

COUNTY OF JACKSON  
STATE OF MINNESOTA

**THE COUNTY BOARD OF JACKSON COUNTY ORDAINS:**

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JACKSON COUNTY  
PUBLIC NUISANCE ORDINANCE

**SECTION 1.0 PURPOSE, AUTHORITY AND JURISDICTION**

**1.1 Title**

This Ordinance shall be known, cited and referred to as the “Jackson County Public Nuisance Ordinance”. When referred to herein, it shall be known as “this Ordinance”.

**1.2 Statement of Purpose**

This Ordinance is adopted for the purposes of protecting the general health, safety and welfare of Jackson County residents and visitors; to prevent the spread of disease; to limit and prevent the harborage of insects, rodents and other vermin; to limit and prevent accumulations of filth, sewage, garbage, refuse, debris, rotting vegetation and/or manure.

**1.3 Statutory Authorization**

This Ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes Chapters 145A and §§ 103I.111, 160, 375.51, 463.15, 471.92, 561.01, 609.74, 609.74 and 609.745; or successor statutes of the Minnesota Statutes, does hereby ordain.

**1.4 Jurisdiction**

This Ordinance shall apply to all areas in Jackson County, Minnesota, including areas within the incorporated limits of any city, however organized (more stringent city ordinances are allowed), except as provided by law and except as otherwise provided by law.

**SECTION 2.0 GENERAL PROVISIONS**

**2.1 Abrogation and Greater Restrictions**

It is not intended by this Ordinance to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail.

## **2.2 Severability**

If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

## **2.3 Interpretation**

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the County and shall not be deemed a limitation or repeal of any other powers granted by State Statute.

## **2.4 Compliance**

No land or structure shall be used for any purpose or in any manner which is not in conformity with this Ordinance. Whoever by their act or failure to act intentionally maintains or permits a condition which unreasonably injures or endangers the health, safety or welfare of the public or whoever causes or maintains any source of filth or sickness, has committed a public nuisance or public health nuisance.

## **2.5 Inspection Authority**

The Enforcement Officer shall be the County official who shall administer and enforce the provisions of this Ordinance. The Enforcement Officer is authorized to cause inspections of property on a complaint basis, or otherwise when reason exists to believe that a violation of this Ordinance has been or is being committed. Complaints shall be in writing and contain the name and address of the complainant. Inspections shall be conducted during daylight hours and the Enforcement Officer shall present evidence of official capacity to the occupant or owner in charge of the property subject to the complaint.

## **2.6 General Exemptions in the Agricultural Districts**

Within the agricultural zoning districts of the County, an agricultural operation complying with the provisions of all applicable federal, state or county laws, regulations, rules and ordinances and operating according to generally accepted agricultural practices associated with crop and livestock production, including but not limited to, extended hours of equipment operation, manure and fertilizer application, pesticide application, farm equipment on the roadways, sights, sounds and smells associated with livestock production and field tillage and harvesting activities associated with crop production shall not be considered as a basis for a public nuisance complaint under the provision so this Ordinance.

## **SECTION 3.0            DEFINITIONS**

### **3.1      Accumulation of Garbage, Rubbish and Trash**

An accumulation of garbage, rubbish and trash or any combination thereof, which, in the judgment of the Enforcement Officer, is excessive.

### **3.2      Board:** The Jackson County Board of Commissioners.

### **3.3      Department(s)**

The Jackson County Planning and Environmental Services Department, the Jackson County Highway Engineer and the Jackson County Sheriff and their respective staff.

### **3.4      Enforcement Officers:**

The Environmental Services Officer of the Jackson County Planning and Environmental Services Department or the designee for that position shall enforce those provisions affecting Public Health. This officer has been designated by Board of Commissioner's resolution to act as public health inspector.

The Jackson County Sheriff, or his designee, shall enforce those provisions as to nuisances affecting Peace and Safety. The Sheriff is assisted in some occasions by the Minnesota State Duty Officer for some spills and waste deposits.

The Jackson County Highway Engineer, acting as the Ditch Administrator, shall enforce those provisions as to nuisances affecting ditches and drainage.

### **3.5      Diseased**

An animal, bird, fish or fowl with an infectious or contagious disease.

### **3.6      Garbage**

Any discarded material resulting from the handling, processing, storage, preparation, serving and consumption of food.

### **3.7      Infestation**

Shelter provided for rodents, insects, vermin and vectors such that nesting, reproduction and development may occur.

### **3.8 Litter**

Garbage, refuse, rubbish as defined herein and all other waste material which, if not deposited and managed in accordance with applicable local, state and federal ordinances, rules and laws, may create a danger to the public health, safety and welfare.

### **3.9 Public Nuisance**

A public nuisance is a thing, act or use of property which:

- A. Maintains or permits a condition which unreasonably annoys, injures or endangers the safety, health, comfort or repose of other members of the public; or
- B. Interferes with, obstructs or renders dangerous for passage, any public highway right-of-way or public waters, including judicial ditches; or
- C. Any other act or omission declared by law or this Ordinance to be a public health nuisance.

### **3.10 Refuse**

Putrescible (subject to rotting and foul-smelling decay) and non-putrescible solid wastes, including garbage, rubbish, ashes, incinerator ash, incinerator residue, waste combustor ash, and market and industrial wastes, and including municipal treatment wastes which do not contain free moisture.

### **3.11 Rubbish**

Any non-putrescible solid wastes including, but not limited to, ashes, paper, cardboard, tin cans, yard clippings, wood, glass, bedding, furniture, appliances, concrete, asphalt, tires, plastic, metal components, fiberglass, crockery or litter of any kind.

### **3.12 Serious and Eminent Danger**

A serious and eminent danger is one that has a highly likelihood of harming one or more members of the public in a rapid manner.

### **3.13 Unreasonable Quantities**

Amounts as determined by the Department that threaten or damage the health, safety or welfare of the public.

### **3.14 Waste Material**

Material that, in the opinion of the Department, is no longer of any value for its original purpose and has been or should be discarded.

## **SECTION 4.0 PUBLIC NUISANCES ENUMERATED**

### **4.1 Public Nuisance Affecting Health**

In addition to the provisions concerning Right-of-Way contained in Minn. Stat. § 160.2715, et. seq., the following are hereby declared to be nuisances affecting the health of the public:

- A. Exposed accumulations of decayed or unwholesome animal or vegetable matter; and
- B. Carcasses of animals, birds, fish or fowl not intended for human consumption and not properly buried or destroyed within 72 hours after death; and
- C. Accumulations in the open of broken or unused plastic, glass, tires, metal, wood, lumber, cement, electrical fixtures, plumbing fixtures, building materials (but excluding building materials awaiting use and stored for a reasonable period of time for an improvement presently in progress on the same premises), discarded, unused or inoperable machinery, household appliances, inoperable and/or unlicensed motor vehicles, vehicle parts, or other material, which in the judgment of the Department, is conducive to the harboring of rats, mice, insects vectors or vermin, or because of the rank growth of vegetation among the items so accumulated constitutes a fire, health or safety hazard; and
- D. Accumulations of excessive amounts of manure, refuse, garbage, offal, waste oil, hazardous materials, ashes, rubbish, debris or litter; and
- E. The discharge, disposal, accumulation or collection of sewage, solid waste, as defined by Jackson County Development Code; or successor ordinance, or industrial wastes without proper permits or approval; and
- F. Garbage cans or other refuse containers which are not rodent free or fly tight or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors; and
- G. Dense smoke, noxious fumes, gas, soot, or cinders in unreasonable quantities as determined by the Department; and

- H. Public exposure of birds, fish, fowl or animals having a contagious disease; and
- I. Depositing garbage, rubbish, litter, tires or refuse on any public property, including County roads and parks; and
- J. Any unlicensed and/or inoperative motor vehicle stored on property in excess of that authorized by Jackson County Development Code; or successor ordinance, and the unsheltered storage of unused, inoperative, stripped, junked automobiles, trucks, buses, recreational vehicles, farm implements, manufactured homes, motorcycles, snowmobiles, watercraft or other machinery, equipment and personal property of any kind which, in the judgment of the Department, is no longer safely usable for the purposes for which it was manufactured; and
- K. Any infestation of insects, vermin, vectors or rodents or any harborage or breeding area for the same as determined by the Department; and
- L. The pollution of any land, well, cistern, stream, river, lake, aquifer, wetland or public water by sewage, industrial waste or any other substance harmful to animals, birds, fish, persons or the environment.
- M. Any clandestine drug lab site as defined in Jackson County Clandestine Meth Lab Cleanup Ordinance; or successor ordinance.

#### **4.2 Public Nuisances Affecting Peace and Safety**

The following are declared to be nuisances affecting public peace and safety:

- A. Depositing or causing to be deposited, any snow or ice on any public road; and
- B. Trees, hedges, shrubs, ads, billboards, political signs or other obstructions which prevent persons from having a clear view of traffic approaching an intersection or which obstructs use or travel on a public road; and
- C. Placing or storing upon any public right-of-way any boxes, goods, wares, merchandise, building materials, machinery, vehicles, business or trade article except for the purpose of immediately transferring the same to some other proper place and excepting planned citywide cleanups; and
- D. Obstructions and excavations affecting the ordinary use by the public of public roads except under such conditions as are permitted by County ordinances or other applicable law; and



- E. Wires and limbs of trees which are so close to the surface of a public road as to constitute a danger to pedestrians or vehicles; and
- F. All dangerous, unguarded machinery in any public place or right-of-way, or so situated or operated as to attract the public; and
- G. Sewage, manure, wastewater or industrial waste cast upon, deposited or permitted to flow upon public roads; and
- H. Any well, hole or similar excavation which is left open or uncovered or in such other condition as to constitute a danger to any child or other person coming on the premises on which it is located; and
- I. The purposeful obstruction of the free flow of water in a natural waterway, or in a County ditch or storm sewer, except as provided in an approved storm water pollution prevention plan; and
- J. Allowing livestock to graze or roam in a Judicial Ditch, County Ditch or in public right-of-ways, and
- K. Digging excavations, placing culverts, placing dams or doing any act which may alter or affect the drainage of public roads or affect the flows of public storm sewers, ditches or drainage ways without authorization from the County; and
- L. The placing or throwing on any public road of any glass, tacks, nails, bottles or other substances which may injure any person or animal or damage any pneumatic tire when passing over such object; and
- M. Throwing, placing or depositing dirt, rocks, sand, leaves, trash, lawn clippings, weeds grass, manure, sewage or other materials on public roads, ditches and in the rights-of-way thereof; and
- N. Permitting dirt, rocks, manure or mud from construction, landscaping or farm activities to be carried or deposited onto public roads, ditches or rights-of-way; and
- O. Any unattended machinery or vehicle which constitutes an obstruction to traffic or which hinders snow removal or road maintenance; and
- P. The keeping of any used refrigerator, ice box, freezer or similar device which is not in services, which has the door latch intact and is in a location or manner accessible to children; and
- Q. Any other condition or thing which, in the judgment of the Department, is likely to cause injury to the person or property of anyone; and

- R. Structures which have been damaged by fire, water, wind, decay, age or other peril which are so situated as to endanger the safety of the public, property owners or visitors to the property or that create an attraction to children; and
- S. Causing chemicals or sprays that kill vegetation in public ditches or right-of-ways without permission of the Enforcement Officer.

## **SECTION 5.0            ADMINISTRATION**

### **5.1        Abatement**

Whenever the Enforcement Officer determines that a public nuisance is being maintained or exists on premises in the County, the Enforcement Officer shall provide notice of the public nuisance to the Chair of the Town Board of the township and/or the city clerk in which the complaint is located. The purpose of such notice is to provide the Township and/or city with an opportunity to use its resources to abate the violation at the township and/or city level. At the same time, the Enforcement Officer shall notify the owner or occupant of the premises in writing of such fact and order that such nuisance shall be terminated or abated. The notice shall be served in person or by certified or registered mail. A copy of the notice shall be mailed to the County Commissioner in whose district the complaint is located. If the premises are not occupied and the owner is unknown, the notice may be served by posting it on the premises. The notice shall specify the steps to be taken to abate the nuisance and the time, not exceeding ten (10) days, within which the nuisance is to be abated. If the notice is not complied with within the time specified, the Enforcement Officer shall cause personal service of a notice of hearing upon the owner or occupant of the property at least seven (7) days prior to a scheduled hearing by the Board of Commissioners. In the event that personal service cannot be made, mailed and posted notice may be used, provided that it is posted and mailed at least seven (7) days prior to the date of the hearing. Thereafter, the Board of Commissioners may, after notice to the owner or occupant and an opportunity to be heard, provide for abating the nuisance by the County. The Board of Commissioners may, by resolution, adopt a Notice of Abatement, which shall set forth the nuisance to be abated and shall indicate a date and time on which the County will enter onto the property and abate the nuisance. The notice shall also notify the property owner that the costs of abatement will be billed to the property owner and if not paid, will be assessed against the property. The Notice of Abatement shall be served upon the owner and/or occupant in person or by certified or registered mail at least seven (7) days prior to the proposed date that the County is to abate the nuisance. If the premise is unoccupied or the owner and/or occupant cannot be served, notice may be posted upon the premises at least seven (7) days prior to the proposed abatement.

## **5.2 Emergency Abatement**

When the Enforcement Officer determines that a nuisance constitutes a serious and eminent danger to the public health or safety, the Enforcement Officer may summarily abate the nuisance after a reasonable attempt to notify the owner or occupant of the property. The Enforcement Officer shall immediately thereafter notify in writing the owner or occupant of the property of the action taken. The notice shall be served in person or by registered or certified mail. The Enforcement Officer shall notify the Chair of the Jackson County Board of Commissioners immediately of all emergency abatements.

## **SECTION 6.0 ENFORCEMENT**

- 6.1** In the event of a violation or a threatened violation of this Ordinance, the Enforcement Officer, in addition to other remedies, may institute appropriate civil actions or proceedings to prevent, prosecute, restore, restrain, correct or abate such violations or threatened violations, and it shall be the duty of the County Attorney to institute such action.
- 6.2** No person shall willfully oppose, interfere with or obstruct a County employee charged with the enforcement of this Ordinance during performance of any legal duty.
- 6.3** All rights and remedies accruing to the County under this Ordinance, whether at law or in equity, are deemed cumulative and may be pursued independently or in conjunction with one and other with such frequency and in such manner as the County, in its sole discretion, deems necessary to accomplish the purposes of this Ordinance.

## **SECTION 7.0 COSTS AND REIMBURSEMENTS**

### **7.1 Recovery of Costs**

- A. The owner of the property on which a public nuisance has been abated by the County shall be personally liable for the cost to the County of the abatement, including legal and administrative costs. As soon as the work has been completed and the costs determined, the Enforcement Officer shall prepare a bill for the cost and mail it to the owner of the property. Thereupon, the amount specified shall be immediately due and payable to the Jackson County Treasurer's Office.
- B. If the Enforcement Officer is required to remove, abate or remediate a public health nuisance, the County may recover costs incurred in removal, abatement

or remediation in a civil action or, at the discretion of the Board. The cost of enforcement action under this Ordinance may be assessed and charged against the real property on which the public health nuisance was located. The County shall extend the cost as assessed and charged on the tax roll against said real property.

- C. On or before October 15 of each year, the Board may certify to the County Auditor-Treasurer all unpaid, outstanding public nuisance abatement costs, and a description of the lands against which the abatement costs arose, and extend the assessments, with interest not to exceed the interest rate provided for in Minnesota Statutes, section 279.03, subdivision 1; or successor statutes, upon the tax rolls of the County for the taxes of the year in which the assessment is filed. For each year ending October 15, the assessment with interest shall be carried into the tax becoming due and payable in January of the following year, and shall be enforced and collected in the manner provided for the enforcement and collection of real and/or personal property taxes in accordance with the provision of the laws of the State of Minnesota. The assessment, if not paid, shall become delinquent and be subject to the same penalties and the same rate of interest as the taxes under the general laws of the State of Minnesota.
- D. When the estimated cost of abatement and remediation exceeds seventy-five percent of the County Assessor's market value of the structure, the County Coordinator or designee, is authorized to notify the property owner of the County's intent to remove and dispose of the affected property instead of proceeding with abatement and remediation. For motor vehicles, the County will use the Kelley Blue Book value or equivalent in determining market value.
- E. Nothing herein precludes or limits the County from seeking recovery of costs through other methods allowed by federal or state law.

## **7.2 Subrogation Rights**

Nothing in this Ordinance is intended to limit the subrogation rights of any party and the owner occupants. The County shall maintain the right to recover costs, referenced in this section, from persons contributing to the damage, such as those convicted of manufacturing methamphetamine.

## **SECTION 8.0 APPEALS**

### **8.1 Right to Appeal**

When a public health nuisance is declared, an owner and/or an occupant of the affected property may appeal the declaration, including an order for abatement or

remediation from the Enforcement Officer, by filing a written request with the Enforcement Officer for an administrative hearing within ten calendar days of the date of service, exclusive of the day of service, of notice under sections 5.0 or 6.0 exclusive of the day of service. In the event of an unknown or absent property owner, the appeal must be requested within ten calendar days of the day of posting of the notice under sections 5.0.

## **8.2 Administrative Hearing**

If any owner or occupant makes a written request to the Enforcement Officer for an administrative hearing, such hearing shall be held before the Department Director or his/her designee.

## **8.3 Schedule**

The hearing shall be held no later than 45 calendar days after the date of service of the request for a hearing was received unless the appellant requests an extension of time. If an extension is requested, the hearing shall be held no later than 90 calendar days after the date of service of the request for a hearing.

## **8.4 Notice**

The Department shall mail a notice of the time and place of the hearing at least ten calendar days prior to the hearing.

## **8.5 Witnesses and Evidence**

All parties shall have full opportunity to respond to and present evidence and witnesses.

## **8.6 Standard of Proof**

The appellant shall have the burden of proving its position by preponderance of the evidence.

## **8.7 Rules of Evidence**

Hearings shall be informal and the rules of evidence as applied in the courts shall not apply. Relevant hearsay evidence may be received and evaluated by the hearing officer for credibility. Irrelevant, immaterial and repetitious evidence shall be excluded.

## **8.8 Record of Hearing**

The hearing shall be taped or videotaped.

## **8.9 Notice of Decision**

The decision of the Department Director shall be issued within ten calendar days following the administrative hearing. Unless otherwise provided by law, the decision of the Department Director shall constitute the final decision unless the County Board modifies or rejects it as provided in section 8.10.

## **8.10 Board Review**

Each party adversely affected may submit written exceptions and arguments to the Board within ten calendar days of the service of the decision by the Department Director. The Board shall consider the decision of the Department Director at the next possible board meeting and may adopt or modify the decision, reject the decision, or remand for further hearing.

## **8.11 Further Appellate Rights**

Any party aggrieved by a final decision is entitled to judicial review of the decision. A petition for a writ of certiorari by the party must be filed with the Court of Appeals not more than thirty calendar days after the party receives the final decision from the Board.

## **SECTION 9.0 DISCLAIMER OF LIABILITY**

Liability on the part of, or a cause of action against, Jackson County or any officer, employee or agent thereof for any damages that may result from administration and enforcement of this Ordinance shall be limited as provided by Minnesota Statutes § 466.01-15, as amended.

## **SECTION 10.0 FEES**

Fees for the Enforcement Officer complaint investigation, verification, administration, and enforcement of violations of this Ordinance shall be those established by resolution, as amended from time to time, of the Jackson County Board of Commissioners.

## **SECTION 11.0 PENALTIES**

### **11.1 Misdemeanor**

Any person who violates this Ordinance, or who permits a violation to exist on the premises under his/her control, or fails to take action to abate the existence of the violation(s) within a specified time period, when ordered or notified to do so

by the Enforcement Officer, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided by law. Each day of violation constitutes a separate offense.

### 11.2 Civil Remedies

In the event of a violation or threat or violation of this Ordinance, the County Attorney may take appropriate action to enforce this Ordinance, including application for injunctive relief, action to compel performance, or other appropriate action in court, if necessary, to prevent, restrain, correct, or abate such violations or threatened violations. The County Attorney enforcing provisions of this Ordinance may seek costs and disbursements, including service costs, staff time and attorneys' fees.

### 11.3 Citations

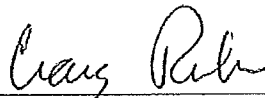
Whenever the Enforcement Officer discovers a violation of this Ordinance, a citation may be issued to the person alleged to have committed the violation. The citation issued shall be issued to the person charged with the violation, or in case of a corporation or municipality, to any officer or agent expressly or impliedly authorized to accept such issuance.

## SECTION 12.0 EFFECTIVE DATE

This Ordinance shall be in full force and effect upon passage and publication as provided in law

PASSED BY THE JACKSON COUNTY BOARD OF COMMISSIONERS THIS \_\_\_\_\_  
DAY OF MARCH, 2007.

APPROVED:

  
\_\_\_\_\_  
Board Chairperson

ATTEST:

  
\_\_\_\_\_  
County Coordinator