

LAFAYETTE COUNTY ORDINANCE NO. 7-1-1.10a

Public Health Nuisances

1. **General provisions.**

A. Title. This ordinance shall be referred to as the "Lafayette County Public Health Nuisance Ordinance."

B. Effective date. This ordinance shall be effective immediately upon adoption by the Lafayette County Board of Supervisors and publication as provided by law.

C. Administration. This ordinance shall be administered by the Lafayette County Health Department in cooperation with the Lafayette County Board of Health.

D. Interpretation. The provisions of this ordinance shall be interpreted to be the minimum requirements and shall be liberally translated in favor of Lafayette County and shall be not be deemed a limitation of any power granted by the State of Wisconsin Statutes.

2. **Definitions.**

A. As used in this article, the following terms shall have the meanings indicated:

i. **COUNTY**

Lafayette County, Wisconsin.

ii. **HEALTH HAZARD**

Any situation or condition which adversely affects or has the potential to adversely affect the health of a person and/or the general public.

iii. **IMMEDIATE HEALTH HAZARD**

Any condition which adversely affects or demonstrates the potential to adversely affect the community at large and which should, in the opinion of the Lafayette County Health Department Director, the Lafayette County Environmental Health Coordinator, or an employee of the Lafayette County Health Department be abated immediately or within a maximum of 24 hours to prevent possible severe damage to human health and/or to the environment.

iv. **ORDINANCE**

This Lafayette County Public Health Nuisance Ordinance.

v. **PERSON**

Any individual, corporation, society, partnership, entity, or institution.

vi. **POLLUTION**

Contaminating or rendering unclean or impure the air, land, or waters of the County or making the same injurious to the public health or harmful for commercial or recreational use or deleterious to fish, bird or animal life.

vii. **PUBLIC**

Affecting or having the potential to affect the people and/or environment outside the limits of an individual's personally occupied structure or persons outside of an individual's personally occupied structure.

viii. **PUBLIC HEALTH NUISANCE**

(a) Whosoever by an act or failure to perform a legal duty does any of the following is guilty of maintaining a public health nuisance:

(1) Maintains or permits a condition which unreasonably injures or endangers the safety or health of the public or which poses a health hazard; or

(2) Is guilty of any other act or omission declared by law to be a public health nuisance.¹¹

(b) A public health nuisance shall be defined throughout this text as any action, act, occupation, condition or use of property which will likely result in one of the following:

(1) Substantially injure or endanger the health, repose or safety of the public;

(2) In any way render the public insecure in life or in the use of property; or

(3) Create or prolong a condition detrimental to the natural environment or through direct negligence allow the introduction of materials which present a hazard to the environment as a whole.

ix. **SOLID WASTE**

Garbage, refuse and all other discarded or salvageable solid materials including solid waste materials from industrial, commercial, and agricultural operations and from domestic use and public service activities, but excluding solids or dissolved materials in wastewater effluent or other common water pollutants.

x. **STATE**

The State of Wisconsin.

xi. **TOXIC AND HAZARDOUS MATERIALS**

Any chemical and/or biological materials that are or have the potential to create a public health hazard.

B. All other words not specifically defined in this ordinance shall be defined as set forth in any applicable Wisconsin Statutes or regulations and if not defined otherwise, the standard dictionary definition of the word shall apply.

3. Public health nuisances prohibited.

No person shall erect, cause, create, continue, maintain or permit any public health nuisance within the County. Any person who shall erect, cause, create, continue, permit, or maintain such a public health nuisance or who shall in any way aid or contribute to the causing 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 a nuisance and to the penalties provided within this ordinance.

4. Responsibility of property owner.

It shall be the responsibility of the property owner to maintain his or her property in a nuisance-free manner and also to be responsible for the abatement and/or correction of any public health nuisance that has been determined to exist on his or her property.

5. Public health nuisances enumerated.

The term "public health nuisance" is defined in Article 2 of this ordinance. More specifically, but not limited by enumeration, the following are public health nuisances:

A. Air pollution: the escape of excessive smoke, soot, cinders, acids, fumes, gases, fly ash, industrial dust or other atmospheric pollutants within the County that endanger the public health or create noncompliance with applicable state or federal statutes or regulations. The burning of domestic refuse or heating fuels shall be excluded from enforcement under this subsection.

B. Noxious odors: any negligent use of property, substance or device within the County which emits or causes any foul, offensive, noxious or disagreeable odor deemed repulsive to the physical senses of ordinary persons or to the public as a whole, but exclusive of those odors common to ordinary and approved agricultural practices.

C. Unburied carcasses: having the carcass of any animal or fowl not intended for human consumption or food which is not buried or otherwise properly disposed of within a reasonable time period.

D. Manure: excessive accumulations of body wastes from any domestic animal or fowl that are handled, stored, or disposed of in any manner that creates a public health hazard, but exclusive of those wastes common to ordinary and approved agricultural practices.

E. 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. Violations of this subsection also must be immediately referred to the appropriate county, state, and federal agencies by the Lafayette County Health Department.

F. Open dumps: the unauthorized disposal of any waste materials on private or public lands in a manner not in compliance with the requirements of Wisconsin Statutes or regulations.

G. Wastewater: the presence of wastewater or sewage effluent from buildings seeping onto the ground surface or backing up into buildings and/or running into a surface body of water and caused by a damaged or inadequately maintained sewage system or private sewage lateral. This restriction shall also apply to any wastewater or sewage effluent that is not handled or disposed of in compliance with all County and state codes.

H. Holes or openings: any hole or opening caused by an improperly abandoned cistern, septic system, dug or drilled well, foundation, mine shaft, or tunnel and including any improperly abandoned, sealed, barricaded or backfilled excavation for which no proper precautions (i.e., posting and fencing) to prevent entry have been taken.

I. Dilapidated buildings: all buildings or structures so old, dilapidated, neglected or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for use and for which no appropriate precautions (i.e., posting and fencing or closure of entryways) to prevent admittance have been taken.

J. Food and breeding places for vermin, insects, etc.: accumulations of decayed animal or vegetable matter, trash, rubbish, garbage, rotting timber, bedding, packing materials, scrap metal, abandoned structures, animal or human fecal matter, grass or weeds which are more than 10 inches high above the ground on any parcel or real estate which is within 1,000 feet of a residence, or any other substance or condition which promotes flies, mosquitoes, lice, disease-carrying insects, rats or other vermin or their reproduction and including areas in which such pests can live, nest or seek shelter. The above prohibition against having grass or weeds on property taller than 10 inches from the ground does not apply to the following properties:

(1) Any intentionally cultivated agricultural vegetation;

(2) Any vegetation intentionally cultivated or maintained in an effort to reproduce ecosystems or environmental conditions naturally existing in the State of Wisconsin;

(3) Any vegetation intentionally cultivated or maintained in a clearly defined and physically discreet area for landscaping, ornamental, or other aesthetic purposes;

(4) Naturally wooded areas, regulated wetlands, or meadows; or

(5) Any grass or weeds located within a highway right-of-way or other area which is determined by the Lafayette County Health Director, the Lafayette County Environmental Health Coordinator, or any employee of the Lafayette County

Health Department to be located or maintained in such a way as would not cause a public health nuisance or health hazard.

K. Animal welfare: intentional abuse or prolonged confinement of any domestic or wild animal or fowl such that a decline in the health or well-being of the animal occurs.

L. Unsanitary or unsanitary conditions: any condition or situation which renders a structure or any part of a structure unsanitary, unhealthy, or unfit for human habitation, occupation or use or renders any property unsanitary or unhealthy.

M. Other: any other situation or condition which meets the definition of a public health nuisance as stated in Article 2 of this ordinance.

6. **Investigation.** It shall be the responsibility of the Lafayette County Health Department staff to investigate all potential public health nuisance complaints and determine whether a public health nuisance exists.

7. **Authority and administration.**

A. Authority.

(1) General provisions:

(a) The purpose and intent of this ordinance in cooperation with the local, state, and federal agencies is to protect the public health, safety, and general welfare of the people of the County; and

[i] Prevent the spread of communicable diseases;

[ii] Prevent the continuation of public health nuisances;

[iii] Assure that citizens are protected from hazardous, unhealthy, or unsafe conditions.

(b) The Lafayette County Health Department Director, the Lafayette County Environmental Health Coordinator, and the staff of the Lafayette County Health Department are authorized to enforce this ordinance.

B. Administration.

(1) General provisions. The Lafayette County Public Health Nuisance Ordinance shall be interpreted, administered, and enforced by the Lafayette County Health Department Director, the Lafayette County Environmental Health Coordinator and the staff of the Lafayette County Health Department.

(2) Responsibilities of the Lafayette County Health Department Director, Lafayette County Environmental Health Coordinator and the Lafayette County Health Department staff:

(a) To insure compliance with the purpose and intent of this ordinance.

(b) To maintain records of all official actions taken.

(c) To enforce with local, county, and state government officials the provisions of this ordinance.

(3) Powers. The Lafayette County Health Department Director, the Lafayette County Environmental Health Coordinator, and the staff of the Lafayette County Health Department shall have the power necessary to enforce the provisions of this ordinance without limitation by reason of enumeration and including the following:

(a) To enter any structure or premises at a reasonable time for the purpose of performing his/her duties and to secure a court order to accomplish this purpose if deemed necessary.

(b) To order abatement and/or correction of any public health nuisance or other health hazard in noncompliance with this ordinance or state statute.

(c) To delegate the responsibilities of administration and enforcement of this ordinance to another staff member of the Lafayette County Health Department who is qualified to perform the responsibilities.

(d) 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.

C. Citations.

(1) The Lafayette County Sheriff's Office members are hereby authorized to issue citations to person or organizations, corporations, partnerships, or entities that violate this ordinance upon completion of the investigation of the Lafayette County Health Department or its designee.

(2) A citation issued to any violator of this ordinance shall include all the information required for citations by 66.0113, Wis Stats.

(3) If the violator receives a summons in addition to the citation, the violator must appear in court for the hearing on the citation.

(4) A citation and summons issued under this ordinance can be served on the violator/defendant by the Health Department or its designee, or the Lafayette County Sheriff's Office either in person or via the mail.

(5) A violator receiving a citation under this ordinance can pay a forfeiture deposit ranging from \$50.00 to \$500.00, plus statutory costs, assessments, surcharges and fees. Upon finding of guilty or no contest to the citation, fees, fines amounts, or any restitution can be paid to the Lafayette County Clerk of Courts or by following instructions on the citation.

8. Compliance and enforcement.

A. Compliance.

(1) Written orders. Compliance with this ordinance shall include compliance with written orders issued under this ordinance or state health laws by the Lafayette County Health Department Director, the Lafayette County Environmental Health Coordinator or staff of the Lafayette County Health Department to abate and/or correct a public health nuisance or to bring any other situation or condition in noncompliance with this ordinance into compliance.

(2) Noncompliance with this ordinance and/or with a written order from the Lafayette County Health Department Director, the Lafayette County Environmental Health Coordinator or staff at the Lafayette County Health Department or in case of repeated occurrences of the same violation by the same person, the violator shall be considered to be in noncompliance and subject to immediate action under Subsection **B(3)** of this section.

B. Enforcement.

(1) If the existence of a public health nuisance is confirmed, a written cleanup and/or abatement order will be issued specifying the action needed to correct the situation and including the following information:

(a) The name, address, and pertinent information on the violator;

(b) The nature of the violation and steps necessary to abate or correct it;

(c) The time period in which the violation must be corrected and/or abated (usually one day to five days for immediate health hazards or 10 days to 30 days for health hazards, depending on the nature of the violation). Allowance for limited extension of this time period may be allowed if warranted by extenuating circumstances; and

(d) The penalties the violator will be subject to if the apparent violation is not abated and/or corrected within the given time period as a result of the issuance of a citation or lawsuit. The abatement or cleanup orders can be mailed to the violator or served on the violator by staff of the Lafayette County Health Department or the Lafayette County Sheriff's Department.

(2) Exception to the written orders. In extreme cases where a violation poses an immediate health hazard as determined by the Lafayette County Health Department Director, the Lafayette County Environmental Health Coordinator or staff of the Lafayette County Health Department or in the case of repeated occurrences of the same violation by the same person, the violator shall be considered to be in noncompliance and subject to immediate action under Subsection **B(3)** of this section.

(3) Noncompliance with written orders. If a person does not comply with a written order from the Lafayette County Health Department Director, the Lafayette County Environmental Health Coordinator or staff of the Lafayette County Health Department, the violator may be subject to one or more of the following actions and/or penalties:

(a) The issuance of an enforceable citation;

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

(c) Commencement of legal action against the person seeking a court-imposed forfeiture and/or imprisonment and an order requiring the violator to correct the violations;

(d) Any other action authorized by this ordinance or by other applicable laws as deemed necessary by staff of the Lafayette County Health Department.

(e) The initiation of one action or penalty under this section does not exempt the violator from any additional actions and/or penalties prescribed by law.

(4) Ordered abatement of certain nuisances. Where public health nuisances as defined in this ordinance or in the Wisconsin State Statutes are encountered which may require ordered abatement and/or correction, the Lafayette County Health Department Director, the Lafayette County Environmental Health Coordinator, or staff of the Lafayette County Health Department shall send to the violator a written order as prescribed above. If the nuisance is not abated and/or corrected within the time period specified in the order, staff at the Lafayette County Health Department may enter upon the property and abate and/or correct the nuisance or cause such action to be taken. The cost of abatement and/or correction can be recovered by the County, either by filing a lawsuit against the violator or as a special tax assessment on the property.

(5) Penalties. In case of a conviction for a violation of the provisions of this chapter, judgment shall be entered against the violator for a forfeiture not to exceed \$500, plus court costs, for a single violation. In default of the payment of the judgment, the violator shall be imprisoned in the County Jail for such time as the court deems fit but not to exceed 60 days. In the case of court-imposed forfeitures and citations, a separate offense shall be deemed committed during each ten-day period during which or upon which a given violation occurs or continues. In cases where the violation poses an immediate health hazard as determined by the Health Officer, this ten-day period can be reduced to 24 hours with a written notice of such reduction given to the violator. For citations, any law enforcement officer of Lafayette County can issue a citation to a violator. The citation shall contain the information required by § 66.0113, Wis. Stats. The cash deposit which can be posted as a result of a citation issued for violating the provisions of this chapter is a forfeiture of \$500 plus statutory costs, including but not limited to the penalty assessment, the jail assessment, and the crime laboratories and drug enforcement assessment. Cash deposits, costs, and assessments shall be paid to the Clerk of Circuit Court for Lafayette County. The Clerk shall issue receipts for the cash deposits, costs, and assessments paid under this chapter.

(6) Initiation of legal action. The Lafayette County Corporation Counsel is authorized to handle any lawsuit or citation action filed against a violator of this chapter.

(7) Coordination with state agencies. Where a public health nuisance involves noncompliance with a state-enforced regulation or state statute, the Lafayette County Health Department shall first refer the complaint to the appropriate agency for abatement and/or correction. If the nuisance continues without adequate enforcement from the state agency within a reasonable period of time, then the Lafayette County Health Department may initiate action under this section to bring about proper abatement and/or correction.

(8) Where a public health nuisance is determined to be an immediate health hazard by the staff of the Lafayette County Health Department, said staff may proceed immediately to have it abated and/or corrected.