

Proposed revisions August 2019--County of Jefferson ---Incinerator Operation and Siting Ordinance*...Suggested changes incorporated --Six pages total

SECTION 1: INTRODUCTION

- 1.1 Title. This ordinance shall be referred to as the Incinerator Operation and Siting Ordinance.
- 1.2 Authority. This ordinance is adopted pursuant to the powers granted in the Wisconsin Constitution. Further, this ordinance is adopted pursuant to the authority granted by Wisconsin Statutes 59.01, 59.02, and 59.03(1), for the purpose of protecting public health, safety, and general welfare, and to maintain and protect the environment for the people of Jefferson County.
- 1.3 Purpose. The purpose of this Ordinance is as follows:
- (1) To promote the protection of public health, safety, and general welfare of the people of the County of Jefferson.
 - (2) To help minimize human, animal (livestock, wildlife, and domestic), and environmental risks associated with incineration.
 - (3) To identify the location of incineration/cremator units, so first responders can provide the best assistance possible in the event of a fire or natural disaster.
 - (4) To ensure persons operating incinerator/cremator waste treatment equipment are adequately trained before using the equipment.
 - (5) To provide for the administration and enforcement of standards necessary to protect residents, industry workers, first responders, agricultural structures and equipment, and other property from incorrect incineration or cremation practices.
 - (6) To help protect business interests and reduce potential liability risks.
- 1.4 Applicability. This ordinance applies to all existing and proposed veterinarian animal euthanasia, human cremation, and agricultural incinerators/cremators in Jefferson County.
- 1.5 Definitions. Unless specifically defined herein, the following terms have the meaning as provided for in Wis. Stats. cs.92 and 281:
- (1) "Person" means an individual, corporation, partnership, cooperative association, limited liability company, trust, or other legal organization or entity.
 - (2) "County" means County of Jefferson, Wisconsin.
 - (3) "Incinerator" means a device which maintains a controlled process by which solid waste is thermally altered into gases and residue containing little or no combustible material."
Source: NR 287.13 (17) (a).

- (4) “Crematory” means a facility that has a combustion device for the purpose of burning exclusively human corpses or animal bodies. (WI Legislature NR 499.02 (6))
- (5) “Certified Operator” means a person who has completed an approved training program, passed an examination in accordance with the requirements outlined in WI NR 499, and has been issued a certificate by the DNR. (WI Legislature: 499.02(4))
- (6) “Chief Facility Operator” means a person who has completed an approved training program and passed a DNR-examination at this certification level. A chief facility operator is responsible for the overall supervision and monitoring of performance of the waste treatment equipment and facility personnel. (WI Legislature 499.02(5) The duties and responsibilities of the chief facility operator are outlined in WI NR 499.06 (1).
- (7) “Interim Chief Facility Operator” means a shift operator temporarily assigned the duties of a chief facility operator.
- (8) “Shift Operator” means a person who has completed an approved training program and passed a DNR examination at this certification level. A shift operator is responsible for the supervising and monitoring of performance of the waste treatment equipment and facility personal during an assigned shift.

1.6 Findings of Fact. The County of Jefferson makes the following findings of fact in support of this ordinance:

- (1) The Jefferson County Board of Supervisors is a leadership body which takes actions on issues in the county that foster public safety, health, and environmental protection.
- (2) Incineration involves burning solid wastes in a controlled fashion, to reduce volume and weight, as well as to change the characteristics of the waste.
- (3) Safe location and safe operation of high-temperature incinerators/cremators are important for air pollution control, worker safety, and fire protection. In accordance with the Clean Air Act, EPA-regulated air emissions from these units include benzene, hexane, formaldehyde, and T,C,D,D/dioxin (2,3,7,8-tertachlorodibenzo-p-dioxin).
- (4) Wisconsin Department of Natural Resources (DNR) offers an incinerator operator certification program which includes “training on incinerator operations, health and safety training while performing incinerator operator duties, incinerator management issues and incinerator design and construction.”
(<https://dnr.wi.gov/opcert/incinerator.html>)
- (5) Animal incinerators/cremators are currently used in at least two municipalities in Jefferson County; the exact number and location of existing units is not known.

- (6) Incinerators/cremators which reach 1200 to 1600 degrees have grown in popularity statewide as well as nationally since the 2015 avian influenza outbreak. New information indicates incinerators are now being used to help reduce PFAS, toxic chemicals in soils in some rural and urban areas, an application which is expected to increase in the foreseeable future.
- (7) Over the next 12 to 24 months, incinerator/cremator use is projected to triple in the County, for agricultural mortality waste. (WI DNR Air Pollution Construction Permit 18-JJW-054; October 17, 2108; EI Facility Number 128027350)
- (8) Presently, no system is in place at the local level for tracking, monitoring, and overseeing incineration or cremation activities in Jefferson County.
- (9) WI NR 499.03(9) currently exempts the DNR from requiring cremator operator certification for the following: veterinarian animal euthanasia, human cremation facilities, and agricultural cremator/incinerator operators.
- (10) After consultation with governing officials from WI DNR and Wisconsin Department of Agriculture, Trade, and Consumer Protection (WI DATCP), it appears no legal barriers to enacting a local/county ordinance requiring operator certification exist.

1.7 Incinerator Siting.

(1) An incinerator/cremator shall be sited in accordance with USDA NRCS guidelines. ("Incineration of Animal Mortality," Sheet No. AL316A; <https://efotg.sc.egov.usda.gov/references/public/AL/al316aincAnialMortal.pdf>)

(2) Jefferson County Solid Waste and Air Quality Committee ("the Committee") shall review existing incinerators/cremators for compliance with Section 1.7 (1) of this ordinance and shall approve proposed siting of all new incinerators/cremators prior to installation in Jefferson County.

1.8 Incinerator Operation.

(1) One or more Certified Operators shall be on site during the operation of an incinerator/cremator, including for the duration of the burndown cycle for facilities with incineration units having air pollution control devices.

(2) Any facility in Jefferson County which has an incinerator/cremator that does not have an air pollution control device shall employ at least one Shift Operator.

(3) Any facility having an incinerator/cremator equipped with an air pollution control device shall employ at least one Chief Facility operator or Interim Chief Facility Operator. Certification levels for chief facility operator and shift operator are defined in WI NR 499.06 (1)

a. The Chief Facility Operator's duties include ensuring that shift operators are trained and certified as required, and are familiar with applicable federal, state, and local environmental regulations. This individual is also responsible for operating the equipment in compliance with applicable federal, state, and local laws. (WI NR 499.06) The Chief Facility Operator is responsible for ensuring the incinerator is not charged at a rate that exceeds its design capacity.

(4) The owner, and their designated waste operator in the event of a contractual party or designee, shall be responsible for securing all required permits, approvals, and registration, and for the operation of the units in accordance with applicable laws, rules, and regulations. Permits must be obtained prior to construction and operation.

(5) The owner of the facility, and their designated waste operator in the event of a contractual party or designee, shall notify the DNR and the designated party at Jefferson County, in writing of the appointment of an Interim Chief Facility Operator within 10 days of the appointment. The appointment is valid for 6 months and may be renewed. (WI NR 499.04 (2c))

(6) All operator certificates shall be displayed on the premise of the facility where certified incinerator/cremator operators are employed.

(7) As the body charged with addressing waste removal and air quality concerns in the County, the Committee shall be responsible for verifying individuals receive the required certification prior to operating incinerators or cremators in Jefferson County. The Committee shall also be responsible for monitoring and ensuring refresher training is obtained in a timely fashion, as outlined in Section 1.8 and Section 1.9 of this ordinance, and in accordance with the initial training and refresher training parameters outlined in WI NR 499.08, WI NR 499.09 and WI NR 499.10.

1.9 Operator Certification.

- (1) Operation of incinerator/cremator equipment is prohibited prior to verification by the Committee of the operator(s) successful completion of certified incinerator operator training through the Wisconsin DNR.
- (2) All Equipment Operators shall complete four (4) hours of Continuing Education Credits annually through the WI DNR as required by WI NR 499.

1.10 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 of Jefferson, and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

1.11 Severability.

- (1) Should any section, clause, provision, or portion of this ordinance be adjudged to be unconstitutional or invalid, unlawful, or unenforceable by a final order of a court of

competent jurisdiction, the remainder of the ordinance shall remain in full force and effect.

- (2) If any application of this ordinance to a particular parcel of land is adjudged unconstitutional or invalid by a final order of the court of competent jurisdiction, such judgement shall not be applicable to any other parcel of land not specifically included in said judgment.

SECTION 2: ADMINISTRATION

2.1 County Powers. The County may:

- (1) Refer a violation of this Ordinance to the County's legal counsel for legal action.
- (2) Issue a citation for a violation of this ordinance.
- (3) Use any other lawful means to administer and enforce this Ordinance.

2.2. Administrative Duties. In the administration and enforcement of this ordinance, the County shall:

- (1) Investigate complaints relating to compliance with this ordinance.
- (2) Keep an accurate record of all inspections made, and other official actions.
- (3) Inspection Authority. The County may make any inspection necessary under this Ordinance to protect public health and safety. Where the County does not have permission to enter lands subject to this ordinance for inspection purposes, entry shall be according to Wis. Stat. 66.0119. Refusal to grant permission to enter lands affected by this Ordinance for inspection purposes pursuant to the requirements of s. 66.0119 shall be grounds for initiating an enforcement action.

SECTION 3: VIOLATIONS, PENALTIES, AND APPEALS

3.1 Violations.

- (1) It is unlawful for any person to violate Section 1.7, Section 1.8, and Section 1.9 of this ordinance.
- (2) It is unlawful for any person to knowingly provide false information, make a false statement, or fail to provide or misrepresent any material fact to a County agent, board, commission, department, employee, officer, or official acting in an official capacity under this ordinance.

- (3) It is unlawful for a person to disobey; fail, neglect, or refuse to comply with; or otherwise resist an order issued pursuant to this ordinance.
- (4) It is unlawful for an individual to operate an incinerator/cremation unit after suspension or revocation of his/her operator's certificate, as outlined and defined in NR 499.12.

3.2 Penalties.

- (1) This ordinance may be enforced through civil forfeiture or through issuance of an injunction by the circuit court in an action initiated by the County.
- (2) A person shall, upon conviction for a violation of this ordinance, forfeit not less than \$50 dollars, nor more than \$500 dollars for each conviction, plus the applicable costs for prosecution for each violation, and may be ordered to take such action as is necessary to abate the offense within a specified time.
- (3) Each day a violation continues shall constitute a separate offense.
- (4) In the event an offense is not abated as ordered, the County may take such action as is necessary to abate the offense, and the cost of such abatement will become a lien upon the person's property and may be collected in the same manner as other taxes.

3.3 Appeals. Any person aggrieved by a decision of the County may seek review before the Board of Adjustment.

SECTION 4: EFFECTIVE DATE

The ordinance shall take effect upon passage by the Jefferson County Board of Supervisors of the County of Jefferson, Wisconsin upon publication provided by law.

<Adopted date of month/year.>

<necessary signatures>

Updated 8/1/19 based on discussion at SWAQ meeting June 4, 2019

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