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SHERYL J THUL, COUNTY RECORDER
BOONE IOWA*ret. to - Co. Auditor***BOARD OF SUPERVISORS
BOONE COUNTY, IOWA****ORDINANCE NO. 85 - ENFORCEMENT OF COUNTY INFRACTIONS FOR
BOONE COUNTY.**BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF BOONE COUNTY,
IOWA:AN ORDINANCE PROVIDING FOR THE ENFORCEMENT OF VIOLATIONS OF
BOONE COUNTY ORDINANCES.

- 1) **Purpose.** In order to protect the public health, safety, welfare and environment in which we live these regulations provide for the enforcement of violations of Boone County Ordinances.
- 2) **Authority.** These regulations are promulgated in accordance with section 331.107 of the 2007 Iowa Code.
- 3) **County Infractions.** A county infraction is a civil offense punishable by a penalty of not more than seven hundred fifty dollars for each violation or if the infraction is a repeat offense a civil penalty not to exceed one thousand dollars for each repeat offense.
- 4) **Violations.** A violation of a Boone County Ordinance is a county infraction unless the ordinance specifies otherwise.
- 5) **Inapplicability of Ordinance.** If a violation of an ordinance is a felony, an aggravated misdemeanor, or a serious misdemeanor under state law or if the violation is a simple misdemeanor under chapters 687 through 747 of the Iowa Code, then this County Infraction shall not apply.

- 6) **Citations.** An officer authorized by Boone County to enforce a county code, or regulation may issue a civil citation to a person who commits a county infraction. The citation may be served by personal service or by certified mail return receipt requested. A copy of the citation shall be retained by the issuing officer, and one copy shall be sent to the clerk of the district court. The citation shall serve as notification that a civil offense has been committed and shall contain the following information:
- a) The name and address of the defendant.
 - b) The name or description of the infraction attested to by the officer issuing the citation.
 - c) The location and time of the infraction.
 - d) The amount of civil penalty to be assessed or the alternative relief sought, or both.
 - e) The manner, location, and time in which the penalty may be paid.
 - f) The time and place of court appearance.
 - g) The penalty for failure to appear in court.
- 7) **Proceedings before the Court.** The proceedings before the court for a county infraction:
- a) The matter shall be tried before a magistrate or district associate judge in the same manner as a small claim.
 - b) The county has the burden of proof that the county infraction occurred and that the defendant committed the infraction. The proof shall be clear, satisfactory and convincing evidence.
 - c) The court shall ensure that the defendant has received a copy of the charges and that the defendant understands the charges. The defendant may question all witnesses who appear for the county and produce evidence or witnesses on the defendant's behalf.
 - d) The defendant may be represented by counsel of the defendant's own selection and at the defendant's own expense.

- e) The defendant may answer by admitting or denying the infraction. If a county infraction is proven, the court shall enter judgment against the defendant. If the infraction is not proven, the court shall dismiss it.
- 8) **Remittance of penalties or forfeitures.** Notwithstanding section 602.8106, subsection 3, penalties or forfeitures collected by the court for county infractions shall be remitted to the county in the same manner as fines and forfeitures are remitted to cities for criminal violations under section 602.8106. If the person named in the citation is served as provided in this section and fails without good cause to appear in response to the civil citation, judgment shall be entered against the person cited.
- 9) **Payment of court costs and fees.** A person against whom judgment is entered, shall pay court costs and fees as in small claims under chapter 631. If the action is dismissed, the county is liable for the court costs and court fees. Where the action is disposed of without payment, or provision for assessment, of court costs, the clerk shall at once enter judgment for costs against the county.
- 10) **Alternate Relief.** Seeking a civil penalty as authorized in this section does not preclude a county from seeking alternative relief from the court in the same action.
- 11) **Contempt.** When judgment has been entered against a defendant, the court may do any of the following:
- a) Impose a civil penalty by entry of a personal judgment against the defendant.
 - b) Direct that payment of the civil penalty be suspended or deferred under conditions imposed by the court.
 - c) Grant appropriate alternative relief ordering the defendant to abate or cease the violation.
 - d) Authorize the county to abate or correct the violation.
 - e) Order that the county's costs for abatement or correction of the violation be entered as a personal judgment against the defendant or assessed against the property where the violation occurred, or both.

If a defendant willfully violates the terms of an order imposed by the court, the failure is contempt.

- 12) **Post – Judgment Motions.** A defendant or the county may file a motion for a new trial or a motion for a reversal of a judgment as provided by law or rule of civil procedure.

13) **Criminal Citation.** This section does not preclude a peace officer of a county from issuing a criminal citation for a violation of a county code or regulation if criminal penalties are also provided for the violation. Each day that a violation occurs or is permitted by the defendant to exist, constitutes a separate offense.

14) **Other Actions.** The issuance of a civil citation for a county infraction or the ensuing court proceedings do not provide an action for false arrest, false imprisonment, or malicious prosecution.

Passed and adopted by the Board of Supervisors this 14th day of December, 2007.

ACTION UPON FIRST READING

DATE: December 10, 2007

Moved by: O'Brien

Seconded by: Sorensen

Discussion:

AYES (A), NAYES (N), ABSENT (X):

Albert Sorensen Mike O'Brien David Reed

ACTION UPON SECOND READING

DATE: December 12, 2007

Moved by: O'Brien

Seconded by: Sorensen

Discussion:

AYES (A), NAYES (N), ABSENT (X):

Albert Sorensen Mike O'Brien David Reed

ACTION UPON FINAL READING

DATE: December 14, 2007

Moved by: Sorensen

Seconded by: Reed

Discussion:

AYES (A), NAYES (N), ABSENT (X):

Albert Sorensen Mike O'Brien David Reed

David Reed
Chairman
Boone County Board of Supervisors

12-14-07
Date

Philippe E. Meier
ATTEST:
Philippe E. Meier, County Auditor

12-14-07
Date

