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[June 20, 1900-2000

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DEPARTMENT OF HEALTH

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ORDINANCE

FOR THE

Protection of Public Health

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RECOMMENDED BY THE

State Board of Health

FOR ADOPTION BY THE CITIES AND TOWNS OF  
THE STATE OF IOWA

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REVISED

IOWA STATE BOARD OF HEALTH

OFFICE OF THE SECRETARY, }  
DES MOINES, June 20, 1900 }

The provisions of this ordinance, or any portion thereof, may be adopted as regulations by a local board of health of a city or township, so far as applicable, except that local boards of health, under the statute, have no power to affix penalties to regulations, that power being vested in the legislature, which has already provided a penalty for violations of regulations of local boards of health in section 2573 of the code, so that when any of these regulations are adopted by a local board of health, whether it be of a city, town or township, the penalties must be omitted. And in the event of a violation of them it is only necessary to prosecute under the statute, the penalty being already fixed.

The distinction is this: That cities and towns, under the law of municipal corporations, have power to provide penalties with ordinances, while local boards of health, whether in cities, towns or townships, have not, as they exist under a general statute.

J. F. KENNEDY,  
*Secretary.*

J. C. SHRADER,  
*President.*



## AN ORDINANCE

### FOR THE PROTECTION OF THE PUBLIC HEALTH AND FOR THE RESTRICTION AND PREVENTION OF CONTAGIOUS DISEASES

SECTION 1. Be it ordained by the council of the.....of..... that it shall be the duty of every physician residing, or practicing, within the limits of this.....to give written notice to the mayor immediately, of any case of Asiatic cholera, smallpox, diphtheria, (membraneous croup,) scarlet fever (scarlet rash, scarlatina), typhoid fever, measles or whooping cough that he may be called to attend professionally, and any physician who shall neglect, or refuse, to give such notice as herein required, within twenty-four hours after he shall first visit and ascertain the character of any such disease herein named, shall be fined not less than ten dollars nor more than twenty-five dollars for each and every day he so neglects to give such notice. In all cases where no physician is in attendance, it shall be the duty of any person having charge of, or being at the head of a family, or having the care or custody of any lodging rooms, to give notice in like manner as required herein of physicians, and anyone refusing or neglecting so to do shall be subject to like penalty.

SEC. 2. It shall be the duty of the mayor, upon receiving written notice of the existence of a case of Asiatic cholera, smallpox, diphtheria, (membraneous croup,) scarlet fever, (scarlet rash or scarlatina,) to forthwith quarantine the premises, by serving written notice of such quarantine on the occupants thereof, and placing a danger card thereon; and take such measures as may be necessary and proper for the restriction and suppression of such disease; and to investigate all the circumstances attendant upon the occurrence of the same. He shall also make proper provision for care of the sick. Where the disease is measles or whooping cough, the premises shall not be quarantined, but they shall be placarded with the danger card, unless otherwise ordered by the local board of health.

And it shall be the further duty of the mayor to disinfect, or cause to be disinfected, the premises whereon such quarantined diseases have occurred, together with all infected furniture, bedding, clothing and other articles, as provided by regulations of the state board of health.

SEC. 3. For the purpose of this ordinance quarantine shall be deemed to be:

(1.) The placing upon such conspicuous place on each building, hall, lodging room or place wherein exists a contagious disease, as will best protect the public health, of a cloth or card not less than eighteen inches square, having imprinted thereon in large letters the word "Quarantine," the name of the disease, and the words, "No person shall be permitted to enter or leave these premises except as provided by law, while it is quarantined, under the penalty provided by law."

(2.) The separation of the sick from all other persons, if possible, and from all persons except those in actual attendance.

(3.) The complete exclusion of all persons from the premises.

(4.) That no person shall leave said premises except the attending physician without a permit therefor signed by the mayor.

(5.) That no article that has been used on or about a person sick with a contagious or infectious disease shall be removed from the sick room, nor from the premises, until the same has been properly disinfected.

SEC. 4. Nurses who have been employed to care for persons sick with a contagious or infectious disease may be released from quarantine when their services are no longer required, upon the order of the mayor. Before leaving the premises there must be thorough disinfection of their person and clothing.

SEC. 5. Isolation means the complete exclusion of all other persons from the sick except the nurse and attending physician; that the nurse shall be restrained from going to and from the premises, or mingling with the family; that all well persons shall be prevented from contact with bedding, clothing, food or other articles that have been used on or about the sick. Where from necessity the parents or family are nurses, the isolation and quarantine apply to them.

SEC. 6. Quarantine shall be established and maintained in each and every case for the period named herein, to-wit:

*Scarlet fever.*—(Scarlatina, scarlet rash), thirty-five days.

*Diphtheria.*—(Membraneous croup), thirty-five days.

*Smallpox.*—Forty days.

*Asiatic cholera.*—Twenty-one days.

SEC. 7. When a family is quarantined for diphtheria, the head of the family, or bread-winner, may, at the discretion of the local board, have the privilege of attending to his regular business, and of going to and from his house only when complying with the following conditions, and the mayor shall issue a permit therefor:

*First.*—He shall change his clothing before going to and leaving his home to go to his place of business.

*Second.*—He shall wash his hands, face, head and beard with a two per cent solution of carbolic acid each time before leaving his home to go to his place of business.

*Third.*—While in the house he shall not act as nurse or live in the same room with the sick person.

*Fourth.*—He shall not attend any public meeting, or attend any place where persons are congregated.

*Fifth.*—This privilege shall not be granted to school teachers, nor to any person whose business brings him in intimate contact with children.

SEC. 8. Whenever there is complete recovery or death of persons who have been sick with a contagious disease, and there are no further exposures thereto, the quarantine may be released, although the period prescribed herein has not elapsed. *Provided*, that no release of quarantine shall be permitted until at least seventeen days after the recovery of the last case, and proper disinfection of person and premises is made as hereinafter provided.

SEC. 9. After death or recovery of persons sick from contagious or infectious disease, the room, furniture, and other contents not to be destroyed, shall be thoroughly disinfected in accordance with regulations made by the State Board of Health.

If the disease was scarlet fever (scarlatina, scarlet rash) or smallpox the paper on the walls and ceiling if any there be, shall be removed and completely

burned. If the disease was diphtheria, typhoid fever or measles the paper on the wall shall be thoroughly dusted and brushed.

SEC. 10. No order for the release of quarantine shall be made by the mayor, except upon a report from the attending physician stating the number of persons on the quarantined premises sick with the infectious disease in question, their name, age and when the disease first appeared in each case, when recovered, and the means, if any, used for disinfection. IF THE MAYOR SHALL FIND THAT THE REGULATIONS OF THE STATE BOARD OF HEALTH RESPECTING QUARANTINE AND DISINFECTION HAVE BEEN COMPLIED WITH THE QUARANTINE SHALL BE FORTHWITH RELEASED. If the quarantine regulations have been complied with, and proper disinfection has not been done the mayor shall order it done under the supervision of the health officer or some other competent person and the quarantine shall be continued until it is done.

SEC. 11. No person shall give, lend or sell, or offer for sale any clothing or other articles liable to convey infection of any contagious disease unless the same have been disinfected and such disinfection approved by the mayor. \*

SEC. 12. If any person shall wilfully or maliciously remove or deface, or cause to be removed or defaced, any signal of danger, or cloth or card placed upon any quarantined premises, without proper authority as provided herein, he shall be fined not less than twenty-five, nor more than one hundred dollars, or imprisoned not less than five, nor more than thirty days, at the discretion of the court.

SEC. 13. If any person has attended school when affected with diphtheria, (membraneous croup), scarlet fever (scarlatina, scarlet rash), smallpox or measles, the room in which such person attended shall be immediately closed until properly disinfected.

SEC. 14. It is the duty of every school teacher and school officer who discovers, or who has knowledge of a case of these contagious diseases, to cause the fact to be immediately reported to the mayor.

SEC. 15. During the existence of any contagious or infectious disease in any family or household, or place, in this.....and until after the recovery of the sick and the disinfection of the premises where such disease shall have existed, no person residing in such household, family or place, shall be permitted to attend any public meeting without written permission from the mayor, and no superintendent, teacher or officer of any school shall permit any child or person from any such family, household or place, to attend any school without a permit from the mayor, upon the recommendation of the attending physician showing thorough disinfection of the person, clothing and premises. And any person who shall knowingly violate any of the provisions of this section shall be fined not less than twenty-five nor more than one hundred dollars or be imprisoned not less than five, nor more than thirty days.

SEC. 16. When Asiatic cholera, smallpox, diphtheria, (membraneous croup,) scarlet fever (scarlatina, scarlet rash), typhoid fever, leprosy, measles, or any other contagious disease exists in any house or dwelling-place of a dealer in, or seller of milk, he shall discontinue, and cease to give, or sell, or distribute milk to any person, or to creameries or butter factories, or in anywise handle such milk, until a permit is granted therefor by the mayor. And no person who attends cows, and does the milking, or who has care of milk vessels, or the sale or distribution of milk, shall be permitted to enter any premises or place wherein exists any of the diseases named herein, nor have any communi-

cation, direct or indirect, with any person who resides in, or is an occupant of such infected place; nor shall any milk or butter be given away, sold or distributed from such infected place. And any person, either as principal, agent or employe, who shall violate any of the provisions of this section, shall be fined not less than twenty-five dollars, nor more than fifty dollars, or be imprisoned not less than five days, nor more than ten days, at the discretion of the court.

SEC. 17. No person, company, corporation, or association having charge of, or control of, any schoolhouse or church, or of any building, room, or place used for school or church purposes, or for any public assembly in this ..... shall permit the body of any person dead from any of the contagious or infectious diseases named in this ordinance, or any other dangerous contagious disease, to be taken into such schoolhouse, church, building, room, or place, for the purpose of holding funeral service over such body; and no sexton, undertaker, or other person having charge of, or direction of, the burial of any body dead from any of the said diseases, shall permit the coffin or casket containing such body to be opened in the presence of any child, nor shall any child be permitted to act as pall-bearer or carrier at such funeral. Any person who shall violate, or cause to be violated, any of the provisions of this section shall be liable to a fine of not less than twenty-five dollars, or to imprisonment not less than five days, at the direction of the court.

SEC. 18. If any person, whether as owner, occupant, lessee, or agent, shall rent or lease, or permit the occupation by any person of any house, room, or place in which there have been any of the contagious diseases named in this ordinance, unless the same has been previously thoroughly disinfected, and such disinfection approved by the mayor, he shall be fined one hundred dollars, or be imprisoned thirty days, at the discretion of the court, and it shall be the duty of the mayor and sanitary police to maintain a danger signal upon any such premises, as provided in section 3 of this ordinance, until such disinfection be made.

SEC. 19. A body dead from smallpox must be immediately wrapped in a cloth saturated with the strongest disinfectant solution, without previous washing, and buried deep, and no body dead from this disease shall, under any circumstances, or any lapse of time, be disinterred.

SEC. 20. The body of a person who has died from Asiatic cholera, yellow fever, leprosy, diphtheria (membraneous croup), scarlet fever (scarlatina or scarlet rash) must not be removed from the sick room until it has been wrapped in a cloth saturated with a solution of corrosive sublimate (one ounce to six gallons of water), and then tightly inclosed in a coffin. The body shall then be buried immediately without the attendance of any person other than is necessary for the interment thereof.

SEC. 21. No public funeral shall be held of any person who has died from either of said diseases named in sections 19 and 20, and no public funeral shall be held in a house, nor on any premises where there is a case of, nor where a death has recently occurred from, either of said diseases.

SEC. 22. Any railroad car, street car, omnibus, cab, hack, or other vehicle, in which a person has been carried affected with any of the diseases named herein, shall be forthwith removed from service and be disinfected before being used again. And any person, either as owner, lessee, agent, or employe, who shall violate the provisions of this section in the use of such vehicle, shall

be fined not less than fifty dollars, nor more than one hundred dollars, or be imprisoned not less than ten days, nor more than thirty days, at the discretion of the court.

SEC. 23. Rules and regulations made by the State Board of Health and by the local board of health of this . . . . . concerning Asiatic cholera, smallpox, diphtheria, (membraneous croup,) typhoid fever, scarlet fever, (scarlatina, scarlet rash,) or other contagious or infectious diseases, shall be enforced by the mayor under the supervision of the health officer; and it shall be the duty of all police, and other public officers of this . . . . ., in their proper capacity, to report to the mayor or health officer any violations of such rules and regulations, and to aid and assist the board of health, the mayor, and health officer, in the enforcement of said rules and regulations.

SEC. 24. It shall be the duty of all police officers to observe the sanitary condition of their districts, and to report through their chief to the health officer promptly, any nuisance or accumulated filth found in any portion of the corporation.

SEC. 25. The mayor shall have authority to appoint sanitary police whose duty it shall be to aid in the establishment and enforcement of quarantine regulations, and such other sanitary regulations as may be provided by the local board and the State Board of Health, and at such time, and in such manner as the mayor or the health officer may direct. Said sanitary police shall visit each quarantined premises at least once each forty-eight hours, and at such other times as the mayor or health officer may direct. He shall see that strict quarantine is maintained, and the premises properly placarded. *Provided*, he shall not enter any dwelling or place unless so requested by the occupants thereof, nor shall he disturb the inmates or the sick unless he has good and sufficient reason to believe there is wilful violation of the quarantine regulations therein. He shall have full powers of a police officer to make arrests for violations of quarantine or health regulations, and shall file information against such offenders before the police court. He shall appear for duty at the office of the mayor on or before 10 o'clock A. M. each day. His compensation shall be the same as that allowed other police officers.

#### BURIALS.

SEC. 26. Upon the death of any person within the limits of this . . . . . it shall be the duty of the physician who was attending at the time of death, or of the coroner, when the case comes under his official jurisdiction, to furnish within twenty-four hours after such death, to the undertaker, or other person superintending the burial of said decedent, a certificate setting forth the full name, age, sex, color, place of death, date and cause of death, and such other facts as may be required by regulations of the State Board of Health and the statutes of the state of Iowa. If any person shall die without the attendance of a physician, or if the physician who did attend the decedent at the time of death shall neglect or refuse to give such certificate as aforesaid, it shall be the duty of the undertaker, or of any person acquainted with the facts, to report the same to the health officer of the local board of health, who is hereby authorized to give a certificate of death as aforesaid; *provided*, it be not a case requiring the attendance of a coroner.

SEC. 27. No sexton, or other person or persons, having charge or control of any cemetery, burying place, or tomb, or vault within the limits of this . . . . . or under the control of this . . . . .; and no undertaker, or other

person or persons, shall inter, entomb, or place in any vault within the limits of this.....the dead body of any person, or remove such body from or out of the.....without having procured a certificate of death as herein provided; and it shall be the duty of any undertaker, or other person or persons having charge of the burial or removal of the dead body of any person to deliver said certificate of death forthwith to the clerk of the local board of health.

SEC. 28. It shall be the duty of the clerk of the local board of health upon the presentation of a certificate of death in accordance with the provisions of this ordinance, and not otherwise, to issue a permit to inter, entomb, or place in a vault the body of the deceased person named in such certificate, and said clerk shall be entitled to charge and receive for issuing such permit a fee of ..... cents. *Provided*, a body dead from diphtheria (membraneous croup), scarlet fever (scarlatina, scarlet rash), smallpox, Asiatic cholera, leprosy or typhus fever shall not be deposited in a receiving vault.

SEC. 29. Upon the presentation of the proper application in accordance with the regulations made by the State Board of Health for the removal of the dead body of a human being out of the limits of this....., it shall be the duty of the clerk of the local board of health to issue a permit countersigned by the mayor for such removal. *Provided*, that where said body is to be disinterred such application must be accompanied with a disinterment permit from the State Board of Health, but no permit for such removal shall be granted in any case of a body dead from Asiatic cholera, smallpox, leprosy, typhus fever, or yellow fever, or from any sequela or complications of said diseases; nor shall any permit for such removal be granted in any case whatsoever where the cause of death was a contagious or infectious disease, or any sequela of such disease, unless the permit be approved and signed by the health officer of the local board of health, nor shall a permit be granted except upon the presentation of the proper certificate of the cause of death.

SEC. 30. The clerk of the local board of health shall enter in a suitable book to be kept for that purpose, a record of all burial permits issued, specifying the date of issue, to whom issued, together with all the items of information contained in the certificate upon which the permit was issued. And on or before the tenth day of each month he shall report to the State Board of Health the deaths and causes thereof for the preceding calendar month.

SEC. 31. No hack, omnibus, street car, or other closed vehicle used for the conveyance of the living shall be permitted to carry the body of any person dead from an infectious or contagious disease; nor with the knowledge of the owner, driver, or person in charge thereof, to carry any person or article liable to communicate the infection or contagion of such disease.

SEC. 32. Each undertaker or sexton, and every person engaged or concerned in the burial of the body of a human being in violation of the provisions of sections 26, 27, and 31 of this ordinance, and the owners, officers, and employes of any transportation company, or any other person engaged or concerned in the removal of such dead body from the limits of this.....in violation of any of the provisions of this ordinance, shall be fined not less than fifty dollars, nor more than one hundred dollars, or be imprisoned not less than ten days, nor more than thirty days, in the discretion of the court, for each offense.

SEC. 33. If any person shall neglect or refuse to furnish the certificate of death as required by section 26 of this ordinance, he shall be fined not

less than five dollars for each offense. *Provided*, that this section shall not apply to coroners engaged in official investigation of a cause of death.

SEC. 34. If any physician, or any other person within the limits of this ..... shall knowingly attempt to secrete, or withhold the true character of any of the contagious or infectious diseases specified in this ordinance, or shall in any manner whatsoever attempt to deceive or defraud, or who shall make any false statement in making a certificate of cause of death as required by this ordinance, by giving any other than the true cause of such death; or, if the decedent was affected with any of such contagious or infectious diseases during his last sickness, he shall neglect or refuse to state such fact in such certificate, he shall be fined not less than twenty-five dollars, nor more than one hundred dollars, or be imprisoned not less than five days, nor more than thirty days, at the discretion of the court.

#### SLAUGHTER HOUSES

SEC. 35. No slaughter house shall be erected nor used within the limits of this ..... unless a permit from the mayor has been first obtained, with the advice and assent of the health officer, and no slaughter house shall be erected, nor used within 320 feet of any public highway, nor within 600 feet of any dwelling house, schoolhouse or church, or any building used for church purposes. It shall be erected on dry, hard land that can be well drained. It shall be amply supplied with clean, wholesome water from springs, wells, or unpolluted streams. It shall be floored with a tight, solid floor of hard wood, or cement, or well-joined stone. The yards, sheds, and close pens shall be dry, and free from mud and filth, and their sides or walls shall be thoroughly whitewashed at least twice each year. All its apparatus shall be kept in a neat and orderly manner, and free from offensive smells. When the slaughtering for the day is completed, the sides and floor of the slaughter room shall be thoroughly washed with an abundance of clean water. No animal matter of any kind shall be permitted to remain in, under, or near the slaughter house to decompose or putrefy. When blood and offal, or immature animals are fed to swine on the premises, such arrangement shall be made that such material shall be speedily consumed. The blood of all slaughtered animals shall be conducted by a water-tight gutter to a water-tight trough in the hog-yard. The offal and bodies of immature animals shall be thrown into a pen with a tight, dry floor, to be consumed at once by the swine; and all portions not consumed within twelve hours shall be removed from the pen, and be burned, buried or composted with fresh earth. When the blood or offal are not fed to swine on the premises, they shall be carried away each day in close tanks, or be converted into fertilizers, or otherwise utilized by some apparatus the gases from which shall be carried under the furnace and consumed. The fat, and all material from which fat or oil is to be extracted, shall be rendered within such a time after the slaughtering of the animals that no offensive odors shall arise from them, or from the process of rendering. Any person who shall violate any of the provisions of this section shall be fined not less than twenty-five dollars, nor more than one hundred dollars, or be imprisoned not less than five days, nor more than thirty days. And upon conviction thereof, all grants, licenses, or privileges contemplated herein shall be immediately revoked and annulled.

The provisions of this section, so far as practicable, shall apply to so-called "knacker's" plants, or plants for the disposal of the bodies of dead animals, and to premises used for the killing and shipment of poultry.

#### DISEASED ANIMALS

SEC. 36. Every person owning, or having the care or custody of any animal which he shall know, or have reason to suspect, is affected with glanders, farcy, anthrax, or any other contagious or infectious disease dangerous to the public health, shall immediately isolate such animal from all other animals, and shall give notice thereof and of the location of such animal to the mayor. And no person having the care or custody of, or owning any animal affected with, or which there is good reason to believe is affected with such disease, shall lead, drive, or permit such animal to go on or over any public grounds, uninclosed land, or on any street, public highway, lane or alley; nor permit it to drink at any public water trough, pail or spring; nor to keep such diseased animal in any inclosure in or from which such diseased animal may come in contact with, or close proximity to, any animal not affected with such disease. And an animal will be deemed as "suspected" when it has stood in the stable with, or been in contact with, an animal known to have any of said communicable diseases; or if placed in a stable, yard or other enclosure where such diseased animal has recently been kept. Whenever an animal affected with any of the diseases herein named shall die, or shall be killed, the body of such animal shall be immediately burned, or buried not less than four feet deep, without removing the hide from the carcass. All bedding, litter, excrement, etc., that have accumulated about such animal, together with all blood, or other fluid elements that have escaped from it shall be burned. Dirt floors of stables wherein such animal has been kept shall be removed to the depth of four inches and burned. Everything about the stable, combs, brushes, or any post or fence where it has stood, and every part of harness or wagon used with such animal, and the stable where it has been kept, shall be thoroughly disinfected under the direction of a duly qualified veterinary surgeon. Whenever the owner, or person having in charge any animal declared by the state veterinary surgeon or other authorized person to have the glanders, shall neglect or refuse to destroy said animal, the premises whereon said animal is kept shall be quarantined until such animal is destroyed, and the premises thoroughly disinfected. And any person who shall neglect, or refuse, to obey any of the provisions of this section shall be fined not less than twenty-five dollars, nor more than fifty dollars, for each diseased animal, and for each day of such refusal, and for all damages that may result therefrom.

SEC. 37. The "quarantine" shall be construed to mean the perfect isolation of all diseased or suspected animals from contact with healthy animals; as well as the exclusion of such healthy animals from the yards, stables, enclosures or grounds wherever said suspected or diseased animals are, or have been kept.

SEC. 38. The flesh of pregnant animals must not be sold nor used for human food after the seventh month of pregnancy for cows, and the tenth week for sows.

#### NUISANCES

SEC. 39. (1.) No privy vault, cesspool, nor reservoir into which a privy water-closet, stable or sink is drained, except it be water-tight, shall be estab-

lished nor permitted within one hundred feet of any well, spring or other source of water used for drinking or culinary purposes.

(2.) All privy vaults, reservoirs or cesspools named in Rule 1 must be cleaned out at least once each year; and from the first day of May to the first day of November of each year shall be thoroughly disinfected by adding to the contents thereof twice each month two pounds of copperas, dissolved in a pail of water, or the contents be thickly covered with fresh lime.

(3.) No privy vault nor cesspool shall open into any stream or ditch, nor into any drain except common sewers.

(4.) All sewer drains that pass within one hundred feet of any source of water used for drinking or culinary purposes shall be water-tight.

(5.) No sewer drain shall empty into any lake or pond, nor into any cesspool or abandoned well.

(6.) No offal or waste from any creamery shall be thrown upon or into any stream, ravine, open ditch or drain.

(7.) No house offal or dead animal shall be left upon any lot or land within this.....unless the same be buried. The carcass of all animals dead from an infectious or contagious disease shall be immediately burned. All cellars and outbuildings must be cleaned before the first day of May in each year.

(8.) Between the first day of May and the first day of November no hogs shall be kept within the limits of this.....except in pens with dry floors, or pens free from all filth and standing water. Cattle yards, barns and stables must be kept free from all filth and offensive odor.

Any person violating any of the provisions of this section shall be fined not less than five, nor more than fifty dollars, or be imprisoned not less than two nor more than fifteen days, and the court shall order the abatement of the nuisance at the cost of the defendant in substantially the manner provided in sections 5081 to 5085, inclusive, of the code of Iowa.

#### GENERAL PROVISIONS

SEC. 40. It shall be the duty of every police officer who has any knowledge of, or has good reason to believe, that any of the provisions of this ordinance is being violated, to make report of same through his chief to the health officer of the local board of health.

SEC. 41. Any citizen who has reason to believe that any of the provisions of this ordinance is being violated may file an information under oath, describing the person and the offense charged, and it shall be the duty of the attorney of the.....forthwith to prosecute the same before the proper court.

SEC. 42. If any person by himself, or by his agent or employe, shall wilfully violate any of the provisions of this ordinance, where no other penalty is provided, he shall be fined not less than ten dollars, nor more than one hundred dollars, or be imprisoned not less than three days, nor more than thirty days, in the discretion of the court.

SEC. 43. This ordinance shall take effect and be in force on and after its publication.

NOTES

Local boards of health shall make such regulations as are necessary for the protection of the public health respecting nuisances, sources of filth, causes of sickness, rabid animals and quarantine NOT IN CONFLICT WITH ANY REGULATIONS OF THE STATE BOARD OF HEALTH. Sec. 2568.

While the statute gives the board discretionary exercise of judgment as to what they may deem necessary for the public health, the intent and purpose of the whole statute is the protection of the public health, and it is mandatory.

NUISANCES

(1.) Code, section 5078: "The erecting, containing, or using any building or other place for the exercise of any trade, employment or manufacture, which, by occasioning noxious exhalations, offensive smells, or other annoyances, becomes injurious to the public health, comfort or property of individuals, or the public, *the causing or suffering any offal, filth, or noisome substance to be collected or to remain in any place, to the prejudice of others*, the obstructing or impeding without legal authority the passage of any navigable river, harbor, or collection of water, or the corruption, or rendering unwholesome or impure the water of any river, stream or pond; are nuisances." \* \* \*

"Where an indictment charged that the defendant 'unlawfully and injuriously did erect, continue and use a certain enclosure or pen, in which cattle and hogs were confined, fed and watered, and the excrement, decayed food, slops and other filth were retained,' whereby were occasioned 'noxious exhalations and offensive smells, greatly corrupting and infesting the air; and other annoyances dangerous to the public health, comfort and property of the good people residing in that immediate neighborhood,' it was held that the acts charged constituted a public, indictable nuisance, both under this section (4089) of the statute, and at the common law." *The State v. Kaster*, 35 Iowa Supreme Court Reports, 221.

Any use of property, or any trade, that corrupts the atmosphere with smoke, noxious vapors, noisome smells, dust, or other substances or gases producing injury to property or to health, or impairing the comfortable enjoyment of property, is a nuisance. Wood on Nuisances, page 574, section 531.

Where defendant erected stock yards so near plaintiff's dwelling, and so kept them, that the odors therefrom were not only an annoyance, but were unwholesome, threatening the health of plaintiff and his family, held that the defendant could not escape liability on the ground that the yards were necessary to the operations of the road, and that the odors could not be avoided.

*Shively v. Cedar Rapids, I. F. & N. W. R. R. Co.*, 74 Iowa, 170.  
*Meeker v. Rensselaer*, 14 Wend., 397.

In the case of *City of Salem v. Eastern Railroad Company*, the supreme court of Massachusetts (98, page 443), under a statute which is a verbatim copy of the Iowa statute, held that the adjudication of the board that a nuisance exists is conclusive, and no appeal lies therefrom. The board should keep an accurate record of their proceedings, and all adjudications should appear therein in clear and distinct language. It is not the purpose of the order to

direct in what mode the person should proceed to remove the nuisance. It should direct the end to be accomplished, leaving the party to adopt any effectual mode he may choose. If the owner or occupant neglects to remove the nuisance, the board are at liberty to enter upon private property, where it exists, and take such measures as they may see fit for its removal.

The court further says, in relation to boards of health: "Their action is intended to be prompt and summary. They are clothed with extraordinary powers for the protection of the community from noxious influences affecting life and health; and it is important that their proceedings should be embarrassed and delayed as little as possible by the necessary observances of formalities. Although notice and opportunity to be heard upon matters affecting private interests ought always to be given when practicable, yet the nature and object of those proceedings are such that it is deemed to be most for the general good that notice should not be essential to the right of the board to act for the public safety. Delay for the purpose of giving notice, involving either of public notice or of inquiry to ascertain who are the parties whose interests will be affected, and further delay for such hearings as the parties may think necessary for the protection of their interests, might defeat all beneficial results from an attempt to exercise the powers conferred upon boards of health. The necessity of the case, and the importance of the public interests at stake, justify the omission of notice to the individual.

"Notice must be given of general regulations prescribed by the board before parties can be held in default for a disregard of their requirements. No previous notice to parties so to be affected by them is necessary. They belong to that class of police regulations to which all individual rights of property are held subject, whether established directly by enactments of the legislature, or by its authority through boards of local administration."

*Shuster v. Met. Board of Health*, 49 Barb. (N. Y. S. C.), 450.

Wood on Nuisances, sections 494, 504, 525.

A slaughter house in a city or public place, or near a highway, or where numerous persons reside, is *prima facie* a nuisance.

*Bushnell v. Robeson & Co.*, 62 Iowa, 540.

Wood on Nuisances, section 837.

CITIES AND TOWNS SHALL HAVE POWER TO ABATE NUISANCES—CODE,  
SECTION 696

The power to abate nuisances does not enable the council to determine conclusively that a particular thing constitutes a nuisance; and if it orders the removal of a thing which is, in fact, not a nuisance, the person causing its removal will be individually liable in damages.

*Cole v. Kegl*, 64 Iowa, 59.

The power given in relation to nuisances is to abate them, and in the exercise of this power a city cannot provide for the punishment by fine of one who maintains a nuisance.

*Nevada v. Hutchins*, 59 Iowa, 506.

Under the authority of section 696 a city cannot by ordinance provide for the imposition of fines against persons committing a nuisance. The power of the city is limited to the abatement of such nuisances.

*Knoxville v. C., B. & Q. Ry. Co.*, 83 Iowa, 636.

The power to suppress does not imply the power to punish, and must be exercised in such way that suppression shall be the direct, and not merely the incidental, result of the exercise of power.

*Chariton v. Barber*, 54 Iowa, 360.

A municipal corporation is not authorized to bring an action in equity to enjoin and abate a nuisance on the ground that it is injurious to its citizens, and the authority given by section 696 must be exercised through the medium of an ordinance, and not by equitable proceedings in court.

*Ottumwa v. Chinn*, 75 Iowa, 405.

A regulation adopted by a local board of health, and enforced by ordinance, prohibiting hogs, except for the purpose of commerce, in cities of 15,000 inhabitants, is not unreasonable, even though it thereunder becomes a misdemeanor to keep in such city a clean and inoffensive pen with but one hog therein.

*Cedar Rapids v. Holcomb*, 68 Iowa, 107.

#### QUARANTINE

The city is not responsible to individuals for the neglect or nonfeasance of its agents or officers in executing the powers there conferred.

*Ogg v. Lansing*, 35 Iowa, 495.

The board of health may, under section 2570, erect a temporary building to which infected persons may be removed for isolation, and the county will be liable for the expenses thereof in case of the inability of the infected person or persons to pay such charge.

*Staples v. Plymouth County*, 62 Iowa, 364.

*Clinton v. Clinton County*, 61 Iowa, 205.

*Gill v. Appanoose County*, 68 Iowa, 20.

The board will not be bound by the actions of individual members in authorizing a physician to render services. Such action must be by the board as a body.

*Young v. Black Hawk County*, 66 Iowa, 460.

#### SLAUGHTER-HOUSES, REGULATION OF

Code section 696. See cases cited under "nuisances."

#### DISEASED ANIMALS

Punishment for knowingly bringing within the state, or harboring therein. Code, section 5012 to 5019 inclusive.

Diseased animals may be killed. Code, sections 2339, 2534.

#### BURIAL OF THE DEAD

Cities and towns have power to regulate the burial of the dead. Code, section 697.

Local boards of health shall regulate cemeteries and burial of the dead. Code, section 2568.



