

Chapter II. Polk County Health Nuisance Regulation

2-1. Purpose, Scope and General Provisions.

(a) Title. This Chapter shall be known and may be cited as the “Polk County Health Nuisance Regulation”, except as referred to herein, where it shall be known as “this Regulation.”

(b) Purpose. The purpose of this Regulation is to provide minimum standards for the protection and safeguard of life and limb, health, property and the general public welfare by regulating and controlling health nuisances within unincorporated Polk County and all incorporated places in Polk County which have not established a city board of health.

(c) Interpretation. In interpretation and application of this Regulation, all provisions shall be considered to be minimum requirements and deemed neither to limit nor repeal any other powers granted under state statutes.

(d) Conflict. If any federal or state law or other existing code or regulation allows lesser regulation, this Regulation shall govern; if any federal or state law or other ordinance requires greater regulation, the regulations imposed by that authority shall govern. Regardless of any provision of this Regulation, a nuisance shall not be created or continued in violation of state or federal law.

(e) Exemption. “Farm buildings, “farm animals” and “farm waste”, as defined in subsection 567-100.4 of the Iowa Administrative Code in effect on July 1, 2004, are exempt from this Regulation.

(f) Abrogation. This Regulation is not intended to repeal, abrogate, annul, impair or interfere with any existing public or private agreements, rules, or regulations previously adopted or issued pursuant to law.

(g) Severability. Should a court of competent jurisdiction hold any article, provision, sentence, clause, phrase, or word of this Regulation invalid, such decision shall not affect, impair, or invalidate the remaining parts of this Regulation which can be given effect without the invalid provision.

(h) Saving Provision. Except as expressly provided herein, this Regulation shall not be construed as abating any action now pending under prior existing health regulations; as discontinuing, abating or modifying any penalty pursuant thereto; as affecting the liability or rights between any person, firm or corporation or as waiving or annulling any rights of any Jurisdiction existing at the time of adoption of this Regulation.

(i) Records. The Health Official shall retain on file all records, certificates and documents required by law.

2-2. Definitions and Rules of Construction.

(a) General Rules.

(1) Words not defined in this Regulation shall be given the meanings defined in

Chapter 657 of the Iowa Code; and if not defined therein, their ordinary and common meaning.

- (2) Words used in the present tense include the future tense.
- (3) Words in the singular number include the plural number, and words in the plural number include the singular number, unless otherwise indicated.
- (4) Words used in the male gender include the female gender.
- (5) The words “shall”, “will” and “must” are mandatory in nature creating an obligation or duty to comply with the particular provision.
- (6) A reference to an Article shall mean an Article of this Regulation.

(b) Definitions. As used in this Regulation, the following words, terms or phrases shall have the meanings given:

Abate or Abatement. The removal, discontinuance or correction of a health nuisance or the making of improvements needed to effect a rehabilitation of property to bring it into compliance with existing health regulations and to maintain safe and habitable conditions over the remaining useful life of the property. The closing or boarding up of a building or structure that is found to be a nuisance is not an abatement of the nuisance.

Board of Health. The Polk County Board of Supervisors.

Board of Health Advisory Committee. A committee appointed by the Board of Supervisors that has been delegated authority to act in certain matters related to health.

Department. Polk County Public Works Department.

Emergency. An unforeseen combination of circumstances requiring prompt action to prevent, avoid or minimize probable loss of life, serious injury, the probable transmission of infectious disease, or significant damage to real estate.

Building. A structure built, maintained, or intended to be used for the shelter or enclosure of persons, animals, or property of any kind.

Building, Abandoned. A building which has remained vacant and has been in violation of the building code of the city or county in which the property is located for a period of six months or more.

Building, Enclosed. A structure or portion thereof containing a roof and having exterior walls constructed in a manner that obstructs the contents of the building from view from any street or adjacent real estate.

Building, Unsafe. A building with broken or missing windows or window panes; broken or missing floor or roof system which cannot carry the design load; broken or missing roof or wall sheathing so as to expose the interior to weather; broken or missing doors, stairs, porch, or railings; broken or missing electrical wiring, plumbing fixtures, or heating system; or a building which has safe egress blocked, an accumulation of flammable materials sufficient to cause a fire hazard to be present or which, by its condition, constitutes a threat to public health and safety.

Building, Dangerous. A building without adequate or sanitary wastewater facilities or where fecal matter and other filth has been allowed to accumulate or which harbors rats, mice, snakes, insects or other vermin or where garbage has been allowed to accumulate outside approved containers.

Garbage. All solid and semi-solid putrescible animal and vegetable waste including all such wastes from, or derived from, public and private businesses and residences.

Health Officer. An individual or the holder of a position designated by the Board of Health to enforce the provisions of Board of Health Regulations, or any designee thereof.

Hearing Officer. An individual designated by the Board of Health to hear appeals from abatement actions commenced pursuant to this Regulation.

Habitual Violator. Any person who is found to be in violation of this Regulation three (3) times in an eighteen (18) month period, at any one or more locations in the County.

Health Nuisance. Whatever is injurious or dangerous to public health or safety, or indecent, including but not limited to those things or actions which are offensive to the senses, or an obstruction to the free use of real estate so as to unreasonably interfere with the comfortable enjoyment of life or property. "Health Nuisance" includes, but is not limited to, any action or condition described in sections 2-3(b), (c) or (d), or Articles 2-5 or 2-6 of this Regulation.

Junk. "Junk", as that term is defined in the Polk County Zoning Ordinance.

Motor Vehicle. A device in, upon, or by which a person or property is or may be transported or drawn upon a highway or street, except devices moved by human power or used exclusively on rails or tracks, farm implements used for bona fide farm purposes, devices used for construction and not licensed for highway use, and devices registered as antiques.

Motor Vehicle, Inoperable. Any motor vehicle lacking an engine, wheel, or other operable part which renders the motor vehicle incapable of immediate movement or locomotion, immediate legal operation on public highways of this state, or if a trailer, incapable of being legally towed.

Motor Vehicle, Unlicensed. Any motor vehicle which is not displaying a current registration plate as required by state law.

Motor Vehicle, Unsafe. A motor vehicle with broken glass or exposed broken glass edges; or missing a fender, door, hood, steering wheel, trunk top, or trunk handle; or which harbors rats, mice, snakes, insects or other vermin; or is elevated by jacks, blocks or other means and is left unattended; or which by its condition otherwise constitutes a threat to public health and safety.

Person. An individual, legal entity or de facto entity of any kind.

2-3. General Requirements.

(a) Causing, Permitting or Failing to Abate a Health Nuisance. No person shall cause the occurrence of a health nuisance; permit the occurrence or continuation of a health nuisance on property owned, controlled or occupied by the person; or fail to abate a health

nuisance caused by the person or existing on property owned, controlled or occupied by the person when ordered to do so by the Health Officer.

(b) Presence of Vermin Prohibited. The owner, agent, occupant, or lessee of any building, dwelling, structure or business, or matter or thing on or about the lot on which it is situated, where the presence of cockroaches, rodents or other vermin has been determined to exist by the Health Officer, shall within the time limit specified by the Health Officer initiate action to abate or cause the abatement of the presence of such cockroaches, rodents or other vermin in order that they are effectively minimized.

(c) Designation of Unfit for Human Occupancy or Habitation. Any building, dwelling, structure, or business may be designated as unfit for human habitation when any defect or condition which is in violation of this Regulation has been found to exist and when in the judgment of the Health Officer such defect or condition creates a hazard to the health or safety of the occupants or the public. The owner or occupant of any building, dwelling, structure or business which has been designated as unfit for human occupancy or habitation by the Health Officer shall, within the time limit specified by the Health Officer, vacate or cause the vacation of the same. No person shall deface or remove any placard placed by the Health Officer on any building, dwelling, structure or business which has been designated as unfit for human habitation by the Health Officer.

(d) Abandoned Property on Public Land or Right-of-Way. Property left on public land or in any road or other public right-of-way for a period of forty-eight (48) hours or more, including but not limited to any personal and household items, furniture, appliances, machinery, equipment, building materials, motor vehicles or other items, shall be deemed abandoned and a public safety hazard and shall constitute a health nuisance under this Regulation subject to immediate abatement by the Department without further notice. If evidence identifying the owner of the property is found on or in the abandoned property, real property held by the owner of the abandoned property may be assessed for the cost of removal.

(e) Habitation Without Adequate Water or Disposal Facilities. No person shall own, operate or use any building or place for human habitation with inadequate or unsanitary wastewater disposal facilities, or without a safe potable water supply under pressure.

(f) Deposit of Materials. No person shall deposit or permit to be deposited dirt, debris, or other material onto a public right-of-way in amounts which could be injurious to the public, or into a public or private storm sewer or drainageway in an amount which could obstruct flow or cause pollution, or onto public or private property so as to obstruct or divert the natural flow or cause pollution, or into a public stream, river, or lake or drainageway so as to cause pollution.

(g) Unsafe Structures. No person shall own, operate, use or allow the continuation of an unsafe, dangerous, or abandoned building that is a menace to public health or safety, or that is structurally unsafe, unsanitary, or not provided with safe egress, or that constitutes a fire hazard, or is otherwise dangerous to human life, or constitutes a hazard to public health and safety by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment.

2-4. Abatement Process. A nuisance may be abated, and a civil penalty for causing, permitting or failing to abate the nuisance may be imposed, by:

(a) The administrative hearing procedure described in this Regulation, with damages sustained on account thereof and the cost of abatement to be recovered as an assessment to be placed against real estate and collected in the same manner as a property tax or collected as a personal judgment or both; or

(b) A civil action in any court of competent jurisdiction, with damages sustained on account thereof, the cost of abatement and civil penalties to be recovered (1) as an assessment to be placed against real estate and collected in the same manner as a property tax or (2) as a personal judgment or (3) both. In any civil action the Department or Health Officer may also or alternatively seek such injunctive or other relief as it or he may deem necessary or advisable.

2-5. Health Nuisances Subject to Abatement by Administrative Hearing Procedure or Civil Action. The following are health nuisances which may be abated through the administrative hearing process or by civil action:

(a) The deposit of any poisonous material or thing on any real estate, so as to allow access to it by an animal or person, but not to include pesticides, herbicides, rodenticides and similar chemicals applied in accordance with the manufacturers recommendations.

(b) The deposit, storage, or release into the environment of a hazardous substance, so as to allow access to it by an animal or human, but not to include pesticides, herbicides, rodenticides and similar chemicals applied in accordance with the manufacturers recommendations.

(c) The deposit or storage of flammable junk on any real estate, including but not limited to old rags, rope, cordage, rubber, bones, and paper, unless in a building of fireproof construction.

(d) The deposit or storage, outside of an enclosed building, of junk or similar items, including but not limited to: old or scrap rope, rags, batteries, paper, trash, rubber debris, tires, waste, used lumber or salvaged wood, inoperable machinery or appliances or parts of machinery or appliances, vehicular component parts, iron, steel, old or scrap household goods or hardware, cut brush or wood including dead or decaying plant material except as contained in a compost pile or orderly stacked firewood if cut in lengths of four feet or less and stacked at least eighteen(18)inches off of the ground.

(e) Refrigerators, iceboxes or similar containers equipped with an airtight door, lid with a snap, lock or other device which can not be released from the inside, whether such is abandoned or discarded outside any building or dwelling or within any unoccupied or abandoned building, dwelling or other structure.

(f) The deposit or storage of litter, garbage or organic waste on any real estate; provided that this section does not prohibit the temporary storage of litter, garbage or organic waste in authorized private or public receptacles or places subject to regular pickup and legal disposal.

(g) The storage of any unlicensed, unsafe or inoperable boat or motor vehicle and contents therein on public or private real estate outside an enclosed building. This section shall not apply to businesses operating in a lawful place and manner, provided outside vehicle storage areas are screened from public view, are regularly inspected for the presence of rodents and other vermin and do not constitute an immediate threat to the public health, safety or welfare.

(h) The storage, collection, accumulation, deposit or causing offal, fecal matter, filth, refuse, junk, debris, contaminated material, garbage, or noisome substance to remain in any place, to the prejudice of others or after removal thereof has been ordered by the Health Officer.

(i) The transportation of garbage, night soil or other organic filth in vehicles or containers which leak or which allow access by insects to the material being transported.

- (j) Any building or place which is conducive to the breeding, harboring, feeding or shelter of any vermin or pests such as, but not limited to, flies, mice, cockroaches or rats.
- (k) Breeding places for mosquitoes, to include stagnant water in fish ponds, swimming pools, tires, open barrels, and other devices holding water.
- (l) An obstruction or encumbrance by fence, building or otherwise of a public road, private way, street, alleys, commons, landing place, or burying ground.
- (m) Unlawful disposal of an animal carcass or failure to properly dispose of an animal carcass. No person caring for or owning any animal that has died shall allow the carcass to lie about premises for more than twenty-four (24) hours after death, and shall deliver the dead animal within the time prescribed to a person licensed to dispose of it.
- (n) Any attractive nuisance which may prove detrimental to life, health or safety, whether in a building or upon an unoccupied lot, including any unsecured and unoccupied structure, any abandoned well shaft, basement, or excavation; any well the use which is to be permanently discontinued; or the continuation without proper closure of any water well found to be contaminated beyond reclamation.
- (o) Abandonment of property in any public right-of-way or on any public land as set out in section 2-3(d).
- (p) Failure to secure areas, buildings, equipment or places against unauthorized access where such access threatens the health or safety of individuals.

2-6. Health Nuisances Subject to Abatement by Civil Action. The following are health nuisances which may be abated by civil action:

- (a) The erection, continuation, or use of any building or other place for the exercise of any trade, employment, or manufacture, which by occasioning noxious exhalations, unreasonably offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort, or property of individuals or the public.
- (b) The obstruction or impediment without legal authority of the passage of any navigable river, harbor or collection of water.
- (c) Corruption or rendering unwholesome or impure the water of any lake, stream, river, other body of water, or unlawfully diverting the same from its natural course or state, so as to cause injury or prejudice to others.
- (d) A house of ill fame, kept for the purpose of prostitution and lewdness, or, without legal authorization, a gambling house or the ownership or allowing the use of a place resorted to by persons participating in criminal gang activity or a place resorted to by persons using controlled substances, or a house or structure where drunkenness, quarreling, fighting, or breaches of the peace are carried on or permitted to the disturbance or potential injury of others.
- (e) A billboard, signboard or advertising sign, whether erected or constructed on public or private property, which so obstructs and impairs the view of any portion or part of a public street, avenue, highway, boulevard, or alley or of a railroad or street railway track, as to render dangerous the use thereof.
- (f) A structure or object within one thousand (1,000) feet of the limits of any public or

private airport or landing place, which may endanger or obstruct aerial navigation, including take-off and landing, unless such object or structure constitutes a proper use or enjoyment of the land on which the same is located.

- (g) Emission of dense smoke, noxious fumes, or fly ash into the air.
- (h) A tree with Dutch elm disease.
- (i) To own, operate or use any building or place for human habitation with inadequate or unsanitary wastewater disposal facilities, or without a safe potable water supply under pressure.
- (j) To deposit or permit to be deposited dirt, debris, or other material onto a public right-of-way in amounts which could be injurious to the public, or into a public or private storm sewer or drainageway in an amount which could obstruct flow or cause pollution, or onto public or private property so as to obstruct or divert the natural flow or cause pollution, or into a public stream, river, or lake or drainageway so as to cause pollution.
- (k) To own, operate, use or allow the continuation of an unsafe, or dangerous, or abandoned building that is a menace to public health or safety, or that is structurally unsafe, unsanitary, or not provided with safe egress, or that constitutes a fire hazard, or is otherwise dangerous to human life, or constitutes a hazard to public health and safety by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment.
- (l) Any other health nuisance not described in Article 2-5, above.

2-7 Enforcement. Any of the acts or conditions enumerated as a violation of this Regulation shall be subject to the enforcement remedies and penalties provided by this Regulation, or Chapter 2 of the Polk County Code of Ordinances.

(a) **Inspections and Investigations.** The Health Officer shall have the right, upon presentation of proper credentials, or an inspection warrant if necessary, to enter on any property or premises, public or private, within the jurisdiction of the Board of Health at any reasonable hour for the purpose of inspection, determination of license or permit compliance, or for the purpose of investigation of any complaint or alleged violation of this Regulation. If entry onto real estate for the purpose of investigation under this Regulation is refused, the Department may obtain an administrative search warrant as provided by law to gain entry onto the real estate for the purpose of inspection. The Health Officer shall have the power to conduct such investigation as may appear reasonably necessary to carry out duties as prescribed in this Regulation, and shall also have the power to require written statements, certificates and certifications or the filing of reports under oath, with respect to pertinent questions relating to complaints or alleged violations of this Regulation.

(b) **Questions.** Unless otherwise provided, all questions arising in connection with the enforcement of this Regulation shall be presented first to the Health Officer. All appeals from decisions in connection with this Regulation shall be as prescribed by this Regulation.

2-8. Abatement Order. When the Health Officer determines that there are reasonable grounds to believe that a public health nuisance exists, the Health Officer shall order the person on whose property the nuisance exists, or the person who occupies or controls the property, or the person whose act or omission to act gave or gives rise to the nuisance, to abate the nuisance.

(a) Content. An abatement order shall be in writing and shall contain:

- (1) A description to the extent possible, of the conditions which constitute the nuisance;
- (2) a description of the location of the nuisance;
- (3) a listing of the Article of this Regulation violated;
- (4) an outline of the remedial action, if any, necessary for compliance;
- (5) a reasonable time for performance of any act required;
- (6) notice that the person must abate the nuisance in the time set forth; and
- (7) notice that the person is liable for the costs of abating the nuisance and any civil penalty assessed as a result of the nuisance.
- (8) Notice of a nuisance described in Article 2-5 of this Regulation may include both (i) notice that, if not corrected in the time set forth, the County will abate the nuisance, assess costs of abatement against the real estate, and collect these costs in the same manner as a property tax; and (ii) notice of the right of the person to request an administrative hearing.
- (9) A notice which does not contain the provisions prescribed in Section (8), above, shall include notice that the County may issue a civil infraction citation and seek a court judgment and an order allowing the County to abate the nuisance, and assess damages, the costs of abatement and civil penalties against the real estate, and collect these costs in the same manner as property taxes.
- (10) An Emergency Abatement Order shall include notice that, if not corrected in the time set forth, the County will abate the nuisance, assess costs of abatement against the real estate, and collect these costs in the same manner as a property tax. The notice shall also include the right of the person to request an administrative hearing with regard to costs of abatement.

(b) Service. The Abatement Order shall be delivered by personal service or by certified mail, return receipt requested. Failed attempts at personal service and certified mail shall be documented by the Health Officer and placed on file in the Department. If service cannot be obtained by personal service or certified mail, service may be by publication once in one newspaper of general circulation in the County. The published notice shall contain the information prescribed in Section 2-8(a) of this Regulation.

(c) Emergency Procedure Notice. Whenever, in the judgment of the Health Officer an Emergency exists which requires immediate action to protect the public health, safety or welfare, an Emergency Abatement Order may be issued without formal service of notice, appeal or hearing, directing the owner, occupant, or person or agent controlling the property, or the person whose act or omission gave rise to the nuisance, to take immediate action to abate the nuisance. In an emergency, delivery of an abatement order may be by personal service or another method which gives notice in the shortest period of time. If attempts to locate the person responsible for the nuisance or for the property on which the nuisance exists fail, the Health Officer shall document the attempts to locate the person and place this evidence on file in the Department.

2-9. Action To Abate. A recipient of an Abatement Order shall abate the conditions constituting the nuisance within the time set forth in the Order. If the person fails to do so, the person shall be deemed in violation of Section 2-3 (a) of this Regulation.

(a) Hearing Request. At least seven (7) calendar days before expiration of the time set forth in the Abatement Order, the person so notified or their agent may file with the Department a written request for a hearing pursuant to Section 2-10 of this Regulation. The written hearing request must be physically received by the Department seven (7) calendar days before expiration. Prior postmark or placement of the request in the mail is insufficient delivery. If possible, the hearing will be held before the expiration of the time set forth in the Abatement Order. A hearing request does not extend the time set forth in the Abatement Order.

(b) Emergency Abatement Hearing. If abatement time set forth in an Emergency Abatement Order is less than seven (7) calendar days, the written request for a hearing may be filed with the Department anytime before expiration of the time set forth in the Emergency Abatement Order. An informal hearing may be held by the Director of the Department or the Director's designee.

(c) Administrative Abatement. If the Abatement Order pertains to a health nuisance described in Article 2-5 of this Regulation, and the person so notified has failed to abate the nuisance within the time set forth in the Abatement Order, the County may enter on the real estate and cause the conditions which constitutes the nuisance to be abated. The cost of abatement and damages sustained on account thereof may be recovered by an assessment placed against the real estate and collected in the same manner as a property tax, or may be collected as a personal judgment, or by utilizing both procedures until such costs have been paid in full.

(d) Civil action. If a person ordered to abate a health nuisance has failed to abate the nuisance within the time set forth in the Abatement Order the County may seek relief by bringing a civil action brought by proceedings as outlined in this Regulation or Chapter 2 of the Polk County Code of Ordinances. The County will seek to have the nuisance abated with costs of abatement, damages sustained on account thereof and any applicable civil penalty recovered as an assessment placed against the real estate and collected in the same manner as a property tax or by collection of any applicable judgment or by utilizing both procedures until such costs have been paid in full.

(e) Emergency Abatement. When an Emergency Abatement Order has been issued by the Health Officer and the owner, occupant, or person or agent controlling the property, or the person whose act or omission gave rise to the nuisance, cannot be located, or fails, neglects, or refuses to take action to abate the nuisance within the time prescribed, then

- (1) The Health Officer may abate a nuisance described in Article 2-5 of this Regulation, with costs of abatement, damages sustained on account thereof and any applicable civil penalty recovered as an assessment placed against the real estate and collected in the same manner as a property tax; or,
- (2) The County or the Health Officer may apply to any court of competent jurisdiction for an Order requiring that the premises be vacated, or that the Health Officer be ordered or permitted to cause abatement of the nuisance, with costs of abatement, damages sustained on account thereof and any applicable civil penalty recovered as an assessment placed against the real estate and collected in the same manner as a property tax or by collection of any applicable judgment or by utilizing both procedures until such costs have been paid in full.

(f) Actions *in rem*. If a person on whose property the nuisance exists, or some person

who occupies or controls the property, or the person whose act or omission to act gave or gives rise to a health nuisance cannot be located, the Health Officer may cause an action *in rem* to be commenced against the property on which the nuisance exists.

(g) Interference. Interference with the lawful removal of a nuisance is prohibited and shall constitute a violation of this Regulation.

2-10. Request for Appeal Hearing. Any person requesting a hearing pursuant to Sections 2-9(a) or (b), or any person notified of costs, damages or penalties to be assessed against real estate pursuant to this Regulation, may, upon written request, have an appeal hearing before a Hearing Officer. The request shall be delivered as prescribed by Section 2-9(a), 2-9(b) or within the time allowed by law for notice of assessed costs, whichever is applicable. A request for a hearing pertaining to assessment of costs of emergency abatement may be filed at any time within seven days of service of the Order. The request shall contain the basis for the appeal and the address of the person requesting the hearing, to which all further notices may be mailed or served.

(a) Failure to Request Hearing. Failure to request a hearing within the time prescribed shall be considered a waiver of the right to a hearing. It will thereafter be conclusively presumed that the nuisance described in the Order exists and the nuisance will be abated by the County or pursuant to Court Order with costs, damages and penalties to be assessed and collected as prescribed in this Regulation.

(b) Time for Hearing. Unless legal holidays otherwise prevent, the hearing shall be scheduled within seven (7) calendar days after the request is filed. The person requesting the hearing shall be notified in writing of the time and place of hearing, mailed at least three (3) calendar days in advance. At the hearing the Department and the person requesting the hearing may be represented by counsel, examine witnesses, and present evidence.

(c) Hearing Procedure. The Hearing Officer shall conduct the hearing as informally as possible consistent with due process and decorum. At the close of presentations by the parties the Hearing Officer may:

- (1) find that a nuisance exists or existed;
- (2) void the Abatement Order;
- (3) order compliance with all or part of the Abatement Order;
- (4) extend the time for compliance with the Abatement Order to a date certain, but not more than ninety (90) calendar days from the date of the Order;
- (5) uphold the assessment of costs of abatement;
- (6) reduce or waive costs assessed; or
- (7) provide such other relief as the Hearing Officer deems just under the circumstances.

(d) Effect. The determination of the Hearing Officer is a final decision at the County level.

2-11. Remedies.

- (a)** A violation of this Regulation or of any condition, order, requirement, or remedy adopted pursuant hereto shall be a misdemeanor and may be restrained, corrected, abated, mandated, or enjoined by appropriate proceeding pursuant Chapter 2 of the Polk County Code of Ordinances.
- (b)** An administrative hearing pursuant to this Regulation does not preclude the County from seeking alternative relief from a court for the same action or another action by the same person, including issuance or seeking an order of abatement or injunctive relief.
- (c)** If the County finds that a person is a Habitual Violator, the County may file a civil action seeking an order enjoining the person from further violation of this regulation on all real estate owned or controlled by the person, and may request that the County be allowed to abate all future nuisances found on real estate owned, controlled or occupied by this person without further notice.
- (d)** All remedies provided herein shall be cumulative. To the extent that state law may limit the availability of a particular remedy set forth herein for a certain violation or part thereof, such remedy shall remain available for other violations or other parts of the same violations.
- (e)** The Health Officer may withhold or condition the authorization of any license, permit or certificate upon the correction of a nuisance.

2-12. Liability. The owners, agents, contract buyers, tenants, or lessees of all real estate upon which a nuisance is found shall be jointly and severally responsible for compliance with this Regulation and jointly and severally liable for any damages awarded or costs assessed under this Regulation.

2-13. Rebuttable Presumptions.

- (a)** In any proceeding under this Regulation, proof that the particular nuisance described constitutes a violation of this Regulation, and proof that the defendant named was the owner, agent, occupant, or lessee of the real estate upon which the nuisance occurred, shall give rise to a rebuttable presumption that the person was the person violating this Regulation.
- (b)** Property placed in the public right-of-way or on public land shall be presumed to be abandoned there by or with the consent of the owner.