



FLOYD COUNTY BOARD OF HEALTH

PROCEDURES

Supercedes:
03/10/14

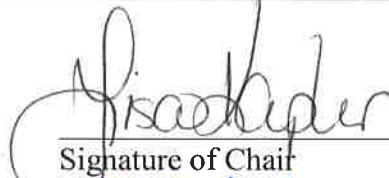
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APPROVED BY:

Board of Health



Signature of Chair



Date

County Sanitarian



Signature of County Sanitarian



Date

DISTRIBUTION:

01 – Board of Health

02 – County Sanitarian

EFFECTIVE DATE & HISTORY:

- 11/13/07- Original
- 06/09/09- 1st Amend
- 03/10/14- Minor office procedure revision
- 03/20/17- Fix web links

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, safety and welfare for Floyd County and its citizens, as well as provide a clean and aesthetic environment while maintaining individual property rights by providing for the abatement of nuisances.

REFERENCES:

Floyd County Nuisance Ordinance 2007-3

Iowa Code Chapter 657

<https://www.legis.iowa.gov/docs/code/657.pdf>

Iowa Code Chapter 331

<https://www.legis.iowa.gov/docs/code/331.pdf>

POLICY:

A nuisance shall be defined as whatever is injurious, hazardous or dangerous to public health or safety, or degrades the natural environment, including but not limited to those things, conditions or actions which are offensive to the senses, or an obstruction to the free use of property, so as to unreasonably interfere with the comfortable enjoyment of life or property. Specific nuisances are defined in Floyd County Ordinance 2007-3. The creation or maintenance of a nuisance is prohibited, and a nuisance, public or private, shall be abated or penalized in accordance with these procedures.

SCOPE:

These procedures apply to all private property located in the unincorporated areas of Floyd County, Iowa, and offer guidance to the employees of the Floyd County Board of Health to assist them in the enforcement of Floyd County Ordinance 2007-3.



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DEFINITIONS:

Abate or Abatement - means the removal or discontinuance of a health nuisance or the making of improvements needed to effect a rehabilitation of property to bring it into compliance with existing health regulations and to maintain safe and habitable conditions over the remaining useful life of the property. The closing up of a building or structure that is found to be a health nuisance is not an abatement of the nuisance.

Administrative authority - means the Floyd County Board of Health (FCBOH) or its authorized representative as sanctioned by Iowa Code Section 137.6.

Complainant – Means a person desiring to make a complaint against a property owner continuing or maintaining a nuisance as defined in Floyd County Ordinance 2007-3. A Complainant is required to file a written complaint on forms available at the Floyd County Board of Health & Sanitarian’s office located in the Floyd County Courthouse. 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. The complaint form can also be found on the County website at: <http://floydcoia.org/207/Forms> under the General Forms at the bottom of the page.

Emergency – means unforeseen circumstances requiring prompt action to prevent, avoid or minimize any significant possibility of loss of life, serious injury, transmission of infectious disease, or significant damage to real estate.

Floyd County Sanitarian (Sanitarian) – means the FCBOH’s authorized representative as sanctioned by Iowa Code Section 137.6. The Sanitarian is the administrator for the Board of Health Department.

Property Owner – means a contract purchaser if there is one of record; otherwise, the record holder of legal title.

Staff Discovery of Nuisance - If any member or staff of the FCBOH and/or Sanitarian’s office 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:

1. Upon receipt of a written complaint for a property located in the unincorporated area of Floyd County, Iowa, the Sanitarian will perform an investigation of the property pertaining to the written complaint. The Sanitarian shall visit the property in question to determine if a nuisance exists. The use of approved Board of Health evaluation forms may be used and any observations made by the Sanitarian shall be documented to support his/her findings. This documentation should include, but is not limited to, photographs,



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chronological documentation of events, and location of hazards. The Sanitarian will verify if violations do exist and whether they warrant County action by determining if conditions identified in the complaint, in some reasonable way, affect the safety, health, or general welfare of the public or constitute a nuisance pursuant to Floyd County Ordinance 2007-3. When considering whether a condition warrants County action, the Sanitarian may consider the nature and extent of the condition, the wishes of those in the neighborhood, the immediacy of any danger to the public, the cost of the abatement, the likely benefit of the abatement, whether the owner lives on the property, the likelihood of recovering the costs of any abatement action taken by the County, and any other relevant factors as he/she deems necessary. If the Sanitarian feels threatened during an investigation, they may leave the premises and return to complete their investigation with a Floyd County Sheriff's deputy.

2. After the Sanitarian has completed his/her investigation, he/she shall report said violations and nuisances to the FCBOH. The FCBOH shall have 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.**
3. Upon review of the Sanitarian's investigation report, the FCBOH will instruct the Sanitarian to send a written notice to the property owner via certified mail or personal service if a hazard or nuisance has been found to exist. This letter will describe what constitutes a hazardous or nuisance condition(s), where the hazardous or nuisance condition(s) is located, a 30 day timeframe within which to complete the abatement of the hazardous or nuisance condition(s), the necessary act(s) necessary to abate the hazardous or nuisance condition(s), as well as a statement regarding the procedure in which the County will act if the hazardous or nuisance condition(s) is not abated and no hearing is requested per Floyd County Ordinance 2007-3. A copy of the investigation report and/or photographs, as well as a copy of the Floyd County Nuisance Ordinance shall also be attached to the Notice. The Sanitarian shall keep detailed/precise documentation of dates and contacts.
4. If an unsatisfactory or no response is received and so long as the property owner did not submit a request for hearing and appeal, see procedures below, 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 issue a citation for a county infraction to the property owner, which shall include a civil penalty of \$500.00 plus court costs for the first violation, or \$750.00 plus court costs for any subsequent violations after abatement has occurred. Said citation can either be hand delivered to the property owner as shown by the records of the County Auditor, or if

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unable to hand deliver to the property owner, said citation can be sent to the property owner by regular mail. The citation shall also include a hearing date before the Floyd County Magistrate, which shall be on a Monday, Wednesday, or Friday two (2) weeks following the issuance of a citation. Three original signature copies of said citation shall be given to the Clerk of Court for filing, as well as a copy to the County Attorney.

5. If the hazardous or nuisance condition is not abated within thirty days (30) days of issuance of the citation, unless otherwise ordered by the Floyd County Magistrate, the Sanitarian shall update the FCBOH and take necessary action to abate said hazardous or nuisance condition(s) and assess any costs associated with said abatement against the property for collection in the same manner as property taxes, and as follows.
6. In order to abate a hazardous or nuisance condition(s), the Sanitarian shall place a notice in the Charles City Press for a 'Request for Proposal for Bids for Abatement of Nuisance', which shall include a description of the hazardous or nuisance condition(s), a description of the act(s) necessary to abate the hazardous or nuisance condition(s), as well as a request for a timeline in which the entity submitting the bid can abate the nuisance. In addition, the notice shall also include a date, time and location for which bids are to be received by and the date and time as to when said bids will be presented to the Board of Supervisors. All bids shall be received by the Sanitarian's office and presented to the Board of Supervisors on the 2nd or 4th Tuesday of each month, whichever comes first following the deadline for bids. The Board of Supervisors shall act as to which bid they want to approve. If the entity whose bid was approved is not present for the hearing, said entity shall be informed in writing that their bid was approved. However, if no bids or unsatisfactory bids are received and/or upon the direction of the Board of Supervisors, the Sanitarian may choose to engage the help of the Engineer's office if they are willing and have the staff and equipment available to assist in the abatement of a hazardous or nuisance condition(s).
7. The Sanitarian shall keep an accurate, itemized expense account for the cost of the abatement. Said itemization shall include postage and/or service fees, publication fees, time and mileage for investigating and enforcing the abatement, the actual costs paid to any entity during the abatement of the hazardous or nuisance condition(s), and any other fees associated with said abatement. Once the hazardous or nuisance condition(s) has been abated, the itemized expense account along with a copy of any claims submitted for payment of the itemized expenses listed on the account shall be filed with the Floyd County Treasurer to be assessed against the property in the same manner as property taxes.
8. All complaints, photographs, documents, claims, itemized expense accounts, and any other documentation relating to the nuisance complaint shall be scanned to the County



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hard drive and saved at Z:\County Addresses under the appropriate file for that property address. The hard copy of the documents shall also be retained in the Sanitarian's office in an appropriate file folder for that property address.

ABATEMENT IN EMERGENCY:

1. If the Sanitarian determines that an emergency exists by reason of a continuing maintenance of a hazardous or nuisance condition(s), he/she shall document said condition(s) as described above and engage in any resource available to abate said hazardous or nuisance condition, including but not limited to the assistance of the Floyd County Engineer's office, the Floyd County Sheriff's office and/or the Floyd County Emergency Manager; any local contractors and/or towing and salvage yards; or any other resources that may be available and necessary for said abatement.
2. Any costs associated with an emergency abatement shall be itemized and assessed against the property in the same manner as described above and the FCBOH shall be updated as to what the hazardous or nuisance condition(s) was and what actions were taken to abate same.
3. Accurate documentation concerning the hazardous or nuisance condition(s) shall be retained in the Sanitarian's office and filed in the same manner as described above.

ABANDONED PROPERTY ON PUBLIC LAND OR RIGHT-OF-WAY:

1. If the Sanitarian finds any property or receives a complaint regarding any property left on public land or in any road or other public right-of-way which is deemed abandoned and a public safety hazard per Floyd County Ordinance 2007-3, the Sanitarian shall document and abate said hazard as described in the Abatement in Emergency section above.
2. Upon abatement of any abandoned property found on public land or in any road or other public right-of-way and if evidence identifying the owner of the property or persons responsible for the presence of the property is found on or in the abandoned property, the Sanitarian shall issue a citation for a county infraction to said person(s), which shall include a civil penalty of \$500.00 plus court costs for first offense, or \$750.00 plus court costs for any subsequent offenses. After determining the address of said person(s), the citation can either be hand delivered or sent by regular mail.
3. Accurate documentation concerning the hazardous or nuisance condition(s) shall be retained in the Sanitarian's office and filed in the same manner as described above.

REQUEST FOR HEARING AND APPEAL:



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1. Upon receipt of the 30 day notice to abate a hazardous or nuisance condition(s), the property owner may make a written request for a hearing if they contest said notice. The written request for hearing can be delivered to the Sanitarian's office located in the Floyd County Courthouse, 101 S. Main Street, Charles City, IA 50616.
2. Upon receipt of a written request for hearing, the Sanitarian will schedule a hearing before the FCBOH for the next scheduled meeting date. The FCBOH meets on the 2nd Monday every two months at 6:00 p.m. in the Floyd County Courthouse. A written notice of the hearing date and time shall be sent to the property owner/appellant by regular mail as soon as said hearing date and time are known. All abatement and enforcement actions shall be suspended until a decision has been made by the FCBOH.
3. At the conclusion of the hearing, the FCBOH shall render a written decision as to whether a nuisance exists. If it finds that a nuisance exists, it shall order it abated within a reasonable timeframe under the circumstances with the abatement process continuing as described above. If it finds that a nuisance no longer exists, it shall order all abatement and enforcement actions to be terminated. The findings of the FCBOH shall be conclusive.