

**POLICY AND PROCEDURE
PUBLIC HEALTH NUISANCE CONTROL
KOOCHICHING COUNTY**

PURPOSE:

Minnesota Statutes, Chapter 145A.04, places responsibility for Public Health Nuisances Control on Boards of Health. This policy and accompanying procedures is intended to ensure that the Board of Health responds to public health nuisance complaints in a consistent and timely manner.

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 Koochiching County's Public Health Ordinance.
3. The investigation of each nuisance complaint shall normally be within ten (10) working days and according to the procedures outlined herein.
4. The Board of Health shall approve procedures and promote the concept of a team approach between departments and/or agencies.
5. The Board of Health shall appoint a Public Health Nuisance team consisting of at least the Health Director, the Environmental Services Director, the Sheriff, the County Attorney and the Zoning Officer.
6. The county board shall make a budget appropriation.
7. In the event of an imminent threat the public's 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 (MN Statutes, Chapter 13).
10. Abatement notices shall be pursuant to Minnesota Statutes, Chapter 145A.04, Subdivision 8 and the Koochiching County Public Health Ordinance (Time to remove or abate the Public Health Nuisance must be specified within an abatement notice, however the time specified must not exceed ten (10) days).
11. The county 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 145A.08, Subdivision 2.

PROCEDURES:**I. Complaint Investigation**

A. Receive the complaint. Upon receipt of a complaint, the Board of Health's Designated Agent will document the complaint.

1. Fill out complaint form (Form "A").
2. Log the complaint (Form "B").

B. Discretion

At the discretion of the Board of Health's designated Agent and his/her discretion and his/her supervisor (if applicable), the program may deviate from the order of nuisance enforcement if an individual situation requires such action.

C. Verify the complaint. The investigation will include questioning of witnesses and field inspection.

1. Go to the location; or first,
2. Consult witnesses either by telephone or in person. Standards of Mn. Statutes, Chapter 13, Government Data Practices, may apply tooth collection of this data.
3. If the complaint cannot be verified, document the reason for not proceeding.
4. All complaints, substantiated or not, shall be brought to the team at the next meeting to enhance communication and continuity.

D. Investigate the complaint.

1. The agent investigating the public health nuisance complaint will provide identifying information (to the occupant and/or owner) of his/her authority.
2. Reasonable effort shall be made by the agent to obtain permission to enter.
3. If entry is refused or resisted, refer the case to the county attorney for the possible charges and/or the application for a search warrant.
4. If allowed entry, make the investigation and return with documentation (which may include photographs, written descriptions, videotape recordings, and/or audiotape recordings).

E. Make a determination whether or not a public health nuisance exists. The health board agent makes this determination. If time allows complaints shall be discussed with fellow team members.

1. **Public Health Nuisance.** The Guide (see form "D") contains a series of questions that will assist in making this determination:

- a. Does the condition affect the “Public”?
- b. Does the condition affect “Health”?, i.e. is there a real or potential health risk?
 - (1.) Can the condition cause or be expected to cause transmission of disease?
 - (2.) Does the condition cause or is there a potential for the condition to cause trauma or injury to the public?
 - (3.) 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?
 - (4.) Is the subject of the complaint an unsafe or potentially unsafe structural or environmental condition?
- c. Does the condition require enforcement action?
- d. Are there other statutes specific to this problem? (see form “E”)

2. **Potential Public Health Nuisance.** If the conditions encountered could pose a future public health problem, however 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 a follow-up letter or discussion with the responsible party is appropriate.
3. **Unsubstantiated complaint.**

F. Abatement Notice

1. If a public health nuisance is found to exist, prepare a written Abatement Notice (form “C”) and obtain approval from the county attorney. Include the following:
 - a. A description of the public health nuisance, the Statute or Section of the Ordinance violated.
 - b. The location of the Public Health Nuisance and a description of the real estate sufficient for identification.
 - c. The remedial action required to abate the nuisance.
 - d. The compliance deadline (0 - 10 days).
 - e. A statement developed with the advice of the county attorney that if remedial action is not taken 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.

2. **Serve the Abatement Notice.** The Notice shall be served on the occupant, owner or agent of the property in one or more of the following ways:
 - a. By registered or certified mail.
 - b. By an officer authorized to serve a warrant.
 - c. By a person aged 18 years or older who is not responsibly believed to be a party to any action arising from the notice.

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 Board of Health or its 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 Board will have the public health nuisance abated or removed at the expense of the owner, pursuant to MN. Statutes, Chapter 145A.08 or other applicable State or local law.**

4. **A reasonable attempt to locate the occupant and/or property owner shall include contacting at least:**
 - a. The Assessor's Office
 - b. The Utilities Department
 - c. The Zoning Office (permits relevant to the property)

5. **Team members shall be kept informed of all open cases at their regular meeting or more often is necessary.**

G. Follow - Up

1. **Follow-up of the Abatement Notice will take place within ten (10) working days after the compliance date.**
2. **If the public health notice is not abated, the designated agent (s), shall pursue the next course of action, which would include:**
 - a. **Abatement.** Removal or abatement of the Public Health Nuisance.
 - b. **Assessment.** Assessment of the cost of abatement or removal as a lien against the property (Koochiching County Public Health Nuisance, Section I; Subd. I, 2).
 - c. **Injunctive Relief.** The local authority could seek injunction in district court and prosecute as a civil case.

- d. **Prosecution.** The local authority could choose to prosecute the violator in criminal court (MN. Statutes, Section 609.74 or Section 609.745 or Koochiching County Public Health Nuisance Ordinance, Section I; Subd. 1 - 3).
 - e. **Extension.** At the discretion of the Board of Health's Designated Agent and his/her supervisor (if applicable), 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.
3. The team shall be kept informed of all open cases at their regular meetings or more often if necessary.

H. Resolution.

- 1. If the Public Health Nuisance is abated, the issue is resolved. For public relation purposes, a letter may be sent, signed by the designated agent, notifying the occupant and/or property owner of the resolution. When the information being released may be protected under the Data Practices Act, the county attorney should be consulted.
- 2. Close the file.

II. Multi-Disciplinary Investigation

- A. The designated Agent will inform his/her supervisor (if applicable) of the need of representatives from other disciplines than the existing team.
- B. If additional representatives are needed, the Designated Agent will coordinate the actions of a multi-disciplinary investigative team as recommended by the team that may include representatives from the following areas:
 - 1. Child Protection
 - 2. Adult Protection
 - 3. Community Health
 - 4. Mental Health
 - 5. Law Enforcement
 - 6. Building Inspector
 - 7. Planning and Zoning
 - 8. Fire Marshall
 - 9. Environmental Services
 - 10. Physician
 - 11. Department of Natural Resources
 - 12. Highway Patrol, Conservation Officers

- C. The agent (s) shall confer and discuss the validity of the complaint with the investigative team members in addition to the existing team members.**
- D. Investigation documentation (which may include photographs, written descriptions, videotape recordings, and/audiotape recordings) shall be retained by the agent's department. Standards of MN Statutes, Chapter 13, Government Data Practices, may apply to the retention of this data (refer to MN Laws and Statutes for information).**
- E. Investigation by the multi-disciplinary team will proceed in the manner outlined in the preceding procedures.**