

SHAWANO COUNTY HEALTH, JUNK & ENVIRONMENTAL HAZARD ORDINANCE 13-97



Adopted Date: September 24, 1997

Effective Date: September 27, 1997

AMENDED DATE: March 22, 2000 by Ordinance 2-00
December 16, 2009 by Ordinance #7-09
March 27, 2019 by Ordinance #4-19

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Ordinance No. 4-19

To Amend Ordinance No. 7-09 Concerning the Shawano County Health, Junk and Environmental Hazard Ordinance

Whereas, the County Board approved amending the Shawano County Health, Junk and Environmental Hazard Ordinance via Ordinance No. 7-09 on December 16, 2009; and

Whereas, Shawano County has undertaken to cleanup various properties in violation of Ordinance No. 7-09; and

Whereas, Shawano County typically performs the cleanup of a property at the request of the local municipality and at substantial expense to Shawano County; and

Whereas, many municipalities undertake to cleanup offending properties at their own expense and without the assistance from Shawano County; and

Whereas, as further set forth below at Section 4.01.A.8, the purpose of this amendment is to require that a municipality share equally in the cost when they request Shawano County to cleanup a property within such municipality.

Now, therefore, be it ordained by the Shawano County Board of Supervisors, in session this 27th day of March, 2019, that Ordinance No. 7-09 is hereby amended as follows at Section 4.01.A.8 and all other parts of Ordinance No. 7-09 shall remain in full force and effect:

1.01 PURPOSE

The purpose of this Ordinance is to protect Shawano County and its residents by abating and prohibiting health hazards which result from an unreasonable activity or use of property that interferes with health, safety or property rights. The 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 Shawano County by prohibiting and abating defined health hazards.

1.02 JURISDICTION

This ordinance will apply to all towns and villages in Shawano County. If a town/village has its own ordinance, it may be followed provided that its provisions are as restrictive or more restrictive than this Ordinance. If this Ordinance conflicts with any other Shawano County zoning ordinance, Shawano County, in its discretion, may enforce the more restrictive ordinance.

2.01 DEFINITIONS

- A. "A public nuisance" means any unreasonable activity or property condition that can be proven by the complainant to pose a threat to public health, safety or property rights. The following is a non-exclusive list of actions that

may constitute and may be declared a public nuisance in Shawano County's discretion when they pose a threat to public health, safety or property rights:

1. Failure to keep waste, refuse or garbage in an enclosed building or properly contained in a closed container designed for such purposes.
 2. Failure to maintain a structure in a safe and sanitary condition.
 3. Allowing the discharge into the environment of toxic or noxious materials.4. Maintaining an excessive number of animals on premises (too many animals for the space, food, or circumstance as determined by Health Officer).
 5. Allowing the accumulation of "junk" as defined in Section 2.01.C below.
 6. Allowing holes or excavations or other physical hazards.
 7. Allowing unused wells not properly sealed in accordance with Wisconsin law.
 8. Disposing of animal carcasses in an unsanitary manner.
 9. Allowing decayed animal or vegetable matter, trash, rubbish, bedding, packing material, or any material in which flies, mosquitoes, disease-carrying insects, rats or other vermin can breed, live, nest or seek shelter (exempting private compost piles and normal farm operations).
- B. "Screened" means hidden from public view from any other property or public right-of-way in a manner that is well maintained and compatible with the surrounding environment. Screening could include a solid fence or evergreen planting of a height not less than 8 feet, behind buildings, or in natural depressions. Covering junk with tarps or like materials is not considered screened.
- C. "Junk" means any of the following that pose a threat to public health, safety or property rights:
1. Scrap metal, glass, paper products, metal alloy, wood, perishables, debris, refuse, remnants, garbage, aluminum, steel, tires, concrete, or synthetic material including, but not limited to tanks, barrels, cages, pallets, wire/cable, furniture, culverts, bricks, appliances, waste or bottles.
 2. Any junked, ruined, dismantled, wrecked, unlicensed, unregistered, or inoperative motor vehicle, including but not limited to buses, vans, trucks, cars and recreation vehicles.

3. Any junked, ruined, dismantled, or wrecked machinery including but not limited to farm equipment, construction equipment, campers, snowmobiles, boats and parts thereof.
4. All or parts of dismantled buildings or structures, including but not limited to, abandoned mobile homes and manufactured homes.

2.02 DESIGNATION OF UNFIT DWELLINGS

- A. Any dwelling or dwelling unit found to have any of the following defects shall be declared an unfit dwelling and condemned as unfit for human habitation and shall be so designated as a public nuisance and shall be 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 illumination, ventilation or sanitation facilities adequate to protect the health or safety of the occupants or of the public.
- B. 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.
- C. No dwelling or dwelling unit which has been 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 placard were based have been eliminated.
- D. No person shall deface or remove the placard from any dwelling or dwelling unit which has been condemned as unfit for human habitation.
- E. Any person affected by any notice or order relating to the placarding of a dwelling or dwelling units as unfit for human habitation may request and shall be granted a meeting on the matter with the Health Officer.

3.01 PROHIBITED ACTS

- A. No person shall erect, construct, cause, continue, maintain or permit any public nuisance or unfit dwelling within the County. Any person who shall cause, create or maintain a nuisance or unfit dwelling 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 or unfit dwelling and the penalty provided in this Ordinance.
- B. No person, group of persons, company, firm, corporation or any other entity shall within the areas of any towns or villages of Shawano County store any

junk outside a building and within public view for a period of any part of 5 or more days during any 30-day time period.

- C. No person, group of persons, company, firm, corporation or any other entity shall within any towns or villages maintain or carry on activities that are defined as a public nuisance in Section 2.01 or 2.02 of the Ordinance.
- D. Any activity prohibited by Section 3.01.A, B or C is declared a public nuisance.

3.02 EXCEPTIONS

- A. This Ordinance is not intended to regulate or place limitations on any properly zoned and licensed junk yard/salvage dealer, or other junk, waste disposal or storage activity for which a valid license from the State of Wisconsin and/or other necessary municipal issuing authority is required and proper permits have been issued and all such licenses and permits are in full force and effect.
- B. This Ordinance is not intended to prohibit the reasonable and orderly storage of idle but operable farm or business equipment, snow removal vehicles or equipment, or lawn mowing equipment.
- C. This Ordinance is not intended to prohibit the storage of inoperative or abandoned equipment that is screened from public view or adjacent property owners by a visual barrier.
- D. This Ordinance is not intended to prohibit the proper outside storage of licensed and operable motor vehicles; and two stock cars, and two unlicensed vehicles.
- E. This Ordinance is not intended to prohibit the orderly storage of firewood for fuel.
- F. Other exceptions may be made to this Ordinance on a case-by-case basis within Shawano County's discretion.

3.03 ORDINANCES OF OTHER MUNICIPALITIES

If a municipality has in force an ordinance or law governing the subject matter of this Ordinance, Shawano County may, at Shawano County's discretion, enforce this Ordinance or defer to the municipality for the enforcement of its own ordinance by such municipality.

4.01 ADMINISTRATION AND ENFORCEMENT

It is the intent of the Shawano County Board of Supervisors to have administration of this Ordinance originate with the Town Board and/or Village Board of the town or village where the alleged violation is located.

- A. Concerning alleged violations, the town/village shall take action to try to resolve the alleged violation, with such action to include:
1. Having the complaining citizen file a written complaint to the Board;
 2. The Board will send certified letters to both the complainant and alleged violator and invite them to a Board meeting;
 3. The Board will hold meeting and take action to try to resolve dispute;
 4. Follow up at next determined Board meeting to determine if matter is resolved; if not, take action to refer to County;
 5. If sending the matter to the County, the town shall submit an inventory of the property in question;
 6. Any other action the local Board deems appropriate;
 7. If after the 6 steps the problem is not resolved, the Town/Village Board shall then refer the results of their investigation and their recommendation to the Shawano County Zoning Administrator Officer, who will confer with the Public Health Department and legal counsel to determine the appropriate course for Shawano County under this Ordinance. The town/village shall notify the complainant and alleged violator of the action recommended. Shawano County has the discretion to pursue a violation whether or not the town or village follows each step set forth herein.
 8. If Shawano County decides to pursue a violation, the Planning, Development and Zoning Committee or Board of Health shall direct the Zoning Administrator to procure and provide the committee/board with an estimate of the anticipated costs necessary to clean up the property in question. After procuring the estimate, the committee/board shall direct the Zoning Administrator and Corporation Counsel to work with the requesting town/village to enter an agreement between the county and town/village requiring the town/village to pay $\frac{1}{2}$ of the overall costs of the cleanup, including having the town/village pay for $\frac{1}{2}$ of its obligation upfront prior to the county commencing the cleanup with the remaining balance to be paid within 60 days after the county submits an invoice to the town/village upon conclusion of the cleanup efforts. The agreement shall note the obligation of the town/village shall be to pay $\frac{1}{2}$ of the overall costs of the cleanup, and the final invoice referenced above shall include an adjustment either upward or downward from the estimated amount to ensure no more and no less than $\frac{1}{2}$ of the costs are paid by the town/village.
- B. The Shawano County Zoning Administrator, the Public Health Officer or their designees, shall have the duty, responsibility and authority to enforce this

Ordinance along with the assistance of the Shawano County Sheriff and his/her deputies. The committee of jurisdiction for Shawano County is either the Planning, Development and Zoning Committee for junk related offenses or the Board of Health for health related offenses.

- C. Persons shall allow access to the Town Board, Zoning Administrator, Public Health Officer, their designees or the Shawano County Sheriff's Department to their property for purposes of administering and enforcing this Ordinance, with permission or proper warrant.
- D. The Town/Village Board shall notify the complainant of action taken. If a Town/Village Board refuses to act on a complaint as set forth in Section 4.01.A, the complainant may file a written complaint/letter with the Chairperson of the Shawano County Board of Health or Planning, Development and Zoning Committee who will place the item on their regular committee meeting agenda. The Committee may follow the same procedure as the Town/Village Board as stipulated in Section 4.01.A as applicable.

5.01 VIOLATIONS AND PENALTIES

- A. Whenever a violation of this Ordinance is found, the Zoning Administrator or Public Health Officer may take one or more of the following actions:
 - 1. Order the violation corrected by the property owner by removal and proper disposal of the materials within a specified period ranging from one (1) to thirty (30) days; or
 - 2. Request the Shawano County Sheriff or the Shawano County Zoning Administrator to issue a citation for violation of this ordinance.
 - 3. When violations are pursued by the Shawano County Sheriff's Department, such legal actions shall occur through the District Attorney's Office including injunctive relief and additional forfeiture actions through the process of summons and complaint or other proper legal recourse. When violations are initiated and pursued by the Shawano County Zoning Administrator and Shawano County Health Officer, proper legal action shall be brought through the Shawano County Corporation Counsel's Office including injunctive relief and additional forfeiture actions through the process of summons and complaint or other proper legal recourse.
- B. The County may file a petition against the property owner in the Shawano County Circuit Court for an order compelling compliance with this Ordinance. In addition, the Court may order abatement of the nuisance and/or removal of the violating material, or order other appropriate relief. If the abatement or removal is at county expense, the county shall then invoice the property owner for all such costs incurred. If that invoice is not paid within thirty (30) days, Shawano County may take the action necessary, including requiring cooperation from the towns/villages, to place the amount of the invoice on the tax rolls as special assessment against the property in question.

- C. Any person, firm, corporation or other legal entity failing to comply with the provisions of this ordinance shall, upon conviction, forfeit up to \$500 for the first offense; up to \$2500 for any second offense committed within any 12-month time period; and up to \$5000 for any third offense committed within any 24-month time period, plus all costs of prosecuting and pursuing the violation. Each day a violation occurs or continues may be deemed by Shawano County to constitute a separate offense.

- D. Any junk that is removed from the property pursuant to this Ordinance may be sold by the county with any funds received therefrom being used to pay or reimburse Shawano County for cleaning up the nuisance, with any proceeds remaining thereafter being returned to the party who violated the Ordinance. If any expenses remain unreimbursed, such expenses can be attached to the property as an assessment as noted above in Section 5.01.B.

6.01 SEPARABILITY

Every section, provision or part of this ordinance is declared separable from every other section, provision or part; and if any section, provision or part hereof shall be held invalid, it shall not affect any other section, provision or part.

7.01 EFFECTIVE DATE

This ordinance shall take effect upon passage and publication and shall remain in full force and effect as may be amended from time to time until repealed by the Shawano County Board of Supervisors.

Submitted by,

Ken Capelle Yes No

Kevin Conradt Yes No

Steve Gueths Yes No

Gene Hoppe Yes No

Thomas Kautza Yes No

PLANNING, DEVELOPMENT & ZONING COMMITTEE

Vote: 5 Yes; 0 No; 0 Absent;

LEGAL NOTE:

Requires a majority vote of the County Board.

Tony A. Kordus
Corporation Counsel

FISCAL/ADMINISTRATIVE NOTE:

Support.

Brent R. Miller
Administrative Coordinator