

AMENDMENT NO. _____ TO ORDINANCE NO. 179

CHAPTER 10 PUBLIC NUISANCES

THAT THE CODE OF ORDINANCES BE AMENDED BY REVISING CHAPTER 10, PUBLIC NUISANCES:

BE IT ORDAINED BY THE COUNTY BOARD OF SUPERVISORS OF PEPIN COUNTY:

Section 1. Authority and Purpose. This ordinance is enacted under the authority of Section 59.03 Wis. Statutes.

Section 2. That the code of Ordinances of the County of Pepin be amended by revising parts of a chapter to be numbered and read as follows:

CHAPTER 10 PUBLIC NUISANCE HUMAN HEALTH HAZARD ORDINANCE

Wording change: INSANITARY replaced with UNSANITARY

TABLE INSET:

10.01	Public nuisances Prohibited <u>Statutory Authority</u>
10.02	Public Health Nuisance <u>Purpose and Intent</u>
10.03	Definitions
10.04	Responsibility of Property Owner
10.05	Public Nuisances Affecting Health <u>Human Health Hazards</u>
10.06	Designation of Unfit Dwellings
10.07	Investigation of Possible Public Nuisances Human Health Hazards
10.15	Enforcement
10.16	Enforcement Procedure
10.17	Abatement of Violation
10.18	Penalties

~~10.01 PUBLIC NUISANCES 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 in any way aid or contribute to the causing, creating or maintenance thereof shall be guilty of a violation of this chapter and be liable for all costs and expenses attendant upon the removal and correction of such a nuisance and the penalty provided in this chapter.~~

~~10.02 PUBLIC HEALTH NUISANCE~~

~~Whoever by his act or failure to perform a legal duty, intentionally does any of the following is guilty of maintaining a nuisance:~~

- ~~(a) Substantially annoy, injure or endanger the comfort, health, repose or safety of the public.~~
- ~~(b) In any way render the public insecure in life or in the use of property~~

10.01 STATUTORY AUTHORITY. This ordinance is adopted pursuant to the authority granted by Wisconsin State Statute 251, 252, and 254.

10.02 PURPOSE AND INTENT

The purpose and intent of the Ordinance is to protect the public health, safety, and general welfare and to maintain and protect the environment for the people and communities of Pepin County and to:

- (a) Prevent communicable diseases.**
- (b) To prevent the continuance of human health hazards.**
- (c) Assure that local, state and federal air quality standards are complied with.**
- (d) Assure that insects and rodents do not create human or other health hazards.**
- (e) Assure that surface and groundwater meet local, state and federal standards and regulations.**
- (f) Assure that solid waste is handled, stored and disposed of according to local, state, and federal standards and regulations.**
- (g) Assure that citizens are protected from hazards, unhealthy, or unsafe substances.**
- (h) Provide for the administration and enforcement of this ordinance.**

10.03 DEFINITIONS

The following terms have the meanings indicated:

Dwelling. Any structure, all or part of which is designed or used for human habitation.

Environmental Pollution. The contaminating or rendering unclean or impure the air, land, or waters of the state, or making the same injurious to public health, harmful for commercial or recreational use, or deleterious to fish, bird, animal or plant life.]

~~*Health Hazard.* A situation or condition which exists or has the potential to adversely affect the health of a person or the general public.~~

Human Health Hazard. A substance, activity, or condition that is known to have the potential to cause acute or chronic illness, to generate or spread infectious diseases, or otherwise injuriously to affect the health of the public.

~~*Immediate 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.~~

Owner. Person who has the legal title to a property or person who has charge, care or control of a property or part of a property as an agent of or as executor, administrator, trustee, tenant, or guardian of the estate of a person with the legal title.

Person. An individual, owner, operator, corporation, limited liability company, partnership, association, municipality, interstate agency, state agency, or federal agency.

~~*Pollution.* The contaminating or rendering unclean or impure the air, land or water 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. as defined in §144.30(9), Wis. Stats~~

Structure. A building, facility or other unit that is constructed or otherwise erected.

~~*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.~~

10.04 RESPONSIBILITY OF PROPERTY OWNER

Every property owner shall maintain his property in a nuisance-free manner and be responsible for the abatement and correction of any public nuisance determined to exist on his property.

10.05 HUMAN HEALTH HAZARDS

The following acts, omissions, places, conditions and things are specifically declared to be public health nuisances coming within the definition of this chapter: **No person shall erect, construct, cause, continue, maintain, or permit any human 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 causing, creating or maintenance thereof shall be in 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.**

~~(1) ADULTERATED FOOD.~~ All decayed, adulterated or unwholesome food or drink sold or offered for sale to the public.

(1) ADULTERATED FOOD. Food bearing or containing any poisonous or deleterious substance which may render it injurious to health; consisting in whole or part of a diseased, contaminated, filthy, putrid or decomposed substance, or if it is otherwise unfit for food; produced, prepared, packed or held under insanitary conditions whereby it may have become contaminated with filth or whereby it may have been rendered diseased, unwholesome or injurious to health.

~~(2) AIR POLLUTION.~~ The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash, industrial dust or any other atmospheric pollutants within the County that creates noncompliance with Ch. NR 154, Wis. Adm Code.

(2) AIR POLLUTION. The presence in the atmosphere of one or more air contaminants in such quantities and of such duration as is or tends to be injurious to human health or welfare, animal or plant life, or property, or would unreasonably interfere with the enjoyment of life or property

~~(3) BREEDING PLACES FOR VERMIN, ETC.~~ Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material in which flies, mosquitoes, disease carrying insects, rats or other vermin can breed.

~~(4) 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, mosquitoes, disease carrying insects, rats or other vermin can breed, live, nest or seek shelter.

~~(5) (3)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 Ch. NR 109, Wis. Adm. Code.

~~(6) (4)HOLES OR OPENINGS.~~ Any hole or opening caused by an improperly abandoned cistern, septic tank, dug well or any other improperly abandoned, barricaded or covered up excavation.

~~(7) (5) MANURE.~~ 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; **Excreta from livestock, poultry, and other materials such as bedding, rain or other water, soil, hair, feathers, and other debris that becomes intermingled with excreta. (Chapter 13 Pepin County Manure Storage Ordinance and Adm Code ATCP 50.)**

~~(8) (6)NONFUNCTIONAL PUBLIC BUILDING FIXTURES.~~ Nonfunctioning water supply systems, toilets, urinals, lavatories or other fixtures considered necessary to insure a sanitary condition in a public building.

~~(9) (7)NOXIOUS ODORS.~~ Any negligent use of property, substances or things within the County emitting or causing any foul, offensive, noisome, noxious or disagreeable odor or stenches extremely repulsive to the physical senses of ordinary persons or a neighborhood as a whole.

~~(10) (8) NOXIOUS WEEDS. All noxious weeds and other rank growth of vegetation. All weeds and grass shall be kept cut to a height of not to exceed 1 1/2'. The County may cause all weeds and grass to be cut and removed and brush to be removed and the cost thereof charged to the property owner under §66.60(16) Wis. Stats.~~

~~(11) (8) PRIVY VAULTS AND GARBAGE CANS. Privy vaults and garbage cans which are not fly tight.~~

~~(12) (10) SOLID WASTE. Any solid waste which is stored or disposed of in noncompliance with Ch. NR 180, Wis. Adm. Code.~~

(9) SOLID WASTE. Any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded or salvageable materials, including solid, liquid, semisolid, or contained gaseous materials resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solids or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits by State and County codes.

~~(13) (10) STAGNANT WATER. All stagnant water in which mosquitoes, flies or other insects can multiply **BREED.**~~

~~(14) (11) STREET POLLUTION. Any use of property which causes any noxious or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the County.~~

~~(15) SLUDGE. The disposal and storage of municipal sludge in noncompliance with Ch. NR 110, Wis. Adm. Code, and the disposal and storage of septic tank, holding tank or privy sludge and other holdings in noncompliance with Ch. NR 113, Wis. Adm. Code.~~

(12) SLUDGE. Any solid, semi-solid or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility, or any other such waste having similar characteristics and effects.

~~(16) (13) SURFACE WATER POLLUTION. The pollution of any stream, lake or other body of surface water within the County that creates noncompliance with **State and County codes.**~~

~~(17) TOXIC AND HAZARDOUS MATERIALS. Any chemical **AND**/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.~~

(14) TOXIC AND HAZARDOUS SUBSTANCE. Any substance or combination of substances including any waste of a solid, semisolid, liquid or gaseous form which may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or which may pose a substantial present or potential hazard to human health or the environment because of its quantity, concentration or physical, chemical or infectious characteristics. This term includes, but is not limited to, substances which are toxic, corrosive, flammable, irritants, strong sensitizers or explosives as determined by the department.

~~(18) (15) 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 the time period specified by the Health Officer .~~

~~(19) (16) UNHEALTHY OR UNSANITARY CONDITION. Any condition or situation which renders a structure or any part thereof unsanitary, unhealthy and unfit for human habitation, occupancy or use or renders any property unsanitary or unhealthy.~~

(17) WASTE/ FOOD OR BREEDING PLACES FOR VERMIN, INSECTS, ETC.

Accumulations of animal or human fecal matter of other materials, including, but not limited to, decayed animal or vegetable matter, hair, feathers, eggshells, trash, rubbish, garbage, rotting lumber, bedding, packing material, scrap metal, or any substance that either is

handled, stored, or disposed of in a manner that creates a health hazard or in which flies, mosquitoes, disease-carrying insects, rats or other vermin can breed, live, nest or seek shelter.

~~(20)~~ **(18)** 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 sewage system or private sewage lateral. Also, any wastewater or sewage effluent that is not handled and disposed of in compliance with all applicable County and State codes.

~~(21)~~ **(19)** WATER POLLUTION. The pollution of any public well or cistern, stream, lake, canal or other body of water by sewage, creamery or industrial wastes or other substances.

(20) ABANDONED REFRIDGERATORS, VEHICLES, and OTHER AIR-TIGHT CONTAINERS. Any abandoned, unattended, or discharged icebox, refrigerator, vehicle or other container which has an airtight door, lid, snap lock or other locking device which may not be released from the inside of said container and which is in a place that is accessible to children regardless of the location of said container.

~~(23)~~**(21)** OTHER. Any other situation determined by the Health Officer to be a Human Health Hazard as defined in section 10.03 of this ordinance.

10.06 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 as a nuisance and shall be placarded by the Health Officer.

(a) One which is so 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 illumination, ventilation or sanitation facilities adequate to protect the health or safety of the occupants or of the public.~~

(b) One which lacks potable water supply, a properly functioning public or private sanitary sewer system, or a functioning ventilation system adequate to protect the health or safety of the occupants.

(c) One which has been implicated as the source of a confirmed case of lead poisoning, asbestosis exposure, or other harmful substances.

~~(e)~~ **(d)** 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.

(2) 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.

(3) 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.

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

(5) 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.

(6) 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 shall give or cause to give 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 violation 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 in person, by registered mail or in the manner provided by the Wisconsin Statutes for the service of summons. Such notice may contain an outline of remedial action which, if taken, will effect compliance with the provisions of this section and with rules and regulations adopted pursuant thereto.

(7) Any person affected by any notice or order relating to a dwelling or dwelling unit under the provisions of this section may request and shall be granted upon request a hearing in the matter before the County Health Board.

10.07 INVESTIGATION OF POSSIBLE ~~public nuisances~~ HUMAN HEALTH HAZARDS

The Health Officer or designated representative shall investigate all potential ~~public nuisances~~ human health hazards and shall determine whether or not a ~~public nuisance~~ human health hazard exists.

10.15 ENFORCEMENT

The County Board, by and through its Health Committee, shall enforce the provisions of this chapter and the Health Committee is hereby delegated authority to enforce the provisions of this chapter, including the power to inspect private premises, issue orders for abatement, issue citations for violations and abate ~~public nuisances~~ human health hazards. The officers charged with the enforcement of this chapter shall take all reasonable precautions to prevent the commission and maintenance of ~~public nuisances~~ human health hazards.

10.16 ENFORCEMENT PROCEDURE

Whenever in the judgment of the officer charged with enforcement it is determined upon investigation that a ~~public nuisance~~ human health hazard is being maintained or exists within the County, such officer:

(1) Shall notify in writing the person committing or maintaining such violation and require him to terminate and abate the violation and remove such conditions or remedy such defects. The written notice shall be served upon the person committing or maintaining the violation in person, by registered mail or in the manner provided by the Wisconsin Statutes. If the premises are not occupied and the address of the owner is unknown, service on the owner may be had by posting a copy of the notice on the premises. The notice shall require the owner or occupant of such premises or both to take reasonable steps within a reasonable time to abate and remove the violation. The maximum time for the removal of the violation after service of the notice shall not in any event exceed 30 days. Service of notice may be proved by filing an affidavit of service with the County Clerk setting forth the manner and time thereof.

(2) May issue a citation for violation of this chapter at the time the notice is served or any time thereafter until the order to abate has been complied with. The citation shall be in the form prescribed in the §25.04(4) of this Code of Ordinances and shall specify a forfeiture according to the schedule of forfeitures adopted within the §25.04(4). When the order to abate as contained in the notice has not been complied with, such noncompliance shall be reported to the Health Board for such action as may be necessary and deemed advisable in the manner of the County Board to abate and enjoin the further continuation of the violation.

10.17 ABATEMENT OF VIOLATION

If after service of notice the person served fails to abate the ~~public nuisances~~ human health hazard or make the necessary repairs, alterations or changes in accordance with the order of the Health Officer or Health Board, the Health Officer or Health Board may cause such violation to be abated at the expense of the Board and recover such expenditure by civil action against the person or persons

served or, if service has been had upon the owner or occupant, by ordering the Clerk to extend such sum as a special tax against the property upon which the violation existed and to certify the same to the County for collection in the same manner as taxes and special assessments are certified and collected.

10.18 PENALTIES

Any person who shall cause or create a violation of this chapter or ~~public nuisances~~ human health hazard or permit any violation of this chapter or ~~public nuisances~~ human health hazard to be created or placed upon or to remain upon any premises owned or occupied by him and any person who shall fail to comply with any order made under the provisions of this chapter, upon conviction thereof, shall be guilty of a misdemeanor and shall be punished by a forfeiture of not less than \$10, together with taxable cost, nor more than \$200 or by imprisonment in the county jail for not more than 10 days or both. Each day of violation shall constitute a separate offense.

Effective Date. This amendment shall take effect upon publication of the minutes of the April 2010 County Board meeting.

ADOPTED:

ORDINANCE COMMITTEE

Patrick Milliren, Chairman

George Dupre

Jon Tappe

Mike Murray

ATTEST: _____

Marcia R. Bauer
Pepin County Clerk