

## CHAPTER 40 - PUBLIC HEALTH HAZARD

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#### 40.01 General Provisions.

**A. Authority.** Marquette County adopts this Chapter pursuant to the authority granted in § 59.07(64), Wis. Stats., in conjunction with Chapter 251 and Chapter 254 of the Wisconsin Statutes.

**B. Administration.** This Chapter shall be administered by the Director of the Marquette County Health Department, or the Director's designee as Health Officer in cooperation with Marquette County Health Board of Health and the appropriate state agencies. The Health Officer's duties are stated in § 251.06, Wis. Stats. The Health Officer shall have the power to insure compliance with the intent and purpose of this Chapter by any appropriate means under the law.

**C. Interpretation.** The provisions of this Chapter shall be liberally interpreted in favor of the public health of the citizens of Marquette County and shall not be deemed a limitation of any power granted by the Wisconsin Statutes.

**D. Jurisdiction.** The provisions of this Chapter shall apply to all areas of Marquette County except cities, towns or villages within the County that have local health departments, pursuant to § 251.08, Wis. Stats.

#### 40.02 Definitions.

For purposes of this Chapter, words or phrases, unless specifically defined as follows, 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 be abated or corrected immediately, to prevent imminent or ongoing danger of serious damage to human health or the environment.

**C. Pollution.** The contamination 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 is or has the potential to create a public health hazard.

**E. Health Officer.** Health Officer means the Marquette County Public Health Department Director or designee under this Chapter.

#### **40.03 Human Health Hazard Prohibited.**

No person shall erect, create, 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 Chapter 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, excluding approved agricultural practices, are specifically declared to be Human Health Hazards coming within the definition of Sub. 1(A), without limitation by enumeration:

**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 or 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 Chapter adopts the provisions of NR 429 of the Wisconsin Administrative Code.

**D. Air Pollution.** This Chapter 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 matter that creates a health hazard to any 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 failed, damaged, malfunctioning, improperly constructed or inadequately maintained private sanitary sewer 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 public road, which have not been properly abandoned, sealed, barricaded, backfilled or posted to prevent entry.

**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. Garbage.** Failure to keep waste, refuse, or garbage in an enclosed building or properly contained in a closed container designed or reasonably adapted for such purposes.

**J. Toxic Substances.** Allowing any discharge into the environment of toxic substances in any form in such concentrations as to endanger the public health.

**K. Other.** Any other act or omission, situation or condition defined by Wisconsin Statutes to be a Human Health Hazard, or which in fact meets the definition of Human Health Hazard set forth in this Chapter.

#### **40.04 Designation of Unfit Dwellings.**

**A.** Any dwelling or dwelling unit found to have any of the following defects in a Human Health Hazard, and shall be condemned as unfit for human habitation and shall be so designated and placarded by the Health Officer.

1. 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.
2. One 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 or of the public.
3. 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.
4. One which, because of its condition, has been implicated as the source of a confirmed case of lead poisoning or asbestosis.
5. Rental property which houses anyone under the age of six (6) or over the age of sixty (60) that cannot maintain indoor air temperatures at or above 60 degrees Fahrenheit in any area used for habitation.

Section 40.04(5) newly created and enacted 5/19/15 by County Board Resolution 33-2015 published and effective on \_\_\_\_\_.

**B.** No person shall continue to occupy, rent or lease quarters for human habitation which are declared unfit for human habitation by the Health Officer.

**C.** 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.

**D.** 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.

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

**F.** 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 Marquette County Board of Health.

**G.** 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.

#### **40.05 Enforcement.**

**A.** If the existence of a Human Health Hazard is confirmed, a written clean-up and/or abatement order will be issued specifying the action needed to correct the situation and including the following information:

1. The name and address of the owner, operator and/or occupant and description of the real estate involved.
2. The nature of the violation and the steps necessary to abate or correct it.
3. The time period in which the violation must be corrected and/or abated which will be 1 to 5 days for immediate health hazards or up to thirty (30) days for health hazards, depending on the nature of the violation. Allowance for limited extension of this time period may be permitted if warranted by extenuating circumstances as determined by the Health Officer.
4. The order of abatement shall be served upon the person committing or maintaining the Human Health Hazard by either certified mail 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 of 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 Marquette County for a special inspection warrant pursuant to § 66.122, Wis. Stats.

**B. Exceptions to the written orders.** In cases where a violation poses an immediate health hazard as determined by the Health Officer or in the case of repeated occurrences of the same violation by the same person, the violator shall be considered to be in non-compliance and subject to immediate action under Subsection (C) of this Section, without issuance of a written abatement order.

**C. Non-compliance with written orders.** If a person does not comply with a written order from the Health Officer or his/her designee, the violator may be subject to one or more of the following actions and/or penalties:

1. The issuance of a citation under Chapter 100.
2. Commencement of legal action against the person seeking an injunction to abate the violation and/or correct the damage created by the violation.
3. Commencement of legal action against the person seeking a court-imposed forfeiture, and/or the costs of abatement.
4. Any other action authorized by this Chapter or by other applicable laws as deemed necessary by the Health Officer.
5. 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.

**D. Abatement of Human Health Hazards.** Where Human Health Hazards as defined in this Chapter or in the Wisconsin Statutes are encountered on private property which require ordered abatement and/or correction, the Health Officer shall serve on the responsible person a written order as per Subsection A of this Section. If the hazard is not abated and/or corrected within the time period specified in the order, the Health Officer may enter upon the property and abate and/or correct the hazard or cause such action to be taken as set forth in § 254.59, Wis. Stats. The cost of such abatement and/or correction is to be recovered either directly from the responsible party or as a special tax assessment on the property.

**E. Initiation of legal action.** In default of compliance with an Order for Abatement, legal action shall be initiated against a violator by issuance of a citation under Chapter 100, and referral to the Marquette County Corporation Counsel, or referral to the Corporation Counsel for issuance of a long form Summons and Complaint, in personam or in rem. The Corporation Counsel is hereby delegated the duty of prosecuting violations of this Chapter. The Corporation Counsel shall take steps to enforce this Chapter and the Order for Abatement by prosecuting the violation, seeking imposition of a forfeiture penalty, and/or seeking appropriate injunctive relief to abate the Human Health Hazard and enjoin its continuation in the future, and/or recovery of the costs of abatement.

#### **40.07 Penalties.**

Penalties for this Chapter are set forth in Chapter 100.