

# Public Health Nuisance Guide

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## Introduction

Local Governments are charged with protecting the health of their communities and residents by enforcing state and local public health nuisance laws. A formal policy or guide for public health nuisances can:

- Help the board and staff sort through nuisance complaints
- Categorize the complaints
- Clarify its authority to enforce the nuisance law or local ordinances
- Properly abate the public health nuisance.

### What is a public health nuisance?

A public health nuisance is defined by Minnesota law as any activity or failure to act that adversely affects the public health<sup>1</sup>. More broadly, it can be described as a situation in which the presence of substances or unsanitary conditions are likely to foster disease or endanger the health and safety of the individuals, neighbors, and the community. Clutter or general poor housekeeping is not considered a public health nuisance.

Examples of public health nuisances include:

- Hazardous waste
- Accumulation of decaying matter or trash that attracts insects or rodents.
- Accumulation of junk that is dangerous or injurious to the safety of individuals.
- Open wells

In addition to public health nuisances, the county may also deal with *public* nuisances or *private* nuisances. Public nuisances refer to conditions that obstruct, cause inconvenience, or adversely affect the property rights of members of household neighbors, or persons living in the vicinity<sup>2</sup>. Public nuisance examples include failure to cut grass, vehicle noise, or parking an excessive number of vehicles in one location. Private nuisances refer to issues that affect an individual's right to enjoyment of some property or activity but does not necessarily affect the community<sup>3</sup>. An example of a private nuisance could be a large tree in one's yard that falls onto their neighbor's yard, this is a conflict between two individuals that does not affect the rest of the community.

### Powers and duties of community health boards, counties, and cities

Counties and cities may enforce state statute or establish and enforce their own local ordinances to supplement state statute. A comprehensive internal policy for public health nuisance abatement can benefit local governments by ensuring a consistent protocol for staff to follow, whether the county or city chooses to establish their own ordinances or not.

Minnesota statutes authorize community health boards, counties, and cities to direct property owners or occupants to remove or abate public health nuisances. Local governments may give property owners or

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<sup>1</sup> <https://www.revisor.mn.gov/statutes/cite/145A.02#stat.145A.02.17>

<sup>2</sup> <https://www.house.mn.gov/hrd/pubs/nuislaws.pdf>

<sup>3</sup> <https://www.house.mn.gov/hrd/pubs/nuislaws.pdf>

occupants up to ten days to resolve the nuisance and may add any cost of enforcement to the owner’s property tax bill.

One of the greatest challenges in dealing with public health nuisances, is determining if the situation can be considered a public health nuisance. County and city leaders can ensure proper handling of public health nuisances and protect the county from liability by having a robust system for determining and addressing public health nuisances. Below is a decision tree for determining whether a complaint is a public, private, or public health nuisance.

## Determining Types of Nuisances

<b>Public Health Nuisance</b>	<b>Public Nuisance</b>	<b>Private Nuisance</b>
A public nuisance is a situation in which the presence of substances or unsanitary conditions are likely to foster disease or impair or endanger the health and safety of the dwelling, its neighbors, or the community.	A public nuisance refers to conditions or situations that obstruct, cause inconvenience, or adversely affects the property rights of members of household neighbors, or persons living in the vicinity. <sup>4</sup>	A private nuisance is one that affects an individual’s right to enjoyment of some property or activity but does not necessarily affect the community. <sup>5</sup>

### Strategies to address a public health nuisance

#### Nuisance reporting system

The county should have a clear, and well-advertised place for community members to report public health nuisance concerns. Public health nuisances may occur anywhere, and referrals can come from anyone who suspects a public health nuisance. The nuisance should then be evaluated to determine the proper path of addressing the nuisance

#### Adopt, or amend a local ordinance

Counties can create a strong framework of departmental responsibility for addressing public health nuisances by adopting a local ordinance that outlines a policy and procedure. Having a formal policy beyond the state statute can assist with addressing public health nuisances in a timely and orderly fashion. A comprehensive model of a public health nuisance ordinance can be found in the appendix.

#### Discuss public health impacts

Public health nuisances may lead to injury or illness to the occupants of the property and the public, especially children and vulnerable adults. Proper actions and a robust policy and procedure for public health nuisances can assist with quickly remediating or abating the nuisance and ensuring the safety of the public health. Public health campaigns that educate the public about public health nuisances can assist with preventing nuisances and connecting community members with county resources.

<sup>4</sup> <https://www.house.mn.gov/hrd/pubs/nuislaws.pdf>

<sup>5</sup> <https://www.house.mn.gov/hrd/pubs/nuislaws.pdf>

## Recommendations

### Develop a policy to recover abatement costs

Minnesota Statute requires a board of health to require the owner or occupant of a property with a public health nuisance to remove or abate the nuisance within no more than ten days. If the owner or occupant fails to act within the ten-day limit set by state law, then the board must abate the public health nuisance. For example, this may require the board to hire a cleaning crew and cover the cost of the clean-up until the cost can be recovered from the owner. The cost of such an enforcement action may be assessed and charged against the property on which the public health nuisance was located.

How a county chooses to account and plan for these costs may vary by entity. For example, a county may choose to include detailed descriptions of its nuisance control activities in its community health plan and create budget details of staff time and enforcement costs including estimates of unrecovered abatement costs. This may be appropriate for a county if the program is new or has not been reviewed for several years. The county may also choose to provide general descriptions of the activity in the plan and choose not to specifically identify the item in the budget. In both cases, it is important that the board recognize its responsibilities under state law and create a plan to fulfill its obligations.

### Establish and rely on relations with the county attorney and county board

Public health nuisances are both a public health matter and a legal matter. Counties and public health can ensure they are legally covered when enforcing nuisance abatements by developing a strong relationship with the county attorney. The department with the responsibility of abating the public health nuisance should rely on the legal counsel of the county attorney for determining suitable legal remedies should difficult abatement situations arise.

When a public health nuisance arises in a county and abatement of the nuisance is required, the county staff may consider looping in the county commissioner of the district in which the nuisance resides in to keep the commissioner in the loop should any complaints arise. This can help strengthen relationships with the county board and provide more support should there be a need for a county enforced abatement.

County staff responsible for nuisance abatement may consider quarterly meetings with their administrator and county board to educate them on public health nuisance; why counties are mandated as responsible for them, what challenges staff are facing, and any cases where the county may need to come in and remove the nuisance due to non-compliance.

### Develop a strong county and municipality relationship

Counties, cities, and towns may all establish local ordinances for the purposes of controlling nuisances. In some cases, this ordinance authority may include specific provisions for the control of nuisances that affect health. Addressing public health nuisances can be challenging when deciding whether the nuisance falls under the city or county's jurisdiction. A clear policy to determine city or county responsibility may result in more timely abatements. The tables provided in the appendix (copied from the Minnesota Department of Health Public Health Nuisance Guide from 1992) provides information on the legal entity's responsibility and scope in addressing public health nuisances. Generally, cities with established nuisance ordinances will address nuisances that arise in the city themselves, however, if a city or township does not have a nuisance specific ordinance the responsibility would fall to the county.

### Establish coordinated services with Environmental Services and Human Services

Public health nuisances may be overseen by a county's public health department, the environmental services department, or a combination of the two. A county can streamline public health nuisance responses by ensuring clear communication between the two departments. Sharing resources and policies can assist with the overlap of public health and environmental services that a public health nuisance creates, such as the oversight of abating the public health nuisance and the physical cleanup of the nuisance.

In addition to environmental services, there should be a strong relationship with human services when responding to public health nuisances. An individual that has created a public health nuisance may have underlying mental health concerns and could potentially benefit from additional county resources. Counties can prevent some public health nuisances by working with their public health and human service departments to enact upstream prevention tactics to help individuals get the help they need before a public health nuisance arises.

### Utilize State Environmental and Public Health Resources

Counties may consider attending state trainings such as EPA Insect Management trainings for cockroach and bed bug abatement training. Counties may find the Minnesota Department of Health's Health Homes<sup>6</sup> trainings useful for addressing mold and moisture, pest management, and environmental hazards. The Minnesota Pollution Control Agency<sup>7</sup> may also be helpful for counties addressing public health nuisances that may affect wells or drinking water supplies.

In addition to state resources, counties may consider partnering with Animal Control or local Humane Societies when addressing public health nuisances. This may be helpful when dealing with rodent or pest infestations or neglected animals or animal hoarding.

### Develop a clear abatement policy

A clear abatement policy can ensure that a county is following a consistent guideline for every public health nuisance. This can ensure that a county is within its legal rights of public health nuisance abatement and that the individual responsible for the public health nuisance is treated fairly. A clear abatement process will also help the county stay on track with the cleanup of the public health nuisance. The abatement process should include provisions for:

- The closure of a public health nuisance
- How the county should file their records of the nuisance
- A policy on keeping records of public health nuisances should any legal issues arise or for the use of staff training.

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<sup>6</sup> <https://www.health.state.mn.us/communities/environment/healthyhomes/index.html>

<sup>7</sup> <https://www.pca.state.mn.us/>

## Appendix

### Single County Board of Health<sup>8</sup>:

Entity	Scope	Source
Community Health Board	Public Health Nuisances	Minnesota Statute 145A
Board of Health within CHB (township or city)	Public Health Nuisances	Minnesota Statute 145A
County Board	Dangerous Excavations Public Health Nuisances	Minn. Stat. 471.92 Local Ordinance (Minn. Stat 145A.05)
City Council	Nuisances (including public health nuisances)	Local Ordinance (Minn. Stat 412.221) (Also, Minn. Stat 429.021, 462.17 & 463.151)
Township Board	Nuisances (including public health nuisances)	Local Ordinance (Minn. Stat 368.01 & Minn. Stat. 429.021)

### For Multi-County Board of Health<sup>9</sup>:

Entity	Scope	Source
Community Health Board (Multi-County)	Public Health Nuisances	Minnesota Statute 145A
Board of Health in CHS Area (Township, city, or county)	Public Health Nuisances	Minnesota Statute 145A
County Board	Dangerous Excavations Public Health Nuisances	Minn. Stat. 471.92 Local Ordinance (Minn. Stat. 145A.05)
City Council	Nuisances (including public health nuisances)	Local Ordinance (Minn. Stat. 412.221) (Also, Minn. Stat 429.021, 462.17 & 463.151)
Township Board	Nuisances (including public health nuisances)	Local Ordinance (Minn. Stat 368.01 & Minn. Stat. 429.021)

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<sup>8</sup> <http://mnpublihealthnuisancehandbook.org/chsboardguide.pdf>

<sup>9</sup> <http://mnpublihealthnuisancehandbook.org/chsboardguide.pdf>