

File No. 1387 Fee N/C
Recorded this 23rd day of October 1995
at 8:12 o'clock A. M. Book 540 Page 650
Beverly Malloy
Recorder, Poweshiek County, Iowa

ORDINANCE NO 4

POWESHIEK COUNTY NUISANCE VEHICLE ORDINANCE

PROVIDING FOR THE CONTROL OF NUISANCE VEHICLES LOCATED IN POWESHIEK COUNTY.

BE IT ORDAINED by the Board of Supervisors of Poweshiek County Iowa, that:

Section 1. Article 1 NUISANCE VEHICLES SEC A. through SEC M of the Poweshiek County Nuisance Vehicle ordinance shall read as follows:

Sec. A. Purpose.

The purpose of this ordinance is to provide a method of identifying a vehicle which is a nuisance and which because of its defects or obsolete condition, constitutes a threat to the public health and safety and to provide a method of removing such a vehicle from any public or private property within Poweshiek County, Iowa.

Sec. B. Definition.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Nuisance Vehicle means any licensed or unlicensed vehicle within Poweshiek County which is parked out-of-doors, has not been moved for at least forty-five (45) days and which has any of the following characteristics:

1. Has become the habitat for rats, mice or snakes, or any other vermin or insects.
2. Is not in compliance with the Equipment Provisions of Chapter 321 of the Iowa Code and is not in a driveable condition.
3. Is not operable or driveable.
4. Has any one of the following parts missing or damaged beyond repair:
 - a. hood
 - b. fender
 - c. bumper
 - d. door 650
 - e. trunk lid

f. top

g. window glass

Licensed means any vehicle displaying a valid current license as required by the laws of the state.

Property means either private or public real property within the County.

Unlicensed means any vehicle which is not displaying a valid current license as required by the laws of the state.

Vehicle means every device or any part of such a device in, upon or by which a person or property is or may be transported or drawn upon a highway or street excepting devices moved by human power or used exclusively upon stationary rails or tracks and shall include, without limitation, motor vehicle, automobile, truck, motorcycle, or any combination thereof.

Sec. C. Nuisance declared.

Except as hereinafter provided, it is hereby declared that the parking of a nuisance vehicle within Poweshiek County upon either public or private property constitutes a threat to the health and safety of the citizens and is a nuisance within the meaning of Section 657.1 of the Code of Iowa. If any nuisance vehicle is stored upon private property or public property in violation hereof, the owner of the vehicle shall be prima facie liable for the violation.

Sec. D. State of Vehicle Repair.

If a vehicle is being repaired or stored within Poweshiek County, such vehicle shall be licensed or legally stored according to Chapter 321 of the Code of Iowa. If such vehicle is being repaired or is stored for more than forty-five (45) days it shall be located only upon a hard surface constructed of concrete or asphalt.

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Sec. E. Exceptions.

This article shall not apply to the following:

1. A vehicle in an enclosed building.
2. vehicle on the premises of a business enterprise operated in a district properly zoned therefore, as authorized under the zoning ordinance of this county, when the business' primary occupation or services is the repair, reconstruction, restoration or sale of vehicles.

3. A vehicle in an appropriate storage space or depository maintained in a lawful place and lawful manner by this county.

Sec. F. Notice of Abate.

Whenever any Poweshiek County Official shall find a nuisance vehicle parked on private property with the county in violation of the foregoing section, the County Official shall notify, by certified mail or personal service, the property owner as shown by the records of the County Auditor upon which the vehicle is parked and the last known registered owner and all lienholders of record of the vehicle if different than the owner of the property at the last known address of recorded that:

1. The nuisance vehicle constitutes a nuisance under the provisions of the article;
2. The owner must remove or repair the nuisance vehicle in accordance with the terms of this article; and
3. Failure to remove or repair the nuisance vehicle will be sufficient cause for this removal by the county at the owner's cost (expense).

Such notice to abate shall be deemed given when mailed by ~~certified mail to the property owner~~ as shown by the records of the County Auditor.

Sec. G. REQUEST FOR HEARING AND APPEAL

Any person ordered to abate a nuisance may have a hearing with the Board of Supervisors. A request for a hearing must be made in writing and delivered to the secretary of the Board of Supervisors, which is the Poweshiek County Auditor or her designee, within thirty (30) days of receipt of notice of abatement. Failure to request a hearing within the time limit shall be conclusively presumed that a nuisance exists. This appeal will be heard at a reasonable time and place set forth by the Board of Supervisors. The findings of the Board of Supervisors shall be conclusive and, if a nuisance condition is found to exist, it shall be ordered abated within a time reasonable under the circumstances.

Sec. H. Duty of Owner to Remove or Repair.

The Owner of a nuisance vehicle which violates the provisions of this article shall, within ten (10) days after the notice to abate is given, remove the; nuisance vehicle to one (1) of the areas provided in the section on exceptions as provided in this article; or repair the defects which cause the vehicle to

violate the provisions of this article, including licensing if a vehicle is not currently licensed or is not been legally placed in storage according to Chapter 321 of the Code of Iowa.

Sec. I. Abatement; Removal; Impoundment.

If such owner of nuisance vehicle shall fail to remove or repair the vehicle in accordance with the terms of the foregoing section of this article, the county officials shall abate such nuisance by causing the nuisance vehicle to be removed and impounded and sold or disposed of as specified in Section 321.89-94 of the Code of Iowa dealing with abandoned vehicles, and the cost of abatement shall be charged to the owner of the nuisance vehicle.

Sec. J. Redemption of Impounded Vehicle; Fees.

Within thirty (30) days after the impoundment of any nuisance vehicle under this article, the owner thereof may appear and claim the same upon payment of an impoundment fee as set by resolution of the Poweshiek County Board of Supervisors and towing charges and storing charges at a rate set by resolution of the Poweshiek County Board of Supervisors. Upon payment of the fees, the vehicle shall be released.

Sec. K. Collection of Costs of Abatement.

The County Auditor 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 thirty (30) days, the Treasurer shall then shall collect the amount in the same manner as general property tax.

Sec. L. Interference With Enforcement.

Any person who shall interfere in any way with the enforcement provision of this article shall be subject to a penalty of not less than \$30 for the first infraction, not less than \$50 for the second such infraction and not less than \$100 for the third and subsequent such infractions.

Sec. M. Penalty for Violation.


Any person failing to remove or repair any nuisance vehicle stored on public or private property in violation of the provisions of this article shall be subject to a penalty of not less than \$30 for the first infraction, not less than \$50 for the second such infraction and not less than \$100 for the third and subsequent such infractions.

conflict with the provisions are hereby repealed.

Section 3. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be 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.

Section 4. WHEN EFFECTIVE. This ordinance shall be in effect after its final passage, approval and publication as provided by law. Owners of vehicles which are defined as a nuisance vehicle under this ordinance and which were situated in Poweshiek County, Iowa prior to the adoption of this ordinance shall have six (6) months from the effective date of this ordinance to comply with its provisions.

Passed by the Board of Supervisors the 5th day of October 1995 and approved this 5th Day of October 1995.


Harold L. McNaul, Chairman

ATTEST:


Jo Wray, Auditor

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September 6, 1995 -Published summary of Ordinance #4 and dates of hearing
September 11,1995 -Published summary of Ordinance #4 and dates of hearing
September 13,1995 -Published summary of Ordinance #4 and dates of hearing
September 25,1995 -1st consideration and suspended 2nd consideration
October 5,1995 - Final consideration and Adoption
October 18, 1995 - Published Ordinance #4
October 19, 1995 - Published Ordinance #4