

## Case Study examples of Public Health Nuisance Guides from the MDH Guide

### CASE STUDY #1

**Situation:** A sand blasting firm was hired by a city to remove paint from one of the city's water towers. Work was started on a windy day. Paint dust blew into the surrounding residential area.

**Complaint:** The Qty Sanitarian was notified of the dust created in the neighborhood.

**Verify/Investigate:** Upon investigation the City Sanitarian determined that in addition to dust being generated, there was also lead in the dust from the old lead-based paint.

**Make a Determination:** Is it a Public Health Nuisance?

1. Does the condition affect the "Public"?  
It was recognized that the lead laden dust affected the people living in the area.
2. Does the condition affect "Health"?  
It was recognized that the lead in the old paint was a severe hazard, especially to the young children in the area. In this case the exposure to the lead laden dust was considered to be exposure to a hazardous substance, since toxic levels of lead in young children can cause developmental disabilities and death.
3. Does the condition require enforcement action?  
Yes, enforcement is required. The immediacy and severity of this threat was sufficient to rule out using an informal educational approach to gaining compliance.
4. Are there other statutes specific to this problem?  
No, not at the time of this particular occurrence. Minnesota Department of Health Rules for Lead Abatement were enacted in April, 1991, and Minnesota Pollution Control Agency Rules specific to abrasive blasting were enacted in September, 1991, which could now be utilized as a means of enforcement.

**Determination:** Public Health Nuisance, in order to resolve the situation quickly.

**Abatement Notice:** Orders were issued by the City Sanitarian, acting as an agent of the Community Health Board under the authority of Minnesota Statutes, Chapter 145A, to immediately shut down the operation until a procedure could be worked out to safely remove the paint

**Follow-Up:** The sand blasting company constructed a shroud out of plastic film that completely enclosed the water tower from the top to the base. The debris from the sand blasting operation fell down within the shroud and was removed by vacuuming. Yards in private residences and elementary schools were also cleaned. The county provided blood lead testing at no cost to anyone wishing to be tested. Fortunately, no elevated blood levels were found.

**Resolution:** A letter was sent to the sand blasting company confirming the resolution of the complaint and the file was closed.

## **CASE STUDY #2**

**Situation:** An abandoned swimming pool existed in a new residential area. The pool had not been used for several years.

**Complaint:** A resident complained that the abandoned pool had an accumulation of water, dirt, and weeds (reeds and lily pads). The resident feared a child could fall into the pool and be hurt or drown.  
**Verify/Investigate:** The complaint was substantiated by a visit to the site.

**Make a Determination:** Is it a Public Health Nuisance?

1. Does the condition affect the "Public"?  
It was determined that the condition affected at least the residents living in the area of the abandoned swimming pool.
2. Does the condition affect "Health"?  
It was determined that the condition constituted an unsafe structural and environmental condition. The pool was easily accessible to area children, who could fall into the pool and be hurt or drown.
3. Does the condition require enforcement action?  
Yes, enforcement is required.
4. Are there other statutes specific to this problem?  
There were no other state statutes or local ordinances specific to this problem.

**Determination:** Public Health Nuisance.

**Abatement Notice:** Orders were issued by the County Sanitarian, acting as an agent of the Community Health Board under the authority of Minnesota Statutes, Chapter 145A, to remove the pool within seven days. It was necessary to use the records at the Assessor's Office to locate the owner.

**Follow-Up:** At the 1st Follow-up the pool had not been removed yet. An agreement was made (Discretionary Action) that a snow fence be erected around the pool until such time that the pool could be filled with dirt.

**2nd Follow-Up:** The following Spring a bull-dozer came in and filled the pool with dirt.

**Resolution:** A letter was sent to the owner of the property confirming the resolution of the complaint and the file was closed.

### **CASE STUDY #3**

**Situation:** An abandoned well existed on the property of an old farm site. The 30 feet deep, 3 feet in diameter well was lined with bricks and had several feet of water at the bottom. The cover for the well was constructed of plywood and held down with a couple of concrete blocks.

**Complaint:** The family living on the adjacent property had a three-year-old son who rode his tricycle on their driveway located only 15 feet from the well. The safety of the child was a concern to the family.

**Verify/Investigate:** The County Sanitarian visited the site and took pictures of the well and its condition.

**Make a determination:** Is it a Public Health Nuisance?

1. Does the condition affect the "Public"?

It was determined that the condition affected the public, especially the family living on the adjacent property.

2. Does the condition affect "Health"?

It was determined that the cover of the well was unsafe structurally and injury to a person could occur if they were to fall into the well.

3. Does the condition require enforcement action?

Yes, enforcement is required

4. Are there other statutes specific to this problem?

Yes, Minnesota Statutes, section 471.92 allows towns, cities and counties to regulate the maintenance or abandonment of open wells, cesspools, cisterns, etc. that are a danger to a considerable number of persons by defining them as public nuisances and abating them under public nuisance law. In addition, Minnesota Statutes, Chapter 1031 gives authority for Minnesota Rules Chapter 4725, Department of Health, Water Well Construction Code, which has established standards for sealing abandoned water wells. Since this particular county is a Board of Health and has entered into a delegation agreement for the Water Well Program, Minnesota Statutes, Chapter 1031111 and 1031.231 give authority to the Board of Health to order a property owner to take remedial measures if the well is a health or safety hazard.

**Determination:** Public Nuisance.

**Abatement Notice:** Orders were issued by the County Sanitarian, acting as an agent of the Community Health Board under the authority of Minnesota Statutes, Chapter 1031, to have the well properly sealed and abandoned by a licensed water well contractor, within one month, and in accordance with the requirements of Chapter 4725, Minnesota Water Well Construction Code.

**Follow-up:** The well was properly sealed and abandoned.

**Resolution:** A letter was sent to the property owner confirming the resolution of the complaint and the file was closed.

## **CASE STUDY #4**

**Situation:** Foul odor in an apartment building from an unknown source.

**Complaint:** The building management company complained to the county that there was a foul odor in the building from an unknown source.

**Verify/Investigate:** Upon investigation by the County Sanitarian, it was determined that a resident of the building was skinning beavers in the basement of the building. The site visit revealed beaver skins stretched and drying in one corner, skinned carcasses piled on the floor that were blackened with age and decaying, and an intense odor problem.

**Make a Determination:** Is it a Public Health Nuisance?

1. Does the condition affect the "Public"?  
Given that this activity was being conducted in a common area of the apartment building with easy access by other residents and children, it was determined to affect the public.
2. Does the condition affect "Health"?  
It was determined that the decaying animals could pose a potential transmission of disease.
3. Does the condition require enforcement?  
Yes, enforcement is required.
4. Are there other statutes specific to this problem?  
No.

**Determination:** Public Health Nuisance.

**Abatement Notice:** Orders were issued by the County Attorney, acting as an agent of the Community Health Board under the authority of Minnesota Statutes, Chapter 145A, to cease operation and clean the area within five days.

**Follow-Up:** The site was cleaned, and the trapping operation ceased.

**Resolution:** A letter was sent to the trapper to confirm resolution of the complaint and the file was closed.

## CASE STUDY #5

**Situation:** A local stable operator had allowed a manure pile to accumulate to approximately 50 feet by 125 feet

**Complaint:** The Sanitarian hired by a three-county community health board was notified of improper manure management at a stable in one of these counties; manure had been allowed to accumulate for over one year, resulting in a strong odor and many flies.

**Verify/Investigate:** Upon investigation the Sanitarian also noticed dirty water drainage/runoff from the pile to an agricultural tile inlet thirty yards away, in addition to the large accumulation of manure, odor and flies.

**Make a determination:** Is it a Public Health Nuisance?

1. Does the condition affect the "Public"?  
Yes, it was determined that the odor and flies affected the person complaining. If the condition affects even only one individual, it is reasonable to expect that other public will also be affected.
2. Does the condition affect "Health"?  
Yes. It was determined that the condition could cause transmission of disease and constituted an unsafe environmental practice.
3. Does the condition require enforcement?  
Yes, enforcement is required
4. Are there other statutes specific to this problem?  
Yes, local ordinances regulated manure management and prohibited the drain-off to an agricultural tile.

**Determination:** Public Health Nuisance, in order to resolve the situation quickly.

**Abatement Notice:** Orders were issued by the Sanitarian, acting as an agent of the Multi-County Community Health Board under the authority of Minnesota Statutes, Chapter 145A, to, within ten days, submit a written plan for disposal of the manure, to request in writing permission for land spreading and to develop measures to be taken to avoid future accumulations, in addition to the removal of the existing accumulation of manure.

**Follow-Up:** The operator received permission for land spreading and removed the existing pile of manure within the ten days. Since progress was being made on the written plan for removal of future accumulations of manure, compliance on this aspect of the order was extended two weeks (Extension).

**Resolution:** A letter was sent to the property owner confirming resolution of the complaint and the file closed

## **CASE STUDY #6**

**Situation:** A dog likes to bark, when the Bloom County Community Band holds rehearsals in the band shell at the park.

**Complaint:** A complaint is received by the County Sanitarian that the noise from the barking dog is driving an elderly person's housekeeper "loony" and the person fears that they will lose their housekeeping services.

**Verify/Investigate:** The County Sanitarian investigated the situation and determined that indeed a dog was barking during the rehearsal time.

**Make a determination:** Is it a Public Health Nuisance?

1. Does the condition affect the "Public"?

Yes.

2. Does the condition affect "Health"?

The sanitarian determined that health was not affected.

3. Does the condition require enforcement action?

The sanitarian determined that enforcement was not required, however chose to use consultation as a technique to address the concerns of the person.

**Determination:** Not a Public Health Nuisance at this time.

**Abatement Notice:** None

**Follow-Up:** None

**Resolution:** A letter was sent to the concerned citizen confirming that on (date) a consultation had occurred to discuss possible remedies that the citizen could take to lessen the impact of the barking dog, including closing of windows and rescheduling of housekeeping services for a different day of the week. The file was closed.

## **CASE STUDY #7**

**Situation:** There is a bag of garbage that has been sitting in a garage for a week.

**Complaint:** The County Sanitarian receives a complaint that there is an accumulation of garbage at a residence. There is a tremendous odor problem, and the party has not removed the garbage for weeks. Litter is also strewn all over the property.

**Verify/Investigate:** The County Sanitarian investigated the situation and found one bag of garbage in the garage of the residence. The garbage indeed had a foul odor, however, was not excessive. The property owner indicated that the sanitary pick-up service, which had been cancelled by their spouse during current divorce proceedings, had not been renewed. The person suspected their spouse of the complaint and indicated the garbage would be taken care of tomorrow. There was no litter on the premises.

**Make a determination:** Is it a Public Health Nuisance?

1. Does the condition affect the "Public"?  
No, the sanitarian determined that there was no excessive odor problem. There was no debris or litter.
2. Does the condition affect "Health"?  
Not Applicable.
3. Does the condition require enforcement action?  
Not Applicable.
4. Are there other statutes specific to this problem?  
Not Applicable.

**Determination:** Unsubstantiated Public Health Nuisance Complaint (Private Dispute)

**Abatement Notice:** None

**Follow-Up:** None

**Resolution:** A letter was sent to the citizen confirming that on (date) an investigation of the premises confirmed that no public health nuisance was found to exist in reference to the complaint received. The file was closed.

## **CASE STUDY #8**

**Situation:** An old car with a cracked windshield, rusty body, torn car seats and slashed tires sits on the boulevard of a busy county road in Bloom County. The car has been sitting there for two months.

**Complaint:** A citizen complains to the county that this junked car is a public nuisance.

**Verify/Investigate:** The County Sanitarian investigates and indeed finds the car in the condition described. There are no animals harboring<sup>1</sup> in or near the vehicle and no other obvious problem. The owner is angered by the complaint and investigation. The person exclaims to the sanitarian, "I'll park my car where I want, and when I want!"

**Make a determination:** Is it a Public Health Nuisance?

1. Does the condition affect the "Public"?  
Yes, it was determined that the junked, abandoned car affected the public by existing as an eyesore along this roadway.
2. Does the condition affect "Health"?  
No, it was determined that in the present condition and with no current harborage of animals that the health of persons was not affected.
3. Does the condition require enforcement action?  
Yes, enforcement is required. It was determined that the car was on public property.
4. Are there other statutes specific to this problem?  
Yes, Minnesota Statutes, section 368.01 allows towns to adopt and enforce local ordinances. This township has a local ordinance which maintains that a vehicle left abandoned for more than two weeks is determined to be a nuisance and must be removed.

**Determination:** Refer to appropriate entity.

**Abatement Notice:** An order to remove the abandoned car is issued to the car owner by the Deputy Sheriff, acting as an agent of the Township Board, under the authority of the local township ordinance.

**Follow-Up:** The car was removed by the owner.

**Resolution:** A letter was sent to the owner confirming the resolution of the case and the file was closed.



## CASE STUDY #9

**Situation:** A place of refreshment (tavern) licensed by the county that relied on its own well for a water supply was given a routine inspection by the County Sanitarian. A sample of the water was analyzed for nitrate nitrogen. The results (50 mg/L) showed the level to be unacceptable.

**Complaint:** No complaint was registered by a member of the public, however the inspecting sanitarian is aware of a problem.

**Verify/Investigate:** This situation arose as a part of a routine monitoring process established by the county for places of refreshment. The county has a written delegation agreement for licensing and inspection of food, beverage and lodging establishments.

Make a determination: Is it a Public Health Nuisance?

1. Does the condition affect the "Public"?

Yes.

2. Does the condition affect "Health"?

Yes, there is a potential for the condition to constitute an exposure to a substance that could adversely affect the health of the public. The maximum level permissible by the Environmental Protection Agency Standards for Public Drinking Water is set at 10 mg/L of nitrate nitrogen. In addition, high nitrate nitrogen levels in drinking water pose a risk to some infants and can cause a condition known as methemoglobinemia or "blue babies". Infants under six months of age are most susceptible, however susceptibility can vary due to differences in individual body chemistry. (Other information on nitrate nitrogen levels in water supplies can be obtained from the Minnesota Department of Health).

3. Does the condition require enforcement action?

Yes, enforcement is required.

4. Are there other statutes specific to this problem?

Yes. Minnesota Statutes, Chapter 157 governs the licensing and inspection of food, beverage and lodging establishments serving the public. The State of Minnesota has adopted a drinking water standard of 10 milligrams per liter (l)mg/L for nitrate nitrogen (Minnesota Statutes, Chapter 144). This standard is mandatory for public water supplies. Since this county is a Board of Health and has a delegation agreement for Food Beverage and Lodging Establishments (Minnesota Statutes, Chapter 145A), the Board of Health must enforce the rules adopted under Minnesota Statutes, Chapters 144 and 157.

**Determination:** Violation of Minnesota Rules promulgated for the regulation of licensed establishments.

**Abatement Notice:** An abatement order was not issued, since it was determined that this situation was not determined to be a Public Health Nuisance. However licensing orders, applicable to this licensed establishment, were issued by the County Sanitarian, acting as an agent of the Board of Health, to:

Post a notice that "Samples of water have shown the nitrate nitrogen levels to exceed the maximum level permissible by the Environmental Protection Agency Standards for Public Drinking Water of 10mg/L of nitrate nitrogen" until the establishment could provide potable water by means of a new approved well, by finding another source of water or by an approved point-of-use water treatment device.

**Follow-Up:** Since high nitrate nitrogen levels were consistently a problem in this county, a new well was not mandated. A distillation unit was installed for drinking water at the bar and a reverse osmosis unit was installed for water supplying all other faucets. Upon re-sampling the water with these devices in place, the results (2mg/L) met the requirements for an acceptable nitrate nitrogen level.

**Resolution:** Licensing orders were noted as corrected at the time of re-inspection.

## **CASE STUDY #10**

**Situation:** A person failed to come to work one morning. Police found the person unconscious on the kitchen floor with alcohol bottles scattered around. The person owned the duplex and the residence was noticeably filled with trash.

**Complaint:** The person is living in an unsanitary environment.

**Verify/Investigate:** The County Sanitarian discussed the situation with the investigating police officer, the county adult protection intake person, and the city housing inspector in the city where the person lived. A joint site inspection of the duplex was made by the sanitarian and housing inspector.

**Make a determination:** Is it a Public Health Nuisance?

1. Does the condition affect the "Public"?

It was determined that the public was impacted, especially the individuals living in the duplex as well others with whom the person worked and with whom they interacted.

2. Does the condition affect "Health"?

It was determined that the person's unsanitary living conditions impacted their health condition and therefore impacted the health of individuals with whom the person worked and with whom they interacted.

3. Does the condition require enforcement action?

Yes, enforcement is required.

4. Are there other statutes specific to this problem?

Yes, local ordinances covered general housing conditions.

**Determination:** Public Health Nuisance, in order to resolve the situation quickly.

**Abatement Notice:** A meeting was held in the city offices between the county sanitarian, the city housing inspector and the person. Orders were issued by the County Sanitarian, acting as an agent of the Community Health Board under the authority of Minnesota Statutes, Chapter 145A, to clean the premises within three days. The city housing inspector suggested cleaning firms.

**Follow-Up:** Since progress was being made and someone had been hired to clean the premises, additional time was allowed (Extension). Within ten days 36 cubic yards of paper, trash and other unwanted and unused items were removed.

**Resolution:** A letter was sent to the occupant, the police officer, the county adult protection intake person and the housing inspector confirming the resolution of the complaint and the file was closed.