

OKLAHOMA STATUTES
TITLE 50. NUISANCES

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§50-1. Nuisance defined.

A nuisance consists in unlawfully doing an act, or omitting to perform a duty, which act or omission either:

First. Annoys, injures or endangers the comfort, repose, health, or safety of others; or

Second. Offends decency; or

Third. Unlawfully interferes with, obstructs or tends to obstruct, or renders dangerous for passage, any lake or navigable river, stream, canal or basin, or any public park, square, street or highway; or

Fourth. In any way renders other persons insecure in life, or in the use of property, provided, this section shall not apply to preexisting agricultural activities.

R.L.1910, § 4250; Laws 1980, c. 189, § 1, eff. Oct. 1, 1980.

§50-1.1. Agricultural activities as nuisance.

A. As used in this section:

1. "Agricultural activities" includes, but is not limited to, the growing or raising of horticultural and viticultural crops, berries, poultry, livestock, aquaculture, grain, mint, hay, dairy

products and forestry activities. "Agricultural activities" also includes improvements or expansion to the activities provided for in this paragraph including, but not limited to, new technology, pens, barns, fences, and other improvements designed for the sheltering, restriction, or feeding of animal or aquatic life, for storage of produce or feed, or for storage or maintenance of implements. If the expansion is part of the same operating facility, the expansion need not be contiguous;

2. "Farmland" includes, but is not limited to, land devoted primarily to production of livestock or agricultural commodities; and

3. "Forestry activity" means any activity associated with the reforestation, growing, managing, protecting and harvesting of timber, wood and forest products including, but not limited to, forestry buildings and structures.

B. Agricultural activities conducted on farm or ranch land, if consistent with good agricultural practices and established prior to nearby nonagricultural activities, are presumed to be reasonable and do not constitute a nuisance unless the activity has a substantial adverse effect on the public health and safety.

If that agricultural activity is undertaken in conformity with federal, state and local laws and regulations, it is presumed to be good agricultural practice and not adversely affecting the public health and safety.

C. No action for nuisance shall be brought against agricultural activities on farm or ranch land which has lawfully been in operation for two (2) years or more prior to the date of bringing the action. The established date of operation is the date on which an agricultural activity on farm or ranch land commenced. The established date of operation for each change is not a separately and independently established date of operation and commencement of the expanded activity does not divest the farm or ranch of a previously established date of operation if:

1. The physical facilities of the farm or ranch are subsequently expanded or new technology adopted;

2. The farming or ranching is interrupted for no more than three (3) years; or

3. The farm or ranch participates in a government-sponsored agricultural program.

D. In any action for nuisance brought against agricultural activities on farm or ranch land pursuant to this section:

1. The court or jury shall determine the amount of noneconomic damages separately from the amount of compensation for all other damages; and

2. Noneconomic damages awarded to a plaintiff shall not exceed three times the amount of compensatory damages or Two Hundred Fifty Thousand Dollars (\$250,000.00), whichever amount is greater.

E. In any action for nuisance in which agricultural activities are alleged to be a nuisance, and which action is found to be frivolous or malicious by the court, the defendant shall recover the aggregate amount of costs and expenses determined by the court to have been reasonably incurred in connection with defending the action, together with reasonable attorney fees.

F. This section does not relieve agricultural activities of the duty to abide by state and federal laws, including, but not limited to, the Oklahoma Concentrated Animal Feeding Operations Act and the Oklahoma Registered Poultry Feeding Operations Act.

Added by Laws 1980, c. 189, § 2, eff. Oct. 1, 1980. Amended by Laws 2000, c. 300, § 3, emerg. eff. June 5, 2000; Laws 2009, c. 147, § 1, eff. Nov. 1, 2009; Laws 2017, c. 276, § 1, eff. Nov. 1, 2017; Laws 2019, c. 21, § 1, eff. Nov. 1, 2019.

NOTE: Editorially renumbered from § 11 of this title to avoid duplication in numbering.

§50-2. Public nuisance.

A public nuisance is one which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon the individuals may be unequal.

R.L.1910, § 4251.

§50-3. Private nuisance.

Every nuisance not included in the definition of the last section is private.

R.L. 1910, § 4252.

§50-4. Statute authority.

Nothing which is done or maintained under the express authority of a statute can be deemed a nuisance.

R.L.1910, § 4253.

§50-5. Persons liable.

Every successive owner of property who neglects to abate a continuing nuisance upon, or in the use of such property, created by a former owner, is liable therefor in the same manner as the one who first created it.

R.L.1910, § 4254.

§50-6. Abatement does not preclude damages.

The abatement of a nuisance does not prejudice the right of any person to recover damages for its past existence.

R.L.1910, § 4255.

§50-7. Time does not legalize.

No lapse of time can legalize a public nuisance, amounting to an actual obstruction of public right.

R.L.1910, § 4256.

§50-8. Remedies against public nuisance.

The remedies against a public nuisance are:

1. Indictment or information, or;
2. A civil action, or;
3. Abatement;

R.L.1910, § 4257.

§50-9. Indictment or information.

The remedy by indictment or information is regulated by the law on crimes and punishment and criminal procedure.

R.L.1910, § 4258.

§50-10. Civil action.

A private person may maintain an action for a public nuisance if it is specially injurious to himself, but not otherwise.

R.L.1910, § 4259.

§50-11. Abatement by officer.

A public nuisance may be abated by any public body or officer authorized thereto by law.

R.L.1910, § 4260.

§50-12. Abatement by person injured.

Any person may abate a public nuisance which is specially injurious to him, by removing or, if necessary, destroying the thing which constitutes the same, without committing a breach of the peace or doing unnecessary injury.

R.L.1910, § 4261.

§50-13. Remedies against private nuisance.

The remedies against a private nuisance are:

1. A civil action; or,
2. Abatement.

R.L.1910, § 4262.

§50-14. Abatement of private nuisance.

A person injured by a private nuisance may abate it by removing, or, if necessary, destroying the thing which constitutes the nuisance, without committing a breach of the peace or doing unnecessary injury.

R.L.1910, § 4263.

§50-15. Notice, when required.

Where a private nuisance results from a mere omission of the wrongdoer, and cannot be abated without entering upon his land, reasonable notice must be given to him before entering to abate it. R.L.1910, § 4264.

§50-16. Cities and towns - Power to define and summarily abate nuisances.

Cities and towns in this state shall have the right and power to determine what is and what shall constitute a nuisance within their respective corporate limits, and for the protection of the public health, the public parks and the public water supply, shall have such power outside of the corporate limits; and wherever it is practical so to do, said cities and towns shall have the power summarily to abate any such nuisance after notice to the owner, and an opportunity for him to be heard, if this can be given.

Laws 1935, p. 131, § 1.

§50-17. Abatement by suit in district court.

In cases where it is deemed impractical summarily to abate any such nuisance such city or town may bring suit in the district court of the county in which such nuisance is located, and it is hereby made the duty of the governing body of any such city or town, by the adoption of a resolution to direct the bringing of suit in the proper court for the purpose of abating any such nuisance. The district court of the county in which any such nuisance exists or is maintained shall have jurisdiction of any such case and power to adjudge and determine any action brought under the provisions hereof, and where it is adjudged that any such nuisance exists or is maintained and should be abated, such court shall have the power and authority either by and through a commissioner appointed by such court, or otherwise, to cause such nuisance to be abated and to assess all the costs thereof, including the costs of suit, against the property on which such nuisance existed or is maintained, and to declare such costs a judgment against said property and order and direct the sale of said property for the purpose of satisfying said judgment and shall cause the same to be sold and proceeds thereof applied to the payment of the costs of abating any such nuisance.

Laws 1935, p. 131, § 2.

§50-18. Repealed by Laws 1971, c. 349, § 401, emerg. eff. June 24, 1971.

§50-19. Repealed by Laws 1971, c. 349, § 401, emerg. eff. June 24, 1971.

§50-20. Counties with population in excess of 550,000 - Power to declare and abate nuisances.

The board of county commissioners of any county in this state with a population in excess of five hundred fifty thousand (550,000) may declare what shall constitute a nuisance, and provide for the prevention, removal and abatement of nuisances for those properties acquired by the county through resale and any property located within an unincorporated area of the county.
Added by Laws 1992, c. 22, § 2, emerg. eff. March 30, 1992.

§50-21. Real property used for felony drug offenses.

The repeated use of any real property or structure thereon to commit acts which result in a felony conviction under the Oklahoma Uniform Controlled Dangerous Substances Act may constitute a public nuisance.

Added by Laws 1998, c. 326, § 1, eff. Nov. 1, 1998. Amended by Laws 2008, c. 381, § 2, eff. July 1, 2008.

§50-41. Location of slaughterhouse.

It shall be unlawful for any person to maintain a slaughterhouse within less than one-half (1/2) mile of any tract of land platted into lots and blocks as an addition to any town or city within the State of Oklahoma, except in conformity with the zoning ordinances of said town or city, or to maintain such a slaughterhouse within one-half (1/2) mile of any tract of land platted into acre tracts for the purpose of being sold for residence, and in which tracts of land have actually been sold for residence purposes outside of such a town or city.

R.L.1910, § 4265; Laws 1975, c. 306, § 1.

§50-42. Cemeteries.

It shall be unlawful for any person, firm, corporation or association to lay out, establish, or use for burial purposes any cemetery, graveyard or burial grounds less than three-fourths (3/4) of one (1) mile from the incorporated line of any city of more than five thousand (5,000) inhabitants within this state, or within four (4) miles from the incorporated line of any city of this state, having a population of more than sixty-five thousand (65,000) inhabitants, and then within three-fourths (3/4) of one (1) mile from any tract of land platted into lots or blocks, or otherwise subdivided for residence purposes, wherein lots, tracts, or blocks have been sold in good faith for residence purposes prior to the time of the location, opening, or use for such burial ground, graveyard or cemetery. Provided, that where cemeteries, graveyards or burial grounds have heretofore been used and maintained within less than three-fourths (3/4) of one (1) mile from the incorporated line of any city of more than five thousand (5,000) inhabitants within this state, or not less than four (4) miles from the incorporated line of any city of this state, having a population of more than sixty-five

thousand (65,000) inhabitants, and not less than three-fourths (3/4) of one (1) mile from any tract of land plotted into lots or blocks, or otherwise subdivided for residence purposes, wherein lots, tracts or blocks have been sold in good faith for residence purposes, and additional lands are required for cemetery purposes, any person owning lands adjacent, may lay out and use, or sell the same to such cemetery to be used as an addition to such cemetery, and the use of such additional lands for such purposes shall not be prohibited hereby. Provided, however, that the provisions of this act shall not apply to the laying out, establishing, or using for burial purposes any cemetery, graveyard or burial ground in cities containing a population over three hundred thousand (300,000), according to the preceding Federal Decennial Census, whenever authority for such construction and operation has been obtained from a governmental planning commission having jurisdiction over zoning and building regulations covering the area wherein such cemetery, or burial ground is proposed to be located.

R.L.1910, § 4266; Laws 1919, c. 144, p. 206, § 1; Laws 1923, c. 171, p. 274, § 1; Laws 1963, p. 763, H.J.R.No.554, § 1, emerg. eff. June 14, 1963.

§50-42.1. Authority of municipal governing bodies to permit burial locations.

Notwithstanding the provisions of Section 42 of Title 50 of the Oklahoma Statutes, governing boards of any incorporated municipality shall be authorized to permit the burial of human remains or the relocation of human remains to a new burial place on the grounds of a public institution or private facility located within the municipal boundaries which the governing board deems appropriate. Provided, such burial ground shall not be used for commercial cemetery purposes nor shall the governing body permit burial sites on any private residential property.

Added by Laws 2014, c. 100, § 2, eff. Nov. 1, 2014.

§50-43. Nuisance may be enjoined.

The maintaining of any slaughterhouse or location and use of any graveyard or cemetery in violation of the provisions of this article, is declared to be a nuisance, and any person owning real estate within any such addition to a town or city, or within lands so platted and set apart to be sold for residence purposes may maintain an action in the courts to abate such nuisance and to enjoin their continuance, and if it appears that they are being carried on in violation of this article, a perpetual injunction shall be granted against the parties maintaining such nuisance.

R.L.1910, § 4267.

§50-44. Duty of officers.

It shall be the duty of any sheriff, constable or other police officer to make complaint against such nuisance and hasten its abatement as herein provided.

R.L.1910, § 4268.