

## Public Health Nuisance Control

Definition: Minnesota Statute, section 145A.02, subdivision 17, defines public health nuisance as “any activity or failure to act that adversely affects the public health”.

Board of Health Role: The McLeod County Board of Commissioners is also the Board of Health. The Board of Health is required by statute (M.S. section 145A.04, subdivision 8) to remove or abate public health nuisances.

### Agents of the Board of Health:

- The Board of Health assigns designated agents to the Public Health Nuisance Program.
- Designated agent(s) include the Public Health Nursing Service Supervisor, County Environmentalist, and any other individuals appointed by the Board of Health.

### Policies and Procedures for Handling Complaints:

- Receipt of Complaint:  
Upon receipt of a complaint, the Board of Health designated agent(s) will document the complaint and actions taken.
- Determining Existence of Public Health Nuisance:  
The agent(s) shall confer and discuss the validity of the complaint. Other witnesses and/or involved parties may be questioned to assist in determining validity of complaint. The agents shall determine whether or not an investigation is warranted. Documentation for each complaint shall indicate whether the complaint is valid and if not, why not.
- Level of Investigation:  
Each valid complaint shall be investigated. The level of investigation shall be determined by the agent(s). In some instances, a field investigation will not be necessary and parties involved will be assisted through the provision of resource and/or referral information.
- Investigative Team:  
When a field investigation is needed, the agent(s) will coordinate the actions of a multi-disciplinary investigative team, as appropriate. At least one of the agents or agent's employees must be a member of the investigative team. Examples of other possible members of the investigative team would include:
  1. Planning and Zoning
  2. Adult Protection
  3. Child Protection
  4. Law Enforcement
  5. Mental Health
  6. City Building Inspectors/Officials
  7. Veterinarian

■ Site Investigation and Documentation:

The site investigation shall be in accordance with standard public health practice. The investigative team shall ensure that proper documentation is made whether or not a nuisance exists. The documentation may include photographs, written descriptions, video-tape recordings or audio-tape recordings.

■ Entering Property/Premises:

In conducting a field inspection the designees (investigative team) of agent(s) may enter property or premises without permission in accordance with Minnesota Statute Section 145A.04 subd. 7. However, in all investigations, the investigative team shall make reasonable efforts to obtain permission to enter property or premises. The designated agent investigating the public health nuisance will provide identifying information to the occupant and/or owner of his/her authority. If entry is refused or resisted, the investigative team shall leave and the case will be referred to the County Attorney's office for possible charges and/or the application for a search warrant.

■ Order for Abatement:

If a public health nuisance exists, the agent(s) will provide a written order for the voluntary abatement of the nuisance by a specified date in accordance with Minnesota Statute, section 145A.04, Subd. 8. The statute reads as follows:

Subd. 8 – (REMOVAL AND ABATEMENT OF PUBLIC HEALTH NUISANCE)

- a. If a threat to the public health such as a public health nuisance, source of filth, or cause of sickness is found on any property, the Board of Health or its agent(s) shall order the owner or occupant of the property to remove or abate the threat within a time specified in the notice but not longer than 10 days. Action to cover cost of enforcement under this subdivision must be taken as prescribed in Section 145A.08.
- b. Notice for abatement or removal must be served on the owner, occupant or agent of the property in one of the following ways:
  1. By registered or certified mail;
  2. By an officer authorized to serve a warrant; or
  3. By a person aged 18 or older who is not reasonably believed to be a party to any action arising from the notice.
- c. If the owner of the property is unknown or absent and has no known representative upon whom notice can be served, the Board of Health or its agent(s) shall post a written or printed notice on the property stating that, unless the threat to the public is abated or removed within a period not longer than 10 days, the Board will have the threat abated or removed at the expense of the owner under Section 145A.08 or other applicable state or local law.

d. If the owner, occupant, or agent fails or neglects to comply with the requirement of the notice provided under paragraphs (b) and (c), then the Board of health or its agent(s) may submit the matter to the County Attorney's Office for legal action.

■ Discretion:

At the discretion of the agent(s), the written order for abatement may be delayed if the agent determines that the violator is making acceptable progress towards resolution.

■ Follow-Up Inspections:

Follow-up inspections shall be conducted, as necessary, to determine compliance.

1. If the nuisance is abated, a letter signed by the agent shall be sent notifying the property owner that the issue is resolved.
2. If the nuisance is not abated, the agent(s) shall consult with the County Attorney's Office to determine the next course of action. Action options include:
  - a. Removal of the nuisance pursuant to Minnesota Statute, Section 145A.04, Subd. 8d and an extension of the cost of abatements as a lien against the property.
  - b. Injunction relief in accordance with Minnesota Statute 145A.04, Subd. 9.
  - c. Prosecution under other applicable local and county ordinances.
  - d. The Board may charge all costs incurred therein against the real estate as a special assessment to be collected in the same manner as property taxes.

■ Staffing Within the Public Health Department:

The Public Health Nursing Director and Supervisor will serve as agents of the Board of Health along with the County Environmentalist. Contract registered nurses and registered nurse employees of the Public Health Nursing Service Department will assist with investigations as assigned by the Director or Supervisor.

■ Indoor/Outdoor Nuisances:

Generally, the RNs will be lead agents with the health nuisances involving indoor settings while the County Environmentalist will head up investigations that deal primarily with outdoor settings.

■ Law Enforcement Personnel:

Law enforcement personnel will be requested to accompany staff on all investigations as appropriate. These personnel will generally assist with videotaping the investigation as well as assisting with the entry and provision of staff safety.

Funding:

- Staff time and activities for the Environmental Health program are fund by the CHS grant and county tax dollars.

Data Privacy:

- The identity of the person referring the public health nuisance will remain confidential as protected by the Data Privacy Act.