

BENTON COUNTY ORDINANCE # 17

AN ORDINANCE PROHIBITING THE CREATION OR MAINTENANCE OF A NUISANCE WITHIN BENTON COUNTY, IA AND PROVIDING A METHOD OF ENFORCEMENT

SECTION I. Purpose. The Benton County Board of Supervisors, pursuant to the authority granted in Chapter 331 of the CODE OF IOWA, and through its designee, the Benton County Board of Health, determines to prohibit the creation or maintenance of a nuisance in order to protect and preserve the rights, privileges, and property of the County and of its residents by providing penalties for violations.

SECTION II. Definitions. For use in this Ordinance, the following terms are defined:

1. The term "Board of Health" shall mean the five member group appointed by the Benton County Board of Supervisors in accordance with Chapter 137.4, CODE OF IOWA.

2. The term "Health Officer" shall mean the authorized representative of the Benton County Board of Health.

3. The term "refuse" shall mean all waste, trash, garbage, junk, rubbish, ashes or other substances offensive to sight and smell, or dangerous to the public or individual health that are placed on or in any public or private place.

4. The term "junk vehicle(s)" shall mean a motor vehicle, or portion thereof, not in running condition, or not licensed for the current year as provided by law and not legally placed in storage with the office of County Treasurer. The term does not mean agricultural machinery, or agricultural machinery parts that are stored upon an agricultural property.

5. The term "nuisance" shall mean generally whatever is injurious to health, indecent or offensive to the senses or an obstacle to the free use of property so as essentially to interfere with the comfortable enjoyment of life or property. The following are declared to be nuisances:

- a. any storage, collection, discharge or deposit of any offal, filth, or noisome substance in any private or public place so as to threaten the health or safety of others.
- b. the corrupting or rendering unwholesome or impure the water of any river, stream, or pond to the injury of others.
- c. the emission of dense smoke or noxious fumes in the burning of unauthorized materials.
- d. a dense growth of all weeds, vines, brush, or other vegetation so as to constitute a health, safety or fire hazard for adjacent property owners.
- e. an accumulation of refuse in any private or public place.
- f. 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.
- g. junk motor vehicles, or portions thereof, located on any private or public property.
- h. carcasses of dead animals that have not been disposed of after death as provided by law.

i. any building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise is determined by the health officer to be unsanitary, unfit for human habitation or in such a condition that is likely to threaten the health or safety of others.

SECTION III. Prohibited Acts. It shall be a county infraction for any person, firm, corporation, or other entity to erect, cause, allow, or continue a nuisance as provided in this ordinance.

SECTION IV. Investigation. The Health Officer, or other authorized representative of the Board of Health shall investigate complaints of nuisances in Benton County.

SECTION V. Refusal of admittance. In the event the Health Officer, in proceeding to enter any premises for the purpose of making an investigation to carry out the provisions of this Ordinance, shall be refused entry, an application may be made to the Court for an administrative search warrant. During entry onto the property pursuant to an administrative search warrant, only those activities necessary to carry out the provisions of this Ordinance shall be allowed.

SECTION VI. Enforcement. It shall be the duty of the Benton County Board of Health and/ or its designee, the Health Officer, to enforce the provisions of this Ordinance.

SECTION VII. Penalty. A violation of any of the provisions of this Ordinance are subject to the following penalties:

1. A violation of any provision of this Ordinance shall constitute a County infraction. Any person committing a County infraction shall, upon conviction be subject to a civil penalty of not more than One Hundred Dollars (\$100) for each offense, not to exceed Two Hundred Dollars (\$200) for each repeat offense. Each day that a violation occurs or is permitted to exist by the violator shall constitute a separate offense. A person found guilty of a county infraction is liable for the court costs and fees.

2. The Health Officer may issue a civil citation to a person who commits a county infraction. The citation may be served by personal service or by certified mail return receipt requested. A copy of the citation shall be retained by the Benton County Health Department and one copy shall be sent to clerk of the district court. The citation shall serve as notification that a civil offense has been committed and shall contain the name and address of the respondent; the name or description of the infraction; the location and time of the infraction; the amount of civil penalty to be assessed or the alternate relief sought, or both; the manner, location and time in which the penalty may be paid; the time and place of court appearance; the penalty for failure to appear in court.

3. If the person named in the citation is served as provided in this section and fails without good cause to appear in response to the civil citation, judgment shall be entered against the person cited.

4. In addition to any civil penalty imposed for violation of this Ordinance, the court may grant appropriate relief to abate or halt the violation. The court shall have available to it all of the options set forth in 331.307 (a), CODE OF IOWA.

5. If a violator willfully fails to pay the civil penalty or violates the terms of any other order imposed by the court, such failure shall constitute contempt.

6. Nothing in this section precludes the prosecution of any violations of this ordinance as a simple misdemeanor, pursuant to Chapter 331. 307(11), CODE OF IOWA.

SECTION VIII. Jurisdiction. The provisions of this Ordinance shall apply throughout Benton County, Iowa, including the cities therein.

SECTION IX. Validity. If any section, paragraph or clause of this Ordinance shall be held invalid, such invalidity shall not affect any of the remaining provisions of this Ordinance.

SECTION X. Effective Date. This Ordinance shall be in effect after its final passage, approval, and publication as provided by law.

Dated this 13th day of July, 1993.

BENTON COUNTY BOARD OF SUPERVISORS

Dell Hanson
Dell Hanson, Chairman

AYE: 3
NAY: none
ABSTAIN: none

Norman Sackett
Norman Sackett

ATTEST:

Edwin J. Brecht
Edwin J. Brecht

Jill Marlow
Jill Marlow, Benton County Auditor &
Secretary to the Board of Supervisors

June 9, 1993	and June 30, 1993	Published Summary of Ordinance #17
July 2, 1993	1st Consideration	
July 6, 1993	2nd Consideration	
July 13, 1993	3rd Consideration and Adoption	
July 21, 1993	Published Ordinance # 17	

I, Jill Marlow, do hereby certify the above to be a true and correct copy of Ordinance No. 17 and the dates of consideration and publications are correct.

Jill Marlow
Jill Marlow, Auditor

