

**78B-6-1101 Definitions -- Nuisance -- Right of action.**

- (1) A nuisance is anything which is injurious to health, indecent, offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property. A nuisance may be the subject of an action.
- (2) A nuisance may include the following:
  - (a) drug houses and drug dealing as provided in Section 78B-6-1107;
  - (b) gambling as provided in Title 76, Chapter 10, Part 11, Gambling;
  - (c) criminal activity committed in concert with two or more persons as provided in Section 76-3-203.1;
  - (d) criminal activity committed for the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802;
  - (e) criminal activity committed to gain recognition, acceptance, membership, or increased status with a criminal street gang as defined in Section 76-9-802;
  - (f) party houses which frequently create conditions defined in Subsection (1); and
  - (g) prostitution as provided in Title 76, Chapter 10, Part 13, Prostitution.
- (3) A nuisance under this part includes tobacco smoke that drifts into any residential unit a person rents, leases, or owns, from another residential or commercial unit and the smoke:
  - (a) drifts in more than once in each of two or more consecutive seven-day periods; and
  - (b) creates any of the conditions under Subsection (1).
- (4) Subsection (3) does not apply to:
  - (a) residential rental units available for temporary rental, such as for vacations, or available for only 30 or fewer days at a time; or
  - (b) hotel or motel rooms.
- (5) Subsection (3) does not apply to any unit that is part of a timeshare development, as defined in Section 57-19-2, or subject to a timeshare interest as defined in Section 57-19-2.
- (6) An action may be brought by any person whose property is injuriously affected, or whose personal enjoyment is lessened by the nuisance.
- (7) "Agricultural operation" means any activity engaged in the commercial production of crops, orchards, aquaculture, livestock, poultry, livestock products, poultry products, and the facilities, equipment, and property used to facilitate the activity.
- (8) "Manufacturing facility" means any factory, plant, or other facility including its appurtenances, where the form of raw materials, processed materials, commodities, or other physical objects is converted or otherwise changed into other materials, commodities, or physical objects or where such materials, commodities, or physical objects are combined to form a new material, commodity, or physical object.

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