



PUBLIC HEALTH NUISANCE CONTROL POLICY

Purpose: Identify and mitigate environmental risks to the health of communities in Mille Lacs County.

Policy: MLCPH will investigate and respond to all Public Health Nuisance complaints that adversely affect the public's health as set forth in Chapter 145A.02.

Procedure:

1. When the receptionist receives a call that fits general nuisance protocol, a public health staff member is assigned the response. Staff will rotate assigned nuisance calls and a list will be maintained by the clerk.
2. Staff responds to the call by gathering information from the informant and beginning to document on a Public Health Nuisance Complaint Investigation Record.
 - a. See "Determining a Public Health Nuisance" to clarify need for investigation.
3. The investigation of each nuisance complaint meeting criteria as set out in 145A shall normally begin within 10 working days.
4. Investigative authority may be delegated to Solid Waste, Zoning Officer, Sheriff or their designees.
5. Investigation will include, at minimum, questioning of witnesses and field inspection.
6. Investigator will provide identifying information to the property owner and/or occupant of his/her authority and reason for investigation.
7. Upon conducting an on-site investigation, investigator shall make reasonable efforts to obtain permission to enter the premises. If entry is refused, documentation of the case shall be referred to the County Attorney's Office for possible charges and/or warrant.
8. At no time shall the investigator remain in a situation that is threatening their safety or well being.
9. If a public health nuisance is found to exist, the investigator will make reasonable attempts in good faith to have the property owner voluntarily rectify the nuisance.
10. Continue to document nuisance findings on Public Health Nuisance Complaint Investigation Record. It is important to describe the risk as completely as possible. This will help in defending the judgment that the problem represents a risk to the public's health.



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11. If abatement of a confirmed nuisance cannot be verbally arranged in good faith, the investigator shall work with the Director to send a Notice of Voluntary Abatement to the property owner.
12. After the compliance date, the investigator shall conduct a follow-up inspection within two working days.
13. If the nuisance was abated, the issue is resolved. The investigator will send a letter stating such to the property owner (and occupant).
14. If the nuisance was not abated nor was substantial progress made toward the abatement, the Public Health Director shall order abatement per MN Statute Section 145.04, subdivision 8. The County Attorney's Office shall be notified and copies of the documentation forwarded to that office. An abatement order requires the following information:
 - a. a description of the real estate sufficient for identification,
 - b. a description and the location of the nuisance and the remedial action required to abate the nuisance,
 - c. the abatement deadline, to be determined by the enforcement office allowing a reasonable time for the performance of any act required.
 - d. a statement that the order may be appealed and a hearing before the County Appeals Board obtained by filing a written request with the Mille Lacs County Public Health Department before the appeal deadline which shall be the abatement deadline designated in the order,
 - e. a statement that if the remedial action is not taken nor a request for an appeals hearing filed with the Mille Lacs County Public Health Department 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.
15. The abatement order shall be served on the occupant, owner or agent of the owner or occupant of the property in one or more of the following ways:
 - a. by registered/certified mail,
 - b. by an officer authorized to serve a warrant,
 - c. by a person aged 18 years or older who is not reasonably believed to be a party to any action arising from the notice.
16. The investigator shall return to the site on the date specified. If nuisance abated or significant progress made, closure or follow-up will take place per the investigator's discretion.



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17. If the nuisance was not abated, forced abatement orders will be issued.
18. A person served with a Public Health Nuisance Abatement order may appeal the order to the County Appeals Board which shall be comprised of 3 members. One member of the Appeals Board shall be a lay person and one member of the Appeals Board shall be a health professional. The third member of the Appeals Board shall be someone who is mutually agreed upon by the Mille Lacs County Board of Health and the person appealing the order. However, if an agreement regarding the identity of a third member cannot be reached by the Mille Lacs County Board of Health and the person appealing the order within 15 days of the appealing party's request for an appeal, the Board of Health shall select the third member of the Appeals Board. Each member of the Appeals Board shall have one vote. A decision of the Appeals Board must be supported by a vote of the majority of the members of the Appeals Board. Members of the Appeals Board shall receive a per diem and mileage in accordance with the rates established annually by the Mille Lacs County Board of Commissioners.
19. In the event an appeal is filed with the Public Health Department, a hearing shall be held within 30 days of the request. Notices shall be mailed to the appellant, the Public Health Department and its investigator, and the County Attorney's Office.
20. At the appeals hearing, the County Appeals Board shall hear from the Public Health and/or its investigator and the appealing party.
21. At the expiration of the abatement time as set out in the abatement order, if no appeal has been filed, the Public Health Department or its designee shall conduct a follow-up inspection to determine compliance.
22. If the nuisance was abated, the issue is resolved and a letter shall be sent to the owner and occupant of such.
23. If the nuisance was not abated, the Public Health Department Director, the specified designee, and the County Attorney shall meet to determine the next course of action. It should include:
 - a. removal of nuisance pursuant to MN Statute Section 145A.04, subdivision 8D,
 - b. an assessment of the cost of abatement as a lien against the property,
 - c. injunctive relief,
 - d. prosecution,
 - e. any other relief.



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DETERMINING A PUBLIC HEALTH NUISANCE

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. While the answers to the following questions do not provide hard and fast answers to all problems, they may be used as a guide in making professional judgments about nuisance complaints.

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/household, it might be reasonable to expect that other public will also be affected.

- a. Is the nuisance not contained to one individual or household?
- b. Could the nuisance spread to neighboring individuals or households?
- c. Could the individual(s) spread the nuisance in the community?

NO: If the answer to this question is no, than the problem is of a *private* nature and not within the scope of the board’s authority. No further investigation is warranted.

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

2. Does the condition affect “*health*”?

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

- a. Is there a real or potential health risk?
- b. Can the condition cause or be expected to cause transmission of disease?
- c. Does the condition cause or is there a potential for the condition to cause trauma or injury to the public?
- d. 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?
- e. 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. No further investigation is warranted.

YES: If any of the answers are yes, continue to investigate.