

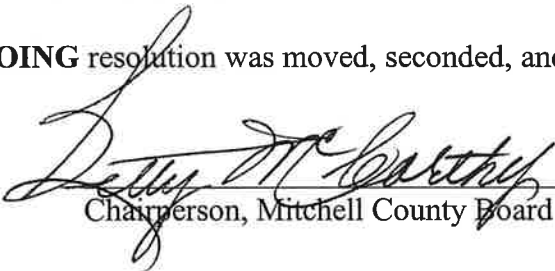
RESOLUTION NO. 443 - 98

WHEREAS, The Mitchell County Board of Health, pursuant to Section 137.6 Code of Iowa, passed a regulation regulating and controlling public health nuisances in Mitchell County, Iowa and providing penalties for a violation of the provisions thereof, said approval occurring on the 6th day of November 1998; and

WHEREAS, pursuant to statute, the regulation was presented to the Mitchell County Board of Supervisors for approval;

NOW THEREFORE, be it resolved that the regulation mentioned above be approved.

THE ABOVE AND FOREGOING resolution was moved, seconded, and passed on this 10 day of November, 1998.



Chairperson, Mitchell County Board of Supervisors

ATTEST:



Sandra Heckstein, Mitchell County Auditor

C:\UHR\BOHRESOL.WPD(gt)

RESOLUTION NO. 1

WHEREAS, this is the time for consideration of a regulation regulating and controlling public health nuisances in Mitchell County, Iowa and providing penalties for a violation of the provisions thereof;

and

WHEREAS, public hearing has been held as required by statute;

and

WHEREAS, the adoption of the regulation, a copy of which is attached hereto and by this reference made a part of this resolution was moved and seconded and the question was called and adoption of the regulation was passed, the vote thereon being:

Ayes Muriel Johnson
 Marsha Counsell
 Neil Wubben
 Karen Kittleson

Nays None

NOW THEREFORE, be it resolved that the attached regulation regulating and controlling public health nuisances in Mitchell County, Iowa and providing penalties for a violation of the provisions thereof be adopted by the Mitchell County Board of Health and that the same be presented to the Mitchell County Board of Supervisors with the recommendation and request of the County Board of Health for approval by said Board of Supervisors;

AND FURTHER RESOLVED that upon publication thereof as required by statute, the same be established as the lawful regulation of the Mitchell County Board of Health.

Passed and adopted this 6th day of November, 1998.

Mitchell County Board of Health

By: Neil M. Wubben

ATTEST:

Muriel D. Johnson
Secretary

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PUBLIC ORDER, SAFETY & HEALTH REGULATION

A REGULATION REGULATING AND CONTROLLING
PUBLIC HEALTH NUISANCES IN MITCHELL COUNTY, IOWA
AND PROVIDING PENALTIES FOR A VIOLATION OF THE PROVISIONS THEREOF.

BE IT ESTABLISHED by the Mitchell County Board of Health, County of Mitchell, State of Iowa, pursuant to Section 137.6 of the Code of Iowa:

That a Regulation regulating and controlling public health nuisances and providing penalties for violations of nuisance regulations, to be cited and known as "The Nuisance Regulation", be enacted as follows:

Section 1. DEFINITIONS.

- (a) Board of Health. Mitchell County Board of Health.
- (b) Health Department. The Mitchell County Health Department.
- (c) Health Nuisance. A health nuisance includes any act, failure to act or condition which is dangerous or detrimental to the life, health, or related safety of one or more persons.
- (d) Health Officer. The Chairperson of the Mitchell County Board of Health or his or her authorized representative.
- (e) Person. Any individual, firm, corporation or other legal entity and authorized agents and or officers thereof.
- (f) Garbage. Means all solid and semi-solid, putrescible animal and vegetable wastes and shall include all such substances from all public and private establishments and from all residences.
- (g) Refuse. Means all nonputrescible wastes.

Section 2. ENUMERATION.

Health nuisances include, but are not limited to, the following:

- (a) The storage, collections, accumulation, discharge, or depositing of any offal, fecal matter, weeds, vegetation, dead organic material, motor vehicles, junk, debris, contaminated material, garbage, refuse, stagnant or polluted waters, combustible materials and similar materials in any place or on any property so as to threaten the health or safety of the individuals or the public or to be conducive to the

- breeding of flies, rats or other vermin, or to the prejudice of others.
- (b) The presence of rats for other than research purposes, flies or other vermin.
 - (c) The discharge or depositing of any garbage, refuse, liquid waste, dead animal(s), or other polluting material into any stream, river, lake, other body of water, or drainage channel, so as to render the water, shore, channel, bottom or other features thereof unsafe for the uses to which they are put or as to otherwise injure or threaten the health and safety of the individuals or the public.
 - (d) The collection, storage, depositing or discharge of flammable refuse, liquid or other material in any building or on any place in such a manner as to constitute a hazard of fire injury to individuals or the public.
 - (e) Inadequate or unsanitary plumbing facilities in living quarters offered for rent or lease to the general public.
 - (f) The maintenance of any water well found to be contaminated beyond reclamation or any well the use of which is to be permanently discontinued. Such well shall be sealed according to the provisions of Chapter 455B of the Code of Iowa.
 - (g) The unlawful disposal of animal carcasses or the failure to properly dispose of animal carcasses in the following manner: No persons caring for or owning any animal that has died shall allow the carcass to lie about his premises. Such carcass shall be disposed of within twenty-four (24) hours after death by cooking, burying, or burning as provided in Chapter 167 of the Code of Iowa, or by disposing of said animal within said time to a person licensed to so dispose of it.
 - (h) Failure to secure areas, buildings, equipment or places against unauthorized access where such access threatens the health or safety of individuals.
 - (i) The exposure of any person to any infectious or communicable disease or condition by any act or practice.
 - (j) Whatever renders food, or drink unwholesome or detrimental to human beings, as determined by the Health Officer.
 - (k) To sell or distribute, or have for sale or distribution or to store or keep; spoiled, tainted or adulterated meat, poultry, fish or other provisions intended for human or animal consumption.
 - (l) Any attractive nuisance which may prove detrimental to life, health, or safety whether in a building, on the premises of a building, or upon an unoccupied lot. This included any abandoned well shaft, basement, excavation, or 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.

- (m) Establishing, continuing, maintaining, or operating any building or place which is conducive to the breeding, harboring, feeding or sheltering of any vermin or pests such as, but not limited to flies, mice, cockroaches, rats and pigeons.
- (n) Violation of Iowa Administrative Code 567, Chapter 69, pertaining to on-site waste water treatment and disposal systems.

Section 3. GENERAL REQUIREMENTS.

- (a) The Presence of Vermin Prohibited. The owner of any building, dwelling, structure, business, matter or thing on or about the lot on which it is situated where the presence of cockroaches, rodents and other vermin have been determined to exist by the Health Officer, shall within the time set out in Section 6, cause the abatement of the presence of said cockroaches, rodents or other vermin, in order that they are effectively minimized.
- (b) Designation of Unfit for Human Occupancy or Habitation. Any building, dwelling, structure, or business, may be designated as unfit for human habitation, when any defect or condition which is in violation of this Regulation has been found to exist and when in the judgment of the Health Officer such defects or conditions create a hazard to the health, safety or welfare of the occupants or of the public. The owner of the building, dwelling, structure, or business which has been designated as unfit by the Health Officer shall, within the time limit specified by the Health Officer, vacate or cause for the vacation of the same. No person shall deface, or remove a placard from any building, dwelling, structure, or business which has been designated as unfit for human habitation affixed thereto by the Health Officer.

Section 4. INVESTIGATION.

The health officer shall investigate, upon complaint of any person or on his or her own initiative, any alleged health nuisance or violation of the General Requirements within Mitchell County Health Department jurisdiction.

Section 5. REFUSAL OF ADMITTANCE.

In the event the health officer, in proceeding to enter any premises for the purposes of making an inspection to carry out the provision of this Regulation, shall be refused entry, an Application for a search warrant, including but not limited to, a warrant described in Section 808.14 of the Code of Iowa, may be made per Chapter 808 of the Code of Iowa.

Section 6. NOTICE.

- (a) Whenever the Health Officer determines that there are reasonable grounds to believe

that a public health nuisance exists, he or she shall 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. Such notice shall:

1. Be in writing.
 2. Include a statement of the reasons why it is being issued.
 3. Allow a reasonable time for the performance of any act it requires.
 4. Be served upon the owner or his agent or the occupant, as the case may require; provided such notice shall be deemed to be properly served upon such owner or agent, or upon such occupant, if a copy thereof is sent by certified mail to his last known address; or if a copy thereof is posted in a conspicuous place in or about the premise affected by the notice, or if he is served with such notice by any other method authorized or required under the laws of the State.
- (b) Such notice may contain an outline of remedial action which, if taken, will effect compliance with provisions of this Regulation and with Rules and Regulations adopted pursuant thereto.

Section 7. HEARINGS.

- (a) Whenever the Health Officer finds conditions which he or she deems an imminent or serious public health hazard, he or she may issue a written notice to the owner or operator citing such condition, specifying a time period within which corrective action shall be taken. Any person to whom such an order is issued shall comply immediately therewith, but upon written petition to the Board of Health shall be afforded a hearing as soon as possible. The Health Department may proceed with the emergency implementation of a health department order to alleviate the problem prior to hearing, either with the consent of the person affected by the order, or without the consent and upon appropriate judicial authorization.
- (b) In the event any person is aggrieved by an order made by the Health Officer, he or she may within twenty (20) days of the date of such order appeal to the Board of Health and in writing state his or her reasons for requesting such order to be rescinded or modified. The Board of Health shall schedule a hearing and following such hearing, shall modify, withdraw, or order compliance with said order. Appeal from any order of the Board of Health may be taken within twenty (20) days to the District Court of Mitchell County, Iowa.

Section 8. ENFORCEMENT.

The Health Officer and his or her authorized representative shall have the duty and

responsibility of enforcing this Regulation. In the event a violation of this Regulation is prosecuted as a simple misdemeanor, the Health Officer or his or her representative shall file a complaint and affidavit in the Iowa District Court in and for Mitchell County and request the Magistrate or District Court Clerk issue a citation per Iowa Rule of Criminal Procedure 38 for the appearance of person(s) alleged to have violated the Regulation.

In the event a violation of this Regulation is prosecuted as a county infraction, the Health Officer or his or her authorized representative shall issue a civil citation to the violator per Iowa Code, Section 331.307(4) and file a copy with the Clerk of the Iowa District Court in and for Mitchell County. The citation shall contain:

- (a) The name and address of the defendant.
- (b) The name or description of the infraction attested to by the officer issuing the citation.
- (c) The location and time of the infraction.
- (d) The amount of civil penalty to be assessed or the alternate relief sought, or both.
- (e) The manner, location and time in which the penalty may be paid.
- (f) The time and place of court appearance.
- (g) The penalty for failure to appear in court.

Section 9. PENALTY.

- (a) Any violation of this Regulation shall be a simple misdemeanor as provided in Iowa Code Section 137.21 and upon conviction thereof is punishable by a fine of not more than One Hundred Dollars (\$100.00). Each day that a violation occurs constitutes a separate offense.

Section 10. COLLECTION OF COSTS OF ABATEMENT.

Upon failure of any person to abate or remove a health nuisance from his or her property or the property he or she occupies, the Health Officer may prosecute the matter and seek alternative relief, including but not limited to a Court order authorizing the Board of Health to abate or correct the violation, with costs to be entered as a personal judgment against the defendant or assessed against the property where the violation occurred, or both.

Section 11. SEVERABILITY OF PROVISIONS.

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

Section 12. VALIDITY.

If any section, subsection, sentence, clause, or phrase of this Regulation is held to be unconstitutional for any reason, such decision shall not affect the validity of the remaining portions of this regulation.

Section 13. APPLICABILITY.

This Regulation shall apply to all lands lying within the boundaries of Mitchell County, Iowa, including such lands lying within the corporate City limits of any City within the boundaries of Mitchell County.

Section 14. FEES.

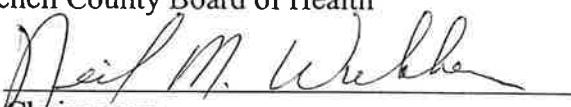
The Board of Health shall by Resolution, establish fees as may be necessary for the implementation of the Regulation.

Section 15. EFFECTIVE DATE.

This Regulation shall be in full force and effect from and after approval and publication as provided in Iowa Code Section 137.2.

Adopted this 6th day of November, 19 98.

Mitchell County Board of Health

By: 

Chairperson

The foregoing Regulation is approved this 10th day of November, 19 98.


Chairperson, Mitchell County Board of Supervisors