

CASS COUNTY HEALTH, HUMAN & VETERANS SERVICES BOARD

Public Health Nuisance Control Policies and Procedures

I. Purpose:

Minnesota Statutes Section 145A.04 places responsibility for public health nuisances in Cass County to the Cass County Health, Human & Veterans Services Board (Board of Health). This nuisance control policy is intended to ensure that each Local County Public Health Department, under the jurisdiction of the Board of Health, responds to public health nuisance complaints in a consistent and timely manner.

II. Policy:

1. All Public Health Nuisance Complaints shall be investigated.
2. The definition of Public Health Nuisance shall be that definition as set out in Chapter 145A.02, Subdivision 17 "any activity or failure to act that adversely affects the public health".
3. Local Health Departments may delegate investigative authority to specific designees.
4. The investigation of each nuisance complaint shall normally be within 10 working days and according to the established procedures. (See attached Procedures)
5. The Board shall approve procedures, make budget appropriations, and promote the concept of a team approach between departments and/or agencies.
6. Complaints under the sole jurisdiction of another agency shall be referred to that agency.
7. In the event of an imminent threat to Public Health, immediate action shall be taken.
8. Discretion to allow an extension or to deviate from the standard procedures shall be provided.
9. The Board of Health shall handle data in accordance with the Government Data Practices Act (Minnesota Statutes, Chapter 13).
10. Abatement Notices shall be pursuant to Minnesota Statutes, Chapter 145A.04, Subdivision 8. (Time to remove or abate the Public Health Nuisance must be specified within an abatement notice, however the time specified must not exceed ten days.)
11. The Board's Attorney shall be notified whenever legal questions arise, whenever a warrant is requested and whenever abatement orders are considered.
12. All costs for abatement and administration may be recovered through assessment, pursuant to Minnesota Statutes, Chapter 154A.08, Subdivision 2.

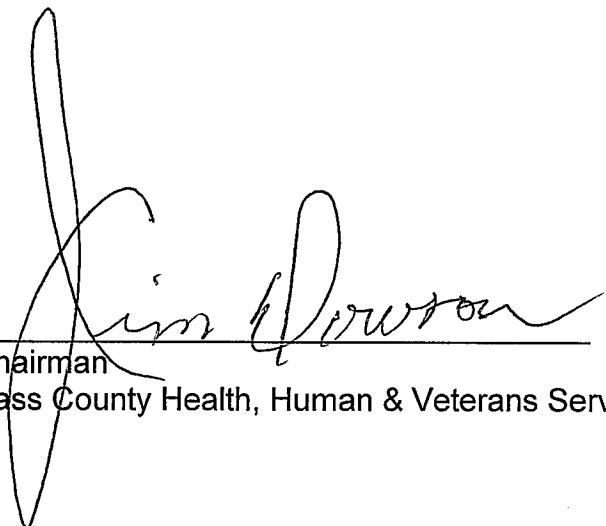
III. Procedure:

1. Upon receipt of a complaint of a suspected health nuisance, by any department, it shall be forwarded to the County Designated Agent or designee in the Public Health Nuisance Program in Cass County. The HHVS Director will be the Agent of the Board of Health.
 - a. Fill out the complaint investigation form.
 - b. Log the complaint.
2. All Public Health Nuisance complaints will be investigated.

3. Discretion
 - a. At the direction of the Board of Health's Designated Agent, the program may deviate from the order of nuisance enforcement if an individual situation requires such action.
4. The investigation of each nuisance complaint, as determined by the Public Health Division according to the definition of a public health nuisance as set out in 145A shall be investigated by the Designated Agent or his/her designee within 10 working days of receipt of said complaint where possible. The designees for specific nuisance complaints are as follows:
 - a. Adult Health Supervisor
 - b. Family Health Supervisor
5. The Public Health Division shall keep complete records on all complaints received. For all investigations by Departments outside the Public Health Division, the Complaint Investigation Record will be completed and a copy will be submitted to the Public Health Division.
6. Verify the complaint by questioning witnesses and/or going to the location. If the complaint cannot be verified, document the reason for not proceeding.
7. Investigate the complaint if verified. The investigation will include questioning of witnesses and field inspection. The person investigating the Public Health Nuisance shall provide identifying information to the occupant/owner of his/her authority.
8. Investigation documentation (which may include photographs, written descriptions, videotape recordings, or audio tape recordings) shall be retained by the investigating department.
9. In conducting a field investigation, all reasonable efforts should be made by the Public Health Division or its designee to obtain permission to enter. If entry is refused or resisted, documentation of the case shall be referred to the County Attorney's office for possible charges and/or the application for a warrant.
10. Make a determination whether a Public Health Nuisance exists. The Designated Agent and his/her designee make this decision.
 - a. Follow the flow chart. (Attachment III)
 - b. Answer Public health Nuisance Guide questions and Decision Tree. (Attachments I & II)
 - c. If the complaint cannot be substantiated, document the reason for not proceeding.
 - d. If the conditions encountered could pose a future public health problem, however, but have 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 follow-up letter or discussion with responsible party is appropriate.
11. If a Public Health Nuisance is found to exist, the designee will complete the Investigation Report, fill out the Notice of Voluntary Abatement and give to the Designated Agent within 24 hours. The designated Agent will review the report, and send to the occupant and/or owner of the property as described in 12B2. An imminent health threat warrants immediate abatement. (Use Flow Chart, Attachment III)
12. After the compliance date, the Designated Agent or his/her designee shall follow-up inspection within 2 working days.

- a. If the nuisance was abated, the issue is resolved. The Follow-Up Inspection report will be completed and sent to the Designated Agent. A letter shall be sent by the Designated Agent notifying the complainant, occupant and/or owner of resolution.
 - b. If the nuisance was not abated, or substantial progress made toward the abatement the Public Health Division shall order abatement pursuant to Minnesota Statute Section 145A.04 Subdivision 8. The Designee would complete the Follow-Up Inspection report, fill out Abatement Order and send to the Designated Agent. The order shall be signed by the HHVS Director/Designated Agent. The County Attorney's Office, a committee of the County Board, the County Administrator and related departments shall be notified and copies of the documentation forwarded to those offices. A meeting of this group will be convened if deemed appropriate.
 - i. The Abatement Order shall follow the process outlined in Minnesota Statute Section 145A.04 Subdivision 8, and shall require the following:
 - A description of the real estate sufficient for identification.
 - A description and the location of the nuisance and the remedial action required to abate the nuisance.
 - The abatement deadline, to be determined by the enforcement officer allowing a reasonable time for the performance of any act required.
 - A statement that the order may be appealed and a hearing before the County Appeals Board obtained by filing a written request with the Public Health Division before the appeal deadline which shall be the abatement deadline designated in the Abatement Order.
 - A statement that if the remedial action is not taken nor a request for an appeals hearing filed with the County Public Health Division within the time specified, the County will abate the 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.
 - ii. The Abatement Order shall be served on the occupant, owner, or agent of the property in one or more of the following ways:
 - By registered/certified mail.
 - By an officer authorized to serve a warrant.
 - By a person aged 18 years or older who is not reasonably believed to be a party to any action arising from the notice.
 - If the occupant and/or owner of the property are unknown, see page 18, Paragraph 3, of the State Manual 1992.
13. The Designee shall return to the site on the date specified. If nuisance is abated or significant progress made, follow-up or closure will take place.
 14. If the nuisance was not abated, forced abatement orders will be issued.
 15. In the event an appeal is filed with the Public Health Division, a hearing shall be held within two weeks of the request, with notices being mailed by the Designated Agent to the appellant, the Public Health designee, Appeals Board members and the County Attorney's Office.
 16. The Appeals Board shall consist of a County Commissioner, the County Administrator and the Chairperson of the HHVS Advisory Committee.
 17. At the appeals hearing, the County Appeals Board shall hear from the Public Health Designated Agent or his/her designee and the appealing party.

18. At the expiration of the abatement time as set out in the Abatement Order, if no appeal has been filed, the Designated Agent or his/her designee shall conduct a follow-up inspection to determine compliance.
- a. If the nuisance was abated, the issue is resolved and a letter shall be sent and signed by the HHVS Director/Agent, notifying the complainant, occupant and/or owner.
 - b. If the nuisance was not abated the HHVS Director, the County Administrator, the County Attorney, and the Public Health designee shall meet to determine the next course of action, which could include:
 - i. Removal of nuisance pursuant to Minnesota Statutes Chapter 145A.04, Subdivision 8.
 - ii. An Assessment of the cost of abatement as a lien against the property (Minnesota Statutes, Chapter 145A.04 Subdivision 8).
 - iii. Injunctive relief. The local authority could seek an injunction in district court and prosecute as a civil case (Minnesota Statutes, Section 609.74 or Section 609.745).
 - iv. Extension. At the discretion of the Board of Health's Designated Agent the time period for compliance may be extended if an unusual situation exists, the violator has adequately communicated this situation, and is making acceptable progress toward resolution.
 - c. The County Board will be given the recommended course of action for approval.



Chairman
Cass County Health, Human & Veterans Services Board

September 18, 2007
Date

Determining a Public Health Nuisance

Based on *Controlling Public Health Nuisances: A Guide for Community Health Boards* (MDH January 1992).

"Perhaps one of the greatest difficulties in dealing with nuisance complaints is determining whether or not the subject of the complaint is, in fact, a public *health* nuisance.

"A substantiated nuisance complaint may be categorized in many ways. For a board of health, however, it is important first of all to determine if the problem effects [sic] the public, and if so, distinguish between those public problems that pose a threat to health and those that do not. This determination is very important and is not always as easy as it may seem. Making a proper determination will clarify which tools will be used to resolve the problem."

"The following questions can be used in determining whether a nuisance is a public health nuisance. This is not a legal judgment: it is a professional judgment, based on public health principles and is normally made by a public health professional."

1. Does the condition affect the "Public?"

This question is intended to help determine whether something is either a *private* or a *public* nuisance. If a problem affects even only one individual, it is reasonable to expect that other public will also be affected.

NO: If the answer to this question is no, then the problem is of a private nature, and not within the scope of the board's authority

YES: If the answer is yes, go to the next question.

2. Does the condition affect "Health?" (i.e. is there a real or potential health risk?)*

This question is intended to help determine whether the problem is affecting health.

- 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 a 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?

NO: If the answer to this question is no, the problem is not of a health nature and is not a public *health* nuisance.

YES: If the answer is yes, it is important to describe the health risk as completely as possible. Then proceed with the appropriate response.

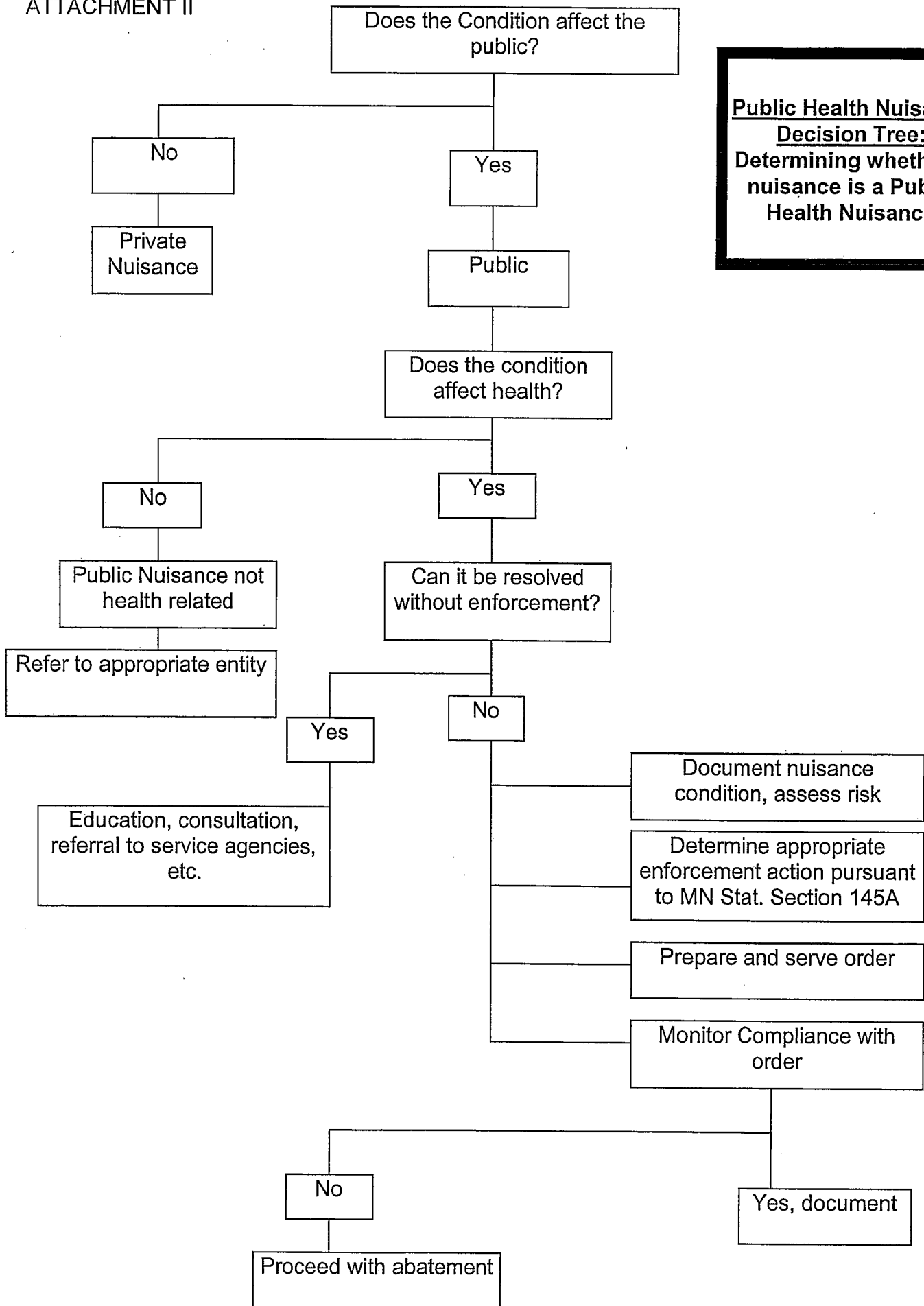
* See next page for examples of conditions that experience has determined can affect health.

Examples of Conditions that can Affect Health -- for use in Determining a Public Health Nuisance

This is not a complete listing of conditions, but will assist in determining whether a public health nuisance is present.

- Improperly stored solid waste, especially putrescible waste such as refuse or garbage
- Improperly maintained animal pens
- Potential mosquito or other insect vector breeding areas
- Potential rodent harborage
- Unsafe storage of used appliances
- Dead animals
- Accumulations of filth
- Illegal dumping
- Within a housing unit:
 - Accumulation of human or animal feces
 - Evidence of garbage and rotting food
 - Infestation by rodents, insects
 - Environmental conditions that affect children and vulnerable adults
 - Lack of approved potable water supply or sewage disposal
 - Evidence of clandestine drug manufacture

It should be noted that clutter, or housing with poor housekeeping that does not have any of the above examples is not considered a public health nuisance. Accumulations of clothing, household goods, magazines or other examples of hoarding behavior are not of themselves a public health nuisance. Such conditions may, however, be a concern for the fire marshal or other building officials.



**Public Health Nuisance
Decision Tree:
Determining whether a
nuisance is a Public
Health Nuisance**

**CASS COUNTY HEALTH, HUMAN & VETERANS SERVICES BOARD
PROCEDURE FLOW CHART**

