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
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.
Finding of a Public Health Nuisance

Investigation

Potential Nuisance
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 for more information.

Legal Authority to Address Public Health Nuisances    December 7, 2015
Contact Me
Jill Krueger
The Network for Public Health Law
St. Paul, Minnesota
651-695-7624
jkrueger@networkforphl.org
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
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

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

LORI A. GREEN, R.S.
ENVIRONMENTAL HEALTH SPECIALIST II
ST. PAUL-RAMSEY COUNTY PUBLIC HEALTH
DECEMBER 7, 2015
RC Public Health Nuisance Ordinance

- 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

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

▪ 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

- 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

- 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

ACCUMULATION OF HUMAN FECES

LACK OF RUNNING WATER
Examples of PHN

ANIMAL FECES

DEAD ANIMALS
Examples of PHN

RODENT INFESTATION

MOUSE NEST
Examples of PHN

ACCUMULATION OF GARBAGE

GARBAGE, LIQUOR BOTTLES
Examples of PHN

IMPROPER SEWAGE DISPOSAL

ABANDONED POOL
NON-PHN CONDITIONS

What items are NOT considered to be a PHN?

Personal items—clothing, bedding, magazines, books, clutter, personal collections
Non-PHN Conditions

 STOCKPILE OF FOOD

 HOUSEKEEPING ISSUES
Assisting with Clean-Up

- 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

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
- Children of Hoarders (COH)  
  www.childrenofhoarders.com
- Clutters Anonymous  
  www.cluttersanonymous.net
- Messies Anonymous  
  www.messies.com
- Clutterless Recovery Group  
  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/
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.
Policies & Procedures

City/County PHN Policy Samples

- Atkin 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

- Atkin County - Assessment of Abatement Costs
- Atkin County - Follow-up on Notice of Abatement
- Atkin County - Letter to Assess Abatement Costs
- Atkin County - PHN Complaint Investigation Record
- Atkin 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
Available Resources

- Catalog of Forms
- Catalog of Policies and Training Tools
- Ordinance Summary - Outside MN
- Ordinance Summary Matrix
<table>
<thead>
<tr>
<th>County/City</th>
<th>Name of Ordinance</th>
<th>Ordinance Number</th>
<th>Date of Ordinance/Year Updated</th>
<th>Public/Health Nuisance?</th>
<th>Clandestine Drug Lab?</th>
<th>General or Specific Definition of PH Nuisance?</th>
<th>Funding Addressed?</th>
<th>Right of Entry?</th>
<th>Relates to other county ordinances?</th>
<th>Posting Requirement?</th>
<th>Abatement timeline?</th>
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<tbody>
<tr>
<td>Beltrami</td>
<td>Public Health Nuisance Ordinance</td>
<td>#11</td>
<td>2006</td>
<td>Yes</td>
<td>Yes</td>
<td>Section 4.2</td>
<td>Yes, Sections 5.6, 7.0</td>
<td>Yes, Section 5.3 references 145A</td>
<td>Yes, Section 9.4</td>
<td>Yes</td>
<td>Yes, 30 days</td>
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<tr>
<td>Brooklyn Park</td>
<td>Health and Safety, Nuisances</td>
<td>Chapter 94</td>
<td></td>
<td>Yes</td>
<td>Yes</td>
<td>Section 94.01, 94.03</td>
<td>Yes, Sections 94.07, 94.14, 94.15</td>
<td>Yes</td>
<td>Yes, Section 94.15</td>
<td>Yes</td>
<td>Yes, 10 days</td>
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<td>Brown - Nicollet</td>
<td>Nuisance Ordinance</td>
<td></td>
<td></td>
<td>Yes</td>
<td>No</td>
<td>Section 100.10</td>
<td>Yes, Section 100.30</td>
<td>Yes, Section 100.20</td>
<td>Conflicting ordinances briefly mentioned in Section 100.60</td>
<td>Yes</td>
<td>Yes, 30 days</td>
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<td>Carver</td>
<td>Title V: Environmental Services</td>
<td>Chapter 95</td>
<td>Jul. 2003</td>
<td>Yes</td>
<td>Yes</td>
<td>Referenced in Section 59.07</td>
<td>Yes, Sections 55.06, 55.26, 55.27</td>
<td>Yes, Section 55.27</td>
<td>Yes, Section 55.30</td>
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<td>City of Bloomington</td>
<td>Nuisance Conduct and Conditions - Public Nuisance Property Conditions</td>
<td></td>
<td>Mar., 2013</td>
<td>Yes, Section 12.03</td>
<td>Yes, Section 12.03</td>
<td>Section 12.03 [Public Nuisance definitions]</td>
<td>Yes, Sections 12.05</td>
<td>Yes, Section 12.05</td>
<td>Yes</td>
<td>Yes</td>
<td>Not less than 10 days except when necessary</td>
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<tr>
<td>City of St. Cloud</td>
<td>Public Nuisance Affecting Health and Safety</td>
<td>Section 1005</td>
<td></td>
<td>Yes</td>
<td>No</td>
<td>Yes, Section 1005:00</td>
<td>Yes, Section 1005:60</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes, 24 hours or up to 10 days or as specified by official</td>
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<td>Clay</td>
<td>Cleanup of Clandestine Drug Lab Sites Ordinance</td>
<td>#2004-2</td>
<td>2004</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes, Sections 1,79, 2.00</td>
<td>Yes, Sections 1,65, 2.75 - 2.78</td>
<td>Yes, Section 2.70</td>
<td>Yes, Sections 2.90, 3.10</td>
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<td>Crow Wing</td>
<td>Cleanup of Clandestine Drug Lab Sites Ordinance</td>
<td>#0401</td>
<td>Jan., 2004</td>
<td>Yes</td>
<td>Yes</td>
<td>Referenced in Section 300, subd. 5, 10</td>
<td>Yes, Sections 300, subd. 9.3</td>
<td>Yes, Section 300, subd. 8, Section 900</td>
<td>Yes</td>
<td>Yes</td>
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<td>Dakota</td>
<td>Cleanup of Clandestine Drug Lab Sites Ordinance</td>
<td>#129</td>
<td>May 2004 / Aug, 2004</td>
<td>Yes</td>
<td>Yes</td>
<td>Section 1.78</td>
<td>Yes, Sections 2.60, 2.70</td>
<td>Yes, Sections 2.22, 2.70</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes, 10 days</td>
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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 general health hazard for a specific group of people. A public nuisance is related to conditions that adversely affect the general public or a neighborhood without a specific health risk.
Controlling Public Health Nuisances: A Guide for Community Health Boards

Minneapolis 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