

BUENA VISTA COUNTY ORDINANCE NO. 5.8

Title: NUISANCE ORDINANCE

BE IT ENACTED by the Board of Supervisors of Buena Vista County, Iowa:

5.8.201. PURPOSE AND OBJECTIVES. This Ordinance is adopted in accordance with, and as authorized by Iowa Code Chapter 657, Nuisances, and Iowa Code Chapter 331, County Home Rule. The purpose of this Ordinance is to protect the health, safety, and welfare of the citizens and safety of property of Buena Vista County by providing for removal of nuisances.

5.8.202. DEFINITIONS.

1. The term "refuse" shall mean all waste, trash, garbage, junk, junk machinery, rubbish, ashes or other substance, whether that substance be wood, paper, metal, plastic, organic, or other type of product offensive to sight and smell or dangerous to the public or individual health that are placed on or in any public or private place.

2. The term "junk vehicle" shall mean any unlicensed vehicle stored within the unincorporated area of the County and which has any one 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.

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 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, rendering said motor vehicle totally inoperable.

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

3. For the purpose of this Ordinance the term "nuisance" means whatever is injurious to health, indecent, or unreasonably offensive to the senses or an obstacle to the free use of property, so as essentially to unreasonably interfere with the comfortable enjoyment of life or property. The following are 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, becomes injurious and dangerous to the health, comfort, or property of individual or the 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.

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, or alley or of a railroad or street railway track as to render dangerous the use thereof.

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

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

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

j. An accumulation of refuse in any private or public place.

k. Any condition that is conducive to the reproduction or harborage of flies, mosquitoes, rodents, and other vermin of public health significance so as to threaten the health and safety of others.

l. Carcasses of dead animals that have not been disposed of after death as provided by law.

4. 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 interferes with the enjoyment of life or property, shall be declared a nuisance.

a. The term "light trespass" shall mean spill light falling over property lines that illuminate adjacent grounds or buildings in an objectionable manner.

b. 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 annoyance, discomfort, or loss in visual performance and visibility.

5.8.203. SCOPE OF ORDINANCE. The provisions of this Ordinance shall apply to all private property located within Buena Vista County, Iowa which are also located outside the boundaries corporate limits of any city.

5.8.204. NUISANCE RESTRICTIONS ON FARMS. A farm or farm operation shall not be found to be a nuisance under this ordinance unless the nuisance is the result of a farm operation determined to be in violation of a federal statute or regulation or state statute or rule.

5.8.205. NUISANCES PROHIBITED. The creation or maintenance of a nuisance is prohibited, and a nuisance, public or private, may be abated in the manner provided in this Ordinance.

5.8.206. NOTICE TO ABATE NUISANCE. Whenever the Environmental Health Director finds that a nuisance exists as defined in this Ordinance, the

Environmental Health Director shall cause to be served upon the property owner a written notice to abate the nuisance within a reasonable time after notice.

5.8.207. CONTENTS OF NOTICE TO ABATE. The notice to abate shall contain:

1. A description of what constitutes the nuisance.
2. The location of the nuisance.
3. A statement of the act or acts necessary to abate the nuisance.
4. A reasonable time within which to complete the abatement. Thirty (30) days shall generally be considered a reasonable time for abatement to be completed. The Buena Vista County Environmental Health Director shall consider each case on an individual basis to determine whether thirty (30) days shall be allowed for abatement, or whether more or less time shall be allowed.
5. A statement that if the nuisance is not abated as directed and no request for hearing is made within the time prescribed, the County will abate the nuisance and assess the costs against the property owner.

5.8.208. METHOD OF SERVICE. The notice may be served by certified mail or personal service to the property owner as shown by the records of the Buena Vista County Auditor.

5.8.209. REQUEST FOR RECONSIDERATION. Any person ordered to abate a nuisance may appeal to the Buena Vista County Board of Supervisors for reconsideration as to whether a nuisance exists. An appeal must be made in writing and delivered to the Buena Vista County Board of Supervisors within the time stated in the notice. A time and date for a hearing shall then be set by the Buena Vista County Board of Supervisors. The person ordered to abate a nuisance shall then be served with written notice specifying the date, time and place of the reconsideration hearing. At the hearing, the person ordered to abate the nuisance may appear and show cause why the alleged nuisance shall not be abated. Following the hearing the Buena Vista County Board of Supervisors shall render a written decision either affirming or overruling the Environmental Health Director's decision. If the Board of Supervisors finds that a prohibited condition exists, the Board of Supervisors must order it abated within an additional time which must be reasonable under the circumstances. The findings of the Buena Vista County Board of Supervisors shall be conclusive.

5.8.210. ABATEMENT IN EMERGENCY. If it is determined that an emergency exists by reason of the continuing maintenance of a nuisance, Buena Vista county may perform any action that may be required under this Ordinance without

prior notice and assess the costs as provided in this Ordinance after notice to the property owner and hearing.

5.8.211. 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 the required action to abate, and the costs incurred by the County shall be assessed to the property for collection in the same manner as a property tax.

5.8.212. COUNTY INFRACTION. Any violation of the provisions of this Ordinance shall be punishable by a civil penalty against the owner of the property or any other individual in lawful possession in an amount not to exceed that allowed by Iowa Code Section 331.307, now or hereafter amended. Each day of violation shall constitute a separate offense.

The Buena Vista County Environmental Health Director and his or her assistants are the officers authorized to enforce this Ordinance by issuance of civil citation for county infractions. In addition to any civil penalty imposed by this Ordinance, a court may grant appropriate relief to abate or halt any violation, including all remedies available pursuant to Iowa Code §331.307, as now or hereinafter amended.

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

Adopted by the Board of Supervisors on this 22nd day of July, 2008.

BUENA VISTA COUNTY BOARD OF SUPERVISORS

/s/ Dale R. Arends, Chairperson Attest: /s/ Susan Lloyd, Auditor