



FLOYD COUNTY BOARD OF HEALTH

PROCEDURES

Supersedes:
11/13/07

Effective Date:
//___

P-02: Nuisance Complaints

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APPROVED BY:

Board of Health

J. Patrick McDonnell

Date

June 9, 2009

County Sanitarian

Jeff Sherman

Date

June 9-2009

Date

DISTRIBUTION:

01 – Board of Health

02 – County Sanitarian

EFFECTIVE DATE & HISTORY:

//___ - Original

This is a controlled document with the words "FCBOH PROCEDURE " printed in RED on each page. Any procedure without this stamp affixed (see below) is not a controlled document and will not be updated.



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PURPOSE:

It is the desire and responsibility of the Floyd County Board of Health to ensure public health and safety for Floyd County. It should be known that the Board of Health desires a clean and aesthetic environment while maintaining individual property rights for Floyd County Citizens.

REFERENCES:

Floyd County Nuisance Ordinance 2007-3

Iowa Code Chapter 657

<http://coolice.legis.state.ia.us/Cool-ICE/default.asp?category=billinfo&service=IowaCode&ga=83>

POLICY:

Anything listed in Paragraph One (1) of Floyd County Ordinance 2007-3 is a nuisance. Any person, partnership of any form, joint enterprise, limited liability company, or corporation or any agent, employee, or independent contractor of any such person, partnership of any form, limited liability company, or corporation in possession or control of anything listed in Paragraph One (1) of Floyd County Ordinance 2007-3 is guilty of a nuisance. When upon indictment, complaint, or civil action any person is found guilty of erecting, causing, or continuing a nuisance, the person shall be required to abate such nuisance as deemed necessary by the County Sanitarian.

SCOPE:

This procedure applies to all Citizens of Floyd County. This procedure must be followed completely for all Nuisance complaints filed within the County.

RESPONSIBILITIES:

Complainant – A COMPLAINANT is required to file a written complaint on forms available at the Floyd County Board of Health & Sanitarian's office. The COMPLAINANT may choose to remain anonymous, as optioned on the complaint form. If this option is not selected, the form will be considered public record.

Floyd County Sanitarian (Sanitarian) – Upon receipt of two written complaints within a 1-year timeframe for a subject property, the Sanitarian will perform an investigation of the property pertaining to the written complaints. The Sanitarian shall visit the property in question and determine if there are existing physical conditions that create, or have the potential to create, a public health/safety hazard or nuisance. The use of approved Board of Health evaluation forms may be used. Observations shall be documented to support the Sanitarian's findings. This documentation should include, but is not limited to, taking photographs, chronological documentation of events, and location of hazards. The Sanitarian will verify if violations do exist by determining if conditions identified in the complaints, in some reasonable way, affect the safety,



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health, or general welfare of the public or constitute a nuisance pursuant to Floyd County Ordinance 2007-3 and report said violations and nuisances to the Board of Health.

Floyd County Board of Health (FCBOH) – The FCBOH has the option to make recommendations and/or referrals (to other policies, regulations, agencies or persons) to assist on nuisances evaluated as non-public hazards. It is important to note though, **the FCBOH only has a responsibility to assure that public health hazards are addressed.**

Staff Discovery of Nuisance - If any member of the FCBOH/Sanitarian discovers the existence of a nuisance, said member shall fill out a complaint form as a complainant, clearly identifying that they are a member of the Floyd County Staff.

PROCEDURE:

Upon a determination by the FCBOH that a public health/safety hazard or nuisance exists based on the investigation by the County Sanitarian, the following steps shall be carried out:

1. The FCBOH will instruct the Sanitarian to send a written notice to the property owner (owner) via certified mail or personal service. This letter will describe the hazardous or nuisance condition(s) and provide reason(s) why the condition presents a hazard or nuisance to public health/safety. The letter will also request the owner to abate the hazards or nuisances within 30 days from the date the letter is received, with specific steps or procedures on how to abate said nuisance. The Sanitarian will keep detailed/precise documentation of dates and contacts.
2. If an unsatisfactory or no response is received, the Sanitarian shall return to the property with previous documentation and photos to confirm the continued existence of the hazardous or nuisance condition(s). The Sanitarian must then document and photograph evidence of the continued hazardous or nuisance condition(s) and consult with the County Attorney to make arrangements as are reasonably necessary to abate the specific nuisance contained in the notice sent, which may include that taking of an individual's or entity's property to abate the nuisance or other penalties pursuant to Iowa Code Chapter 657.
3. Once the nuisance has been turned over to the County Attorney, the County Attorney will file a Petition showing the necessity of the taking of the property to abate such nuisance or for other appropriate relief as provided for in Iowa Code Chapter 657 and/or Floyd County Zoning Ordinance 2007-3. The person or entity listed as the Defendant in such Petition shall have twenty (20) days to respond to the Petition as provided by law. The Court shall then schedule a hearing no less than thirty (30) days and no more than sixty (60) days to make a determination regarding the taking of the property or other relief requested. The burden of proof shall be on the County and shall be by a preponderance of the evidence.
4. Any person, firm or corporation violating Floyd County Ordinance 2007-3 or Iowa Code Chapter 657, or of any amendment or supplement thereto, shall be punished by a civil penalty of three hundred fifteen dollars (\$315.00) per violation. Each and every day during which such illegal action exists or continues may be deemed a separate violation.