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ORDINANCE NUMBER 30

AN ORDINANCE TO ABATE NUISANCE OF DILAPIDATED BUILDINGS FOR THE UNINCORPORATED AREA OF WEBSTER COUNTY

AN ORDINANCE to enable the County to abate the nuisance of dilapidated buildings, to improve the appearance of the community; to improve the safety of residents; and to increase property values. The Ordinance shall be known as the "Dilapidated Building Abatement Ordinance of Webster County, Iowa."

WHEREAS, the Board of Supervisors of Webster County, Iowa, deem it necessary to secure safety from fire, flood, panic and other dangers; to protect the public health and general welfare; to provide adequate light and air; to prevent the overcrowding of land; to conserve the value of buildings, and encourage the most appropriate use of land throughout the County.

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 done in a reasonable time or is an emergency may abate the nuisance and assess the cost there of against the property.

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

ARTICLE 1/SHORT TITLE AND JURISDICTION

Section 1. **SHORT TITLE.** This Ordinance shall be known and may be cited and referred to as the "Dilapidated Building Abatement Ordinance of Webster County, Iowa" to the same effect as if the full title was stated.

Section 2. **JURISDICTION.** This Ordinance is adopted by Webster County, Iowa, specific to nuisances within the unincorporated area.

ARTICLE 2/INTERPRETATION OF REGULATIONS

Section 1. In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements. Where this Ordinance imposes a greater restriction than is imposed or required by other provisions of law, other rules, regulations, or ordinances, the provisions of this Ordinance shall govern.

Section 2. Webster County reserves the right not to take action on any condition which might otherwise be an actionable nuisance under this Ordinance when it determines that County action is not in the interest of Webster County or the people of Webster County. The Webster County Board of Supervisors may, at its sole discretion, by majority vote, waive any violation of this Ordinance that has not been referred to the Webster County Attorney for legal action

Section 3. Nothing in this Ordinance shall abrogate the right of any private person to take any action allowed by law to privately seek the abatement of a nuisance.

ARTICLE 3/DEFINITIONS

Section 1. For the purpose of this Ordinance certain terms and words are hereby defined. Words used in the present tense shall include the future; the singular number shall include the plural and the plural number includes the singular; the word "shall" is mandatory, the word "may" is permissive; the word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual; the words, "used" or "occupied" include the words intended, designed, or arranged to be used or occupied; and the word "he" includes the word she.

1.1. NUISANCE. The term “nuisance” means 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. Nuisances include, but are not limited to, the following:

1.1.1. The presence of any building or structure, whose condition has deteriorated and it is either inhabited by wild animals or vermin or has a deteriorated condition so its unstable nature presents dangers to individuals being in or near it.

1.1.2. Diseased trees or dead wood, which is inhabited by wild animals or vermin or which, by its condition, endangers persons or property or which threatens to spread disease to nearby trees.

1.1.3. Weeds or other growth which is inhabited by wild animals or vermin or which constitutes a health, safety or fire hazard.

1.2. PROPERTY OWNER. The term “property owner” means the contract purchaser if there is one of record, otherwise the record holder of legal title.

1.3. DANGEROUS BUILDING OR STRUCTURE. The terms “dangerous building” or

“dangerous structure” means any building or structure whose condition constitutes a nuisance.

ARTICLE 4/CONDITIONS REGULATED

Section 1. NUISANCES PROHIBITED. The creation or maintenance of a nuisance as defined in Article 3 Section 1.1 is prohibited, and a nuisance, public or private, may be abated in the manner provided in this Ordinance.

Section 2. OTHER CONDITIONS REGULATED. The following actions are required and may also be abated in the manner provided in this ordinance:

- 2.1. The removal, repair, or dismantling of dangerous buildings or structures.

ARTICLE 5/ABATEMENT PROCEDURES

Section 1. INSPECTION REPORT. Whenever the Zoning Administrative Officer finds that a nuisance or other condition exists which is listed in this Ordinance, the Zoning Administrative Officer may cause an inspection report to be prepared. The report shall contain, but not be limited to:

- 1.1. A legal description of the property and a site map, if applicable.
- 1.2. A description of the nuisance and conditions that exist which caused the nuisance designation to be applied;

Section 2. NOTICE TO ABATE NUISANCE OR CONDITION. Whenever the Zoning Administrative Officer finds that a nuisance or other condition exists which is listed in this Ordinance which warrants county action, the Zoning Administrative Officer shall cause to be served upon the property owner a written notice to abate the nuisance within a reasonable time after notice.

Section 3. CONTENTS OF NOTICE TO ABATE. The notice to abate shall contain:

- 3.1. A description of what constitutes the nuisance or other condition.
- 3.2. A legal description of the property.
- 3.3. The location of the nuisance or condition.
- 3.4. A statement of the act or acts necessary to abate the nuisance or condition.
- 3.5. A reasonable time within which to complete the abatement.
- 3.6. A statement that if the nuisance or condition is not abated as directed and no request for hearing is made within the time prescribed, the County will abate it and assess the costs against such person.

Section 4. METHOD OF SERVICE. The notice may be served by certified mail to the property owner. Refusal to sign shall be considered service. The notice may also be served by posting the notice on the property in question. Such a notice shall indicate the date of posting.

Section 5. REQUEST FOR HEARING AND APPEAL. Any person ordered to abate a nuisance or condition may have a hearing with the Zoning Administrative Officer ordering the abatement as to whether a nuisance or prohibited condition exists. A request for a hearing must be made in writing and delivered to the Zoning Administrative Officer ordering the abatement within the time stated in the notice, or it will be conclusively presumed that a nuisance or prohibited condition exists and it must be abated as ordered.

At the conclusion of the hearing, the Zoning Administrative Officer shall render a written decision as to whether a nuisance or prohibited condition exists. If the officer finds that a nuisance or prohibited condition exists, the officer must order it abated within an additional time which must be reasonable under the circumstances. An appeal from this decision may be had by immediately filing a written notice with the Zoning Administrative Officer. This appeal shall be heard before the Board of Supervisors at a time and place fixed by the board. The findings of the board shall be conclusive.

Section 6. ABATEMENT IN EMERGENCY. If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance or condition, the County may, as provided by section 331.384 of the Code of Iowa, perform any action that may be required under this chapter without prior notice, and assess the costs as provided herein.

Section 7. ABATEMENT BY COUNTY. If the person notified to abate a nuisance or condition neglect or fails to abate as directed, the County may, as provided by section 331.384 of the Code of Iowa, perform the required action to abate, keeping an accurate account of the expense incurred. The itemized expense account shall be filed with the County Treasurer who shall pay such expenses on behalf of the County.

Section 8. COLLECTION OF COST OF ABATEMENT. The Treasurer shall mail a statement of the total expense incurred to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one month, the County Treasurer shall certify the costs to the County Auditor and they shall then be collected with, and in the same manner, as general property taxes.

Section 9. INSTALLMENT PAYMENT OF COST OF ABATEMENT. If the amount expended to abate the nuisance or condition exceeds \$100, the County may, as provided by section 331.384 of the Code of Iowa, permit the assessment to be paid in up to ten annual installments, to be paid in the same manner and with the same interest as benefited property.

ARTICLE 6/AUTHORITY OF ZONING ADMINISTRATIVE OFFICER

Section 1. The Zoning Administrative Officer shall have the independent authority to investigate any property or condition that he believes might constitute a nuisance under this Ordinance.

Section 2. The Zoning Administrative Officer shall have the sole discretion, subject to review by the Board of Supervisors, to:

- 2.1. Investigate a suspected nuisance.
- 2.2. Determine whether a nuisance exists.
- 2.3. Determine whether a nuisance or condition warrants County action.
- 2.4. Determine what action is necessary to abate said nuisance.
- 2.5. Invoke any of the enforcement mechanisms in this Ordinance.
- 2.6. Determine whether an Emergency condition exists and to apply the Abatement in Emergency provision found in Article 5 Section 6.

Section 3. The Zoning Administrative Officer may request the assistance of other Departments, Agencies and Office of County Government in the investigation and enforcement of this Ordinance. The Zoning Administrative Officer may request to contract services to complete inspections and/or inspection reports as required in this ordinance.

Section 4. In determining whether a condition warrants County action and what County action should be taken, the Zoning Administrative Officer may consider:

- 4.1. The nature and extent of the condition
- 4.2. The wishes of those in the neighborhood.
- 4.3. The immediacy of any danger to the public.
- 4.4. The cost of abatement.
- 4.5. The likely benefit of the abatement.
- 4.6. Whether the owner lives on the property.
- 4.7. The likelihood of recovering the costs of any abatement action taken by the County.
- 4.8. Other relevant factors.

ARTICLE 7/COMPLAINANT PROCEDURES

Section 1. ACTION TAKEN. All nuisance complaints under this ordinance shall be referred to

the Zoning Administrative Officer for investigation and appropriate action.

Section 2. ORAL COMPLAINTS. The Zoning Administrative Officer may take oral complaints, but shall have the authority to require that any complaint be made in writing.

Section 3. RESPONSE PROCEDURES. When an oral complaint is made to the Zoning Administrative Officer, he may respond to said complaint orally. When a written complaint is made to the Zoning Administrative Officer, he shall respond to said complaint in writing and he shall inform the complainant whether a nuisance found, whether it warranted county action and the action, if any, the County intends to take.

Section 4. APPEAL. A Complainant may appeal the determination of the Zoning Administrative Officer to the Board of Supervisors as provided in Article 5, Section 5 of this ordinance. The determination of the Board of Supervisors shall be final.

ARTICLE 8/SEVERABILITY CLAUSE

Section 1. INVALID SECTIONS. If any section, provision, or part of this Ordinance is adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

ARTICLE 9/REPEAL OF CONFLICTING ORDINANCES

Section 1. CONFLICTING ORDINANCES. All ordinances in conflict with this Ordinance are hereby repealed.

ARTICLE 10/ADOPTION

Section 1. ADOPTION. This Ordinance will take effect upon final publication

First Hearing: August 22, 2000
(Date)

Second Hearing: Waived
(Date)

Third Hearing: September 19, 2000
(Date)

Emmett L. Martin, Chairperson,
Webster County Board of Supervisors

Eddie Peterson, Supervisor

Jill Kirkberg, Supervisor

Floyd A. Magnusson, Supervisor

Dennis O'Farrell, Supervisor

Attested: _____
Carol Messerly, Webster County Auditor

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