

Health Nuisances, Public Nuisances & Property Nuisances

Introduction

Often, citizens complain to their local Health Departments about nuisances of various kinds, thinking that health authorities have the power to address any offensive condition. That is not the case. Local Health Departments have authority to enforce only those laws specifically assigned to it by the Indiana General Assembly. Often the State Department of Health and local health departments have no legal authority to act. Typical of complaints that are borderline or definitely not the province of the State Department of Health are those concerning weed patches, poison ivy, mud holes, poor drainage, line fences, accumulated junk, unfenced storm water retention ponds, livestock or poultry operations, rental disputes, offensive odors, and barking dogs. These problems can be addressed by local authorities, but only if they choose to enact an ordinance concerning the issue.

Health officials have no authority to address public or property nuisances.

Health Nuisances

[IC 16-20-1-25](#) provides:

"A person shall not institute, permit, or maintain any conditions that may transmit, generate, or promote disease. A health officer, upon hearing of the existence of such unlawful conditions within the officer's jurisdiction, shall order the abatement of those conditions. The order must: be in writing if demanded; specify the conditions that may transmit disease; and name the shortest reasonable time for abatement. If a person refuses or neglects to obey an order issued under this section, the attorney representing the county of the health jurisdiction where the offense occurs shall, upon receiving the information from the health officer, institute proceedings in the courts for enforcement. An order may be enforced by injunction. If the action concerning public health is a criminal offense, a law enforcement authority with jurisdiction over the place where the offense occurred shall be notified."

[IC 16-20-1-26](#) provides:

"A local department of health or local health officer may enforce the department's or officer's orders by an action in the circuit or superior court. In the action, the court may enforce the order by injunction. The county attorney in which a local department of health or local health officer has jurisdiction shall represent the local health department and local health officer in the action unless the county executive employs other legal counsel or the matter has been referred through law enforcement authorities to the prosecuting attorney."

Thus, upon receiving a complaint regarding a possible health hazard, it is the duty of the local health officer to investigate and to order its abatement if such is warranted. If such condition is thereafter permitted to exist, the local health officer shall refer enforcement to the county attorney.

Dwellings Unfit For Human Habitation

The law covering Dwellings Unfit for Human Habitation is [IC 16-41-20](#)

By law, a dwelling is unfit for human habitation when it is dangerous or detrimental to life or health for want of repair; defects in drainage, plumbing, lighting, ventilation or construction; infected with contagious disease; or has upon its premises an unsanitary condition that is likely to cause sickness among dwelling occupants. In such cases IC 16-41-20 applies, and the local health department has authority to order the deficiency corrected. The State Department of Health can act only if the local health department fails to