

**BUCHANAN COUNTY HEALTH AND SANITATION  
CODE OF ORDINANCES  
2008**

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**TITLE V – HEALTH AND SANITATION**

Chapter 43 – Nuisance Regulations

# TITLE V – HEALTH AND SANITATION

## CHAPTER 43

### NUISANCE REGULATIONS

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**43.01 PURPOSE.** The Buchanan County Board of Supervisors, pursuant to the authority granted in Chapters 331 and 657 of the Code of Iowa, and through its designee, the Buchanan County Board of Health, determines to regulate, control, correct and abate nuisances, as defined herein, and to provide penalties for violations.

#### **43.02 DEFINITIONS.**

1. Board of Health: The five-member group appointed by the Buchanan County Board of Supervisors, in accordance with Chapter 137.4, Code of Iowa.
2. Health Department: The Board of Health or its authorized representatives.
3. Nuisance: An act, failure to act, or any condition which is offensive to the senses, or which is an obstruction to the free use of property; any use of property which gives rise to noxious or offensive odors, gases, vapors, smoke, dust, pollen or fumes which injure or threaten the health or safety of individuals or the public; any storage, collection, discharge or deposit of any waste, offal, filth, garbage, refuse, dead animals or contaminated materials in any private or public shelter or protection for rodents; or the failure to secure areas or structures against unauthorized access, where such access threatens the health or safety of persons, or is an attractive nuisance to children.

#### **43.03 MAJOR NUISANCES.**

1. The erecting or using any building or area which occasions noxious exhalations, offensive smells, or other annoyances that become injurious and dangerous to the health, comfort or property of individuals or public.
2. The causing or allowing of any offal, filth or noisome substance to be collected or to remain in any structure or area to the prejudice of others.
3. The corrupting or rendering unwholesome or impure the water of any river, stream or pond to the injury of others.
4. The emission of dense smoke, noxious fumes, or fly ash.
5. Dense growth of all weeds, vines, brush or other vegetation so as to constitute a health, safety or fire hazard.

#### **43.04 INVESTIGATION/NOTICE OF ABATEMENT.**

1. The Health Department shall investigate complaints of nuisances in Buchanan County and shall, upon determining that a nuisance does exist, order said nuisance abated within a specified, reasonable time. Said order shall be as follows:

- a. Be in the form of a Certified Letter, Return Receipt Requested Letter, served in person to the owner of the property where the nuisance is located, or posted in a conspicuous place in or about the premises where the nuisance is located;
  - b. State the nuisance violation;
  - c. Specify a reasonable time for abatement of nuisance;
  - d. Specify the appeal procedures to said abatement order, including the name and address of the chairman of the Board of Health.
2. Said order may contain an outline of possible remedial action which, if taken, shall constitute compliance with the provisions of this regulation.

#### **43.05 APPEAL.**

1. Any person aggrieved by the determination of the Buchanan County Health Department of a health nuisance may, within twenty (20) days of notification, appeal said determination to the Board of Health. The appeal shall be in writing and shall include the reasons for refuting the nuisance determination. The Board of Health shall meet within thirty (30) days of receipt of appeal, at which time the appellant may appear. Following a review of the information presented, the Board of Health may modify, withdraw or concur with the determination of the Health Department.
2. An appeal of the Board of Health decision must be filed with the Clerk of Court's office within twenty (20) days of issuance of said decision.

#### **43.06 COURT ACTION.**

1. If any person is found guilty of erection, causing or continuing a nuisance, the Court may, in addition to the fine imposed, if any, or to the judgment for damages or cost for which a separate execution may issue, order that such nuisance be abated or removed at the expense of the defendant, and, after inquiry into and estimating as nearly as may be possible the sum needed to defray the expenses of such abatement, the Court may issue a warrant therefore.
2. Instead of issuing such warrant, the Court may order the same to be stayed upon motion by the defendant, and upon the defendant's entering into any undertaking to Buchanan County, in such sum and with such surety as the Court may direct, conditioned either that the defendant will discontinue said nuisance, or that, within a time specified by the Court, the defendant will cause the same to be abated and removed, as either is directed by the Court; and, upon the defendant's failure to perform the condition of the defendant's undertaking, the same shall be forfeited and the Court, upon being satisfied of such default, may order such warrant forthwith to issue, and action may be brought on such undertaking.
3. The expense of abating a nuisance by virtue of a warrant can be collected by the officer in the same manner as damages and costs are collected on execution, except that the materials of any buildings, fences, or other things that may be removed as a nuisance may be first levied upon and sold by the officer, and if any of the proceeds remain after satisfying the expense of the removal, such balance must be paid by the officer to the defendant, or to the owner of the property levied upon; and if said proceeds are not sufficient to pay such expenses, the officer must collect the residue.

**43.07 VIOLATION.** It shall constitute a violation of this ordinance if any person or place is deemed to be a health nuisance.

**43.08 JURISDICTION.** The provisions of this regulation shall apply throughout Buchanan County, Iowa, including the cities therein.

**43.09 VALIDITY.** If any section, paragraph or clause of this regulation shall be held invalid, such invalidity shall not affect any of the remaining provisions of these regulations.

**43.10 EFFECTIVE DATE.** The effective date of this regulation shall be July 1, 1989.

**43.11 ENFORCEMENT.** Violations of any of the provisions of this ordinance may be prosecuted as a County infraction, pursuant to Section 331.307, Code of Iowa, or as an aggravated misdemeanor pursuant to Chapter 657, Code of Iowa. Each day of noncompliance may be deemed as a separate offense.