not to take place in the restricted areas as outlined in Section 30-103.

Sec. 30-B-5 Enforcement

- A. It shall be unlawful to violate any of the terms and provisions of this ordinance. Subject to the discretion of the DeKalb County Sheriff’s Office, any person found in violation of this Code (Ordinance) shall be subject to an administrative fine of one hundred dollars (\$100.00) for the first offense and two hundred dollars (\$200.00) for each subsequent offense. The violation of this Code (Ordinance), or any part thereof, on more than one (1) day shall constitute separate offenses.
- B. Payment of fines under this Code (Ordinance) shall be due and payable to the DeKalb County Sheriff’s Office within 30 days of a violation’s issuance.
- C. Any person issued a violation under this Code (Ordinance) shall have the right to request a hearing in writing with the Community Development Director within 30 days of a violation’s issuance. If a hearing is requested within that 30-day period, additional fees as outlined in Section 42-53.5 of the DeKalb County Code may apply.

- D. If a hearing is requested and subsequently held, and the violation is upheld, the 30-day payment period will be calculated beginning from the date the subject violation's hearing concludes.
- E. Enforcement of this Code (Ordinance) shall be performed by the DeKalb County Sheriff's Office and any and all complaints of violations of this ordinance shall be directed to them and/or the Community Development Director.
- F. In addition to any penalty provided by this Code (Ordinance), the DeKalb County State's Attorney is authorized to initiate action to obtain injunctive relief in the Circuit Court, including, but not limited to, the issuance of a temporary restraining order and preliminary injunction, in order to abate any such nuisance condition as enumerated in this Code (Ordinance).

Sec. 30-B-6 Severability

The articles, provisions and sections of this Code (Ordinance) are deemed to be separable and if any portion of this Code (Ordinance) is deemed invalid, such determination shall not affect the validity of the remainder.

Sec. 30-B-7 Effective Date

This Code (Ordinance) and the regulations contained therein shall be in full force and effect on and after July 1, 2018.

[\(Ord No. 2018-11, 5-16-2018 !\[\]\(c694a3ff3b077d76910920a6a1593ab4_img.jpg\) \)](#)