



Nuisance Control

Job Aid

What is the difference between public health nuisances and private nuisances?

1 Public health nuisances are generally defined as unreasonable interferences with the health, safety, peace, or comfort of members of the community. These types of complaints and conditions require LBOH to investigate situations involving noise, odor, dust, exhaust, waste, pests, standing water, and other conditions that may be sources of filth that may lead to sickness.

Private nuisances can be best described as conditions that interfere with an individual's interest in the use and enjoyment of his/her land. They sometimes involve disputes between two or more individual property occupants, owners, or neighbors. While sometimes these conditions can lead to a public health nuisance, many times they don't rise to that level.

What actions help LBOH make nuisance determinations?

2 As with all LBOH regulatory programs, asking questions, gathering information, and conducting inspections are necessary to make nuisance determinations.

What authorities are given to LBOH under Massachusetts General Law (MGL) Ch 111 s122?

3 MGL Ch 111 s122 provides LBOH with the authority to:

- Examine all nuisances, sources of filth, and causes of sickness which may be injurious to the public health
- Destroy, remove, or prevent nuisances
- Make regulations for the public's health and safety

What other laws and regulations are relevant to nuisance control?

4 Other laws and regulations that are relevant to nuisance control include:

- MGL Ch 111 s123 – Abatement by owner with penalty
- MGL Ch 111 s124 – Service of order for abatement
- MGL Ch 111 s125 – Removal of nuisance by board
- 310 CMR 7.00 – Air pollution
- 105 CMR 410.000 – Housing
- MGL Ch 111 s143 – Noisome trades
- 310 CMR 19.00 – Solid waste
- 310 CMR 15.00 – Wastewater

What are the four key functions LBOH have to controlling public nuisances?

5 The four key functions LBOH have to controlling public nuisances are:

1. Examining into suspected nuisances.
2. Declaring that a condition is a nuisance.
3. Ordering and assuring that the nuisance be abated.
4. Enacting local nuisance regulations.

When can a nuisance examination be initiated?

- 6** Examining a suspected nuisance is often in response to a complaint, however LBOH may initiate an examination when a nuisance is observed or encountered, even without a complaint.

How is a nuisance declared?

- 7** Upon completion of the examination, if the LBOH determines there is a threat to the public's health, a nuisance must be declared in writing.

What happens once a public nuisance is declared?

- 8** If a public nuisance is declared, the LBOH should issue a written order to the responsible party to abate the nuisance. Enforcement options LBOH can use to achieve compliance include criminal processes, but LBOH can also use non-criminal disposition (tickets) as an alternative. Although rarely used, LBOH can remove the nuisance at the city or town's expense and attempt to recover the expenses from the owner or occupant.

Can nuisances ever be resolved without using official enforcement action?

- 9** There are occasions when effective communication with the responsible parties can lead to nuisance abatement without official enforcement action. The responsible party may be unaware of the nuisance, and will act to correct it once informed about it. Some LBOH have found success abating community and neighborhood nuisances with educational efforts or community task forces.

What are some other activities LBOH can do to promote healthy communities and prepare for emergencies?

- 10** Many LBOH are involved in non-regulatory activities that promote healthy communities, including emergency preparedness. They should be involved in community and Health and Medical Coordinating Coalition (HMCC) efforts during all four phases of the emergency management cycle - preparedness, response, recovery, and mitigation.

LBOH might also offer health promotion and education activities for owners, occupants, government departments, and community groups.

Health promotion activities might include:

- Appearing on Cable TV.
- Sending direct mail.
- Attending LBOH-sponsored meetings or other community/government events.
- Participating on hoarding or other task forces/coalitions.
- Issuing press releases.
- Posting on social media.