

ORDINANCE #01-08-02

HUMAN HEALTH HAZARD ORDINANCE

The Board of Supervisors of Buffalo County hereby ordains as follows:

A. Definitions enumerated – the following definitions apply throughout the entire ordinance.

1. *County* – means Buffalo County, Wisconsin.
2. *Days* – means calendar days.
3. *Dwelling* – structure used for housing people.
4. *Groundwater* – all water found beneath the surface of Buffalo County located in sand, gravel, rock or sandstone, geological formations or any combination of these formations.
5. *Human Health Hazard* – means a situation or condition which exists, or has the potential to exist, which may or does adversely affect the health of a person or the general public.
6. *Health Officer* – means the public health professional responsible for environmental sanitation.
7. *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.
8. *Ordinance* – means the Buffalo County Human Health Hazard Ordinance.
9. *Person* – means any individual, firm, corporation, society, institution, public body or any other entity.
10. *Pollution* – the contaminating or rendering unclean or impure the air, land or waters of Buffalo County making the same injurious to public health, harmful for commercial or recreational use or deleterious to fish, bird, animal or plant life.
11. *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.
12. *State* – means State of Wisconsin.
13. *Structure* – means anything erected or constructed 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 kind.
14. *Toxic and Hazardous Materials* – any chemical and/or biological material that has the potential to create a public health hazard.

B. General Provisions

1. *Title* – This ordinance shall be referred to as the “Buffalo 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 requirements and shall be liberally construed in favor of Buffalo County and shall not be deemed a limitation or repeal of any power granted by the Wisconsin Statutes.

C. Authority

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

D. 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 Buffalo 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.

E. Jurisdiction

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

F. 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 a decision.
2. *Repeal* – All other ordinances or parts of ordinances of Buffalo County inconsistent or conflicting with this ordinance to the extent of the inconsistency only, are hereby repealed.

G. Administration

1. *General Provisions* – The Human Health Hazard Ordinance shall be interpreted, administered, and enforced by the Buffalo County Health Officer.
2. *Powers* – The Health Officer shall have all the powers necessary to enforce the provisions of this ordinance 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 another person qualified in the field of public health, and to use the technical assistance of the Zoning Department 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.

H. 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 J of this ordinance.
2. *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. Structures – Buildings, wells, and other structures which are damaged or decayed to the point that they present a danger of collapse.
 - d. Stagnant Water – Tires, abandoned pails, and other discarded materials which can collect and hold water in which mosquitoes, flies, or other disease-carrying insects can breed.
 - e. Solid Waste – Any solid waste which is stored or disposed of in a manner that may pose a Human Health Hazard as defined in Section A.
 - f. Abandoned Refrigerators, 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.
 - g. 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.
 - h. Toxic and Hazardous Material – Any chemical and/or biological material that is stored, used or disposed of in such a quantity or manner that it is, or has the potential to create a public health hazard.
 - i. 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.
 - j. 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.
 - k. Unhealthy or Unsanitary Condition – Any condition or situation which renders any property or structure or any part thereof unsanitary, unhealthy or unfit for human habitation, occupancy or use.
 - l. Other – Any other situation determined by the Health Officer to be a Human Health Hazard as defined in Section A of this ordinance.
3. *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.

I. Designation of Housing as a 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. 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.
 - e. A dwelling which lacks doors and windows that exclude rain or snow or allows for infestation of flies and/or other disease-carrying insects.
 - f. A dwelling that does not contain adequate illumination, either by an electrical connection and/or a portable method to protect the health and safety of the occupants and the public.
2. No person shall continue to occupy, rent or lease any dwelling or dwelling unit for human habitation which is 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 Buffalo County Health and Human Services Board.
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. Such notice shall be in writing including a description of the real estate involved and a statement of violations and corrective actions required. A reasonable time for the performance of any act required shall be allowed. 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. 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.

J. 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.
 - 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.

2. *Noncompliance with the Order* – If after service of notice the person served fails to abate the human health hazard or make the necessary repairs, alterations, or changes in accordance with the order of the Health Officer, the Health Officer may cause such violation to be abated at the expense of the Buffalo County Department of Health and Human Services. In the case of an immediate health hazard, the Health Officer may abate the hazard before notification to the person causing or maintaining the health hazard, but the Health Officer shall continue reasonable efforts to provide such notice as practical as possible. Buffalo County DHHS may recover such expenditures by civil action against the person or persons committing or maintaining the violation or, if service has been had upon the owner or occupant, by order of the Clerk may extend such sum as a special tax against the property upon which the violation existed and certify the same to the Buffalo County DHHS for collection in the same manner as taxes and special assessments are certified and collected.
 - a. Any other action authorized by this ordinance or by other applicable laws make be taken as deemed necessary by the Health Officer.
 - b. 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. Anyone who violates 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 subsequent violation.

- c. Any person that has violated this ordinance three times within 3 years after the initial violation shall be subject to forfeiture of not less than \$800 and not more than \$1000 for each subsequent violation.
- d. In addition to any forfeiture, the person shall also pay court costs and the reasonable costs incurred by Buffalo 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.

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

Respectfully submitted this 21st day of August, 2001.

Buffalo County Board of Supervisors