



## LEGAL INTERVENTIONS FOR ENVIRONMENTAL HAZARDS AND OTHER PUBLIC HEALTH THREATS Issue Brief

### Michigan's Public Health Code

This document is intended to assist local health officers and their attorneys draft orders to protect the public from environmental hazards by identifying the elements for these orders. Michigan's Public Health Code authorizes state and local public health officers to protect the public against environmental and other hazards by issuing imminent danger orders or orders to eliminate nuisances, unsanitary conditions and sources of illness. Though the details of the fact sheet apply only in Michigan, the legal provisions addressed in this document likely have similar counterparts in all other states. Lawyers in other states may have developed, or could develop, comparable guidance relating to legal interventions in their states. You may wish to talk with your attorney, or visit the [State Public Health Lawyer Directory](#) to find contact information for a public health attorney in your state.

#### Order must address the following elements:

- List facts, as health officer understands them.
- What is the condition or practice that exists?
- Explain why this could reasonably be expected to cause death, disease or serious physical harm.
- Explain why/how the danger is imminent (i.e. could cause harm EITHER immediately AND/OR before danger can be eliminated through other/nonemergency enforcement.
- What corrective action is needed?
- Who is to make this corrective action?
- Briefly state what happens if the individual does not comply with order.

#### MCL 333.2451. Order to Protect Against an Imminent Danger

(1) Upon a determination that an imminent danger to the health or lives of individuals exists in the area served by the local health department, the local health officer immediately shall inform the individuals affected by the imminent danger and issue an order that shall be delivered to a person authorized to avoid, correct or remove the imminent danger or be posted at or near the imminent danger. The order shall incorporate the findings of the local health department and require immediate action necessary to avoid, correct or remove the imminent danger. The order may specify action to be taken or prohibit the presence of individuals in locations or under conditions where the imminent danger exists, except individuals whose presence is necessary to avoid, correct or remove the imminent danger.

(2) Upon the failure of a person to comply promptly with an order issued under this section, the local health department may petition a circuit or district court having jurisdiction to restrain a condition or practice which the local health officer determines causes the imminent danger or to require action to avoid, correct or remove the imminent danger.

(3) As used in this section:

(a) "Imminent danger" means a condition or practice which could reasonably be expected to cause death, disease or serious physical harm immediately or before the imminence of the danger can be eliminated through enforcement procedures otherwise provided.

(b) "Person" means a person as defined in section 1106 or a governmental entity.

**Order must address the following elements:**

- List facts, as health officer understands them.
- Describe the building or condition of concern.
- Identify the health law(s) that this building or condition violates AND/OR explain why the health officer reasonably believes the building or condition to be a nuisance, unsanitary condition or cause of illness.
- What corrective action is needed?
- Identify the owner or occupant who is to make this corrective action.
- Briefly state what happens if owner or occupant does not comply with order.

**MCL 333.2455. Order to Eliminate a Nuisance, Unsanitary Condition or Cause of Illness**

(1) A local health department or the [state] department may issue an order to avoid, correct or remove, at the owner's expense, a building or condition which violates health laws or which the local health officer or director reasonably believes to be a nuisance, unsanitary condition or cause of illness.

(2) If the owner or occupant does not comply with the order, the local health department or department may cause the violation, nuisance, unsanitary condition or cause of illness to be removed and may seek a warrant for this purpose. The owner of the premises shall pay the expenses incurred.

(3) If the owner of the premises refuses on demand to pay expenses incurred, the sums paid shall be assessed against the property and shall be collected and treated in the same manner as taxes assessed under the general laws of this state. An occupant or other person who caused or permitted the violation, nuisance, unsanitary condition or cause of illness to exist is liable to the owner of the premises for the amount paid by the owner or assessed against the property which amount shall be recoverable in an action.

(4) A court, upon a finding that a violation or nuisance may be injurious to the public health, may order the removal, abatement or destruction of the violation or nuisance at the expense of the defendant, under the direction of the local health department where the violation or nuisance is found. The form of the warrant to the sheriff or other law enforcement officer may be varied accordingly.

(5) This section does not affect powers otherwise granted to local governments.

## Drafting Orders to Eliminate an Environmental Hazard

<b>Legal authority</b>	<ul style="list-style-type: none"> <li>Describe/cite the law that authorizes the health department to take this action</li> </ul>
<b>Relevant facts</b>	<ul style="list-style-type: none"> <li><b>WHO</b> is doing <b>WHAT</b> that is creating or is threatening to create an environmental hazard</li> <li><b>WHERE</b> is the threat occurring (location of threat, address or description where no address)</li> <li><b>WHEN</b> is the threat occurring (now, imminent, future date, repeated, continuing) and</li> <li><b>WHY</b> is the person who you are naming in the order responsible for the threat and for eliminating it (e.g. owner, occupant, engaging in certain activity)</li> </ul>
<b>Explain how facts support determination that this is a threat to public health</b>	<ul style="list-style-type: none"> <li><b>HOW</b> does condition or activity threaten the public health? Either it is:               <ul style="list-style-type: none"> <li>A violation of a specific law (need to prove the violation)</li> <li>Under the circumstances, is injurious to public health because it does or is reasonably believed to cause specified harm (might require expert opinion) or</li> <li>Both</li> </ul> </li> </ul>
<b>Action required</b>	<ul style="list-style-type: none"> <li>What must be done to avoid or eliminate the hazard</li> <li>Who must do it</li> </ul>
<b>Consequences</b>	<ul style="list-style-type: none"> <li>What happens if the responsible person does not take the required action to avoid or remove the hazard</li> </ul>
<b>Right to review</b>	<ul style="list-style-type: none"> <li>If a right to formal or informal review has been established, state how this right can be exercised</li> </ul>
<b>Signature and title</b>	<ul style="list-style-type: none"> <li>Individual who has legal authority to issue the order</li> </ul>

## SUPPORTERS



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This document was developed by Denise Chrysler, J.D., director for the Network for Public Health Law- Mid-States Region at the University of Michigan School of Public Health. The Network for Public Health Law provides information and technical assistance on issues related to public health. The legal information and assistance provided in this document does not constitute legal advice or legal representation. For legal advice, please consult specific legal counsel.