

Public Health Nuisance Policy

Policy: Aitkin County Health & Human Services Board, acting as the Board of Health, shall respond to, inspect and mitigate Public Health Nuisances as defined and outlined in Minnesota State Statutes, Section 145A. Further, the Board designates as its Agent and Public Health Authority, the Public Health Supervisor, to enforce this statute.

Purpose: Minnesota Statutes, Section 145A.04, places responsibility for Public Health Nuisance control on Boards of Health. The policy, protocols, and procedures are intended to ensure that the Board of Health, or its Designated Agent, responds as required by law. Minnesota Statute 609.74 defines **Public Nuisances** very broadly as a “condition which unreasonably annoys, injures, or endangers the safety, health, morals, comfort, or repose of any considerable number of members of the public. The definition of **Public Health Nuisance**, as set out in the Minnesota Public Health Nuisance Handbook is, “any activity or failure to act that adversely affects public health.”

Protocols:

- a) For the purposes of defining and determining Public Health Nuisance, the definition, as set forth in Section 145A.02., Subdivision 17, shall be used; “any activity or failure to act that adversely affects the public health.”
- b) As defined by Section 145A.04, Subdivision 8, removal and abatement of public health nuisances takes place if a (validated) threat to public health such as, a public health nuisance, source of filth, or cause of sickness is found on any property.
 - a. Examples of public health nuisances may include, but are not limited to: dead animals, rotting garbage, insect, vermin or rodent infestations, evidence of a meth lab or other drug manufacturing, unsafe living situation that affects children and vulnerable adultsⁱ
 - b. Improper disposal or discharge of human waste
 - c. Accumulation, burning of, and/or improper disposal of household waste
 - d. A hazardous building or property which because of inadequate maintenance, dilapidation, physical damage, unsanitary condition and/or abandonment constitutes a fire hazard or hazard to public safety or health.
- c) All Public Health Nuisance complaints or reports shall be investigated.
- d) The investigation of each nuisance complaint shall normally be within ten [10] working days and according to the procedures outlined herein.
- e) The Board of Health shall approve procedures, make budget appropriations and promote the concept of a team approach between departments and/or agencies.
- f) Complaints determined to be under the jurisdiction of another agency or other unit of government shall be referred to accordingly.
- g) In the event of an imminent threat to the health of the public, immediate action shall be taken.
- h) Discretion to allow an extension or to deviate from standard procedures shall be provided.
- i) All data shall be handled in accordance with the Government Data Practices Act.
- j) Abatement notices shall be pursuant to Section 145A.04., Subdivision 8.
- k) The Aitkin County Attorney shall be informed of all Public Health Nuisance determinations, updates and mitigation activities.
- l) All costs for abatement and administration may be recovered through assessment, pursuant to Section 145A.08., Subdivision 2.
- m) Response Staff will utilize Ethical Framework by Bernheimⁱⁱ when determining Public Health Nuisance. [Appendix A]

Procedures:

- I. **Complaint Investigation**
 - A. Receive the complaint

- i. If the Public Health Nuisance complaint concerns property within a city or township that has a Public Health Nuisance ordinance, the complaint will be referred to the appropriate jurisdiction.
 - ii. Designated Agent (Public Health Supervisor) will receive the complaint. Any referral that may, in any way, meet the criteria of Public Health Nuisance will be referred to the Designated Agent or, minimally, a collaborative effort between receiving department and Designated Agent will ensue. Upon receipt of the complaint, the Agent will document the information provided.
 1. Fill out complaint form. [Appendix B]
 2. Create a client and activity in Nightingale Notes.
 3. Complete Nuisance Intake & Initial Follow-Up tab in Nightingale Notes.
- B. Discretion
- i. At the discretion of the Designated Agent, the process may deviate from the order of nuisance enforcement if an individual situation requires such attention.
- C. Investigate, verify or negate the complaint through inspection of the property.
- i. Agent will coordinate with the Environmental Services Director, or assigned designee, a time to visit the property within ten [10] working days of receiving complaint.
 - ii. At any time and for any reason, the Agent may request to be accompanied by the Aitkin County Sheriff's Office.
 - iii. The Agent investigating the Public Health Nuisance complaint will provide their county badge identifying their authority and will explain they are there to complete an inspection, taking care to not disclose the complainant.
 - iv. Reasonable effort shall be made by the Agent to obtain permission to enter in accordance with Section 145A.04.
 - v. If allowed entry, make the investigation and return with documentation. [Appendix B, photographs, video and/or audio recordings]
 - vi. If entry is refused or resisted, refer the case to the County Attorney for possible charges and/or the application for a warrant.
 - vii. If the complaint cannot be verified and a Public Health Nuisance does not exist, document the findings and reason for not proceeding. [Appendix B]
 - viii. Agent will document findings in Nuisance Intake & Initial Follow-Up tab in Nightingale Notes.
- D. Notify and consult multi-disciplinary team about investigation.
- i. The Designated Agent will inform other departments of the need for involvement of representatives from other disciplines.
 - ii. The Agent will coordinate the actions of a multi-disciplinary investigative team that may include representation from the following areas:
 1. Health & Human Services
 2. Law Enforcement
 3. Planning & Zoning/Environmental Services
 4. County Attorney
 5. County Auditor
 6. Medical Consultant
 - iii. Additional team members may include, but are not limited to, as needed:
 1. Child and/or Adult Protection
 2. Mental Health
 3. Fire Marshall
 4. State Epidemiologist
 5. MN Pollution Control Agency
 6. Animal Humane Society
 7. MN Department of Health

8. MN Department of Agriculture

- E. Determine whether or not a Public Health Nuisance exists. The Agent makes this determination, utilizing the process outlined in the Public Health Nuisance Policy Flow Chart. [Appendix C]
- i. **Public Nuisance:** Aitkin County does not have a specific Public Nuisance Policy. If the situation is not deemed a Public Health Nuisance, if applicable, the case will be referred to the appropriate governmental unit for ordinance violations and/or enforcement activities.
 - ii. **Public Health Nuisance:** Use as a guide, a series of questions that will assist in making this determination.
 - 1. Does the condition affect the “Public?”
 - 2. Does the condition affect “Health,” i.e. is there a real or imminent health risk?
 - a. Can the condition cause or be expected to cause transmission of disease?
 - b. Does the condition cause or is there a potential for the condition to cause trauma or injury to the public?
 - c. Does the condition constitute or is there potential for the condition to constitute an exposure to hazardous elements or substances that could adversely affect the health of the public?
 - d. Is the subject of the complaint an unsafe or potentially unsafe structural or environmental condition or fire hazard?
 - 3. Refer to the flow chart for determination of Public Health Nuisance. [Appendix C]
 - 4. Are there service providers that frequent the property?
 - 5. Review with medical consultant or other subject matter expert as needed.
 - iii. **Potential Public Health Nuisance:** If the condition encountered could pose a future public health problem however has not progressed in seriousness or to an extent to constitute a Public Health Nuisance at the time of the investigation, education, or consultation in the form of a follow-up letter or discussion with a responsible party is appropriate.
 - iv. **Unsubstantiated Complaint:** The Agent has the discretion to send a letter to the property owner about the unsubstantiated public health nuisance complaint. [Appendix D]
 - v. Agent will document determination in Nuisance Intake & Initial Follow-Up tab in Nightingale Notes.
- F. Abatement Notice
- i. If a Public Health Nuisance is found to exist, prepare a written Abatement Notice. [Appendix E]
The notice should include the following:
 - 1. A description of the Public Health Nuisance, citing the Statute and, if appropriate, any County ordinance violated.
 - 2. The address and property identification of the Public Health Nuisance.
 - 3. The finding and remedial action required to abate the Public Health Nuisance.
 - 4. The associated compliance deadline[s] [0-10 days].
 - 5. A statement noting that, if the remedial action is not taken within the time specified, not to exceed ten [10] days, the County Board will abate the Public Health Nuisance and charge all costs incurred therein against the real estate as a special assessment to be collected in the same manner as property taxes; pursuant to Minnesota Statutes, Section 145A.08.
 - ii. Serve the Abatement Notice. The Abatement Notice shall be served on the occupant, owner, and/or agent of the property in one or more of the following ways:

1. By certified USPS mail.
 2. By an officer authorized to serve a warrant.
 3. If the occupant and/or owner of the property is unknown or absent and has no known representative upon whom notice can be served, the agent shall post a written or printed notice on the property stating that, unless the Public Health Nuisance is abated or removed within a period not longer than ten [10] days, the department will have the Public Health Nuisance abated or removed at the expense of the owner, pursuant to Minnesota Statutes, Section 145A.08 or other applicable State or Local Law. [Appendix F]
 4. Reasonable attempt to identify and/or locate the occupant and/or property owner may include contact with:
 - a. Assessor's Office
 - b. Treasurer's Office
 - c. Auditor's Office
 - d. Recorder's Office
 - e. Sheriff's Office
 - f. Health & Human Services Financial and/or Accounting Units
 5. Agent shall post Notice of Threat to Public Health [Appendix F] in a visible location on the property.
 6. Notification of a determined Public Health Nuisance and a copy of the abatement notice shall be provided to:
 - a. Health & Human Services Director
 - b. County Administrator
 - c. Environmental Services Director
 - d. County Attorney
 - e. Corresponding County Commissioner
- iii. Agent will document abatement notice activities in Nightingale Notes.

G. Follow-Up

- i. Follow-up of the Abatement Notice will take place within ten (10) working days after the required compliance date.
 1. Conduct a physical site inspection, documenting findings; which may include photographs and written descriptions.
 2. Determine if abatement has been completed according to requirements set forth in the Abatement Notice [Appendix E] and if the public health nuisance is resolved.
 3. Determine the need or desire for referral to community resources and/or agencies.
- ii. If the Public Health Nuisance is not abated, the Agent shall pursue the next course of action, which could include:
 1. Extension: At the discretion of the Agent, the time period for compliance may be extended if an unusual situation exists, the violator has adequately communicated the situation and is making acceptable progress toward resolution.
 2. Abatement: Removal or abatement of the Public Health Nuisance by the County, and procured refuse hauler. Assessment of the cost of abatement or removal will be included as a special assessment to be collected in the same manner as property taxes, per Minnesota Statutes, Section 145A.04, Sub. 8.
 3. Injunctive relief: The local authority could seek an injunction in district court and prosecute as a civil case, Minnesota Statutes, Section 145A.04, and Sub. 9.
 4. Prosecution: The local authority could choose to prosecute the violator in criminal court, Minnesota Statutes, Section 609.74 or Section 609.745.
- iii. A letter shall be, signed by the Agent and sent via certified USPS mail, notifying the occupant and/or property owner of non-compliance [Appendix G].

- iv. Agent will document follow-up findings in Nuisance Intake & Initial Follow-Up tab in Nightingale Notes.
- H. Resolution
- i. If the Public Health Nuisance is abated, the issue is resolved. A letter shall be, signed by the Agent and sent via certified USPS mail, notifying the occupant and/or property owner of the resolution [Appendix H].
- I. County Initiated Abatement
- i. If all attempts at owner/occupant compliance fail, the Agent will initiate procedures for County facilitated and approved abatement.
 - 1. To confirm all courses of action have been taken, appropriate notices have been provided and County initiated abatement remains the only remaining option, Agent will call for a consensus meeting with:
 - a. Environmental Services Director
 - b. County Attorney
 - 2. Notification will be provided to:
 - a. Health & Human Services Director
 - b. County Administrator
 - c. County Auditor
 - d. Corresponding County Commissioner
 - 3. Aitkin County Environmental Services Director will coordinate Requests for Proposal to abate the Public Health Nuisance
 - a. Request shall be published in the Aitkin Independent Age and/or be sent to the contractors on the listing kept in the Environmental Services Department, and any others requesting a copy.
 - b. Per Minnesota Pollution Control Agency, all commercial buildings and buildings owned by the County require an asbestos inspection prior to demolition. Residential single-family structures that are not owned by the County do not require the asbestos inspection. All hazardous waste and problem materials shall be removed from buildings prior to demolition. Inground water wells and non-conforming septic systems must be abandoned according to state rules and requirements.
 - c. Upon deadline, proposals shall be reviewed and lowest bid accepted.
 - 4. If proposals meet or exceed \$25,000, Agent will request to be placed on the next Aitkin County Board meeting agenda.
 - a. Facts of the case shall be provided
 - b. Costs shall be reviewed
 - c. Request for approval of abatement will be made
 - 5. Upon approval of the Aitkin County Board
 - a. Aitkin County Environmental Services Director will correspond with the contractor who submitted the lowest bid.
 - b. Timeline for completion of work and requirements will be outlined within the correspondence.
 - c. Agent will post property identifying mitigation action on or before established date. [Appendix I]
 - 6. Final Inspection and Action
 - a. Contractor shall submit all receipts for waste disposal, abandonment records and invoices to the Aitkin County Environmental Services Director to ensure legal and proper disposal of debris has been completed.

- b. A final inspection by the Agent and Aitkin County Environmental Services Director will be completed within ten (10) working days after the required compliance date, or sooner if contractor indicates the work has been completed.
 - i. Document findings, which may include photographs and written descriptions. [Appendix B]
 - ii. Determine if abatement has been completed according to requirements set forth in the Abatement Notice [Appendix E] and if the public health nuisance is resolved.
- c. Agent will document follow-up findings in Nuisance Intake & Initial Follow-Up tab in Nightingale Notes.
- d. If the Public Health Nuisance is abated, the issue is resolved. A letter shall be sent, signed by the Agent, notifying the occupant and/or property owner of the resolution [Appendix H].

ⁱ *What is a public health nuisance.* [Local Public Health Association: Public Health Nuisance Handbook](#), NKD, Accessed 4 May 2023.

ⁱⁱ *Adapted Summary of a Public Health Ethics Framework Bernheim et al. (2009) Ethics and the Practice of Public Health.* National Collaborating Centre for Healthy Public Policy (NCCHPP), 2016. https://www.ncchpp.ca/docs/2016_eth_frame_bernheim_En.pdf