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POLK COUNTY CLERK

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STATE OF WISCONSIN)
) ss
COUNTY OF POLK)

I, Sharon Schiebel, County Clerk for Polk County do hereby certify that the attached is a true and correct copy of Resolution No. 2-00 which was adopted by the Polk County Board of Supervisors on January 26, 2000.

Sharon Schiebel
Sharon Schiebel, County Clerk

RESOLUTION 2-00

ORDINANCE NO. 1

HUMAN HEALTH HAZARD ORDINANCE

The Polk County Board of Supervisors, Polk County, Wisconsin, do hereby ordain as follows:

1.01 Definitions

(1) Definitions enumerated - the following definitions apply throughout the entire Ordinance.

(a) County - means Polk County, Wisconsin

(b) Days - means calendar days.

(c) Dwelling - structure used for housing people.

(d) Groundwater - all water found beneath the surface of Polk County located in sand, gravel, lime rock or sandstone geological formations or any combinations of these formations.

(e) Human Health Hazard - means a substance, activity or condition that is known to cause acute or chronic illness or death if exposure to the substance, activity or condition is not abated.

(f) Health Officer - means public health professional responsible for environmental sanitation.

(g) Ordinance - means the "Polk County Human Health Hazard Ordinance."

(h) Person - means any individual, firm, corporation, society, institution, public body or any other entity.

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

(j) Solid Waste - means garbage, refuse and all other discarded or salvageable solid materials, including solid waste materials resulting from industrial, commercial, and agricultural operations and from domestic use and public service activities, but does not include solids or dissolved material in waste water effluent or other common water pollutants.

(k) State - means State of Wisconsin

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

(m) Toxic and Hazardous Materials - any chemical and/or biological material that has the potential to create a public health hazard.

1.02 General Provisions

(1) Title - This ordinance shall be referred to as the "Polk County Human Health Hazard Ordinance."

(2) Effective Date - This ordinance shall be effective upon passage and publication.

(3) Administration - This ordinance shall be administered by the Health Officer or his/her designee.

(4) Interpretation - The provisions of this ordinance shall be interpreted to be minimum requirement and shall be liberally construed in favor of Polk County and shall not be deemed a limitation or repeal of any power granted by the Wisconsin Statutes.

1.03 Authority

This ordinance is adopted pursuant to the authority granted by Chapters 251 and 254 of the Wisconsin Statutes.

1.04 Purpose and Intent

(1) General Provisions - The purpose and intent of this ordinance is to protect the public health, safety and general welfare and to maintain and protect the environment for the people of Polk County and to:

(a) Prevent communicable diseases.

(b) Prevent the continuance of human health hazards.

(c) Assure that the County and State air quality standards are complied with.

(d) Assure that insects and rodents do not create a human health hazard.

(e) Assure that surface and groundwater meet County and State standards and regulations.

(f) Assure that solid waste is handled, stored and disposed of according to County and State 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 and to provide penalties for its violation.

1.05 Jurisdiction

The jurisdiction of this ordinance shall include all air, land and water (both surface and ground) within Polk County.

1.06 Severability and Repeal

(1) Severability - Each section, paragraph, sentence, clause, word and provision of this ordinance is severable, and if any provisions shall be held unconstitutional or invalid for any reason, such decisions shall not affect the remainder of this ordinance nor any part thereof other than that affected by such decision.

(2) Repeal - All other ordinances or parts of ordinances of Polk County inconsistent or conflicting with this ordinance to the extent of the inconsistency only, are hereby repealed.

1.07 Administration

(1) General Provisions - The Human Health Hazard Ordinance shall be interpreted, administered, and enforced by the Polk County Health Officer.

(2) Powers - The Health Officer shall have all the powers necessary to enforce the provisions of this code without limitation by reason of enumeration including the following:

(a) To enter any structure or premise at a reasonable time for the purpose of performing duties under this ordinance and to secure a court order to accomplish this purpose if necessary.

(b) To close or restrict swimming, diving and recreational bathing if a human health hazard exists in any area used for those purposes on a body of water and on associated land. If closing or restrictions are necessary, the Health Officer shall post the area.

(c) To order abatement and/or corrections of any human health hazard in compliance with this ordinance or State Statutes.

(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, and to use the technical assistance of the Land and Water Resources Department and/or Zoning Office in enforcement.

(e) To initiate any other action authorized under the law or this ordinance to insure compliance with the purpose and intent of this ordinance and the requirements of this ordinance.

1.08 Human Health Hazard

(1) Human Health Hazard prohibited - No person shall erect, construe, 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 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 Section 1.11 of this ordinance.

(2) Responsibility of Property Owner - It shall be the responsibility of the property owner to maintain such owner's property in a hazard free manner and also to be responsible for the abatement and/or correction of any human health hazard that has been determined to exist on their property.

(3) Human Health Hazard Enumerated - Specifically, but not limited by enumeration, the following may be human health hazards:

(a) 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 or as required by Chapter 95.50 of the Wisconsin Statutes.

(b) Waste- Accumulations of animal or human fecal matter or 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.

(c) Air Pollution - The presence in the atmosphere of one or more air contaminants in such quantities and of such duration that is or has the potential to be injurious to public health, harmful for commercial or recreational use or deleterious to fish, bird, animal or plant life.

(d) Noxious Odors - any use of property, substances or things within the County or outside the County that emit or cause any foul, offensive, noisome or disagreeable odors, or stenches extremely repulsive to the physical senses of ordinary persons.

(e) Solid Waste - Any solid waste which is stored or disposed of in a manner, which may pose a Human Health Hazard as, defined in 1.01(l)(e).

(f) Abandoned Refrigerators and Other Air-Tight Containers - Any abandoned, unattended or discharged icebox, refrigerator or other container which has an airtight door or 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.

(g) Toxic and Hazardous Material - 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.

(h) Waste Water - The presence of waste water 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.

(i) 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 NR 140 of the Wisconsin Administrative Code.

(j) 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.

(k) 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.

(l) Unhealthy or Unsanitary Condition - Any condition or situation which renders any property or structure or any part of thereof unsanitary, unhealthy or unfit for human habitation, occupance or use.

(m) Other - Any other situation determined by the Health Officer to be a Human Health Hazard as defined by Subsection 1.01 (e) of this ordinance.

(4) Investigation of Possible Human Health Hazard - The Health Officer shall investigate all potential human health hazards and shall determine whether or not a human health hazard exists.

(5) Abatement, Correction and Enforcement - Abatement, correction and enforcement of a human health ordinance will be according to the provisions in Section 1.10 of this ordinance.

1.09 Designation of Housing as Human Health Hazard

(1) The Health Officer may declare any dwelling or dwelling unit found to have any of the following defects a human health hazard (as defined in Section 1.02(l)(c) of this ordinance). It shall be condemned as unfit for human habitation and shall be placarded by the Health Officer.

(a) A structure or building 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) A dwelling which lacks a potable water supply, a properly functioning public or private sanitary sewer system, or a functioning heating system adequate to protect the health or safety of the occupants.

(c) A structure or building, 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) A structure or building, 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.

(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 for human habitation may request and shall be granted a hearing in the matter before the Polk County Board of Health.

(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 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 certified mail or in the manner provided by Chapter 801, Wisconsin Statutes for service of summons

1.10 Enforcement

(1) Written Order - When a violation of this ordinance is encountered, the Health Officer shall issue the violator a written order, served personally or by registered mail with return receipt requested. This order shall specify the following:

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

(b) The time period in which the violation must be corrected and/or abated shall be stated in the order.

(c) The penalty or penalties the violator would be subject to if the apparent violation is not abated and/or corrected within the given time period, see subsection (3) and (4) below.

(2) Noncompliance with Order - 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 and/or penalties:

(a) Commencement of legal action, seeking a court imposed forfeiture and corrective remedy.

(b) Commencement of legal action seeking an injunction to abate the violation and/or correct the damage created by the violation.

(c) Any other action authorized by this ordinance or by other applicable laws as deemed necessary by the Health Officer.

(d) The initiation of one action or penalty under this section does not exempt the apparent violator from any additional actions and/or penalties listed in this section or under any other federal, state or local law.

(3) Penalties

(a) Any person that maintains a human health hazard in violation of this ordinance or resists the enforcement of this ordinance shall be subject to a forfeiture of not less than $200 and not more than $500 for each violation.

(b) Any person that has violated this ordinance a second time within 3 years after the initial violation shall be subject to a forfeiture of not less than $500 and not more than $800 for each such subsequent violation.

(c) Any person that has violated this ordinance three times within 3 years after the initial violation shall be subject to a forfeiture of not less than $800 and not more than 1,000 for each such subsequent violation.

(d) In addition to any forfeiture, the person shall also pay court costs and the reasonable costs incurred by Polk County or its designee in correcting or abating the human health hazard.

(e) Each 10-day period for which a human health hazard exists is a separate violation.

(4) Initiation of Legal Action - Legal action may be initiated against a violator, as requested by the Health Officer. Upon making such determination, the Health Officer shall refer the violation to the Polk County Corporation Counsel who may obtain an injunction to correct and/or abate the violation or seek a court-imposed forfeiture under this ordinance.

This ordinance shall take effect upon passage and publication as required by Section 59.09, Wisconsin Statutes.

Effective Date: Upon publication.

Submitted at the request of The Polk County Board of Health

Approved as to form: Jeffrey B. Fuge
~~Robert L. Hachey~~ Jeffrey B. Fuge, Assistant Corporation Coun

Date Submitted to County Board January 26, 2000

County Board Action Adopted

Submitted by:

Patricia M. Schmidt

Ruby Kettula