

Approved By: Otter Tail County Human Services Board
Revised and Approved

Date: May 13, 1992
Date: May 26, 2009

Policy: Public health nuisance complaints shall be assessed and abated in accordance with Minnesota Statute 145 A. 04. of the Local Public Health Act. The Human Services Board acting as the Board of Health designates the department heads, their successors or designated personnel in the Public Health Department, the Solid Waste Department, and/or the Land & Resource Department as the appointed agents to enforce this statute.

The Solid Waste shall enforce the provisions of the Otter Tail County Solid Waste ordinance. The Land & Resource Department shall enforce the provisions of the Otter Tail County Sanitation Code. The Public Health Department shall enforce the provisions of this policy. All the departments may use the provisions of Chapter 145A.04 and this policy when needed to abate a public health nuisance.

Abatement situations with the costs expected to exceed \$5,000.00 shall be brought to the Board due to the fiscal implications that exceed annual department approved budgets.

Definitions:

Public Health Nuisance: any activity or failure to act that adversely affects public health (M.S. 145A.02, Subdivision 17).

Nuisance: Anything which is injurious to health, or indecent or offensive to the senses, or an obstruction with the comfortable enjoyment of life or property. (M.S. 561.01).

The following are hereby expressly declared to be Public Health Nuisances, without limitation by reason of such enumeration:

1. A failure to keep waste, refuse, or garbage in a properly contained insect and rodent proof container designed or reasonable adapted for such purpose, except for the immediate time preceding pickup by a licensed solid waste hauler.
2. Accumulation of carcasses of animals, birds, or fish by failing to bury or otherwise dispose of a carcass in a sanitary manner within 24 hours after death.
3. Accumulation of decayed animal or vegetable matter, animal or human feces, trash, rubbish, garbage rotting lumber, packing material, tires, or any other substances in which flies, mosquitos, or other disease carrying insects rodents, or other vermin can harbor. This definition does not include compost bins or compost sites which are being managed in accordance with acceptable standards.
4. Any structure which has become dangerous for further occupancy because of sanitary defects which may include, but not limited to, accumulation of human or animal feces, evidence of garbage and rotting food, infestation by rodents or insects, environmental conditions that affect children and vulnerable adults and lack of approved potable water supply or sewage disposal.
5. Maintaining a hole or opening caused by an improperly abandoned cistern, septic system, unused or non-maintained private swimming pool, foundation, mine shaft or tunnel, including an improperly abandoned, sealed, barricaded, or backfilled excavation.

6. Any structure that has become dangerous for further occupancy or use because of fire, deterioration, or weather-related damages.
7. Dogs or cats that are running off the property of the owner and have bitten on one or more occasion.
8. Clandestine Drug Labs.
9. Mold in buildings used by the public.
10. Other situations that might occur that can adversely affect the health of the public.

Purpose: Minnesota Statutes 145A.04 places responsibility for public health nuisance control on Boards of Health. The Board of Health is the Otter Tail County Human Services Board. This policy, protocols, and procedures are intended to ensure the Board of Health or its agents respond as required by law.

Protocols:

1. Public health nuisance complaints shall be investigated and enforced in accordance with the authorities identified in specific ordinances adopted by the county, rules or regulations that are effect at the time of the complaint.
2. The investigation of each complaint shall normally occur within 10 working days and a plan established to abate the public health nuisance within a specified period of time but not longer than 10 days.
3. In the event of an imminent threat to the public's health immediate action may be taken to abate the public health nuisance.
4. Designated agents have the discretion to allow an extension or to deviate from the standard procedures and timelines.
5. Complaints under the sole jurisdiction of another agency shall be referred for enforcement.
6. Investigation and enforcement data shall be handled in accordance with the Minnesota Government Data Practices Act (M.S. Chapter 13).
7. Abatement notices shall be served in accordance with Minnesota Statute 145A.04 Subd. 8.
 - A. A time period must be specified in the notice, but not longer than 10 days.
 - B. Notice served on the owner, occupant, or agent
 - a. by registered or certified mail
 - b. by an officer authorized to serve a warrant, or
 - c. by a person 18 years or older who is not reasonably believed to be a party to any action
 - C. If the owner is unknown or absent and has no known representative a written or printed notice may be posted on the property.
 - D. If the owner, occupant, or agent fails or neglects to comply with the order, then the Board of Health or its agents shall remove or abate the public health nuisance. Costs incurred will be assessed to the real property (MS. 145A.08. Subd 2).

Procedures:**Processing Complaints**

1. Complaints may be received by telephone, in person, or by mail. The complaint should include the nature and location of the public health nuisance. This information should be recorded on the departments designated referral/complaint investigation form (Attachment A).
 - a. Support staff will enter the name as the location of the public health nuisance and shall assign a frame and sans to a pending referral within the PHDoc Information System
 - i. Frame-Public Health Nuisance 85, Investigation 8501, Community Assure 06, and reason appropriate to the nature of the complaint.
 - ii. SANS-assign to designated personnel to conduct the investigation
 - b. Scan or place electronic copy of complaint in attachment folder of PHDoc
 - c. Route to designated personnel to conduct the investigation.

Investigation

2. Designated staff should review complaint to determine course of action.
 - a. Refer to Algorithm in Attachment B to guide investigative process.
 - b. Determine if situation requires a site inspection or phone call to owner.
 - c. Determine if situation requires a planned or unannounced inspection. If there is a concern about staff safety arrange for law enforcement to be present at the time of inspection.
 - d. Persons complaining about rental property should be referred to Northwest Legal services for Landlord Tenant Rights Information and Assistance.
 - e. Investigate Complaint
 - i. Consult with complainant and/or owner by phone or in person. Complainant information is considered confidential during the course of the inspection and should not be released to the owner of the property;
 - ii. If the complaint cannot be verified, document the reason for not proceeding.
 - iii. Contact owner to schedule date and time for investigation.
 - iv. Reasonable effort shall be made to obtain permission to enter the property. If entry is resisted then inform the owner that failure to allow an investigation of a potential public health hazard is a grounds for legal action. Refer the case to the County Attorney for further action if owner refuses to allow the investigation.
 - v. If allowed entry conduct the investigation, obtain photos, if possible. Inform the owner of the public health nuisance and the action required to abate the problem. Inform the owner that failure to abate can result in the county arranging for the abatement and assessing the cost to the property taxes.
 - vi. If the situation encountered could pose a future public health nuisance provide education about preventive measures to address the issue.

Abatement

3. Follow-up investigation with written abatement order (Attachment C).
 - a. Abatement notice must include:
 - i. Property owner and mailing address
 - ii. Address of property with the public health hazard
 - iii. Tax parcel number of the property. This can be obtained using property search on the Otter Tail County web site or calling the Assessor's Office.
 - iv. Description of and requirements to abate the public health nuisance.
 - v. The compliance deadline not to exceed 10 days.
 - vi. Statement of outcome if owner fails to abate the public health nuisance.
 - b. Serve the abatement notice:
 - i. By registered or certified mail or
 - ii. By a sheriff's department warrant officer or
 - iii. By posting the property.

Follow-up

4. Follow-up with the owner 2-4 days following the compliance date. Verify the abatement has been completed. This can be done by phone or with a site visit. Document the outcome of the action (Attachment D)
5. If the abatement has not occurred:
 - a. At the discretion of the agent the time period for compliance may be extended if the owner presents a plan of action and timeline for completing the abatement. The agent must determine if this extension is reasonable and interim measures that might be needed to protect the public.
 - b. If no action is undertaken by the owner, proceed with arranging for abatement.
 - i. Check to see if the Otter Tail County Sentence to Serve Crew can accomplish the work. They can usually handle situations involving cleaning out houses, removal of garbage, and tearing down some buildings.
 - ii. Check with contractors to arrange for the work to be completed.
 - iii. Invoices for work completed should be sent to the department Financial Manager for payment of the vendor.

Assessment of Costs

6. Complete an assessment of cost invoice (Attachment E).
7. Submit the invoice to the County Auditor's office.

Multi-Disciplinary Investigations

At times the public health nuisance complaint may result in other issues that require the assistance of other departments. Efforts should be made to coordinate an investigation when this occurs. Human Services and Law Enforcement should be consulted for child or vulnerable adult concerns.