

ORDINANCE NO. 2020-02

**ABATEMENT OF NUISANCES
ORDINANCE**

AN ORDINANCE OF THE COUNTY OF CRAWFORD, IOWA, TO PROHIBIT THE MAINTENANCE, USE OR OCCUPANCY OF PRIVATE PROPERTY WITH THE UNINCORPORATED AREAS OF CRAWFORD COUNTY AS A NUISANCE; TO PROVIDE PENALTIES FOR VIOLATIONS OF THIS ORDINANCE; AND TO PROVIDE FOR RELATED OTHER MATTERS.

WHEREAS, Section 331.384 of the Code of Iowa provides that a County may require the abatement of a public or private nuisance and if this is not completed in a reasonable time or is an emergency may abate the nuisance and assess the cost against the property.

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

ARTICLE I. PURPOSE AND TITLE

Section 1. PURPOSE

The purpose of this Ordinance is to provide for the remedy of situations existing on real property that have been determined to have detrimental effects on the public health, safety, and/or general welfare.

Section 2. TITLE

This document shall be referred to and known as "Abatement of Nuisances Ordinance."

Section 3. SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

ARTICLE 2. ADMINISTRATION

Section 1. ADMINISTRATIVE RESPONSIBILITY

It shall be the responsibility of the Abatement Officer to enforce the provisions of this Ordinance. The Abatement Officer is authorized to adopt necessary forms and processes to implement the provisions of this Ordinance.

Section 2. AMENDMENT

This Ordinance may be amended. It may be amended by motion of the Board of Supervisors, provided all state required legal advertising for amending this Ordinance has been satisfied.

Section 3. ENFORCEMENT PROCESS

The following process shall be followed in the order below to enforce this Ordinance.

1. Receipt of complaint
2. Investigation Inspection by Abatement Officer
3. Warning notice by County Attorney with a compliance date of 30 days
4. Notice of violation issued by County Attorney if compliance is not done in 30 days; option to appeal to Board of Supervisors
5. Appeal if requested
6. Order of abatement in 30 days prepared by the County Attorney, including an estimate for abatement by the Abatement Officer, and submitted to the Board of Supervisors for endorsement
7. Abatement or removal of nuisance as coordinated by the Abatement Officer
8. Order for assessment prepared by the County Attorney, including the claim for services from the vendor and assessment of the costs against the property and collected with property tax; option to have an appeal hearing
9. Appeal if requested.

ARTICLE 3 - DEFINITIONS

In this Ordinance, unless the context requires otherwise, the following terms shall be defined as:

1. **Abatement Officer:** the Crawford County Sheriff or his/her designated representative.
2. **Agriculture exemption:** all land used for agricultural or horticultural purposes in tracts of 10 acres or more and land of less than 10 acres if contiguous to qualifying land of 10 acres or

more.

3. **County:** Crawford County.
4. **Lienholder:** means a person who has a recorded claim on the property of another as security for the payment of a just debt.
5. **Nuisance:** Any act of any person, firm or corporation within the unincorporated area of the County which results in the accumulation of junk and/or salvageable materials, junk vehicles, overgrown vegetation or dilapidated buildings. This definition incorporates the definition of nuisance in Iowa Code Chapter 657.
6. **Owner:** shall include, but not be limited to, any person or corporation possessing legal or equitable title to the property whether for that person, corporation or another and includes persons or corporations holding or expecting title under a contract for the sale of real property.

ARTICLE 4 - GENERAL REGULATIONS

Section 1. PROCESSING OF VIOLATIONS

1. Receipt of Violation. The abatement officer shall conduct an inspection of the subject property to determine if there is a nuisance.
2. Violation Determined. If a violation is determined to exist, either through an inspection or observation by the Abatement Officer and the property does not meet the definition of 'agricultural exemption' as defined in this ordinance, the County Attorney shall issue a Warning Notice of Violation shall be served upon the property owner or lienholder by first class United States mail or in person at their last known address on file with the Crawford County Assessor's Office. If the property owner does not reside upon the property, a copy of the notice shall be mailed to the property owner or lienholder by first class United States Mail to the property owner's last known address or may be served by any other means reasonably calculated to provide the property owner with notice.
3. Warning Notice of Violation. The Warning Notice of Violation shall include the following contents:
 - a. The date on which the notice is issued.
 - b. The name and address of the property owner or lienholder served with the notice.
 - c. The address or legal description of the lot, parcel, tract where the violation was determined to exist.
 - d. The description of the specific violation which exists and the specific reasons why the

situation constitutes a hazard to public health and safety.

- e. The "compliance date" which is the date by which the property owner or lienholder must be in compliance with this Ordinance, which date shall be a maximum of thirty {30} days from the date of the Warning Notice of Violation.
4. Notice of Violation. If the property owner or lienholder fails to correct the violation identified by the compliance date in the Warning Notice of Violation, the County Attorney shall issue a written Notice of Violation. The Notice of Violation shall be served upon the property owner or lienholder by certified United States mail or in person at their last known address on file with the Crawford County Assessor's Office. If the property owner does not reside upon the property, a copy of the notice shall be mailed to the property owner or lienholder by certified United States mail to the property owner's last known address or may be served by any other means reasonably calculated to provide the property owner with notice. The Notice of Violation shall include the following contents:
- a. The date on which the notice is issued, including the date of re-inspection.
 - b. The name and address of the property owner or lienholder served with the notice.
 - c. The address or legal description of the lot, parcel, tract where the violation was determined to exist.
 - d. The description of the specific violation which exists and the specific reasons why the situation constitutes a hazard to public health and safety.
 - e. The "compliance date," which is the date by which the property owner or lienholder must be in compliance with this Ordinance, shall be a maximum of thirty (30) days from the date of the Notice of Violation.
 - f. The estimated cost to the County for the removal if the property owner or lienholder, does not comply. Removal costs will be assessed against the property owner or lienholder.
 - g. Notice that the property owner shall have ten (10) days from the date of the Notice of Violation to file an appeal of the issuance of the notice and the assessment.

Section 3. FAILURE TO COMPLY

If the property owner or lienholder fails to correct the violation identified by the compliance date set out in the Notice of Violation, or upon issuance of the final decision by the Board of Supervisors in writing upholding the Notice of Violation after an appeal, the County Attorney may prepare an Order

of Abatement, including an estimate for abatement costs, for submission to the Board of Supervisors for endorsement and ratification. Once endorsed and ratified by the Board of Supervisors, the Abatement Officer shall serve upon the property owner or lienholder by certified United States mail or in person at their last known address on file with the Crawford County Assessor's Office. If the property owner does not reside upon the property, a copy of the notice shall be mailed to the property owner or lienholder by certified United States mail to the property owner's last known address or may be served by any other means reasonably calculated to provide the property owner with notice.

Section 4. ABATEMENT

After ten (10) days have elapsed from the date of issuance of the Order of Abatement, the Abatement Officer may enter upon the subject property and remove the nuisance in its entirety. Prior to the removal or abatement of any significant waste or rubble of any dilapidated buildings of reasonably possible historic value, the Abatement Officer shall consult with the Iowa State Historical Preservation Office to determine if the waste or rubble is of historic value. The Abatement Officer may request that the Crawford County Department of Public Health, the Iowa Department of Environmental Quality or the United States Environmental Protection Agency inspect for environmental risk or hazards on any buildings, grounds, lots, contiguous sidewalks, streets and alleys prior to, or at any time during or after, any removal or abatement.

Section 5. ASSESSMENT

Within thirty (30) days after the Abatement Officer has removed the nuisance pursuant to this Ordinance, the County Attorney shall prepare an Order of Assessment for approval by the Board of Supervisors. The Order of Assessment shall include a claim for services from the vendor, although the vendor(s) shall have to take the necessary steps as required by the Crawford County Auditor for payment of any claims. The Order of Assessment shall be in writing and shall list the common address, legal description and tax parcel number of the property. The Order shall also list the actual cost of removal, including the actual costs of any additional inspections and other incidental costs in connection with the removal or abatement and associated legal costs and the total cost. The Order shall indicate that the entire total cost is due and payable in full within thirty (30) days from the date of issuance of the Order and that the assessment will become delinquent on that date. Upon approval by the Board of Supervisors, the County Attorney shall record the Order of Assessment in the Office of the Crawford County Recorder. A copy of the Order Assessment shall also be provided to the Office of the Crawford County Assessor.

Section 6. ORDER OF ASSESSMENT CONTENTS

The Order of Assessment shall contain the following notice in bold print:

NOTICE: THIS ORDER OF ASSESSMENT, PURSUANT TO IOWA STATUTES, SHALL CONSTITUTE A LIEN UPON THE PROPERTY DESCRIBED IN THIS ORDER IN FAVOR OF CRAWFORD COUNTY. THE COUNTY MAY TAKE LEGAL ACTION TO FORECLOSE THE LIEN AND SELL THE PROPERTY DESCRIBED TO RECOVER THE COSTS INDICATED IN THE ORDER OF ASSESSMENT.

Lien position of any lien filed pursuant to this Ordinance shall be in accordance with Iowa State Statutes. The Order of Assessment shall indicate that the owner or lienholder shall have ten (10) days from the date of issuance to appeal the amount of assessments levied by the County.

SECTION 7. STATUS OF ASSESSMENTS

Assessments that are imposed under this Article run against the property owner until they are paid and are due and payable in equal installments as set forth in Iowa Statutes.

ARTICLE 5 - APPEALS

Section 1. PURPOSE

The purpose of this Article is to provide in one location all regulations relating to appeals authorized under this Ordinance.

Section 2. APPEAL OF NOTICE OF VIOLATION

The property owner or lienholder shall have ten (10) days from the date of the issuance of the Notice of Violation to appeal the violation to the Board of Supervisors. All appeals shall be in writing and shall specify the grounds for appeal. The appeal shall be filed with the County Attorney's Office and may be filed in person or by mail. If mailed, the date of mailing of the appeal shall be the filing date of the appeal.

Section 3. VIOLATION APPEAL HEARING

The Board of Supervisors shall hear the appeal within sixty (60) days after receipt of an appeal. The Board of Supervisors shall provide written notice of the hearing to the appropriate County departments. The Board of Supervisors shall further provide written notice of the time and place of the hearing to the appellant by United States mail at their last known address. If the property owner does not reside at the property, a copy of the notice shall be mailed to the property owner's last known address. The Board of Supervisors may take testimony to consider evidence presented by the appellant and the

appropriate County Departments. The appellants may represent themselves or may be represented by an attorney at the appeal hearing. After the hearing, the Board of Supervisors shall determine, based upon a preponderance of the evidence, whether a violation of the ordinance has occurred and shall issue its findings in writing upholding, reversing, or amending the Notice of Violation. The decision of the Board of Supervisors shall be final.

Section 4. APPEAL OF ASSESSMENT

The property owner or lienholder shall have ten (10) days from the date of the issuance of the Order of Assessment to appeal the amount of the assessment levied by the County. All appeals shall be in writing and shall specify the grounds for the appeal. The appeal shall be filed with the County Attorney's Office and may be filed in person or by mail. If mailed, the date of the mailing of the appeal shall be the filing date of the appeal.

Section 5. ASSESSMENT APPEAL HEARING

The Board of Supervisors shall hear the appeal within sixty (60) days of receipt. The Board of Supervisors shall provide written notice of the hearing to the appropriate County Departments of the time and place of the hearing. The Board of Supervisors shall further provide written notice of the time and place of the hearing to the appellant by United States mail at their last known address. If the owner does not reside on the property, a copy of the notice shall be mailed to the last known address. The Board of Supervisors may take testimony to consider evidence presented by the appellant and the appropriate County departments. The appellants may represent themselves or may be represented by an attorney at the appeal hearing. After the hearing, the Board of Supervisors shall determine, based upon a preponderance of the evidence, whether the assessment was made in accordance with the provisions of this Ordinance and state statute and whether the amount actually covers the costs incurred by the County. The decision of the Board of Supervisors shall be final. The Board of Supervisors shall provide a statement upholding or modifying the amount of the assessments. The statement will include the amount or assessment and surcharge to the property owner or lienholder. The Order of Supervisors and the separate statement shall indicate that the assessment shall be paid to Crawford County. A prior assessment under this Ordinance is not a bar to a subsequent assessment or assessments under this Ordinance and any number of liens pursuant to this Ordinance may be enforced in the same action.

ADOPTION

Passed and approved the first consideration on: December 1, 2020

Passed and approved the second consideration: December 8, 2020

Passed and approved the third and final consideration: December 15, 2020

Adopted on: December 15, 2020

Published on

Cecil Blum, Chairman

ATTEST:

Terri Martens, Auditor