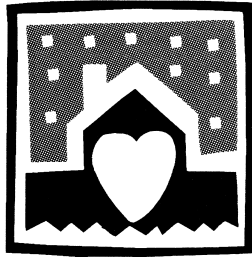


# Barry-Eaton District Health Department



## Nuisance Code

Article I	Authority, Purpose and Jurisdiction
Article II	Definitions
Article III	Public Health Nuisance Prevention and Control
Article IV	Investigations
Article V	Enforcement
Article VI	Appeals
Article VII	Miscellaneous Provision, Repeal, Effective Date
Appendix A	Civil Penalties schedule

## **Barry-Eaton District Health Department's Nuisance Code**

### **Article I Authority, Purpose Jurisdiction**

#### Section 1 – Authority

The regulations imposed by this code are adopted pursuant to the authority vested in the Barry-Eaton District Board of Health by the Michigan “Public Health Code”. Act 368 of the Public Acts of 1978 as amended being sections 333.1101 to 333.125211 of Michigan Compiled Laws.

#### Section 2 – Purpose

This code regulates public health nuisances or areas that may become public health nuisances. This code shall be consistent with Act 93 of P.A. 1981, the “Right to Farm Act”. This code is for express purpose of protecting the health, safety, and welfare of the people of Barry and Eaton Counties.

This code shall apply and be enforced throughout Barry and Eaton Counties. The Health Officer shall have jurisdiction throughout all of the Barry and Eaton Counties, including all cities, villages, and townships, in the administration and enforcement of this code and amendments hereafter adopted unless otherwise specifically stated.

### **Article II , Definitions**

#### Section 1 – Interpretation

When not inconsistent with the context, words used in the present tense include the future, words in singular include the plural number and words in the plural number include the singular number. The word “shall” is always mandatory, and not merely directory. For the purpose of this regulation “he” shall also mean “she” or “it” and “she” shall also mean “he” or “it”. Words and terms not defined herein shall be interpreted in the manner of their common usage.

#### Section 2 – Words and Terms

The words and terms used in this code shall have the following meaning unless otherwise specifically stated.

#### Section 3 – Board of Appeals

The Barry-Eaton District Board of Health shall constitute the Appeals Board and shall hear any appeal presented in accordance with rules of procedure established by said board and this code.

#### Section 4 – Board of Health

The term “Board of Health” shall mean the District Board of Health of the Barry-Eaton District Health Department.

#### Section 5 – Dwelling/Dwelling Unit

“Dwelling” or “Dwelling Unit” shall mean any house, building, structure, tent, watercraft, shelter, mobile home, vehicle, or portion thereof which is occupied or adopted in whole or in part as a home, residence, or living or sleeping place for one or more human beings either permanently or transiently.

#### Section 6 – Habitable Building

The term “habitable building” shall mean any building, or other place where human beings reside, are employed, or congregate, or any building adopted for such purposes.

#### Section 7 – Health Department

The term “Health Department” shall mean the Barry-Eaton District Health Department having jurisdiction in Barry and Eaton Counties.

#### Section 8 – Health Officer

The term “Health Officer” shall mean the director or acting director of the Barry-Eaton District Health Department or his authorized representatives.

#### Section 9 – Public Health Nuisance

“Public Health Nuisance” shall mean a condition or activity on private or public property, which threatens, or could reasonably be expected to threaten the health or safety of the public. A threat to the health and safety of the public shall include, any condition or activity which is reasonably likely to cause death, disease, illness, physical harm, or is likely to create an unsanitary or unhealthy condition, which may cause disease, illness or death.

#### Section 10 – Owner

The term “owner” and “persons owning premise” shall mean the legal or equitable titleholder, whether recorded or not, or lessee, or person who otherwise has a legal right to control said premise.

#### Section 11 – Occupant

The term “occupant” shall mean those persons who occupy, live, habitually use, or otherwise are in possession of any property or premise.

#### Section 12 – Person

The term “person” shall mean any individual, firm, partnership, party, corporation, company, society, association, or other legal entity.

#### Section 13 – Premise

The term “premise” shall mean a tract or parcel of land on which a habitable building or dwelling is located and shall include the building or dwelling.

#### Section 14 – Operator

The term “operator” shall mean a person responsible for the administration management or supervision of a property, premise, habitable building or dwelling.

#### Section 15 – Approved

“Approved” shall mean acceptable for the intended use as judged by the Health Officer view of this code, its rules, and regulations.

#### Section 16 – Air Pollution

“Air Pollution” shall mean the presence in the atmosphere of substances in quantity or density which defile, taint, or otherwise make impure, the atmosphere, to the point where they may, either acutely or chronically, detrimentally effect human, plant or animal life, or water or soil resources. Air pollution includes but shall not be limited to those pollutants defined by Act 348 of 1965, M.C.L. 335.11 through 336.36 or rules thereunder.

#### Section 17 – Animal Waste

“Animal Waste” shall mean excrement from domestic animals and those materials that are grossly contaminated with this excrement, including but not limited to straw, sawdust, and cloth.

#### Section 18 – Excrement

“Excrement” shall mean waste matter discharged from the renal and intestinal tracts of the body, including human and animal bodies.

#### Section 19 – Extermination

“Extermination” shall mean the control or elimination of insects, rodents, and other pests by removal of harborage areas and food supplies and by poisoning, trapping, and any other legal pest elimination approved by the Health Officer.

#### Section 20 – Garbage

“Garbage” shall mean rejected food waste including waste accumulation of animal, fruit, or vegetable matter used or intended for food or that attends to preparation, use, cooking, dealing in or storing meat, fish, fowl, fruit, or vegetable. This shall include but shall not be limited to any waste defined by Act 641 P.A. 1978, M.C.L. 299.401-299.435.

#### Section 21 – Hazardous Substance

“Hazardous Substance” shall mean those substances or mixture of substances which are toxic or which can cause substantial personal injury or substantial illness during or as a result of storage or disposal of said substance or substances. These substances defined by Act 188 P.A. 1965, The Hazardous Substances Act, Michigan Compiled Laws 286.451 through 286.463, and rules thereunder.

#### Section 22 – Infestation

“Infestation” shall mean the presence of vermin or pests within or about a dwelling, in quantities, which pose a potential threat to the public health.

#### Section 23 – Noxious

“Noxious” shall mean irritable to the health or physical well being.

#### Section 24 – Pest

“Pest” shall mean noxious, destructive, or troublesome animal.

#### Section 25 – Rubbish

“Rubbish” shall mean non-putrescible solid waste, excluding ashes, consisting of both combustible and non-combustible waste, including paper, cardboard, metal containers, yard clippings, wood, glass, bedding, crockery, demolished building materials, or litter or any kind that may be a detriment to the public health and safety. Rubbish shall include any waste defined by Act 641, P.A. 1978, M.C.L. 299.401 through 299.437 and rules thereunder.

#### Section 26 – Sewage

“Sewage” shall mean all human excreta, wastewater from laundry, bathing, cleaning, sink waste, and dishwashing activities.

#### Section 27 – Solid waste

“Solid Waste” shall mean garbage, rubbish, ashes, incinerator ash, incinerator residues, street cleanings, municipal and industrial sludge, solid commercial and solid industrial waste, animal waste, but does not include human body waste, liquid or other waste regulated by statute, ferrous or non-ferrous scrap directed to a scrap metal processor or to a reuser of ferrous or non-ferrous products. Solid waste shall include those items defined by Act 641 P.A. 1978, M.C.L. 299.401 through 229.437 and rules thereunder.

#### Section 28 – Toxic Substance

“Toxic Substances” shall mean that quality of a natural or man-made element or compound, metallic or non-metallic, organic, or inorganic compound which in an appropriate concentration, alone or in combination poses a severe threat of gross damage or destruction of the health, safety, or welfare of human, animal, or desirable plant life, or of the environment. This includes a substance that may reasonably be expected to result in human carcinogenesis, teratogenesis, or mutagenesis. Toxic substances shall include any substance defined by Act 116 P.A. 1978, M.C.L. 286.181 through 286.194 and rules thereunder.

#### Section 29 – Vector

“Vector” shall mean any animal, insect or agent, which transmits the causative organisms of disease from, infected to non-infected individuals or from contaminated to non-contaminated sites.

#### Section 30 – Vermin

“Vermin” shall mean insects and animals including but not limited to rats, mice, lice, bedbugs, which cause or could cause destruction or disease.

### **ARTICLE III – PUBLIC HEALTH NUISANCE PREVENTION AND CONTROL**

#### Section 1 – Public Health Nuisances Prohibited

A person shall not engage in an activity or create or permit a condition to exist, which is or may become a public health nuisance. The owner of every property or premise shall be responsible for complying with the provisions of this section, except that occupants shall be responsible for those parts of property or premise which they possess and control.

#### Section 2 – Air Pollution

A person shall not permit or cause the escape of solids, vapors, mists, noxious fumes or gases into the atmosphere in a manner, which is or may become a public nuisance.

#### Section 3 – Human and Animal Excrement

A person shall not permit or cause the accumulation of any human or animal excrement in a manner or in quantities, which is or may become a public nuisance.

#### Section 4 – Disposal of Solid Waste

A person shall not dispose of solid waste in a manner, which is or may become a public nuisance.

#### Section 5 – Accumulation of Garbage

A person shall not permit or cause the accumulation of any garbage upon his property or premise except in containers of rodent proof, insect proof, and watertight construction. All garbage shall be removed or disposed of in a manner and at such intervals so as not to cause a public health nuisance.

#### Section 6 – Accumulation of Rubbish

A person shall not permit or cause the accumulation of any rubbish upon his property or premise except in durable containers, except that bulky rubbish such as tree limbs, weeds, large boxes, etc., may be bundled and so stored as not to provide a harborage or breeding area for vermin and other pests.

#### Section 7 – Dead Animals

A person shall not allow a dead animal to remain in a manner, which could create a public health nuisance.

#### Section 8 – Housing

Every habitable building shall be equipped with an approved water supply and an approved means of sewage disposal as provided by the Barry-Eaton District Sanitary Code.

#### Section 9 – Vector Control and Pest Infestation and Elimination

A person shall not create or maintain a pest or vermin infested condition on property or premise owned or occupied by him. When the health officer finds an infestation or evidence of infestation of pests or vermin on such property or premise, he shall order the owner or other responsible person to take whatever measures are deemed reasonably necessary to abate that condition.

#### Section 10 – Hazardous or Toxic Substances

A person shall not cause or permit the transport, storage, use or disposal of any substances deemed hazardous or toxic in a manner, which is or may become a public health nuisance.

### **ARTICLE IV INVESTIGATIONS**

#### Section 1 – Public Health Nuisance Investigation

The Health Officer may initiate investigations of the public health nuisances and take all necessary action to abate the same. The Health Officer may also investigate complaints concerning alleged public health nuisances as hereafter provided.

#### Section 2 – Complaints concerning Public Health Nuisance

All complaints concerning alleged public health nuisances shall be submitted to the Health Officer. Such complaints shall include specific details regarding the situation, including the nature and location of the alleged nuisance condition, the date, and time of occurrence, the person responsible, the names of witnesses, and the name of address of the complainant. The Health Officer may require such complaints to be submitted in writing and signed.

#### Section 3 – Investigation of Complaints.

The Health Officer, upon receipt of a complaint concerning a public health nuisance, shall consider the information provided and shall conduct such investigations, as he may deem necessary. If the investigation by the Health Officer discloses that the alleged public health nuisance no longer exists, or does not represent a threat to the health and safety of the public, the complainant shall be notified of such findings. If the investigation of the Health Officer reveals that the complaint pertains to an activity or condition subject to the statutory regulation of an official agency, bureau, or department other than the Health Department, he may notify the appropriate agency, bureau, or department of the complaint.

#### Section 4 – Right of Investigation and Inspection

To insure compliance with this code, the Health Officer may inspect, investigate, or authorize an inspection or investigation to be made of any matter, thing, premises, place, person, record, vehicle, incident, or event to enforce this section. The Health Officer may apply for an inspection or an investigation warrant pursuant to Sec.2241 to 2246 or Section 7504 to 7507, Act 368, P.A. 1978 or other appropriate warrants.

#### Section 6 – Obstruction of Health Officer

It shall be unlawful for any person to refuse to permit the Health Officer to make an inspection or investigation authorized by law and it shall be unlawful for any person to molest or resist the Health Officer in the discharge of his duty.

### **ARTICLE V ENFORCEMENT**

#### Section I – Abatement of Condemnation Orders – Dwellings

When a dwelling is dangerous or detrimental to life or health because of want of repair, defects in the drainage, plumbing, lighting, ventilation, sewage disposal system, water supply or their construction, infection with contagious disease or the existence on the premise of an unsanitary condition likely to cause sickness among the occupants of the dwelling, it shall be deemed unfit for human habitation. Whenever it is determined by the Health Officer that the dwelling is unfit for habitation the Health Officer may issue an order requiring all persons living in the dwelling to vacate it within not less than ten (10) days nor more than thirty (30) days. The order shall mention the specific reasons upon which the determination is based. The order may specify action to be taken or prohibit any person from moving into or residing in the dwelling or offering it for rent lease or sale until the conditions, on which the order was issued, have been corrected. The order may be delivered to the owner or person in charge of the dwelling, and may be posted at or near the dwelling.

#### Section 2 – Orders for Correction or Abatement of other Public Health Nuisances.

When the Health Officer following any investigation, determines that a public health nuisance exists, he shall notify the person responsible for the condition or activity of his findings and may order the person responsible for the public health nuisance to undertake appropriate actions to correct or abate the condition or activity and may specify a reasonable time limit for such correction or abatement to be completed. The order shall incorporate the findings of the Health Officer and may be delivered to a person authorized to avoid, correct, or remove the nuisance or may be mailed to the last known address of such person or posted prominently on the premises.

#### Section 3 – Imminent Dangers

Upon a finding that a public health nuisance constitutes an imminent danger, the Health Officer may issue a summary order to avoid, correct or remove the nuisance or take other action in accordance with Section 2451 of the Public Health Code, 1978 P.A. 368, MCL 333.2451.

#### Section 4 – Interference with Notices.

It shall be unlawful for any person to remove, deface, or destroy any notice posted pursuant to this code.

#### Section 5 – Monetary Civil Fine

Civil penalties may be assessed according to Section 2461 and 2462 of Act 369, P.A. 1978 A schedule of monetary civil penalties is attached hereto as Appendix A. and may be amended pursuant to Section 2441 and 2442 of Act 368, P.A. 1978.

## Section 6 – Criminal Penalties

If any person shall violate the provisions of this code, or any part thereof or any final order issued pursuant to this code, he shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed the sum of \$200.00 or by imprisonment in the County Jail not to exceed six months, or by both such fine and imprisonment at the discretion of the Court. Every 24 hours said person permits any condition in violation of this code to continue shall be deemed an additional offense.

## Section 7 – Other Enforcement Procedures

Notwithstanding the existence or pursuit of any other remedy, the Health Officer may maintain in a court of competent jurisdiction an action for an injunction or any other actions authorized by law against any person to restrain or prevent violations of this code.

## **ARTICLE IV APPEALS**

### Section 1 – Opportunity to Appeal

An administrative order issued by the Health Officer pursuant to Section 1 or 2 of Article V shall state that it is final 10 days after the date it is issued unless appealed pursuant to this article.

### Section 2 – Appeal Procedures

Appeals of orders issued by the Health Officer under section 1 or 2 of Article V shall be submitted in writing to the Board of Appeals. The appellant shall deposit a non-refundable fee in the amount established by the Board of Health with the department at the time the appeal is submitted. The Board of Appeals shall consider such appeals and may arrange for such investigations or hearings as may be necessary. The Board of Appeals shall be responsible for notifying the appellant of the time and location where such hearings are to be conducted.

### Section 3 – Rulings of Board of Appeals

The Board of Appeals, after consideration of appeal and any supporting information which it may require, shall render a decision and shall properly notify the appellant in writing of its decision.

### Section 4 – Decision Final

The decision of the Board of Appeals shall be the final administrative judgement concerning the actions being appealed.

## **ARTICLE VII MISCELLANEOUS PROVISIONS, REPEAL, EFFECTIVE DATE**

### Section 1 – Severability

These requirements and the various parts, sections, and clauses of this code are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid it is hereby provided that the remainder of the code shall not be affected thereby.

### Section 2 – Other Laws and Regulations

This code is supplemental to the rules and regulations duly enacted by the Michigan Department of Public Health, and to laws of the State of Michigan relating to public health and this code shall supersede all local ordinances heretofore enacted and inconsistent herewith.



### Section 3 – Repeal

The rules and regulations governing Nuisance Abatement by the Barry-Eaton District Health Department passed by the Barry-Eaton District Board of Health on April 6 1972 and approved by the Barry County Board of Commissioners on April 11, 1972 is hereby repealed. The rules and regulations governing nuisance abatement in Eaton County, approved by the Eaton County Board of Supervisor on October 15, 1964 is hereby repealed.

### Section 4 – Savings Clause

Any act, situation, or condition of premise or things which when first created or allowed to exist was a violation of prior Barry-Eaton District Health Department regulations shall continue to be a violation of this code if a similar section or provision is part of this code. Any action, or maintenance of a condition that is mandatory under the provisions of the regulations now repealed, shall continue to be required if the same or similar provision is contained in this code.

### Section 5 – effective Date

This code shall be come effective 45 days after approval by the Board of Commissioners of Barry and Eaton Counties.

Adopted by the Barry-Eaton District Board of Health on November 12, 1982.  
Approved by the Eaton County Board of Commissioners on November 17, 1982.  
Approved by the Barry County Board of Commissioners on November 23, 1982

Effective date January 7, 1983.

## APPENDIX A

This schedule of civil penalties is attached according to Sections 2461 and 2462 of Act 368, P.A. 1978.  
 This schedule may be amended pursuant to Sections 2441 and 2442 of Act 368, P.A. 1978

Monetary Civil Penalties may be assessed as follows:

<b>VIOLATION</b>	<b>Applicable Statutory Section or Sections of Rule or Regulation</b>	<b>Maximum Civil Penalty Per Occurrence</b>	<b>o r</b>	<b>Maximum Civil Penalty Per Day the Violation continues</b>
Obstruction of the Health Officer	Article IV, Sec. 6 or Nuisance and Abatement Ordinance	\$1,000.00		
Failure to comply with order(s) for Abatement	Article V, Sec 1 or 2 of Nuisance and Abatement Ordinance	\$1,000.00	\$500.00	
Failure to comply with eminent danger order(s) for Summary Abatement	Article V., Sec. 3 of Nuisance and Abatement Ordinance	\$1,000.00	\$500.00	
Interference with a Posted Notice	Article V., Sec. 4 of Nuisance and Abatement Ordinance	\$1,000.00		
Other violations of this code	Article III Public Health Nuisance Prevention and Control.	\$1,000.00		