

## **ORDINANCE NO. 98-46**

The County Board of Jefferson County, State of Wisconsin, do hereby ordain as follows:

### **PUBLIC HEALTH HAZARD AND PUBLIC NUISANCE ORDINANCE**

**SECTION 1.** Ordinance No. 16 is hereby repealed and recreated as follows:

**16.01 PURPOSE.** The purpose of this ordinance shall be to protect public health, safety and welfare, and prevent the depreciation of property values due to a person's actions or property constituting a violation of the conditions of this ordinance.

**16.02 JURISDICTION.** This ordinance applies in all cities, villages, and towns, provided, however, that any section of the ordinance that has a counterpart in an ordinance of a city, village or town shall not be enforced by the County in said city, village or town, or in a city, village or town with a local health department.

**16.03 DEFINITIONS.** As used in this ordinance:

(1) "Human Health Hazard" means a substance, activity or condition that is known to have the potential to cause acute or chronic illness or death if exposure to the substance, activity or condition is not abated, and also includes the term "Health Hazard".

(2) "Immediate Health Hazard" means a condition that exists or has the potential to exist which should, in the opinion of the Health Officer, be abated or corrected immediately, or at least within a 24-hour period, to prevent possible severe damage to human health and/or the environment.

(3) "Pollution" means the contaminating or rendering unclean or impure the air, land, or waters of the County, or making the same injurious to public health, harmful for commercial or recreational use or deleterious to fish, bird, animal or plant life.

(4) "Person" means any individual, firm, corporation, society, association, institution, public body or other entity.

(5) "Public" 1) means affecting or having the potential to affect the people and/or environment outside the limits of one's personally owned and personally occupied structure; 2) means all persons outside of one's personally owned and personally occupied structure.

(6) "Public Nuisance" means a thing, act, condition or use of property which is dangerous or has the potential to be dangerous, to human life or health, safety, or welfare, or cause the depreciation of property values; and whatever renders or has the potential to render, the soil, air, water or any article of food or drink unwholesome or impure, is a public nuisance.

(7) "Solid Waste" means garbage, refuse and all other discarded or salvageable solid materials, including solid waste materials resulting from industrial, commercial and domestic use and material in waste water effluent or other common water pollutants.

(8) "Toxic and Hazardous Materials" means any chemical and/or biological material that is or has the potential to create a health hazard.

(9) "Health Officer" means the Jefferson County Public Health Department Director.

**16.04 HUMAN HEALTH HAZARD PROHIBITED.** No person shall erect, construct, cause, continue, maintain, or permit any public nuisance within the County. Any person who shall cause, create, or maintain a nuisance or who shall in any way aid or contribute to the causing, creating or maintenance thereof shall be guilty of a violation of this

ordinance and shall be liable for all costs and expenses attendant upon the removal and correction of such a nuisance and to the penalty provided in Section 16.10 of this ordinance.

**16.05 RESPONSIBILITY FOR NUISANCE.** It shall be the responsibility of tenants and property owners to maintain their property in a nuisance free manner and also to be responsible for the abatement and/or correction of any public nuisance that has been determined to exist on their property.

**16.06 PUBLIC NUISANCES ENUMERATED.** Public nuisance is defined in Section 16.03 (6) of this ordinance. More specifically, but not limited by enumeration, the following are public nuisances within the definition of public nuisance in section 16.03(6) of this ordinance and a violation of this ordinance:

(1) Unburied Carcasses - Carcasses of animals, birds, or fowl not intended for human consumption or food, which are not buried or otherwise disposed of in a sanitary manner within 24 hours after death.

(2) Household Pet Waste - Accumulations of the bodily waste from all household domestic animals and fowl that are handled, stored, or disposed of in a manner that creates a health hazard.

(3) Air Pollution - The escape of smoke, soot, cinders, noxious acids, fumes, gasses, fly ash, industrial dust, or any other atmospheric pollutants within the County that creates non-compliance with Chapter NR429 of the Wisconsin Administrative Code. (Note: NR429 allows exemptions for open burning.)

(4) Solid Waste - Any solid waste which is stored or disposed of in non-compliance to Chapter NR500 of the Wisconsin Administrative Code.

(5) Food or Breeding Places for Vermin, Insects, Etc. - Accumulations of decayed animal or vegetable matter, trash, rubbish, garbage, rotting lumber, bedding, packing material, scrap metal, animal and human fecal matter, or any substance in which flies, mosquitos, or disease carrying insects, rats or other vermin can breed, live, nest or seek shelter.

(6) Toxic and Hazardous Materials - Any chemical and/or biological material that is stored, used, or disposed of in such quantity or manner that is, or has the potential to create a health hazard.

(7) Groundwater Pollution - Addition of any chemical and/or biological substance that would cause groundwater to be unpalatable or unfit for human consumption. These substances include but are not limited to the chemical and/or biological substances listed in Chapter NR809 of the Administrative Code titled "safe drinking water".

(8) Private Water Supply - Any private well that is constructed, abandoned or used and/or any pump installed in non-compliance with Chapter NR812 of the Wisconsin Administrative Code.

(9) Holes and Openings - Any hole or opening caused by an improperly abandoned cistern, septic tank, dug well, etc.; or any improperly abandoned, barricaded or covered up excavation.

(10) Inoperable Vehicles and Vehicle Parts - Outdoor storage of more than two abandoned, unlicensed or inoperable vehicles per lot or outdoor storage of motor vehicle parts for a period of 72 hours or more. Exceptions are commercial sellers of motor vehicle parts.

(11) Other - Any other situation determined to meet the definition of a public nuisance contained in this ordinance.

**16.07 DESIGNATION OF UNFIT DWELLING.** (1) Any dwelling or dwelling unit found to have any of the following defects shall be condemned as unfit for human habitation and shall be so designated and marked as unfit with a placard by the Health Officer:

(a) One which is so abandoned, damaged, decayed, dilapidated, unsanitary, unsafe, or vermin infested that it creates a serious hazard to the health or safety of the occupants or of the public.

(b) One which lacks sanitation facilities adequate to protect the health or safety of the occupants or of the public.

(c) One which because of its condition, is the source of a confirmed case of lead poisoning or asbestosis.

(d) Indoor air quality will be maintained at a comfortable level. Air contaminants will be eliminated when they are identified. Contaminants may include but are not limited to molds, ammonia, carbon dioxide, formaldehyde, and any other pollutant(s) causing a health hazard.

(2) No person shall continue to occupy, rent, or lease quarters for human habitation which are declared unfit for human habitation by the Health Officer. For the purpose of this ordinance, "unfit for human habitation" includes lacking potable water or a properly functioning septic system, or an adequate and functioning heating system.

(3) Any dwelling or dwelling unit condemned as unfit for human habitation, and so designated and marked by the Health Officer, shall be vacated within a reasonable time, as specified by the Health Officer.

(4) No dwelling or dwelling unit which has been condemned and marked as unfit for human habitation shall again be used for human habitation until written approval is secured from, and such placard is removed by, the Health Officer. The Health Officer shall remove such placard whenever the defect or defects upon which the condemnation and placarding were based have been eliminated.

(5) No person shall deface or remove the Health Officer's placard from any dwelling or dwelling unit which has been condemned as unfit for human habitation.

(6) The owner or occupant of any dwelling affected by any notice or order relating to the condemning or placarding of a dwelling or dwelling unit as unfit for human habitation may request and shall be granted a prompt hearing before the Health Officer.

(7) Whenever the Health Officer determines that a violation exists or has reasonable grounds to believe that there has been a violation of any provision of this section, or any rule or regulation adopted pursuant thereto, he/she shall give or cause to be given, notice of such violation or alleged violation to the person or persons responsible therefor. Such notice shall be in writing and include a description of the real estate involved, a statement of violations and corrective actions required, and shall allow a reasonable time for the performance of any act required. Such notice shall be served upon the owner, property or occupant as the case may require, and may be served by ordinary mail or in the manner provided by Chapter 801, Wisconsin Statutes.

**16.08 INVESTIGATION OF POSSIBLE PUBLIC NUISANCES.** The Health Officer or a designated representative shall investigate all potential public nuisances and shall determine whether or not a public nuisance exists.

**16.09 ABATEMENT, CORRECTION AND ENFORCEMENT.** Abatement and correction of, or enforcement against public nuisances will be as follows:

(1) If the existence of a public nuisance is confirmed a written cleanup and/or abatement order will be issued specifying the action needed to abate and/or correct the nuisance; the time period allowed to abate and/or correct the nuisance, (24 hours, 5, 10, 30, or more days depending on the nature of the nuisance); and the possible penalty (citation and/or possible court action) if the nuisance is not abated and/or corrected.

(2) To expedite the abatement and/or correction of the public nuisance the Health Officer may issue citations pursuant to the County Citation Ordinance and Section 66.119, Stats. The issuance of a citation does not exempt a violator from further legal action against the violator as described in subsection (3) below.

(3) In cases where the use of a citation alone is inadequate or inappropriate to fully cause the abatement and/or correction of a public nuisance, legal action seeking a higher forfeiture and penalties or injunctive action to cause

abatement of a nuisance, and also to rectify any damage created by the nuisance can be initiated against the violator at the discretion of the Health Officer and the Jefferson County District Attorney or the Corporation Counsel.

(4) In the case of an immediate health hazard or in extreme cases where the person responsible for a nuisance refuses to abate and/or correct it within the time period specified in the written order, the County may abate the nuisance and/or correct the violation with the cost of such abatement and/or correction to be recovered directly from the responsible person or as otherwise authorized by law.

**16.10 PENALTIES.** All violations of this ordinance shall be subject to a forfeiture of not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00) per offense, together with applicable surcharges and penalty assessment and the taxable costs of prosecution. The Court may also grant injunctive relief. Failure to comply with an order of abatement issued under this ordinance shall constitute a violation of this ordinance, and each day of continued violation shall constitute a separate offense. Failure to pay any penalties imposed by the court in accordance with this ordinance may result in imprisonment in the County Jail until payment is made but not to exceed 90 days.

**16.11 SEVERABILITY.** Each section, paragraph, sentence, clause, word, and provision of this ordinance is severable and if any portion shall be deemed unconstitutional or invalid for any reason, such decision shall not affect the remainder of this ordinance nor any part thereof other than the portion affected by such decision.

**SECTION 2.** Section 2(d) of Ordinance No. 84-10 is created as follows:

(2) In addition, the following county officials may issue citations for the violation of ordinances directly related to their official responsibilities:

- (a) County Zoning Administrator
- (b) Parks Director
- (c) District Attorney
- (d) Health Officer

**SECTION 3.** This ordinance shall be effective upon passage and publication.

Adopted by the Jefferson County Board of Supervisors this 12th day of January, 1999.

ATTEST:

/s/ Barbara A. Frank  
Barbara A. Frank, County Clerk

\_\_\_\_\_ /s/ Wendell A. Wilson  
Wendell A. Wilson, Chairman

Published the 15th day of January, 1999.