

# Public Health Nuisance Complaint Policy/Procedures

**Reference:** Minnesota Statutes Section 145A.04

**Definition:** *Nuisance:* any substance, matter, emission, or thing which creates a dangerous or unhealthy condition or which threatens the public peace, health, safety, or sanitary condition of the county. This includes, without limitation, excessive or noxious noise, odors, vibrations, air pollution, smoke, liquid or solid wastes, heat, glare or dust. The term nuisance does not apply to normal agricultural practices being conducted in an appropriately zoned area or practices at businesses operating under a conditional use permit (Kandiyohi County Nuisance Ordinance)

*Public Health Nuisance:* Any activity of failure to act that adversely affects the public health.

*Public Nuisance:* A condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort or repose of any considerable number of members of the public(Minn. Stat. Sections 609.74 and 609.745)

**Purpose:** The purpose of this Policy/Procedure document is to assure that Kandiyohi County Public Health Department responds to public health nuisance complaints in a consistent and timely manner, and distinguishes public health nuisances, from public nuisances, and nuisances.

**Approach:** This Policy/Procedure recognizes that public health nuisances are varied and complex and different approaches are required for different circumstances. These procedures provide guidance to assure consistency, but recognize that flexibility in approach is sometimes warranted.

## Procedures

1. Upon receipt of a complaint the Environmental Health Specialist (EHS) will record the complaint in the complaint file.
2. A valid complaint shall be one in which, in the opinion of the EHS, a public health nuisance, source of filth, or cause of disease exists. The EHS will use professional judgment in determining valid complaints.
3. The EHS shall investigate each valid complaint.
4. The EHS shall identify the parties responsible for creating and abating the public health nuisance.
5. The EHS shall ensure during field inspections that proper documentation is made, whether or not a public health nuisance exists. The documentation may include photographs, written descriptions, video, or audio recordings.
6. In conducting a field inspection, the EHS may enter property or premises without permission in accordance with Minn. Stat. Section 145A.04 subd.7. In all investigations the EHS shall make every effort to obtain permission to enter.
7. The primary concern in conducting site inspections is staff safety. If there is any indication that it may not be safe for staff to proceed with the site investigation law enforcement should be called for assistance. Appropriate personal protective equipment should be worn when necessary.
8. If a public health nuisance exists, the EHS shall provide a written order requesting the abatement of the nuisance within no more than ten 10 days.
9. If the nuisance was not voluntarily abated, or if the EHS determines that immediate action is needed, the Department shall order abatement pursuant to Minn. Stat. Section 145A.04 subd.8.
10. The written order shall be served as follows:
  - a. The order shall require abatement or removal within no more than 10 days.
  - b. Notice of abatement shall be served on the owner, occupant or agent of the property in one or more of the following ways:
    - i. By registered mail, return receipt requested;
    - ii. By an officer authorized to serve a warrant.
    - iii. By a person aged 18 years or older who is not reasonably believed to be a party to any action arising from the notice.
    - iv. If the owner of the property is unknown or absent and has no known representative upon whom notice can be served, the EHS shall post a written or printed notice on the property.
11. The EHS shall conduct follow-up inspections as necessary to determine compliance. If the nuisance is abated and the issue is resolved a letter shall be sent to notify the property owner.
12. If the nuisance was not abated, the EHS will seek approval from the Kandiyohi County Community Health Board to have the threat abated or removed at the expense of the owner under section 145A.08.
13. The Department may depart from this policy on a case by case basis.

## **Determining a Public Health Nuisance**

1. Does the condition affect the “Public”? or is the problem of a private nature?
2. Does the condition affect “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 condition?

### **Examples of conditions that can affect health:**

- 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 animal
- Accumulations of filth
- Illegal dumping
  - 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

Clutter, or housing with poor housekeeping that does not have any of the above examples is not considered a public health nuisance. Accumulation 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.