

SIoux COUNTY ORDINANCE NO. 21

NUISANCE ORDINANCE FOR THE UNINCORPORATED AREA OF SIoux COUNTY, IOWA

AN ORDINANCE to regulate the creation, maintenance and operation of nuisances in Sioux County; to provide for the health, welfare and safety of the citizens of Sioux County by providing for the abatement and removal of any nuisances found in Sioux County; to prescribe penalties for the violation of its provisions; all in accord with Iowa Code Chapters 657 and 331; and to be known and cited as the "Sioux County Nuisance Ordinance."

WHEREAS, the Board of Supervisors of Sioux County, Iowa deem it necessary to prevent, regulate and provide for the correction, abatement and removal of nuisances in the unincorporated areas of Sioux County in order to protect the public health, safety, and general welfare of the citizens of Sioux County; to ensure the comfortable enjoyment of life or property by its citizens without the presence of nuisances which interfere unreasonably with or amount to an obstruction of another's free use of their property; and to encourage the most appropriate uses of land throughout the County.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF SIOUX COUNTY, IOWA:

ARTICLE I – SHORT TITLE AND JURISDICTION

Section 1. **SHORT TITLE.** This Ordinance shall be known and may be cited and referred to as the Sioux County Nuisance Ordinance, an ordinance prohibiting the creation, operation and maintenance of a nuisance in Sioux County, Iowa, and providing for the abatement and prosecution of landowners who create, allow and/or maintain a nuisance.

Section 2. **JURISDICTION.** In accordance with the provisions of Iowa Code Chapters 657 and 331, as amended, in particular, Iowa Code Section 331.384(1)(a), this Ordinance is adopted by Sioux County, Iowa, and shall govern all lands within the unincorporated areas of Sioux County.

Section 3. **PURPOSE AND INTERPRETATION OF REGULATIONS.** The stated purpose of this Ordinance is to protect the health, safety, and welfare of the citizens of Sioux County and to provide for the removal of nuisances which interfere unreasonably with the comfortable enjoyment of life of property or which are, by their nature, unreasonably offensive to the senses or amount to an obstruction to the free use of another's property by providing for the abatement and removal of nuisances and the imposition of penalties for those that maintain, allow or create a nuisance.

The Iowa Legislature has in Iowa Code Chapters 657 and 331, as amended, delegated the power to counties to enact nuisance ordinances. This Ordinance is adopted in accordance with, and as authorized by Iowa Code Chapter 657, Nuisances, and Iowa Code Chapter 331, County Home Rule Implementation. This Ordinance is intended to be interpreted in accord with the provisions of Iowa Code Chapter 657, as amended. In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements. Where this Ordinance imposes a greater restriction than is imposed or required under the provisions of other laws, rules, regulations or ordinances, the provisions of this Ordinance shall govern.

Section 4. DEFINITIONS. For the purposes of this Ordinance certain words and terms are hereby defined. Words used in the present tense shall include the future; the singular number shall include the plural and the plural number shall include the singular; the word "shall" is mandatory; the word "may" is permissive; the word "he" includes "she"; the term "person" shall include not only individuals, but also a firm, association, joint venture, corporation, partnership or other legal entity and/or their authorized agents and/or employees.

4.1. The term "Refuse" shall mean all waste, trash, garbage, rubbish, ashes or other substances that are placed or located on or in any public or private place, whether that substance be wood, paper, metal, plastic, organic or inorganic, or which substance is offensive to sight, smell or other senses; or which substance is dangerous to the public health, safety or general welfare or to an individual's health, safety or welfare.

4.2. The term "Junk" shall mean all old or scrap copper, brass, lead, or any other non-ferrous metal; old or discarded rope, rags, batteries, rubber, debris, waste or used lumber, or salvaged wood; dismantled vehicles, machinery and appliances or parts of such vehicles, machinery or appliances; iron, steel or other old or scrap ferrous materials; old or discarded glass, tin-ware, plastic, or old or discarded household goods or hardware. However, neatly stacked firewood located on a side yard or a rear yard shall not be considered junk.

4.3. The term "Junk Vehicle" shall mean any unlicensed vehicle (including any motor vehicles, all terrain vehicles, motor homes, motorcycles or any car or automobile) stored, kept or found within the unincorporated area of Sioux County and which has any combination of two or more of the following characteristics:

- A. Broken Glass. Any vehicle with a broken or cracked windshield, window, or headlight or any other cracked or broken glass components.
- B. Broken, Loose, or Missing Part. Any vehicle with a broken, loose, or missing fender, door, bumper, hood, or door handle or window handle or steering wheel, trunk top or trunk handle, or tailpipe.
- C. Habitat for Nuisance Animals or Insects. Any vehicle, which has become the habitat for rats, mice, snakes, or any other vermin, animal or insect.
- D. Flammable Fuel. Any vehicle which contains gasoline, or any other flammable fuel.
- E. Inoperable. Any motor vehicle that lacks an engine, or two or more wheels or other structural parts, which renders the vehicle incapable of self-locomotion or legal use on public roadways.

F. Defective or Obsolete Condition. Any vehicle which, because of its defective or obsolete condition, in any other way constitutes a threat to the public health and safety.

4.4. The term "Nuisance" is defined to mean that whatever is injurious to health, indecent, or unreasonably offensive to the senses or an obstruction to the free use of property, so as essentially to unreasonably interfere with the comfortable enjoyment of life or property is a nuisance. In particular, the following, which is not intended to be an exhaustive list, are expressly declared to be nuisances:

A. The erecting, continuing, or using any building or other place for the exercise of any trade, employment, or manufacture, which, by occasioning noxious exhalations, unreasonable offensive smells, loud or excessive noise levels, or other annoyances to the senses, becomes injurious and dangerous to the health, comfort, or property of an individual or the general public, or which causes unreasonable distress to the occupants of any residence or public building located in the vicinity.

B. The storage, collection, discharge or deposit of any offal, filth or noisome substance in any private or public place to the prejudice of others or which is contrary to the public health, safety or welfare.

C. The obstructing or impeding without legal authority the passage of any navigable river, harbor, or collection of water

D. The corrupting or rendering unwholesome or impure the water of any river, stream, or pond, or unlawfully diverting the same from its natural course or state, to the injury or prejudice of others.

E. The obstructing or encumbering by fences, buildings, or otherwise the public roads, private ways, streets, alleys, commons, landing places or burying grounds.

F. Billboards, signboards, and advertising signs, whether erected and constructed on public or private property, which so obstruct and impair the view of any portion or part of a public street, avenue, highway, boulevard, alley, railroad or street railway track so as to render dangerous the use thereof.

G. Junk vehicles, or any portions thereof located on any private or public property.

H. Any object or structure hereafter erected within one thousand feet of the limits of any municipal or regularly established airport or landing place, which may endanger or obstruct aerial navigation, including take-off and landing.

I. The depositing or storing of flammable junk, such as old rags, tires, rope, cordage, rubber, bones, and paper, unless stored in a building of fireproof construction.

J. Any building or structure which has been abandoned, or which because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or which is otherwise determined to be unsanitary, unfit for human habitation or in such a condition that is likely to threaten the health or safety of others.

K. Property which is not connected to public drainage systems when said property can be connected to public drainage systems from an abutting property, and when said connection is necessary for public health or safety.

L. A dense growth of weeds, vines, brush, or other vegetation growth which constitutes a health, safety, or fire hazard.

M. An accumulation of junk and/or refuse in any private or public place, not to include properly permitted salvage yards.

N. Any condition, including but not limited to stagnant water or dense growth of weeds, that is conducive to the reproduction or harborage of flies, mosquitoes, rodents, and/or other vermin or insects of public health significance so as to threaten the health and safety of others.

O. Carcasses of dead animals that have not been properly disposed of after death as provided by state, federal or local law.

P. The installation and continued use of outdoor lighting that produces glare and/or light trespass that may decrease security, creates hazards through glare, or creates a distraction which prohibits or unreasonably interferes with the enjoyment of life or property, shall be declared a nuisance. As used herein, the term "Light Trespass" shall mean spill light falling over property lines that illuminate adjacent grounds or buildings in an objectionable and unreasonable manner. As used herein, the term "Glare" shall mean the sensation produced by a bright source within the visual field that is sufficiently brighter than the level to which the eyes are adapted, to cause unreasonable annoyance, discomfort, or loss in visual performance and visibility.

Q. Any other act deemed to be a nuisance under any other state or local law, regulation or ordinance.

R. 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 without a safe potable water supply under pressure.

Section 5. SCOPE OF ORDINANCE. The provisions of this Ordinance shall apply to all private property located within Sioux County, Iowa which is also located outside the boundaries of any incorporated city, and the provisions of this Ordinance shall also apply to all private property located within the jurisdiction of any municipality located within Sioux County, unless such municipality has enacted or later enacts its own nuisance ordinance, in which

case, the provisions of such municipality's nuisance ordinance shall preempt this Nuisance Ordinance.

Section 6. **NUISANCE RESTRICTIONS ON FARMS.** A farm or farm operation shall not be found to be a nuisance under this Ordinance unless one of the following exceptions applies:

- A. The nuisance is the result of a farm operation determined to be in violation of any federal statute or regulation or state statute or rule;
- B. The nuisance results from the negligent operation of the farm or farm operation; or
- C. The nuisance results in injuries or damages because of the pollution or change in condition of the waters of a stream or other waterway, or the nuisance results in the overflowing of water onto another person's land, or the nuisance results in excessive soil erosion onto another person's land.

ARTICLE II –NUISANCES PROHIBITED AND PROCEDURE

Section 1. **NUISANCES PROHIBITED.** It shall be unlawful to create, permit, continue, cause or maintain a nuisance, and a nuisance, public or private, may be abated or penalized in the manner provided in this Ordinance or under Iowa law.

Section 2. **NOTICE TO ABATE NUISANCE.** Whenever the Sioux County Planning and Zoning Administrator, the Sioux County Sanitarian, the Sioux County Board of Health or other authorized County officer finds that a nuisance exists as defined in this Ordinance, he or she shall cause to be served upon the property owner a written notice to abate the nuisance within a reasonable time after notice. Property owner shall be defined as a contract purchaser if there is one of record; otherwise the record holder of legal title.

Section 3. **CONTENTS OF NOTICE TO ABATE.** At a minimum, the written notice to abate shall contain all of the following:

- A. A description of what constitutes the nuisance.
- B. The location of the nuisance.
- C. A statement or notice of the act or acts necessary to abate the nuisance.
- D. A statement or notice of the time within which action to complete the abatement of the nuisance is required. Thirty (30) days shall generally be considered a reasonable time for abatement to be completed. However, the Sioux County Planning and Zoning Administrator shall consider the individual facts and circumstances of each case and determine whether thirty (30) days shall be allowed for abatement, or whether more or less time shall be allowed.
- E. A statement or notice that if the nuisance is not abated as directed within the time prescribed, the County will abate the nuisance and assess the costs against the property owner as allowed by Iowa law and this Ordinance.

Section 4. **METHOD OF SERVICE.** The notice required by Section 3 of this Article may be served by either personal service or by certified mail sent to the property owner at the mailing address as shown in the records of the Sioux County Auditor, and, except in the case of an emergency (as provided for in Section 5 of this Article), such notice shall state the time within which action is required.

Section 5. **ABATEMENT IN EMERGENCY.** If it is determined that an emergency exists by reason of the continuing existence or maintenance of a nuisance, Sioux County and/or its authorized agents, employees or officers may perform any action that may be required under this Ordinance to abate the notice without prior notice to the property owner and assess the costs in the same manner as provided for in Section 7 of this Article. For purposes of this Ordinance, the term "emergency" shall mean 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.

Section 6. **FAILURE TO ABATE.** Any person who creates, permits, continues, causes or maintains a nuisance and who fails or refuses to abate or remove the nuisance within the reasonable time required and specified in the notice to abate, given pursuant to Article 2 of this Ordinance, shall be in violation of this Ordinance.

Section 7. **ABATEMENT BY COUNTY.** If the property owner fails to abate the nuisance by the date given in a properly served notice, the County may perform any required action to abate or remove the nuisance, and the costs incurred by the County shall be assessed to the property for collection in the same manner as a property tax. Such special assessments shall be assessed and shall remain a lien against the benefited property pursuant to the provisions of Iowa Code Section 331.384. The procedure for making and levying the special assessment and for an appeal of the special assessment shall be the same as provided for in Iowa Code Sections 331.384 and sections 384.59 through 384.67 as well as sections 384.72 through 384.75, provided that references in those sections to the council shall be to the board of supervisors and the references to the city shall be to the county.

Section 8. **RIGHT TO ENTER PREMISES.** The Planning and Zoning Administrator or an authorized agent, may enter any building, property, or other place for the purpose of examining any possible nuisance. The Administrator, or authorized agent, may request assistance from the Sioux County Sheriff's Office in order to discharge duties under this section. Any person who unlawfully interferes with the discharge of the Administrator's duties under this section shall be deemed guilty of a simple misdemeanor under Section 9 of this Ordinance.

Section 9. **COUNTY INFRACTION AND PROSECUTION.** Pursuant to Iowa Code Section 331.307(2), a violation of this Ordinance shall constitute a County infraction. A violation shall be punishable by a civil penalty against the owner of the property or any other individual in lawful possession of the property, in an amount not to exceed that allowed by Iowa Code Section 331.307(1), as now or hereafter amended. Alternatively, or in addition to, constitution of a county infraction, a person found in violation of this ordinance, if so charged criminally, shall be guilty of a simple misdemeanor, and upon conviction thereof shall be subject to such maximum penalty as provided for in Iowa Code Section 903.1(a), as now or hereafter

amended. Each day that a violation occurs or is permitted to exist by the owner of the property or any other individual in lawful possession of the property constitutes a separate offense. In addition to any civil penalty imposed for violating this Ordinance, a court may grant appropriate relief to abate or halt the violation, including all of the abatement options available pursuant to Iowa Code Section 331.307, as now or hereafter amended.

ARTICLE III – MISCELLANEOUS PROVISIONS

Section 1. **SEVERABILITY.** This Ordinance and any amendment hereto and the various parts, sections, subsections and clauses thereof, are hereby declared to be severable. If any part, sentence, paragraph, subsection, section or clause of this Ordinance is adjudged unconstitutional or invalid or is otherwise struck down, it is hereby provided that the remainder of the Ordinance or any amendment hereto shall not be affected thereby.

Section 2. **RELATIONSHIP TO OTHER LAWS.** Nothing contained herein shall serve to abrogate, limit, repeal, or otherwise modify any other ordinance, statute, or regulation by the County, State or Federal government.

Section 3. **EFFECTIVE DATE.** This Ordinance shall be in full force and effect from and after its final passage, approval, and publication as provided by law.

ARTICLE IV – ADOPTION

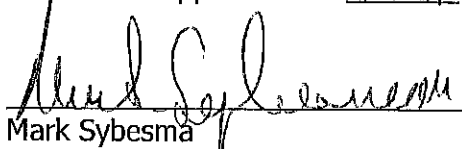
ORDINANCE NO. 21

NUISANCE ORDINANCE OF SIOUX COUNTY, IOWA

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF SUPERVISORS

OF SIOUX COUNTY, IOWA:

Passed and approved this 14th day of September, 2010.



Mark Sybesma
Chairman, Sioux County Board of Supervisors



Lois Huitink
Sioux County Auditor

RESOLUTION NO.2010-17

A RESOLUTION OF THE SIOUX COUNTY BOARD OF SUPERVISORS TO APPROVE AND ADOPT THE 2010 NUISANCE ORDINANCE.

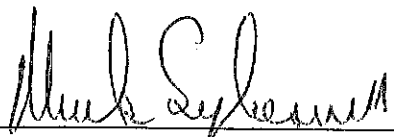
WHEREAS: The Board of Supervisors of Sioux County, Iowa has decided in the best interests of the county to request the Planning and Zoning Commission undergo, through a formal planning and public input process, development of an ordinance to deal with those situations in the county that are deemed to be a nuisance and/or a threat to public health and safety; and

WHEREAS: The Sioux County Planning and Zoning Commission in keeping with their prescribed responsibility has undergone the development of a nuisance ordinance and has subsequently recommended this ordinance for formal adoption by the Board of Supervisors; and

WHEREAS: The Board of Supervisors, having reviewed this ordinance, feels it is in the best interests of the county to adopt this ordinance to deal more effectively with nuisance situations;

NOW THEREFORE BE IT RESOLVED BY THE SIOUX COUNTY BOARD OF SUPERVISORS, that the adoption of the 2010 Nuisance Ordinance is hereby authorized.

PASSED AND APPROVED THIS 14th DAY of SEPTEMBER, 2010.



Chair, Sioux County Board of Supervisors



Attest: County Auditor