

**Cities, Liability Of. Sanitary Law. Board of Health, City and County.**

An incorporated city or town is liable for the expenses incurred in enforcing sanitary law within its corporate limits.

Helena, Montana, Sept. 12, 1907.

Hon. J. W. Speer,  
County Attorney,  
Great Falls, Montana.

Dear Sir:—

I am in receipt of your letter of the 10th inst., in which you submit for the consideration of this office the question as to whether the county of Cascade or the city of Great Falls is liable for expenses incurred in enforcing the sanitary laws with respect to contagious diseases within the city limits of Great Falls.

Chapter 110, laws of 1907, as you are aware, provides for the organization and maintenance of the state, county and local (city) boards of health, and each is invested with authority to carry out the purpose of the law in protecting and preserving the public health. Section 11 of the act specifically provides that

“Each incorporated city or town in the state shall have a local board of health, the same being designated in this act as the local ‘board of health.’”

Said section also provides that an incorporated town of less than five thousand inhabitants may place itself under the jurisdiction of the county board of health, but such city or town must nevertheless, pay expenses incurred in enforcing sanitary measures and quarantines within its corporate limits. If an incorporated city having a population of less than five thousand must bear the expenses of enforcing sanitary

laws within its limits, why should not a city having a greater population also be required to meet such expenses? If the municipal authorities neglect to appoint a local board of health, authority is conferred by said section 11 upon the State Board of Health to appoint a health officer for such municipality. Section 14 also makes it the duty of the local (city) health officer to make certain investigation respecting sanitary measures, and to order the prevention and removal of all causes of sickness, and the succeeding section makes such expenses a proper charge against the city. Section 16 also confers authority upon the local board of health (city) "to establish and maintain at the expense of their respective city, town or county, isolation hospitals". And authority is also conferred by this section to establish and maintain quarantine and to provide for disinfection, fumigation and cleansing at the expense of the city, town or county according to whether it is done within the jurisdiction of the local board of health or the county board of health. The local board of health, by section 17, also has equal authority with the county or state board of health, to call upon executive officers to enforce its regulations, and by the provision of section 18 a violation of these rules is made a misdemeanor. It is very apparent that it is the intention of this law that incorporated cities must pay the expenses incurred in enforcing the sanitary laws relating to contagious diseases within their limits.

Very truly yours,

ALBERT J. GALEN,  
Attorney General.