

# Responding to Public Health Nuisances

December 9, 2015



Public health nuisances: every county has them! But how are they defined, and who is responsible for addressing them?

Local public health staff and partners will outline the legal authorities and roles of various government agencies in addressing public health nuisances, like mold, insect infestations and even Siberian tigers.

Local examples highlight the importance of collaboration across agencies to effectively resolve nuisances and the significance of the Local Public Health Grant for funding nuisance work.

# Panel

- Zack Hansen, Environmental Health Director, St. Paul–Ramsey County Public Health
- Jill Krueger, J.D., Northern Region Director, Network for Public Health Law
- Dawn Beck, Associate Director, Olmsted County Public Health Services;
- Lori Green, Environmental Health Specialist, St. Paul–Ramsey County Public Health
- Diane Thorson, CHS Administrator and Public Health Director, Otter Tail County Public Health;

# Legal Authority to Address Public Health Nuisances

Presented on December 7, 2015

Association of Minnesota Counties

St. Cloud, Minnesota

# What is a Nuisance?

- » **Anything which is injurious to health, or indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property**
- » **Minnesota Statute section 561.01**

# Public Nuisance

- » **An activity (or failure to perform a legal duty) that unreasonably interferes or obstructs a right that is conferred on the general public, or a considerable number of members of the public. May also include maintaining an offensive or dangerous condition.**
- » **May be contained in the criminal code as a misdemeanor**
- » **Minnesota Statutes Chapter 609**
- » **Minnesota Statutes Chapter 617**

# Public Health Nuisance

» **Any activity or failure to act that adversely affects the public health**

# Powers and Duties of Community Health Boards, Counties, and Cities

» **If a threat to the public health** such as a public health nuisance, source of filth, or cause of sickness **is found on any property, the community health board, county, city or its agent shall order** the owner or occupant of the property to remove or abate the threat within a time specified in the notice but not longer than ten days. Minnesota Statute section 145A.04, subd. 8

# Authorized Actions for Community Health Boards, Counties, and Cities

- » Order the owner or occupant of a property to remove or abate a threat within not longer than ten days.
- » May seek court order if no timely compliance
- » Or work with prosecuting attorney to follow procedures under Minn Stat Chapter 617.81

Criminal code

Notice to abate within 30 days

# Authority for a Local Health Department to Enter a Property

Minnesota Statute 145A.04 Subd. 7 Entry for  
inspection.

To enforce public health laws, ordinances or rules,  
a member or agent of a community health board,  
county, or city **may enter** a building, conveyance,  
or place **where contagion, infection, filth, or  
other source or cause of preventable disease  
exists or is reasonably suspected.**



# Does the Power Create a Duty?

- » **Minnesota Statute § 145A.04, subdivision 11 provides that, “It is a misdemeanor for a member or agent of a community health board, county, or city to refuse or neglect to perform a duty imposed on an applicable jurisdiction by statute or ordinance.”**

# Strategies to Address a Public Health Nuisance

- » **Discuss public health impacts**
- » **Consult, adopt, or amend a local ordinance**
- » **Discuss your legal authority and your legal duty with an attorney**
- » **Discuss potential overlapping authority**
- » **Compare public health and law enforcement goals and approaches**
- » **Consider community partners**
- » **Consider mediation**

# The Network for Public Health Law

## Contact the Network to:

- Get practical legal assistance on a variety of public health topics
- Find helpful resources from webinars and trainings to fact sheets and legal briefs
- Connect with a community of experts and users of public health law

**Support is available at no cost! Visit [www.networkforphl.org](http://www.networkforphl.org) for more information.**



# Contact Me

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The screenshot shows the homepage of The Network for Public Health Law. The header includes the logo and tagline "Ideas. Experience. Practical answers." and a navigation menu with links for Home, About the Network, Network Resources, Public Health Law Topics, Join the Network, Get Technical Assistance, and The Network Blog. The main content area features a large image of a healthcare professional examining a child, with the text "THE NETWORK FOR PUBLIC HEALTH LAW IS THE SOURCE TO" and a list of services: Ask legal questions, Get and share information, Find resources, and Make connections. Below this is a "Health Reform" section with "LEARN MORE" and "SHARE THIS" buttons. The footer contains sections for "Join the Network" (Connect, share and access public health law resources), "Ask a Question" (Get practical, expert legal assistance --- at no cost), "WHAT'S NEW" (PUBLIC HEALTH NEWS, NETWORK BLOG, EVENTS), and "Public Health Law Resources" (Protecting Older Adults in Emergencies).

# Responding to Public Health Nuisances

Dawn Beck, Associate Director  
Olmsted County Public Health Services  
Rochester, Minnesota



# Ordinances with PH Nuisance Language

## ■ Environmental Services Administrative Ordinance

“the director is authorized to determine whether the condition(s) is a public health nuisance, document the findings leading to such decision, and take corrective action(s) allowed by law”

## ■ Clandestine Drug Lab Clean-Up Ordinance

**3002.01 DECLARATION OF SITE AS A CHEMICAL INVESTIGATION SITE PUBLIC HEALTH NUISANCE.** Clandestine drug lab sites as defined above are declared by this ordinance to be "chemical investigation site public health nuisances"



# Use of the CDL Clean-up Ordinance

## ■ 2002-2014

- 41 Sites

## ■ Process

- Very detailed

## ■ Partners

- Law Enforcement
- Community Services
- County Attorney
- Others



Case number: \_\_\_\_\_

# **WARNING**

## **DANGEROUS CHEMICALS PRESENT**

This: dwelling  building  motor vehicle  trailer  boat   
appliance  other  is declared a

### **Chemical Investigation Site/Public Health Nuisance**

By order of the Director of Olmsted County Public Health Services  
By authority of the Olmsted County Cleanup of Clandestine Drug Lab Sites Ordinance

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DATE

LOCATION/ADDRESS

## **NO ENTRY**

**UNLESS AUTHORIZED BY  
OLMSTED COUNTY PUBLIC HEALTH SERVICES  
--OR-- LAW ENFORCEMENT**

POSTED BY: Drug Enforcement Agency  Rochester Police Dept.  Olmsted County Sheriff

# Other Situations and Investigations

- Manufactured Home Park with inadequate water supply
- Cockroach infestation in a manufactured home



# Common Themes

- Complex situations
- Requires Collaboration w/ multiple partners
- Requires thorough investigation and long-term thinking
- Usually not quick fixes



# Tiger Tales

Diane Thorson  
Otter Tail County



# Mold, Insects and Tigers-Oh My! Responding to Public Health Nuisances

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LORI A. GREEN, R.S.

ENVIRONMENTAL HEALTH SPECIALIST II  
ST. PAUL-RAMSEY COUNTY PUBLIC HEALTH  
DECEMBER 7, 2015



# RC Public Health Nuisance Ordinance

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- Regulate 15 cities in suburban Ramsey County
- Adopted PHN ordinance in 2007
- Establishes minimum standards for health and safety
- No housing code

MN Stat. 145 (A)

Health authority has right of entry where PHN is suspected

If homeowner refuses entry, make appt. for future visit

Search warrant

**5.03** In accordance with Minnesota Statutes section 145A.04, subd. 7, the Health Authority has right of entry for inspection of property where a Public Health Nuisance is suspected or known.

# COMPLAINT INVESTIGATIONS

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How do we find out about these situations?

Referrals-police, fire, EMT, service worker, social workers-hospitals

Family members

Neighbors

*"First-Hand Knowledge"* need verification of conditions



# TEAM APPROACH

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- Jurisdiction is determined.
- Team consists of: code enforcement, fire marshal, environmental health, social worker, animal control & deputy
- Team conducts site visit *"knock & talk"*
- Discuss/document situation, conditions and process with homeowner/tenant
- Review case with supervisor/section manager



# Correction Orders

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- Orders written to property owner and tenant
- List conditions observed and abatement actions
- Ten (10) days to abate
- Orders posted and sent via mail
- **Social worker on site is key**
- Works with homeowner to develop plan & discuss resources
- Crisis mental health



# ABATEMENT

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- Clean out-extremely difficult
- Step 1: Voluntary compliance (homeowner, family, friends)
- Step 2: Hire cleaning crew who understands “hoarding” and gives individual some sense of control
- Step 3: County abatement. Health authority abates and cost assessed back to property taxes



# Examples of PHN

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ACCUMULATION OF HUMAN  
FECES



LACK OF RUNNING WATER



# Examples of PHN

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ANIMAL FECES



DEAD ANIMALS



# Examples of PHN

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RODENT INFESTATION



MOUSE NEST



# Examples of PHN

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ACCUMULATION OF GARBAGE



GARBAGE, LIQUOR BOTTLES



# Examples of PHN

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IMPROPER SEWAGE DISPOSAL



ABANDONED POOL



# NON-PHN CONDITIONS

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What items are **NOT** considered to be a PHN?

Personal items-clothing, bedding, magazines, books, clutter, personal collections



# Non-PHN Conditions

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STOCKPILE OF FOOD



HOUSEKEEPING ISSUES



# Assisting with Clean-Up

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- Respect the persons possessions
- Individual needs to be part of decision making
- Start with life/safety issues-clear paths, access to windows
- Start with one area at a time
- Encourage "OHIO"
- Be flexible-will not change overnight
- Take pictures before discarding items
- Offer emotional support to individual and family
- Remind them of goals - can use the home as it was intended, can have visitors and social gatherings once completed
- Minimum standards
- Not all cases are successful

# Resources

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St. Paul-Ramsey County Environmental Health 651-266-1199

St. Paul residences- Department of Safety and Inspections 651-266-8989

Ramsey County Crisis Mental Health 651-266-7900

HouseCalls 651-266-1290

Ramsey County Adult Protection 651-266-4012

Ramsey County Child Protection 651-266-4500

- Overcoming Hoarding Together (O-H-T)  
[www.ocfoundation.org](http://www.ocfoundation.org)
- Children of Hoarders (COH)  
[www.childrenofhoarders.com](http://www.childrenofhoarders.com)
- Clutters Anonymous  
[www.cluttersanonymous.net](http://www.cluttersanonymous.net)
- Messies Anonymous  
[www.messies.com](http://www.messies.com)
- Clutterless Recovery Group  
[www.clutterless.org](http://www.clutterless.org)

# Public Health Nuisances Resources Available through LPHA



# LPHA Ad Hoc Work Group - 2013

- A proposed Vision
- Invited others to participate
- Build a library of materials
- Review and update the 1992 MDH Guide
- Build a web site

# Vision

*“Work with other entities to compile best practices for public health nuisance investigation and abatement, with practical tools available at a web site, and presentations to LPHA and others about the tools.”*

# Invitations and Interest

Contact, Survey, Interest Gauged

- Minnesota State Sheriff's Association (MSA)
- Minnesota Association for County Social Service Administrators (MACSSA)
- Minnesota Association of Assessing Officers (MAAO)
- Animal Control/Humane Society
- MDH
- Metropolitan Association of Housing Code Officials (MACHO)
- Association of Minnesota Building Officials (AMBO)
- Minnesota County Attorney Association (MCAA)
- Minnesota Association of County Planning and Zoning Administrators (MACPZA)
- Minnesota Solid Waste Administrators Association
- Minnesota Association of County Engineers (MACE)

# Other

- Legal Review: Public Health Law Center
- Other States: Search for resources
- Library: called upon members
- 1992 Guide Update: Work in progress
- Web site: LPHA working with AMC

<http://www.lpha-mn.org/publichealthnuisancehandbook/>

# Minnesota Public Health Nuisance Handbook



Resource guide for local public health departments. **Resource Library** Case Studies Matrix MDH Public Health Nuisance Guide - 1992

## What is a public health nuisance?

A public health nuisance is defined by Minnesota law as any activity or failure to act that adversely affects public health.

### Examples that could result in a public health nuisance citation are:

- Improperly stored solid waste, such as rotting garbage or dead animals.
- Insect or rodent infestations.
- Evidence of a meth lab or other clandestine drug manufacturing.
- Unsafe living situations (lack of sewage disposal or garbage house) that affect children and vulnerable adults.

Please note: Clutter or general poor housekeeping is not considered a public health nuisance. Accumulations of clothing, household goods, magazines or other examples of hoarding behavior are not necessarily a public health nuisance.

### What is the difference between a public health nuisance and a public nuisance?

A public health nuisance is generally related to conditions that may affect one's health or cause a disease, whereas public nuisances tend to be non-health related conditions.

- Examples of public nuisances include:
  - Excessive noise
  - Open wells
  - Animal control issues
  - Long grass
  - Leaking roof in a rental property, etc.

# Minnesota Public Health Nuisance Handbook



A resource guide for local public health departments. **Public Health** Present. Promote. Protect.

[Legal Definitions](#) [Resource Library](#) [Case Studies](#) [Matrix](#) [MDH Public Health Nuisance Guide - 1992](#)

## Resource Library

- [Correspondence](#)
- [Funding & Fund Collection](#)
- [Guidance](#)
- [Policies & Procedures](#)
- [Training Tools](#)
- [Resources From Outside Minnesota](#)

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Legal Definitions Resource Library Case Studies Matrix MDH Public Health Nuisance Guide - 1992

## Policies & Procedures

### City/County PHN Policy Samples

- [Aitkin County - PHN Policy](#)
- [Cass County - MN Statutes of Public Health Nuisance Laws](#)
- [Cass County - PHN Control Policies and Procedures](#)
- [City of Bloomington - Garbage House Clean-up Agreement](#)
- [City of Bloomington - Search Warrant \(Blank\)](#)
- [City of Brooklyn Park - Nuisance Abatement Agreement form](#)
- [City of St. Cloud - Administrative Hearing Process](#)
- [Kandiyohi County - PHN Complaint Policy and Procedures](#)
- [Koochiching County - PHN Control - Policy and Procedure](#)
- [McLeod County - PHN Policy and Procedure](#)
- [Mille Lacs County - PHN Abatement Follow-Up Letter](#)
- [Mille Lacs County - PHN Control Policy](#)
- [Otter Tail County - PHN Policy](#)

### Abatement Forms

- [Aitkin County - Assessment of Abatement Costs](#)
- [Aitkin County - Follow-up on Notice of Abatement](#)
- [Aitkin County - Letter to Assess Abatement Costs](#)
- [Aitkin County - PHN Complaint Investigation Record](#)
- [Aitkin County - PHN Follow-up Investigation](#)
- [Cass County - Application for Administrative Search Warrant](#)
- [Cass County - PHN Complaint Investigation Record](#)
- [Cass County - PHN Inspection Report](#)
- [Cass County - PHN Notification of Compliance](#)
- [Cass County - Receipt and Return of Search Warrant](#)
- [Cass County - Search Warrant](#)
- [Kandiyohi County - Nuisance Complaint Form](#)
- [McLeod County - PHN intake form](#)
- [Mille Lacs County - Notice of Statute Violation & Deed Restriction](#)

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Legal Definitions Resource Library Case Studies **Matrix** MDH Public Health Nuisance Guide - 1992

## Available Resources

- [Catalog of Forms](#)
- [Catalog of Policies and Training Tools](#)
- [Ordinance Summary - Outside MN](#)
- [Ordinance Summary Matrix](#)

County/City	Name of Ordinance	Ordinance Number	Date of Ordinance / Year Updated	Public / Health Nuisance?	Clandestine Drug Lab?	General or specific definition of PH Nuisance?	Funding Addressed?	Right of Entry?	Relates to other county ordinances?	Posting Requirement?	Abatement timeline?	Health
Beltrami	Public Health Nuisance Ordinance	#11	2006	Yes	Yes	Section 4.2	Yes, Sections 5.6, 7.0	Yes, Section 5.3 references 145A	Yes, Section 5.4	Yes	Yes, 30 days	
Brooklyn Park	Health and Safety, Nuisances	Chapter 94		Yes	Yes	Section 94.01, 94.03	Yes, Sections 94.07, 94.14, 94.15	Yes	Yes, Section 94.15	Yes	Yes, 10 days	
Brown - Nicollet	Nuisance Ordinance		Jan. 1993	Yes	No	Section 100.10	Yes, Section 100.30	Yes, Section 100.20	Conflicting ordinances briefly mentioned in Section 100.60		Yes, 30 days	
Carver	Title V: Environmental Services	Chapter 55	Jul. 2003	Yes	Yes	Referenced in Section 55.07	Yes, Sections 55.06, 55.26, 55.27	Yes, Section 55.27	Yes, Section 55.30	Yes	Yes, 10 days	
City of Bloomington	Nuisance Conduct and Conditions - Public Nuisance Property Conditions		Mar., 2013	Section 12.03	Yes, Section 12.03	Section 12.03 (Public Nuisance definitions)	Yes, Sections 12.05, 1.19, 1.20	Yes, Section 12.05	Yes	Yes	Not less than 10 days except when necessary	
City of St. Cloud	Public Nuisances Affecting Health and Safety	Section 1005		Yes	No	Yes, Section 1005:00	Yes, Section 1005:60	Yes		Yes	Yes, 24 hours or up to 10 days or as specified by official	
Clay	Cleanup of Clandestine Drug Lab Sites Ordinance	#2004-2	2004	Yes	Yes	Yes, Sections 1.79, 2.00	Yes, Sections 1.60, 2.75 - 2.78	Yes, Section 2.70	Yes, Sections 2.90, 3.10	Yes	Yes, 10 days	
Crow Wing	Cleanup of Clandestine Drug Lab Sites Ordinance	#0401	Jan., 2004	Yes	Yes	Referenced in Section 300, subd. 5, 10	Yes, Sections 500, 600	Yes, Section 300, subd. 9.3	Yes, Section 300: subd. 8, Section 900	Yes	Yes, 10 days	
Dakota	Cleanup of Clandestine Drug Lab Sites Ordinance	#129	May 2003 / Aug., 2004	Yes	Yes	Section 1.78	Yes, Sections 2.60, 2.70	Yes, Sections 2.22, 2.70	Yes, Sections 2.90, 3.10	Yes	Yes, 10 days	

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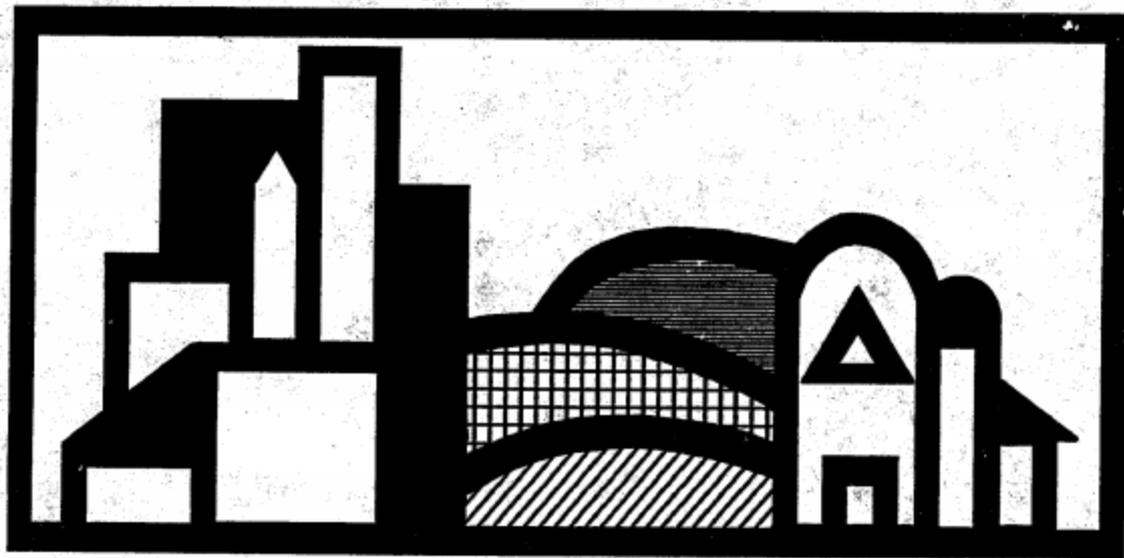
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# **Controlling Public Health Nuisances: A Guide for Community Health Boards**



**Minnesota Department of Health  
State Community Health Services  
Advisory Committee**

# 1992 Guide Update: Work in progress

- Legal analysis
- Flow chart
- Case Studies
- Resources

# Questions and Comments