

RESOLUTION # _____

A Resolution to Amend Resolution 01-14

BE IT RESOLVED that pursuant to Section 23-174.10 R.R.S. Neb., which allows counties who have adopted county zoning regulations to make regulations as may be necessary and expedient to promote the public health safety and welfare, including regulations to prevent the introduction or spread of contagious, infectious, or malignant diseases; to provide rules for the prevention, abatement, and removal of nuisances, including the pollution of air and water; and to make and prescribe regulations for the construction, locations, and keeping in order of all slaughter houses, stockyards, warehouses, sheds, stables, barns, commercial feedlots, dairies, junk and salvage yards, or other places where offensive matter is kept or likely to accumulate, the Board of Supervisors of Gage County, Nebraska, hereby adopts the following regulations:

Regulation of Public Nuisances

Regulation 00-01: Maintaining Nuisance No person or persons shall maintain a nuisance within the County of Gage, Nebraska.

Regulation 00-02: Notice to Landowner and Occupant Upon becoming aware of the existence of a nuisance, and the filing of a written signed complaint form, and after review of nuisance by the review committee (review committee consisting of three representatives from any of the following Agencies. County Sheriff or designated officer, A County Board Member, a representative of The Regional Health District, Gage County Extension Agent, Gage County Zoning Administrator, Gage County Variance Board member and A Planning Commission Member), the County Clerk or the Zoning Administrator shall notify by personal service or certified mail, the landowner and occupant of the existence of said nuisance, instructing the landowner and occupant of the nature of the nuisance, describing the same, and that the

condition must be remedied at once. Publication in a newspaper widely circulated in the County shall also be made, for a period of two weeks. If the person notified has not remedied the condition or taken an appeal of the determination to the Board of Supervisors within ten days from and after the date of first publication or actual notice, whichever is later. The County may then take reasonable action to remove or abate the nuisance. Reasonable action may include use of county employees and equipment or the hiring of persons or equipment to remove or abate such nuisance. Should the landowner or occupant request hearing or personal or certified mail service not be completed, the Clerk or Zoning Administrator shall then notify the Board of Supervisors and set a hearing date. The owner and occupant shall be notified of the date by certified mail or personal service and publication shall be made in a newspaper widely circulated in the County at least once per week for two successive weeks. In the case where personal or certified mail service has not been effectuated, although reasonable attempts have been made, publication shall be sufficient with copy mailed to the landowner and occupants' last known addresses to allow the hearing to be held. The hearing shall not be sooner than the fifth day following the final publication.

Regulation 00-03: Hearing At the hearing, evidence shall be heard by the Board of Supervisors as to the existence or nonexistence of the nuisance, and the Board shall determine whether a nuisance exists. The form of the hearing shall be as the Board determines appropriate, and shall not require formal evidentiary or procedural rules as would be required in a court hearing or trial.

Regulation 00-04: Order If the Board shall find that a nuisance exists, it shall, by resolution, order and direct the landowner and occupant to remedy the nuisance at once at the expense of the landowner and occupant.

Regulation00-05: Abatement Should the owner or occupant fail to promptly remedy the nuisance in compliance with its order, the Board of Supervisors shall cause the abatement of the described public nuisance in a manner determined by the Board of Supervisors.

Regulation 00-06:Costs of Abatement Upon completion of the work, a statement of the cost of such shall be transmitted to the Board of Supervisors, which is authorized to bill the landowner or occupant, or to levy the cost as a special assessment against the land. Such special assessment shall be a lien on the real estate and shall be collected in the manner provided for special assessments.

Regulation 00-07: Additional Remedies Any nuisance not removed within the time frame set by the above notices shall further be subject to each and all of the following:

- a. An action to remove the same may be brought in the name of the County in the District Court.
- b. A fine of up to \$100.00 per day may be levied against the offending landowner occupant so long as the nuisance shall continue to exist from and after the first notice to the owner and occupant or the first publication date, whichever shall first occur.
- c. Should the nuisance to such that it may be contained by such methods as fencing, or other enclosure, the County Board may agree or the District Court may order that such enclosure to erected by the landowner or occupant within a time to be prescribed by such agreement or order.
- d. Any order against the offending party may include such direction s as necessary to prevent the spread of contagious, infectious, or malignant diseases, to come into compliance with local zoning ordinances, to prevent the spread of the nuisance, to prevent the reestablishment of the nuisance, and providing for civil damages to the

County and its citizens for damage done to the air, water, soil or public property caused by the maintenance of the nuisance.

Regulation 00-08: No Bar to Private Action Any penalty or order issued on behalf of the County for a public nuisance shall not stand as a bar to any private citizen bringing an action against the offending party for actual damages incurred because of the maintenance of said nuisance or any private nuisance.

Regulation 00-09: Definition The following items shall be deemed to be nuisances for all purposes of these regulations:

- a. Continued or repeated violation of County Zoning Regulations.
- b. Allowing offensive matter, junk, discarded appliances, building materials, to accumulate in such a manner as to encroach upon neighboring property, attract flies and rodents, or to allow noxious weeds to grow in or about the same; constructing, causing construction of, or maintaining, a structure impeding, without legal authority, the passage of any collection of water, or any public highway, street or road within the County.
- c. Repeated or continuing violation of Section 28-1303, 28-1304, 28-1305, 28-1321, R.R.S. Neb. or any other state statute dealing with nuisances and the abatement thereof.
- d. Operating, managing, maintaining, or allowing the operation or maintenance of a junkyard, salvage yard or operation, (more than seven unlicensed motor vehicles not stored inside an enclosed building), disposal operation, or any operation, management, continuation or maintenance of any enterprise or undertaking of a like manner without first obtaining all required state, federal and local permits and complying with all rules and regulations applicable thereto.

- e. Placement, erection or maintenance of any building, house, barn, shed, or structure of any kind closer to any public roadway than the minimum set back distance as established from time to time by the County Board of Supervisors. The initial setback rules shall be as set forth in the Gage County Zoning Regulations
- f. Placement or discharge of any junk, garbage refuse, manure, lawn waste, appliance, or any other item not authorized by the County of Gage, in any ditch or roadway, or upon any public land owned by or under the control of Gage County.

This Resolution shall be in full force and effect from and after its passage, approval and publication according to law, and shall amend all resolutions previously passed in so much as they conflict.

David Anderson, Chairman
Gage County Board of Supervisors

The aforesaid Resolution was passed at the meeting of the Board of Supervisors of Gage County, Nebraska held on the _____ day of _____, 2006.

Sandra Eltiste
Gage County Clerk