

# CHAPTER 28

## HUMAN HEALTH HAZARDS

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### SUBCHAPTER I

#### GENERAL PROVISIONS

**28.001 Title.** This ordinance may be cited as the Sauk County Human Health Hazards Ordinance.

**28.002 Effective date.** This ordinance shall become effective upon its adoption by the Sauk County Board of Supervisors.

**28.003 Purpose.** The purpose of this ordinance is to protect the public health, safety, welfare, and environment for the people and communities of Sauk County.

**28.004 Administration.** This ordinance shall be administered by the health department under the guidance of the board of health, in cooperation with state agencies. The Sauk County Health Officer shall have the power to ensure compliance with the intent and purpose of this ordinance by any means authorized by the law. The health officer may designate in writing other employees of the health department as designees to carry out the responsibilities of this ordinance. These designees shall have those powers designated by the health officer and may include any power or duty of the health officer.

**28.005 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 other county ordinance.

**28.006 Authority.** This ordinance is adopted pursuant to the authority granted by law including Wis. Stat. §§59.70, 59.54, 66.0119, 66.0417, 66.115, 66.122, 95.50(3), 68, 173, 250, 251, 252, 254, 823, as further updated or modified by law.

**28.007 Severability.** Each section, paragraph, sentence, clause, word, and provision of this ordinance is servable, and if any provisions shall be held unconstitutional or invalid by a decision of any court or other tribunal having jurisdiction for any reason, such decisions shall not affect the remainder of this ordinance nor any part, other than that clearly intended to be affected by such decision.

**28.008 Jurisdiction.** The jurisdiction of this ordinance shall include all air, land, and water; both surface and ground; within Sauk County.

## SUBCHAPTER II

## DEFINITIONS

**28.009 Word usage.** For the purposes of this ordinance, certain words and terms are used as follows:

(1) Words used in the present tense include the future.

(2) Words in the singular include the plural.

(3) Words in the plural include the singular.

(4) The word “shall” is mandatory and not permissive.

(5) Words and phrases not defined in this subchapter 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 the peculiar meaning unless such construction would produce a result inconsistent with the manifest intent of this ordinance.

(6) All definitions as set forth in Wis. Stat. chs. 66.0417, 68, and 251, 254, 823, Wis. Admin Code ch. DHS 140, are incorporated in this ordinance by reference and shall be construed, read, and interpreted as if fully set forth in this subchapter until amended, and then shall apply as amended.

**28.010 Definitions.** For the purposes of this ordinance, certain words and terms are defined as follows:

(1) “Board of health” means the Sauk County Board of Health.

(2) “Building or structure” means a building or structure having walls and a roof erected or set upon an individual foundation or slab constructed base designed or used for the housing, shelter, enclosure, or support of persons, animals or property of any kind. This definition includes mobile homes.

(3) “County” means Sauk County, Wisconsin.

(4) “Health department” means the Sauk County Health Department

(5) “Health director” means the director of the health department.

(6) “Health hazard” means a situation or condition which exists or has the potential to exist which adversely affects or has the potential to adversely affect the health of a person or the general public.

(7) “Health officer” means a public official charged with the administration, enforcement, and interpretation of the Sauk County Human Health Hazards Ordinance.

(8) “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 or removed.

(9) “Immediate health hazard” means a health hazard which should, in the opinion of the health officer, be abated or corrected immediately, or not later than within a 24-hour period, to prevent possible serve damage to human health or the environment.

(10) “Owner” means any of the following:  
(a) A person who has legal title to a dwelling; or  
(b) A person who has charge, care or control of a dwelling or unit of a dwelling as an agent of or as executor, administrator, trustee or guardian of the estate under Subsection A.

(11) “Person” means any individual, firm, institution, corporation, society, or other entity

(12) “Pollution” means the contaminating or rendering unclean or impure of the air, land, or waters of the county, or the introduction of any substance that causes injury to public health, is harmful to the commercial or recreational use of the air, land, or waters of the county, or is deleterious to fish, bird, animal, or plant life

(13) “Public” means affecting or having the potential to affect the people or environment outside the limits of an individual’s personally occupied structure or all persons outside of an individual’s personally owned or occupied structure.

(14) “Toxic or hazardous substance” means any chemical or biological material that is, or has the potential to create, a public health hazard.

## SUBCHAPTER III

## HEALTH HAZARDS

**28.011 Human health hazards. (1) HUMAN HEALTH HAZARDS PROHIBITED.** No person shall erect, construe, cause, continue, maintain, or permit any human health hazard within Sauk County. Any person who shall cause, create or maintain a human health hazard, 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 hazard and to the penalty provided in this ordinance.

**(2) RESPONSIBILITY OF PROPERTY OWNER.** It shall be the responsibility of the property owner, agent, or occupant to maintain the owner's property in a hazard-free manner, and also to be responsible for the abatement or correction of any human health hazard that has been determined to exist on their property. In the event that the property is occupied by a tenant who rails or refuses to abate or correct a human or immediate health hazard for which the tenant is responsible, responsibility for abatement or correction will be that of the property owner.

**(3) HUMAN HEALTH HAZARDS ENUMERATED.** The following, except to the extent 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 human health hazards without limitation by reason of such enumeration:

a. 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.

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

c. Causing or allowing the pollution of any well, cistern, spring, ground water, lake, canal, or body of water by sewage or industrial wastes, fertilizers, toxic pesticides, or other substances harmful to human beings, including the chemical

and biological substances listed in Wis. Admin. Code ch. NR 140.

d. 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 Wis. Stat. § 95.

e. Causing or allowing unreasonable accumulation 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.

f. 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.

g. Failing to comply with any law or regulation regarding sanitation and health including:

1. Water supplies, including wells and surface waters.

2. Waste disposal.

3. Storage of chemical pesticides or herbicides.

4. Public buildings.

h. 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.

i. 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.

**28.012 Designation of housing as human health hazard.** (1) Any dwelling or dwelling unit found to have any of the following defects shall be designated a human health hazard and unfit for human habitation:

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

(b) One in which water, sewer, heating, electrical, or septic system facilities fail to adequately protect the health or safety of the occupants or of the public.

(c) One which is not free of accumulation of solid waste, garbage, animal waste and other debris, which results in an unhealthy and unsanitary condition and presents a potential danger to public health.

(2) Any dwelling or dwelling unit found to have an immediate health hazard shall be condemned as unfit for human habitation and shall be so designated as a health hazard and shall be placarded by the health officer.

(3) Any dwelling or dwelling unit condemned as unfit for human habitation and so designated and placarded by the health officer shall be vacated within a reasonable time as specified by the health officer. No dwelling or dwelling unit which has been condemned and placarded as unfit for human habitation shall again be used for human habitation until written approval is secured by the health officer upon re-inspecting the dwelling or dwelling unit. The health officer at this time shall remove such placard whenever the hazardous condition or situation upon which the condemnation and placarding were based has been eliminated.

#### SUBCHAPTER IV

##### PROCEDURES AND ADMINISTRATION

**28.013 Responsibilities and powers.** (1) RESPONSIBILITIES OF HEALTH OFFICERS OR DESIGNEES. To insure compliance with the purpose, requirements, and intent of this ordinance and of Wis. Stat. ch. 251.06.

(2) POWERS. The health officer or designee shall have all the powers necessary to

enforce the provisions of this ordinance without limitation by reason of enumeration including the following:

(a) To investigate all potential human health hazards and determine whether or not a human health hazard exists.

(b) To order abatement or correction of any human health hazard in compliance with this ordinance or state statutes.

(c) To prohibit the use of a public facility that has been determined to present a potential health hazard or is in non-compliance with this ordinance.

(d) To delegate the responsibilities of administration and enforcement of this ordinance to a registered environmental health sanitarian or another person qualified in the field of public health.

(e) Any other action authorized by law to ensure compliance with the purpose and intent of this ordinance.

**28.014 Temporary orders.** Whenever, as the result of an investigation or inspection, the health officer has reasonable cause to believe that an immediate health hazard exists on a premises covered by this ordinance, the health officer may issue a Temporary Order in accordance with Wis. Stat. §66.0417 (2).

**28.015 Enforcement and penalties for violations.** (1) WRITTEN ORDER. When a health officer determines that a human health hazard in violation of this ordinance is being maintained or exists, the health officer shall issue to the violator a written order, served personally or by registered mail to the owner, and tenant if applicable, with return receipt requested. 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 positing a copy of the order of abatement in a prominent place on the premises. The order shall specify the following:

(a) The nature of the violation and the steps needed to abate or correct it.

(b) The time period in which the violation must be corrected or abated.

(c) The penalty the violator would be subject to if the violation is not abated or corrected within the given time period.

(2) EXPECTATION TO WRITTEN ORDER. In cases where an immediate health hazard is determined by the health officer, or in a case of repeated occurrences of the same violation by the same person, the actions specified in the subsection below may be initiated immediately.

(3) NONCOMPLIANCE WITH ORDER.

(a) If a person does not comply with a written order from the health officer, the person may be subject to one or more of the following actions, penalties, or both.

1. Issuance of a citation and respective forfeiture as established in Sauk Co. Code ch. 20 for each offense. The health officer or authorized representative may issue citations using the standard citation form used by Sauk County. Citations may be served in person or sent by certified mail.

2. Commencement of legal action seeking a court imposed forfeiture as established in Sauk Co. Code ch. 20 for each offense.

3. Commencement of a legal action seeking an injunction to abate the violation or correct the damage created by the violation.

4. Any other action authorized by this ordinance or by other applicable laws as deemed necessary by the health officer.

5. The initiation of one action or penalty under this section does not exempt the violator from any additional actions or penalties listed in this section.

(b) Sauk County Corporation Counsel is hereby delegated the duty of prosecuting violations of this ordinance referred in this subchapter. The Sauk County Corporation Counsel shall take steps as that officer deems appropriate to enforce this ordinance and the order for abatement and to abate the human health hazard and to enjoin the future continuation of such. 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.

(4) ABATEMENT AND COSTS. If the human health hazard is not abated or removed by the date specified, the health officer or other health

professional shall immediately enter upon the property and abate or remove the human health hazard. The cost of the abatement or removal may be recovered from the person committing or allowing the violation, or may be paid by the Sauk County Treasurer, and the account, after being paid by the Sauk County Treasurer, shall be filed with the Sauk County Clerk, who shall enter the amount chargeable to the property in the next tax roll in a column headed "For Abatement of a Human Health Hazard" as a special tax on the lands upon which the human health hazard was abated and the tax shall be collected as are other taxes.

(5) INSPECTION. Except in cases of emergency, special exception warrants shall be obtained from the Sauk County Circuit Court in accordance with Wis. Stat. § 66.0119, for the purpose of performing duties under this ordinance or other laws, 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 is refused.

(6) PENALTIES. Any person or entity violating this ordinance, or any rule promulgated in this subchapter or incorporated by reference, shall forfeit not less than \$50 nor more than \$200, together with applicable penalty assessments and the taxable costs of prosecution, and the court may also grant injunctive relief. Each day that a violation exists 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. Forfeitures are exclusive of any fees or costs imposed pursuant to the Wisconsin Statutes.

**28.016 Right to appeal.** Any person aggrieved by a decision of the health officer under this ordinance shall have the right of appeal pursuant to Sauk Co. Code ch. 33. The health officer shall provide to any person aggrieved detailed notice of the right to appeal and the appeal procedures.

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Previously Ch. 28 – As adopted by the Sauk County Board of Supervisors on February 20, 1996. Repealed and recreated by the Sauk County Board of Supervisors on January 19, 1999 – Ordinance No. 13-99. Amended by the Sauk County

Board of Supervisors on June 16, 2009 – Ordinance No. 74-09. Amended by the Sauk County Board of Supervisors on March 20, 2012 – Ordinance No 5-2012. Previously Ch. 29 – Adopted by the Sauk county Board of Supervisors on May 15, 1990. Amended by the Sauk County Board of Supervisors on February 20, 1996. Previously Ch. 44 – as adopted by the Sauk County Board of Supervisors on April 17, 2007–Ordinance No. 51-07. Amended by the Sauk County Board of Supervisors on April 16, 2013 – Ordinance No. 07-13. Chapter 28, 29, & 44 – repealed and recreated as Ch. 28 by the Sauk County Board of Supervisors on December 16, 2014 – Ordinance No. 9-14. Previously Ch. 28 – Repealed and recreated as Ch. 28 by the Sauk County Board of Supervisors on January 17, 2017 – Ordinance No. 1-17.