

RESOLUTION 68
NUISANCE ORDINANCE

68-83

AN ORDINANCE DEFINING NUISANCES, PROHIBITING THEIR CREATION OR MAINTENANCE AND PROVIDING FOR ABATEMENT AND PENALTIES FOR VIOLATION THEREOF.

THE BOARD OF POLK COUNTY DOES ORDAIN:

100.00 PUBLIC NUISANCE

Whoever by his act or failure to perform a legal duty, intentionally does any of the following is guilty of maintaining a nuisance:

- (1) maintains or permits a condition which unreasonably injures, or endangers the safety or health of the public;
- (2) is guilty of any other act of omission declared by law to be a public nuisance and for which no sentence is specifically provided.

100.01 PUBLIC NUISANCES AFFECTING HEALTH

The following are hereby declared to be public nuisances affecting health:

- (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 so as to avoid health hazards;
- (3) allowing any discharge into the environment of toxic or noxious materials in such concentrations as to endanger the public health;
- (4) causing or allowing the effluent from any cesspool, septic tank, drainfield or sewage disposal system to discharge upon the surface of the ground;
- (5) causing or allowing the contamination of any well, cistern, stream, lake or other body of water by sewage, waste or other materials or substances;
- (6) maintaining excessive numbers of pets that result in a health hazard to either the animal or human inhabitants;
- (7) allowing an accumulation of debris, such as wood, metal, glass or brush;
- (8) abandoned vehicles;
- (9) accumulation of unused appliances;
- (10) holes or excavations which constitute a safety hazard;
- (11) excessive noise;
- (12) abandoned wells not properly sealed;
- (13) man-made ponds or pools containing stagnant water;

(14) failure to comply with any law or rule regarding sanitation and health including but not limited to:

- (a) plumbing,
- (b) water supplies, including wells and surface waters
- (c) waste disposal
- (d) storage of chemical pesticides or herbicides

100.02 ENFORCEMENT

It shall be the duty of the board by and through its Health Committee to enforce the provisions of this ordinance and the Town Chairmen of Polk County are hereby delegated authority to enforce the provisions of this ordinance, including the power to inspect private premises, issue orders for abatement, issue citations for violations, and abate nuisances. The officers charged with the enforcement of this ordinance shall take all reasonable precautions to prevent the commission and maintenance of public nuisances. The Town Chairman shall file an annual statistical report with the Polk County Health Committee.

100.03 ENFORCEMENT PROCEDURE

Whenever, in the judgement of the officer charged with enforcement, it is determined upon investigation that a public nuisance is being maintained or exists with the County, such officer

(1) shall notify in writing the person committing or maintaining such nuisance and require him to terminate and abate said nuisance and to remove such conditions or remedy such defects. Said written notice shall be served upon the person committing or maintaining said nuisance in person or by registered mail. If the premises are not occupied, and the address of the owner is unknown, service on the owner may be had by posting a copy of the notice on the premises. Said notice shall require the owner or occupant of such premises, or both, to take reasonable steps within a reasonable time to abate and remove said nuisance. The maximum time for the removal of said nuisance after service of said notice shall not in any event exceed thirty (30) days. Service of notice may be proved by filing an affidavit of service with the County Clerk setting forth the manner and time thereof.

(2) may issue a citation for violation of this ordinance, at the time the notice is served, or any time thereafter, until the order to abate has been complied with. The citation shall be in the form prescribed by the circuit judge and shall specify a forfeiture according to the schedule of forfeitures adopted by the circuit judge. The amount of the fine shall double upon issuance of a second citation for the same offense.

When the order to abate as contained in the notice has not been complied with, such noncompliance shall be reported to the Health Committee for such action as may be necessary and deemed advisable in the name of the Health Committee to abate and enjoin the further continuation of said nuisance.

110.04 ABATEMENT OF NUISANCE

If, after service of notice, the person served fails to abate the nuisance or make the necessary repairs, alterations or changes in accordance with the order of the Health Committee, the Health Committee may cause such nuisance to be abated at the expense of the Board and recover such expenditure by civil action against the person or persons served; or, if service has been had upon the owner or occupant, by ordering the Clerk to extend such sum as a special tax against the property upon which the nuisance existed and to certify the same to the county for collection in the same manner as taxes and special assessments are certified and collected.

100.05 PENALTIES

Any person who shall cause or create a nuisance or permit any nuisance to be created or placed upon, or to remain upon any premises owned or occupied by him, and any person who shall fail to comply with any order made under the provisions of this ordinance, upon conviction thereof, shall be punished by a forfeiture of not more than \$200.00 together with the costs of prosecution, and in default of payment thereof may be confined in the Polk County Jail until said forfeiture and costs are paid but not to exceed 90 days.

100.06 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.

100.07 CONFLICTING ORDINANCE REPEALED

All ordinances and parts of ordinances that conflict herewith are hereby repealed.

100.08 EFFECTIVE DATE

This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

PASSED by the Board on 9-6-83.

Moved by Sup. Anderson and seconded by Sup. Gamache to adopt the Nuisance Ordinance. Adopted by a voice vote.