

CHAPTER 29

PUBLIC HEALTH NUISANCE ORDINANCE

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29.01 Title. This ordinance may be cited as the Sauk County Public Health Nuisance Ordinance.

29.02 Authority. This ordinance is adopted under authority granted by §§ 59.54(6), 66.115, 66.122, 95.50(3), 141.01(10), 143.03, 146.14 and Chapter 823 of the Wisconsin Statutes.

29.03 Definitions. For the purposes of this ordinance the following definitions shall be used. Words used in the present tense include the future; the singular number includes the plural number; the plural number includes the singular number; the word "shall" is mandatory and not directory. Words and phrases not defined herein shall be construed according to common and approved usage, but technical words and phrases and others that have a peculiar meaning shall be construed according to such meaning unless such construction would produce a result inconsistent with the manifest intent of this ordinance.

PUBLIC HEALTH NUISANCE. Similar or related words as used herein shall have the following meanings:

(a) Whoever by his or her act or failure to perform a legal duty, intentionally maintains or permits a condition which unreasonably injures or endangers the safety or health of the public, and whoever causes or maintains any source of filth or sickness, has committed a public health nuisance.

(b) The following, except insofar as incorporated into approved agricultural practices (it not being the intent of this ordinance to regulate approved agricultural practices), are hereby expressly declared to be public health nuisances, without limitation by reason of such enumeration:

1. Failure to keep waste, refuse or garbage in an enclosed building or properly

contained in a closed container designed or reasonably adapted for such purpose.

2. Allowing any discharge into the environment of toxic substances in any form in such concentrations or for such length of time as to endanger the public health.

3. Causing or allowing the pollution of any well, cistern, spring, ground water, lake, canal or body of water by sewage or industrial waste, fertilizer, toxic pesticide, or other substance harmful to human beings.

4. Causing or allowing any accumulation of carcasses of animals, birds, fish or fowl not intended for human consumption which are not buried or otherwise disposed of in a sanitary manner within 24 hours after death, in accordance with Chapter 95 Stats.

5. Causing or allowing unreasonable accumulations of decayed animal or vegetable matter, trash, rubbish, garbage, rotting lumber, packing material, scrap metal, tires or any other substances in which flies, mosquitoes, disease carrying insects, rats or other vermin can breed, live, nest or seek shelter.

6. Maintaining a building or structure which is dilapidated, neglected or out-of-repair so as to be dangerous, unsafe, unsanitary or otherwise unfit for use and for which no appropriate precautions to prevent entry by persons, such as posting, fencing or closure of entrance ways, have been taken.

7. Failing to comply with any law or regulation regarding sanitation and health, including but not limited to:

(a) Water supplies, including wells and surface waters.

(b) Waste disposal.

(c) Storage of chemical pesticides or herbicides.

(d) Public buildings.

8. Causing or allowing improper sewage disposal facilities to be operated, or causing or allowing the effluent from any cesspool, septic tank, drain field or sewage disposal system to discharge upon the surface of the ground or into any body of water; maintaining a hole or opening caused by an improperly abandoned cistern, septic system, dug well, driven well, drilled well, foundation, mine shaft or tunnel, including an improperly abandoned, sealed, barricaded or backfilled excavation for which no proper precautions to prevent entry such as posting or fencing have been taken. In addition to direct hazard to human welfare, this subsection is intended to prevent contamination of ground water supplies.

29.04 Purpose. The purpose of this ordinance is to protect the health of Sauk County residents and transients; prevent the spread of disease; and to promote the prosperity and general welfare of the citizens of Sauk County. It is also intended to provide for the administration and enforcement of the ordinance and to provide penalties for its violation.

29.05 Applicability. This ordinance shall apply to all unincorporated areas of Sauk County.

29.06 Interpretation. In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of Sauk County, and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes or County Ordinances.

29.07 Severability Clause. If any section, provision or portion of this ordinance is ruled invalid by a court, the remainder of the ordinance shall not for that reason be rendered ineffective.

29.08 Effective Date. This ordinance shall become effective upon its adoption by the Sauk County Board of Supervisors and official publication.

29.09 Administration. (1) Delegation of authority. The Sauk County Public Health Nursing Service shall be the agency designated to administer and enforce this ordinance.

(2) Administrative duties. It shall be the duty of the Director of the Sauk County Public Health Nursing Service (hereinafter, the Director), acting under the supervision of the Sauk County Public and Environmental Health Committee, to enforce the provisions of this ordinance. The Director is hereby delegated authority to enforce the provisions of this ordinance, including the power to inspect private premises, issue orders for abatement, and take actions to abate nuisances under this ordinance. The Director shall take all reasonable precautions to prevent the commission and maintenance of public health nuisances. All officers and agencies of Sauk County shall cooperate with and assist the Director in the performance of duties hereunder.

(3) Referral to other agencies. Nothing in this ordinance shall prevent the Director from referring violations of state and federal law to the appropriate state and federal authorities.

29.10 Enforcement Procedures. (1) Whenever, in the judgment of the Director, it is determined upon investigation that a public health nuisance in violation of this ordinance is being maintained or exists within Sauk County, the Director may issue a written order of abatement ordering the person committing or maintaining such nuisance to terminate and to abate it and to remove the conditions or remedy the defects creating the nuisance. The order of abatement shall be served upon the person committing or maintaining the nuisance in the manner set forth for service of a summons in Chapter 801 Stats., or by certified mail if that person resides outside of Sauk County. If the premises are not occupied and the address of the owner is unknown and cannot be determined with due diligence, service on the owner may be accomplished by posting a copy of the order of abatement in a prominent place on the premises. The order of abatement shall require the owner or occupant of such premises, or both, to take reasonable steps within a reasonable period of time, as specified by the Director in such order, to abate and remove the nuisance. Except in cases of emergency, special inspection warrants shall be obtained from the Sauk County Circuit Court in accordance with §§ 66.122 and 66.123 Stats., for inspection of personal or real properties which are not public buildings or for inspection of portions of public buildings which are not open to the public

where consent to entry for inspection purposes is refused.

(2) When the order for abatement has not been complied with, such noncompliance shall be reported to the Sauk County Corporation Counsel, who is hereby delegated the duty of prosecuting violations of this ordinance referred hereunder. The Corporation Counsel shall take such steps as that officer deems appropriate to enforce this ordinance and the order for abatement and to abate the nuisance and to enjoin the future continuation of the nuisance. All violations of the ordinance shall be subject to a forfeiture of not less than fifty dollars (\$50.00) and not more than two hundred dollars (\$200.00) per offense, together with applicable penalty assessments and the taxable costs of prosecution, and 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 Sauk County jail. In the case of a violation of this ordinance caused by improper sewage disposal facilities, Sauk County by its officers, agents or employees may enter upon the property and abate or remove the nuisance or may contract to have the work performed in a manner approved by the Department of Industry, Labor and Human Relations, and the cost thereof may be recovered, in accordance with subsections 146.14(2) and (5) Stats., from the person causing or permitting the violation of this ordinance, or that cost may be paid by the County Treasurer and the amount after being paid by the Treasurer shall be filed with the municipal clerk, who shall enter the amount on the tax roll as a special tax on the lands upon which such nuisance was abated and this tax shall be collected as are other taxes. As to any other violation of this ordinance, Sauk County may act to abate the nuisance and the County may recover the costs thereof in a suit of law.

Adopted by the Sauk County Board of Supervisors on May 15, 1990. Amended by the Sauk County Board of Supervisors on February 20, 1996.