

## ORDINANCE NO 225

### WAUSHARA COUNTY PUBLIC HEALTH HAZARD ORDINANCE

#### GENERAL PROVISIONS

- A. TITLE - This ordinance shall be referred to as the “Waushara County Public Health Hazard Ordinance.”
- B. EFFECTIVE DATE - The effective date of this ordinance shall be immediately after adoption by the Waushara County Board of Supervisors and its pursuant publication.
- C. ADMINISTRATION - This ordinance shall be administered by the legally designated county health officer in cooperation with Waushara County Board of Health and the appropriate state agencies. The health officer’s duties are prescribed pursuant to Chapter 251.06 Wisconsin Statutes and shall have the power to insure compliance with the intent and purpose of this ordinance by any appropriate means under the law.
- D. INTERPRETATION - The provisions of this ordinance shall be interpreted to be the minimum requirements and shall be liberally translated in favor of Waushara County and shall not be deemed a limitation of any power granted by the State of Wisconsin Statutes.
- E. APPLICABILITY - The provisions of this ordinance shall apply to all areas of Waushara County except cities, towns or villages within the county that have local Health Departments.

#### PUBLIC HEALTH HAZARD

##### (1) DEFINITIONS USED IN THIS CHAPTER

Words or phrases, unless specifically defined, shall be interpreted as having the same meaning as they have in Wisconsin Statutes, Wisconsin Administrative Codes and/or Judicially interpreted by Wisconsin Case Law.

- A) Human Health Hazard. “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.
- B) Immediate Human Health Hazard. 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 or the environment.

- C) Pollution. The contaminating or rendering unclean or impure the air, land or waters in 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.
- D) Toxic and Hazardous Materials. Any chemical or biological material that is stored, used or disposed of in such quantity or manner that it is or has the potential to create a public health hazard.
- E) Health Officer. "Health Officer" means the Waushara County Public Health Department Director.

(2) HUMAN PUBLIC HEALTH HAZARD PROHIBITED

No person shall erect, create, cause, continue, maintain or permit any public health hazard within the 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 (sic) thereof, shall be guilty of a violation of this section and shall be liable for all costs and expenses attendant upon the removal and correction of such a health hazard.

The following acts, omissions, places, conditions and things are specifically declared to be public health hazards coming within the definition of sub. (1).

- (A) Breeding Places for Vermin, etc. Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, tires, packing material, scrap metal or any material in which flies, mosquitoes, disease carrying insects, rats of (sic) other vermin can breed.
- (B) Water Pollution. The pollution of any well or cistern, stream, lake, canal or other body of water by sewage, industrial wastes, fertilizers and toxic pesticides, or other substances harmful to human beings.
- (C) Noxious Odors, etc. This ordinance adopts the provisions of NR 429 of the Wisconsin Administrative Code.
- (D) Air Pollution. This ordinance adopts the provisions of NR 429 of the Wisconsin Administrative Code.
- (E) Animal Waste. Accumulations of the bodily waste from all domestic animals and fowl that are handled, stored or disposed of in a manner that creates a health hazard to any appreciable number of persons within the County.
- (F) Wastewater. The presence of wastewater or sewage effluent from buildings on the ground surface, backing up into the building and or running into a surface water body caused by a damaged, malfunctioning, improperly constructed or inadequately maintained private on site waste disposal system or private sewage lateral connected to a public sewer system. Also any wastewater or sewage

effluent that is not handled and disposed of in compliance with applicable county and State codes.

- (G) Hazardous Conditions. All open and unguarded pits, wells, excavations, tunnels, cisterns, foundations, mineshafts, or unoccupied basements freely accessible from any county road.
- (H) Groundwater Pollution. Addition of any chemical 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 Ch. NR 809, Wisconsin Administrative Code, titled, "Safe Drinking Water".
- (I) Other. Any other situation or condition defined by Wisconsin Statutes to be a Human Health Hazard.

#### DESIGNATION OF UNFIT DWELLINGS

- (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 placarded by the Health Officer.
  - (a) One which is so damaged, decayed, dilapidated, unsanitary, unsafe, unsafe (sic) 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 general condition or location, is unsanitary or otherwise dangerous to the health or safety of the occupants or of the public.
  - (d) One which, because of its condition, has been implicated as the source of a confirmed case of lead poisoning or asbestosis.
- (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 purposes of this Chapter, "unfit for human habitation" means 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 placarded 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 placarded 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 placard from any dwelling or dwelling unit which has been condemned as unfit for human habitation.
- (6) Any person 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 hearing in the matter 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 therefore, such notice shall be in writing including a description of the real estate involved, a statement of violations and corrective actions required, and allowing a reasonable time for the performance of any act required. Such notice shall be served upon the owner, operator or occupant as the case may require, and may be served by ordinary mail or in the manner provided by Chapter 801, Wisconsin Statutes.

## ENFORCEMENT

- (1) It shall be the duty of the Director of the Waushara County Public Health Department acting under the supervision of the Waushara County Public Health Board, to enforce the provisions of this Ordinance. The Director of the Waushara County Public Health Department is hereby delegated authority to enforce the provisions of this Ordinance, including the power to delegate these duties to designer, inspect private premises, issue orders for abatement, and take action to abate human health hazards under this Ordinance. The officer charged with the enforcement of this Ordinance shall take all reasonable precautions to prevent the commission and maintenance of public human health hazards affecting public health.
- (2) Nothing in this Ordinance shall prevent the Director (or designee) of the Waushara County Public Health Department from referring violations of state and federal law to the appropriate state and federal authorities.

## ENFORCEMENT PROCEDURES

- (1) Whenever in the judgment of the Director of the Waushara County Public Health Department it is determined upon investigation that a public human health hazard affecting public health and in violation of this Ordinance is being maintained or

exists within Waushara County, that officer may issue a written order of abatement ordering the person committing or maintaining such human health hazard to terminate and to abate it and to remove the conditions or remedy the defects creating the human health hazard. The order of abatement shall be served upon the person committing or maintaining the human health hazard by either certified mail or registered mail or in the manner set forth for service of a summons in Chapter 801, Wisconsin Statutes. 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 to abate and remove the human health hazard. Whenever an investigation hereunder involves a search or private premises and the owner or other person having equal rights to the use and occupancy thereof does not consent thereto, and absent any exception to the warrant requirement, that officer shall apply to the Circuit Court of Waushara County for a special inspection warrant pursuant to Section 66.122, Wisconsin Statutes.

- (2) When the order for abatement has not been complied with, the Health Officer may issue a citation under the provisions of this Ordinance, or, refer such non-compliance to the Waushara County Corporation Counsel, which officer is hereby delegated the duty of prosecuting violations of this Ordinance. The Corporation Counsel shall take steps to enforce this Ordinance and the order for abatement and to abate the human health hazard and to enjoin the future continuation of the human health hazard.

### PENALTIES

All violations of this Ordinance shall be subject to a forfeiture of not less than Fifty Dollars (\$50.00) and not more than Five Hundred Dollars (\$500.00) per offense, together with applicable surcharges and penalty assessment 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 County Jail.

### 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.

Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Abstain \_\_\_\_\_ Absent \_\_\_\_\_ {X} Voice Vote

Approved and adopted this 10th day of December, 1996.

Approved:

/s/ Randall V. TeWinkle

Randy TeWinkle

Corporation Counsel

Submitted by:

/s/ June M. Roehl

June Roehl, Chairman

Board of Health

Attest:

/s/ John Benz

John C. Benz

Waushara County Clerk

Signed by:

/s/ George Sorenson

George Sorenson, Chairman

Waushara County Board