

CERRO GORDO COUNTY, IOWA
HEALTH NUISANCE ORDINANCE NO. 11B

EFFECTIVE DATE:
FEBRUARY 7, 1989

REVISED DATES:

JULY 16, 1991
November 3, 2008

Index

PURPOSE 3
DEFINITIONS 3
GENERAL REQUIREMENTS 5
INVESTIGATION..... 7
ENFORCEMENT 7
REFUSAL OF ADMITTANCE 8
NOTICE 8
EMERGENCY ABATEMENT ORDER 8
HEARING..... 9
PENALTIES..... 9
COLLECTION OF COST OF ABATEMENT 9
AMENDMENTS..... 9
SEPARABILITY OF PROVISION..... 10
REGULATION EFFECTIVE UPON PUBLICATION 10

HEALTH NUISANCE ORDINANCE

The purpose of this ordinance is to provide standards for the protection of life, health, property and the general public welfare by regulating and controlling health nuisances within unincorporated Cerro Gordo County and all incorporated places in Cerro Gordo County except those areas that lie within the city limits of Mason City and to provide penalties for violation of the provisions hereof. The Cerro Gordo County Board of Health, hereby adopts the following regulation, to wit:

SECTION 1. DEFINITIONS

1.1 "Abate or Abatement" means the removal or discontinuance of a health nuisance or the making of improvements needed to effect a rehabilitation of property to bring it into compliance with existing health regulations and to maintain safe and habitable conditions over the remaining useful life of the property. The closing up of a building or structure that is found to be a health nuisance is not an abatement of the health nuisance.

1.2 "Administrative authority" means the Cerro Gordo County Board of Health or its authorized representative as sanctioned by Iowa Code section 137.6.

1.3 "Backyard burning" means the disposal of residential waste by open burning on the premises of the property where such waste is generated.

1.4 "Board of Health" means the Cerro Gordo County Board of Health.

1.5 "Building" means any structure designed or intended for the support, enclosure, shelter or protection of persons, animals, or property, but not including signs or billboards.

1.6 "County" means Cerro Gordo County.

1.7 "Dwelling" means any building or portion thereof which is designated or used for residential purposes but not including a garage, tent, cabin, trailer, travel trailer, motor home or bus.

1.8 "Emergency" means unforeseen circumstances requiring prompt action to prevent, avoid or minimize any significant possibility of loss of life, serious injury, transmission of infectious disease, or significant damage to real estate.

1.9 "Garbage" means all solid, semisolid, and liquid putrescible animal and vegetable waste including all such waste from, or derived from, public and private businesses and residences.

1.10 "Health nuisance" means whatever is injurious, hazardous or dangerous to public health or safety, or degrades the natural environment, including but not limited to those things, conditions or actions which are offensive to the senses, or an obstruction to the free use of property, so as to unreasonably interfere with the comfortable enjoyment of life or property.

1.11 "Inoperable vehicle" means any motor vehicle which lacks a current registration and/or any component parts which renders the vehicle incapable of self-locomotion or legal use on public roadways.

1.12 "Junk" means all scrap copper, glass, lead, or any other nonferrous metal; iron, steel, or other scrap ferrous material; tinware, plastic, or discarded household goods rope, rags, crockery, batteries, paper, trash, rubber debris, building materials; dismantled or inoperable vehicles, machinery and appliances or parts thereof; including but not limited to discarded, abandoned, unattended, or used refrigerators, iceboxes and similar containers equipped with airtight door or lid, snap lock or other locking device which may not be released from the inside; or any other kind of scrap or waste or abandoned material or items.

1.13 "Open burning" means any burning of combustible materials where the products of combustion are emitted into the open air without passing through a permanently constructed chimney or stack.

1.14 "Person" means any individual, firm, corporation or other legal entity and authorized agents and/or officer thereof.

1.15 "Refuse" means all putrescible and nonputrescible solid wastes, with the exception of body waste, and shall include, but not be limited to, garbage, rubbish, yard waste, ashes, street sweepings, dead animals, and residential waste.

1.16 "Residential waste" means any refuse generated on the premises as a result of residential activities. The term includes landscape waste grown on the premises or deposited thereon by the elements, but excludes garbage, tires, trade wastes, and any locally recyclable goods or plastics.

1.17 "Vermin" means various small animals or insects that are destructive, objectionable, annoying or injurious to health and are often difficult to control, including but not limited to cockroaches, bed bugs, lice, fleas, mosquitoes, flies, mice and rats.

SECTION 2. GENERAL REQUIREMENTS

Causing, Permitting or Failing to Abate a Health Nuisance. No person shall cause the occurrence of a health nuisance; permit the occurrence or continuation of a health nuisance on property owned, controlled or occupied by the person; or fail to abate a health nuisance caused by the person or existing on property owned, controlled or occupied by the person when ordered to do so by the administrative authority.

2.1 Presence of Refuse and Junk Prohibited. The owner, manager, agent, occupant, or lessee of any building, dwelling, business, or matter or thing on or about the property on which it is situated, shall not allow the accumulation of refuse or junk as to constitute a public health nuisance.

2.2 Presence of Vermin Prohibited. The owner, manager, agent, occupant, or lessee of any building, dwelling, business, or matter or thing on or about the property on which it is situated, where the presence of vermin or the conditions that allow for the harborage of vermin, including but not limited to stagnant water or dense growth of weeds, as determined to exist by the administrative authority, shall abate or cause the abatement of the presence of such vermin and the conditions that allow for the harborage of vermin in order that they are effectively eliminated.

2.3 Disposal of Dead Animals. No person shall allow or cause the unlawful disposal of the carcasses of dead animals or fail to properly dispose of the carcasses of dead animals. Such carcasses shall be disposed of as provided in Chapter 167 of the Code of Iowa.

2.4 Abandoned Property on Public Land or Right-of-Way. Property left on public land or in any road or other public right-of-way without consent from the authorized jurisdiction for a period of forty-eight (48) hours or more, including but not limited to any personal and household items or waste, furniture, appliances, machinery, equipment, building materials, motor vehicles or other items, shall be deemed abandoned and a public safety hazard and shall constitute a health nuisance under this ordinance subject to immediate abatement by the administrative authority without further notice. The forty-eight (48) hour time period may be reduced if the administrative authority determines an imminent health or safety hazard exists. If evidence identifying the owner of the property, or of the persons responsible for the presence of the property, is found on or in the abandoned property, a personal judgment may be entered against such person and the person's real property may be assessed for the cost of removal and other costs associated therewith, including, but not limited to, court costs and attorney fees.

2.5 Unsafe Building. No person shall own, operate, use or allow the continuation of an unsafe, dangerous, or abandoned building that is a menace to public health or safety, or that is structurally unsafe, unsanitary, or not provided with safe egress, or that constitutes a fire hazard, or is otherwise dangerous to human life or safety, or constitutes a hazard to public health and safety by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, including but not limited to, buildings with broken or missing windows or doors, broken or missing roof, floor, or wall sheathing or other related materials so as to expose the interior to weather.

2.6 Habitation without Adequate Water or Disposal Facilities. No person shall own, operate or use any building or place for human habitation with inadequate or unsanitary wastewater disposal facilities, or which otherwise fail to meet applicable state or local standards or any abandoned well not properly plugged as provided in Iowa Code, 455B.190 and 567 Iowa Administrative Code Chapter 39, or without a safe potable water supply under pressure.

2.7 Deposit of Materials Prohibited. No person shall deposit or permit to be deposited dirt, debris, or other material onto a public right-of-way which could be injurious to the public, or into a public or private storm sewer or drainageway so as to obstruct flow or cause pollution, or onto public or private property so as to obstruct or divert the natural flow or cause pollution, or into a public stream, river, pond, lake or drainageway so as to cause pollution or to obstruct the flow thereof.

2.8 Pollution of Land, Water or Air. No person shall emit toxic, noxious, poisonous, injurious, unsanitary or offensive pollutants to the air, land, ground water, or surface water in a way that is a danger to public health or safety or the environment.

2.9 Open Burning. No person shall allow, cause or permit open burning of combustible materials, except as provided in the following exemptions, 2.9 A-G:

A. Disaster rubbish. The open burning of rubbish, including landscape waste, for the duration of the county disaster period in cases where an officially declared emergency condition exists.

B. Diseased trees. The open burning of diseased trees. However, when the burning of diseased trees causes a nuisance, the Board of Health may take appropriate action to secure relocation of the burning operation. Rubber tires shall not be burned with nor used to ignite diseased trees.

C. Landscape waste. The disposal by open burning of landscape waste originating on the premises. However, the burning of landscape waste produced in clearing, grubbing and construction operations shall be limited to areas located at least one-fourth mile from any inhabited building. Rubber tires shall not be used to ignite or be burned with landscape waste.

D. Recreational fires. Open fires for cooking, heating, recreation and ceremonies.

E. Residential waste. Backyard burning of residential waste at dwellings of four (4)-family units or less.

F. Training fires. Fires set for the purpose of bona fide training of public or industrial employees in fire fighting methods, with the approval of all regulating local and state governmental agencies.

G. Paper or plastic pesticide containers and seed corn bags. The disposal by open burning of paper or plastic pesticide containers (if allowed by EPA regulations) and seed corn bags resulting from farming activities occurring on the premises. Such open burning shall be limited to areas located at least one-fourth mile from any inhabited building, livestock area, wildlife area, or water source. The amount of paper or plastic pesticide containers and seed corn bags that can be disposed of by open burning shall not exceed one (1) day's accumulation or fifty (50) pounds, whichever is less. However, when the burning of paper or plastic pesticide containers or seed corn bags causes a nuisance, the Board of Health may take action to secure relocation of the burning operation. Since the concentration levels of pesticide combustion products near the fire may be hazardous, the person conducting the open burning should take precautions to avoid inhalation of the pesticide combustion products.

SECTION 3. INVESTIGATION

The administrative authority shall investigate, upon complaint of any person or on his/her own initiative, any potential health nuisance in the County and shall, upon finding of a health nuisance, order the person on whose property the nuisance exists or the person whose act or omission to act gives rise to the nuisance, to abate said nuisance.

SECTION 4. ENFORCEMENT

It shall be the duty and responsibility of the administrative authority to enforce the provisions of this ordinance. The ordinance may be enforced by either issuing a civil citation for a county infraction or by issuing a criminal citation, or both, for a violation of the County ordinance.

SECTION 5. REFUSAL OF ADMITTANCE

In the event the administrative authority, in proceeding to enter any premises for the purpose of making an inspection to carry out the provisions of this ordinance, shall be refused entry, a complaint may be made under oath at the District Court in the County and said Court may thereupon issue a warrant directed to a peace officer of the County, commanding him/her between the hours of sunrise and sunset, accompanied by the administrative authority, to enter upon the premises and make such inspection, and to obtain such samples as may be required to carry out the provisions of this ordinance.

SECTION 6. NOTICE

Whenever the administrative authority determines that there are reasonable grounds to believe there has been a violation of any provision of these regulations, he/she shall give notice of such alleged violation to the person or persons responsible, as thereof provided. Such notice shall be in writing and include (1) through (7) below as applicable:

- (1) A description to the extent possible of the condition(s) which constitute the nuisance.
- (2) A description of the location of the nuisance.
- (3) A listing of the applicable portion(s) of this ordinance violated.
- (4) An outline of the remedial action necessary for compliance and a reasonable time for performance of any act required.
- (5) Notice that the person is liable for the costs of abating the nuisance and any civil penalty and court costs assessed as a result of the nuisance.
- (6) Notice that if not corrected in the time set forth, the County may issue a civil infraction citation and seek a court judgment and an order allowing the County to abate the nuisance, and assess damages, the costs of abatement and civil penalties against the real estate, and collect these costs in the same manner as property taxes and/or in the form of a personal judgment.
- (7) Notice that the person has access to a hearing as describe in Section 8 of this ordinance.

SECTION 7. EMERGENCY ABATEMENT ORDER

If the administrative authority determines a public health nuisance emergency exists, the County may require corrective action or initiate corrective action immediately or within a time frame necessary to eliminate said emergency. An emergency abatement order shall include notice that, if not corrected in the time set forth, the County will abate the nuisance, assess costs of abatement against the real estate, and collect these costs in the same manner as a property tax. The notice shall

also include the right of the person to request an administrative hearing with regard to costs of abatement. Nothing in this section nor in this ordinance shall prevent or limit the right of the Board of Health, the administrative authority, or the County to directly petition the District Court for injunctive relief if protection of the health or safety of the public or an individual so requires.

SECTION 8. HEARING

In the event any person is aggrieved by any order made by the administrative authority, he/she may, within twenty (20) days of the date of such order, appeal to the Board of Health in writing stating his/her reasons for requesting the order to be rescinded or modified. The Board of Health shall review the action of the administrative authority, and if reasonable grounds exist, shall modify, withdraw, or order compliance with the said order. Appeal from any order of the Board of Health may be taken within twenty (20) days to the District Court of Cerro Gordo County, Iowa.

SECTION 9. PENALTIES

Any person, firm or corporation violating any regulation in or any provision of the ordinance or of any amendment or supplement thereto, shall be guilty of a simple misdemeanor which is punishable by a fine of not more than one hundred dollars (\$100) or by imprisonment of not more than thirty (30) days and shall be guilty of a county infraction punishable by a civil penalty not to exceed seven hundred fifty dollars (\$750). Each day that a violation occurs or is permitted by the defendant to exist, constitutes a separate offense. Repeat offenses may result in a civil penalty not to exceed \$1000.00 per day.

SECTION 10. COLLECTION OF COST OF ABATEMENT

Upon failure of any person to abate a health nuisance from his/her property or the property he/she occupies, the administrative authority may direct or cause the abatement or removal of said nuisance. All expenses incurred thereby shall be paid by the owner, agent or occupant of said property and the same shall be a lien upon said property and/or a personal judgment against the person responsible and shall be assessed against the property in the same manner as a property tax.

SECTION 11. AMENDMENTS

Amendments and additions to this ordinance shall be made as required by Iowa Code, Chapter 137.6. The Board of Health shall propose amendments and additions to this ordinance to the Board of Supervisors whenever the Board of Health determines such changes are necessary to fulfill the purpose of this ordinance.

SECTION 12. SEPARABILITY OF PROVISION

If any section, paragraph, clause or provision of this ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provision of this ordinance.

SECTION 13. REGULATION EFFECTIVE UPON PUBLICATION

This regulation being deemed essential and imperative for the preservation of the public health, shall be in force and effect from and after its passage and publication as provided by law.

THE REQUIREMENTS OF CERRO GORDO COUNTY HEALTH NUISANCE ORDINANCE ARE IN ADDITION TO ANY REQUIREMENTS IMPOSED BY THE CODE OF IOWA, CHAPTER 657, NUISANCES; THE CODE OF IOWA, CHAPTER 657A, ABANDONED BUILDINGS - ABATEMENT BY REHABILITATION, AND THE IOWA ADMINISTRATIVE CODE, CHAPTER 567-23.2 (455B), OPEN BURNING.

Approved by the Cerro Gordo County Board of Health
December 9, 1988

Adopted by the Cerro Gordo County Board of Supervisors
February 7, 1989
Effective on February 7, 1989
Revised July 16, 1991
Revised November 3, 2008