

**DRAFT**  
**Haywood County Board of Health Policy &**  
**Health Department**  
**Procedures addressing**  
**Public Health Risks & Related Solid Waste Issues**  
**July 13, 2010**

**BOARD OF HEALTH POLICY:**

1. According to the NC General Statute 130A-39, the Board of Health is responsible to promote and protect public health. Therefore, the Board of Health initially adopted a rule in 1970. The intent and goal of this Board of Health policy as directed by the Board of Health rule is to provide clarity and enforcement guidelines as well as to prevent the public from being exposed to public health risks or imminent hazards. This policy applies to the management of public health risks and solid waste issues exclusive of the local solid waste collection and disposal system.
2. This policy is based upon understanding public health risks, public health practices and procedures, including applicable epidemiological research and other scientific knowledge.
3. Staff shall investigate the potential public health risk and attempt an informal resolution of verified public health risks. In the event that an informal resolution cannot be attained, further action will be taken to reach compliance.
4. In cases of disputed violations of the Board of Health rule or applicable general statutes, the aggrieved person(s), Health Department and Board of Health shall follow the appeals process specified in NCGS 130A-24(b),(c),(d) as amended from time to time, and as set forth in the Board of Health rule.

**DEFINITIONS:**

1. **PUBLIC HEALTH RISKS:** means a situation that negatively affects the health of people and/or the environment in proximity to the causative event. An event that substantially and unreasonably interferes with the health of the public.
2. **IMMINENT HAZARD:** means a situation that is likely to cause an immediate threat to human life, an immediate threat of serious physical injury, an immediate threat of serious adverse health effects, or a serious risk of irreparable damage to the environment if no immediate action is taken.
3. **COMPLAINT:** means events or situations identified by or reported to the Health Department as public health risks or imminent hazards.

**APPLICABLE GENERAL STATUTES as amended from time to time:**

NCGS 130A-17 Right of entry  
NCGS 130A-18 Injunction  
NCGS 130A-19 Abatement of public health nuisance  
NCGS 130A-20 Abatement of an imminent hazard  
NCGS 130A-24 Appeals procedure  
NCGS 130A-25 Misdemeanor  
NCGS 130A-39(a) Powers and duties of a local board of health  
NCGS 130A-41 Powers and duties of local health director

NCGS 14-399 Littering

NCGS 15-27.2 Warrants to conduct inspections authorized by law.

NCGS 44A Statutory Liens on Real Property.

## **HEALTH DEPARTMENT PROCEDURES:**

1. Information related to suspected violations of the Board of Health rule are to be reported to the Health Department's Environmental Health Division. Information to be collected include but are not limited to the following:
  - Description of the event, public health risk
  - Location of the suspected risk
  - Date and time of the event and report
  - Name of person reporting the event or risk
  - Contact information
  - Staff person receiving the information.
2. Environmental Health staff shall identify the property owner and the person in lawful possession of the property where the alleged public health risk has been reported to exist using legal records available through the county.
3. Staff shall attempt to contact directly the legal property owner and the person in lawful possession of the property to request permission to enter the property for the purposes of the investigation. This contact will be attempted by telephone or in person. If no response after 24 hours, a certified letter return receipt requested will be sent to the property owner's address listed on the legal record. The property owner is required to contact the Health Department within 5 business days from receipt of the letter. Once staff have received the property owner's permission, they shall proceed with the investigation. If the property owner refuses to give permission, the Health Department shall seek an administrative search warrant prior to proceeding with the risk investigation on the property.
4. The Environmental Health staff will initiate the investigation of the report within 1 to 2 business days after receipt of the report. **This timeframe may be altered depending on the description of the event and the potential threat to the public's health or environment. Response to risk investigations that imply an imminent hazard will take priority.** Additional information may be collected to determine the risk thoroughly if the department determines that is necessary given the circumstances. The additional data will be identified and collected as soon as feasible.
5. The following preliminary data will be collected by Environmental Health staff:
  - Type of public health risk
  - Quantity and extent of risk sources
  - Any control mechanisms governing the level of risk
  - Current and future condition of the control mechanisms
  - Identification of risk transport mechanism that might move the risks to other sites where a negative impact can occur if the control mechanism fails.
  - A quantifying description of damage to targets of the public health risk
  - Recommendation to abate the public health risk

6. On receipt of a public health risk notice, the property owner will be notified by the Health Department that assistance in correcting the public health risks may be made available.
7. If no resolution is reached, the health director shall notify by personal service or registered or certified mail to the property owner and the person in lawful possession of the property on which a public health risk exists. Such notice shall state the particulars of the public health risk, the date on which the public health risk was verified by the Health Department, and shall state that the property owner has 30 days from receipt of the notice in which to abate the public health risk.
8. In order of priority, except in the case of an imminent hazard, the Health Director or designee shall make a reasonable effort to abate the public health risk through voluntary compliance with corrective instructions to the property owner, and thereafter through formal abatement procedures as authorized under GS 130A-19 giving the person a period of at least 30 days to comply with the order. If the person fails to comply, the injunction remedy under GS 130A-18 or the criminal misdemeanor authorized under GS 130A-25 shall then be appropriate. The Health Director shall contact the County Attorney to pursue further legal action as allowed by NC GS 130A.
9. The Health Director shall contact the County Manager's office and County Attorney to discuss expenditures and legal steps related to the abatement of the public health risk.
10. Upon consultation with the County Attorney, if the property owner and the person in lawful possession of the property refuses to comply with the order, the Health Director may institute action in district or superior court.
11. If the local Health Director is ordered by the court to abate the public health risk, the county shall have a lien on the property for the costs of the abatement of the public health risk in the nature of a mechanic's and materialmen's lien as provided in Chapter 44A of the General Statutes and the lien may be enforced as provided therein.
12. The Health Director or designee shall inform the Board of Health Chair of an imminent hazard as soon as possible upon determination of the event.
13. The Health Director or designee shall at least quarterly report activity under the Board of Health rule, policy and procedures to the Board of Health.

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