

# COLES COUNTY SOLID WASTE STORAGE AND HANDLING OF REFUSE AND NUISANCES ORDINANCE

Whereas The Coles County Board finds the increase need for proper handling of used and waste materials and structures in rural Coles County, without parallel growth of proper facilities enabling and ensuring the recycling, reuse, and conservation of natural resources and solid waste, has resulted in a rising tide of scrap and waste materials of all kinds, including but not limited to: junk automobiles, large home appliances, and junk mobile homes; that excessive quantities of refuse and inefficient and improper methods of refuse disposal result in scenic blight, and cause serious hazards to the public health, comfort, safety, convenience, welfare, and happiness of county residences, create public nuisances; depress the value of nearby properties, offend the senses and otherwise interfere with community life and development, create havens for vermin, create fire hazards; and

Whereas the Coles County Board finds it necessary and proper to adopt an Ordinance regulating the storage and handling of solid waste and providing the authority to abate declared nuisances within the limits of Coles County. Pursuant to the powers granted to the Coles County Board by the Illinois Compiled Statutes of the State of Illinois, specifically, 55 ILCS 5/Division 5-25 to establish and maintain a full-time health department, 55 ILCS 5/5 1052 to do all acts and make all regulations which may be necessary or expedient for the promotion of health, 55 ILCS 5/5 8001 to allow counties to inspect garbage disposal areas and garbage hauling vehicles, 55 ILCS 5/5 1118 to remove garbage and debris, 55 ILCS 5/5 1124 to regulate all places of business of dealers in junk, rags, and any second hand article whatsoever, 55 ILCS 5/5 1063 to safeguard the public health and safety, comfort, and welfare govern the maintenance of buildings, structures, and camps or parks in a condition reasonably safe from hazards, 55 ILCS 1099 to cut weeds in subdivision lots, 55 ILCS 5/5 41005 to establish by ordinance a code hearing unit and administrative adjudication process, it is necessary and proper that an Ordinance controlling refuse storage, handling and nuisances be adopted in order to protect the health of the inhabitants of Coles County, Illinois and it is proper that said Ordinance prohibit, abate, suppress and prevent all related acts, practices, conduct, uses of property and all other things detrimental to the health of the inhabitants of the County. This Ordinance shall be in force for all areas within Coles County jurisdiction and outside the corporate limits of cities, villages, and towns.

Therefore, be it ordained by the Board of Coles County, Illinois, that the following rules and regulations herein sometimes referred to by the word **ORDINANCE**, be hereby made and adopted.

## **SECTION 1-DEFINITIONS**

**ASHES:** means the residue resulting from the burning of wood, coal, coke, or other combustible materials.

**AUTHORIZED REPRESENTATIVE:** shall mean the Coles County Sheriff, Coles County deputies, the Coles County Health Department Administrator, Coles County Health Department Director of Environmental Health, and Coles County Health Department Licensed Environmental Health Practitioners and inspectors.

**AUTOMOBILE GRAVEYARD:** means any establishment or place of business which is maintained, used, or operated for storing, keeping, buying, or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor parts.

**BOARD OF HEALTH:** means the Coles County Board of Health.

**CODE:** any county ordinance that pertains to the definition, identification, and abatement of public nuisances; the accumulation, disposal of solid waste; construction and maintenance of buildings and structures; and sanitation practices.

**COUNTY BOARD:** means the Coles County Board.

**DISEASED ANIMAL:** means an animal having a communicable disease, showing symptoms of a communicable disease, or otherwise being in an unhealthy state.

**EFFECTIVE SCREENING:** does not necessarily mean 100% screening, but it must be screened so as not to be visible from the main traveled way so that the passing motorist is unaware of the presence of material in the yard and must not be visible from adjoining residential property.

**EXTERMINATION:** means the control and elimination of insects, rodents, or other pests by eliminating their harborage places and removing or making inaccessible materials which may serve as their food, by poisoning, spraying, trapping or by any other recognized and legal method of pest control.

**GARBAGE:** means all putrescible animal or vegetable waste resulting from the handling, preparation, cooking, and consumption of food.

**HAZARDOUS:** means any condition, act, or situation causing undue risk of harm or danger to the public.

**HEALTH AUTHORITY:** means the Coles County Health Department.

HEARING OFFICER: a person having the following powers and duties:

- (1) To preside at an administrative hearing called to determine whether a code violation exist;
- (2) To hear testimony and accept evidence from the authorized representatives, the respondent, and all interested parties relevant to the existence of a code violation;
- (3) To preserve and authenticate the record of the hearing and all exhibits and evidence introduced in the hearing;
- (4) To issue and sign written findings and a decision and order whether a code violation exists;
- (5) To impose penalties consistent with applicable code provisions and to assess cost reasonably related to instituting the proceedings upon finding the respondent liable for the charged violation. In no event, however, shall the hearing officer have the authority to impose a penalty of incarceration.

INFESTATION: means the presence of insects, rodent, or other pests inside or outside of a dwelling or building.

JUNK: means old, or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste; junked, dismantled or wrecked automobiles or parts thereof; iron, steel, and other old or scrap ferrous or nonferrous material, excluding farm implement equipment or parts which are suitable for use as salvage for farming purposes only on the site where located.

JUNKYARD: means an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard.

MANURE: means the excrement of all domestic animals and fowl including stable bedding.

NUISANCE: means any act, condition of thing causing harm, danger, injury or resulting the creation of a hazardous situation. This definition shall include all intentional acts and conditions as well as those acts and conditions caused by or resulting from negligence, recklessness, or hazardous conduct.

PERSON: means any natural person, firm, club, corporation, association, partnership, company, organization, or political subdivision.

PLOTTED LOT: means lots where the land has been formally subdivided for residential and commercial development.

PREMISES: means public property or private real property, either improved or vacant, inhabited or uninhabited, including buildings and other structures, vehicles, watercraft or parts thereof.

PROPERTY OWNER: means the legal or beneficial owner of an improved or unimproved parcel of real estate.

REFUSE: means all putrescible and non-putrescible solid wastes except body wastes (which is provided for in the Coles County Private Sewage Disposal Ordinance), including garbage, rubbish, ashes, street cleaning, tree wastes, dead animals, abandoned automobiles, discarded household appliances, and solid manufacturing and industrial wastes.

RESPONDENT: means a property owner, waste hauler, or other person charged with liability for an alleged code violation and person to whom the notice of violation is directed.

RODENTS: means rats, mice, squirrels, and any other small gnawing mammals that have in the upper jaws single pair of incisors with a chisel-shaped edge.

RUBBISH: means non-putrescible solid waste (excluding ashes), consisting of both combustible and noncombustible wastes such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, and similar materials.

SCRAP PROCESSING FACILITIES: shall mean any establishment having facilities for processing iron, steel, nonferrous scrap, mineral wastes, slag, wood or wood products, asphalt, concrete, or junk tires and rubber products, and whose principle product is scrap iron, steel, or nonferrous scrap, wood, concrete, asphalt, or rubber for sale for remelting or recycling purposes only

SCREENING: means the use of any vegetative planting, fencing, ornamental wall of masonry, or other architectural material, earthen embankment, or a combination of any of these.

STORAGE SITE: means public property of private real property, either improved or vacant, including the buildings or structures on the property, vehicles, watercraft, or parts thereof, upon or in which refuse is stored for collection prior to final disposal.

VERMIN: means roaches, bed bugs, fleas, lice or similar noxious animals of small size.

VICIOUS ANIMAL: means an animal which has been know at any time without provocation to attack or injure any person who was peacefully conducting himself where he lawfully may be.

## **SECTION II-REFUSE STORAGE AND HANDLING**

### **Part 1-General**

All refuse shall be disposed of at an approved sanitary landfill. The location, methods and operation for final disposal of refuse shall conform to requirements of the Illinois Environmental Protection Act, (cite as Environmental Protection Act 415 ILCS/1 et seq. and all amendments adopted herein), a copy of which will be on file in the Health Authority Office. No person shall deposit or permit to remain in any waterway, drainage ditch or confined waters within Coles County any manure, garbage, or harbor flies, rodents, vermin or mosquitos; create offensive odors or unsightliness; or otherwise creates or results in the existence of a nuisance condition.

### **Part 2-Refuse Storage**

- (a) Garbage shall be drained and stored in durable, rust-resisting, nonabsorbent, water tight, and easily washable containers, which shall have close fitting covers and adequate handles or bails to facilitate collection, and which shall be of more than 55 gallons in capacity for household unless containers are specifically designed for such use, and of a sufficient capacity for business, or multi-family apartments or dwellings.
- (b) Ashes shall be stored in fire-resistant containers with close-fitting covers. Such containers shall be equipped with adequate handles to facilitate collection, and shall be not greater that 32 gallons in capacity for households and of a sufficient capacity for business establishments as not cause a nuisance. Ashes containing hot embers shall not be placed in containers for collection.
- (c) Rubbish shall be stored in durable containers with close-fitting covers, except that bulky rubbish such as trees, weeds and large cardboard boxes, may be bundled so as not to exceed five feet in length nor 70 pounds in weight.

### **Part 3-Transportation of Refuse**

All refuse must be transported to the sanitary landfill in suitable vehicles. All vehicles used for transportation of refuse from the storage site to the sanitary landfill shall have leakproof beds, shall have sides and tailgates of sufficient height to prevent the spillage of refuse, and during the transportation, shall be covered with canvas, tarpaulin or metal, properly fitted, to prevent the scatter or loss of refuse.

### **Part 4-Accumulation and Frequency of Collection**

- (a) No person shall accumulate or store on any premises or storage site within the County any junk, except in a junkyard, automobile graveyard and/or scrap processing facility following provisions set forth in Title V; Section 21, of the Illinois

Environmental Protection Act. Those junkyards, automobile graveyards, and/or scrap processing facilities located within the jurisdiction of Coles County, Illinois shall ***comply with Part 5 of this Section.***

- (b) All refuse stored on a storage site shall be collected once each week except in those situations where more frequent collection shall be deemed necessary by the Health Authority.

### **Part 5-Junkyards and Automobile Graveyards**

- (a) Junkyards, mobile home salvage yards, automobile graveyards, and scrap processing facilities located outside the corporate limits of cities, towns, or villages shall have a permit to operate from the County Board and meet the requirements of this Part. Exempt from these requirements are junkyards and automobile graveyards which are permitted by local township ordinances.
- (b) No person may hereafter establish a junkyard, mobile home salvage yard, automobile graveyard, or scrap processing facility within 500 feet of any residential dwelling, with the exception of the establishment's owner residential dwelling. In addition, the establishment shall not be located within 1000 feet of the right-of-way of a federal aid system road, or within 200 feet of the right-of-way of any other public road within the county. The establishment shall not be located within 500 feet of any source of water, tributary, drainage ditch, pond, or lake. The establishment shall not be located within 500 feet of a 100 year flood plain. Fencing 6 feet in height shall be required around the perimeter of the establishment.
- (c) PERMITS: Permit are to be renewed annually with all permit expiring on 30 November of each year.
  - (1) Within thirty days of the effective date of this Ordinance all existing junkyards and automobile graveyards shall obtain a permit from the County Board.
  - (2) After the effective date of this Ordinance no one shall establish a junkyard or automobile graveyard without first obtaining a permit from the County Board.
  - (3) The application for a permit or the permit renewal shall be requested by completing the "Application For Junkyard or Automobile Graveyard" form and submitting it to the Authorized Representative. The application for a permit for all yards shall include the following:
    - A. Names. The name and address of the owner(s) of the yard and the name and address of the yard, if different from the owners. The name and address of the owner(s) of the real estate is also to be furnished if different than the owner(s) of the business.

- B. Location Map. A simple location map showing the location of the junkyard or automobile graveyard facility in relation to the adjacent roads. Such location map shall indicate the direction north with a north point or arrow, shall show the dimensions of the tract of land, show the distance from the nearest town or city limits or from the nearest intersecting route, location of all wells within 1,000 feet of the facility, location and description of all improvements within 1,000 feet of the facility, and names and location of adjoining property owners.
- C. Junk Deposit Area. If the tract shown on the location map is larger in area than the space proposed for the deposit of junk, that portion proposed for deposit of junk shall be cross-hatched and its dimensions shown. Any deposit of junk beyond this area will not be permitted unless a new permit is granted by the County Board.
- D. Plan for Screening. The owner(s) of any junkyard or automobile graveyard facility shall submit a plan drawn to scale indicating how screening is to be accomplished. Such plans shall show the construction details of the screening to be used. The screening shall be located on the owner's land and not on any part of the road or highway right of way and should be compatible with the surroundings. the screen shall be in place prior to the time the junk is deposited. A letter authorizing the owner to proceed with the screening project will be issued subsequent to the approval of the proposed yard location and screening plan; however, the permit will not be approved and issued until after the screening material is in place.
- E. Fee A first time initial filing fee is \$25.00 and the annual fee for permits shall be \$25.00.

(d) ACCEPTABLE SCREENING MATERIALS

(1) Fencing Materials. Subject to the approval of the County Board, acceptable fencing shall include fences of steel or other metals, durable woods such as tide water cypress, redwood, or other wood treated with a preservative, or walls of masonry. Some of the types acceptable are:

- A. Chain link type with aluminum, steel, plastic, or wooden slat inserts.
- B. Wooden types with basket weave, palisade, louver, or other suitable design.
- C. Walls of masonry including plain or ornamental concrete block, brick, stone, or other suitable masonry material.

The above types of fencing and walls are given as examples only. Any other design of fencing constructed of other materials may be submitted for consideration.

(2) Plant Material. Plant material shall be used to compliment artificial screening except where it is not feasible to do so as determined by the County Board at the recommendation of the Authorized Representative. Unless it can effectively screen the yard on a year around basis plants cannot be used as the sole screening material. Plant materials indicated on the plans submitted for a permit shall specify the name of the plant materials to be used, the size at the time of planting, and the spacing between plants. All plant material shall be taken from nurseries located within, or north of , Zone 6 of the climatic map as shown in Rehder's "Manual of Cultivated Trees and Shrubs", published in 1940.

(3) Maintenance. The owner or owners of any junkyard or automobile graveyard shall maintain in an acceptable condition the screening for his junkyard, regardless of who established it initially, performing such painting and repairs as is required to keep any fences, walls or other structural material in good condition and appearance. Plant material shall be watered, cultivated, and/or mulched, and given any required maintenance including spraying for insect control, to keep the planting in a good healthy condition. Dead plant material shall be replaced during the next spring or fall planting season following death of the material. The replacement plants shall be at least as large as the initial planting. The screening shall be maintained so that the yard is effectively screened as long as the business is in existence.

Failure to maintain the screening in an acceptable condition shall result in the revoking of the junkyard or automobile graveyard owner's permit upon written notification and the County Board shall take whatever legal action is necessary to cause the owner of such junkyard or automobile graveyard facility to provide such maintenance of the screening to the satisfaction of the County Board or to abate the nuisance created by the yard which is not in compliance with the Act.

Any junkyard or automobile graveyard in existence on the effective date of this Ordinance shall screened from view from the road, highway and/or adjoining residential property within two (2) years.

- (e) Any junkyard or automobile graveyard in existence on the effective date of this Ordinance and screened from view from the road, highway and/or adjoining residential property or any yard established after the effective date and screened by the owner may not be extended beyond or above such screening so as to have junk visible from the main traveled way of the road or highway, or adjoining residential property. Any such visible junk will cause the facility to be in violation of its permit and these regulations and permit will become void upon written notification by the County Board.



The Authorized Representatives and the County Board shall then take whatever legal action is necessary to abate the nuisance created by the junkyard which is not in compliance with the Ordinance.

### **Part 5-Dangerous and Hazardous Materials**

Any dangerous and hazardous materials, including but not limited to those as defined in Title 35: Subtitle A; Chapter I, Pollution Control Board; and all amendments adopted therein, or substances such as poisons, acids, caustics, pesticides, infested materials, explosives, and solid waste resulting from industrial processes shall not be mixed, stored, or collected with refuse as defined by Ordinance. All dangerous and hazardous materials or substances shall be stored, collected and disposed of in a manner prescribed by applicable State Statutes and Federal Statutes.

### **Part 6- Vermin and Rodents**

No person shall permit an infestation of vermin or rodents on any premises within the county.

## SECTION III-NUISANCES

### **Part 1-General**

No person shall create or cause the continued existence of a nuisance in Coles County, Illinois. In all cases of this Section as well as those known to the common laws and to the Statutes of Illinois as nuisances, in addition to those declared herein, may, in case the same exist within the jurisdiction of Coles County, be treated as such and proceeded against as provided in Section IV of this Ordinance.

### **Part 2-Declared Nuisances**

It is hereby declared that the following are nuisances, but are not inclusive of all conditions or acts that may give rise to the creation or continued existence of a nuisance.

- (a) To cause or suffer the carcass of any animal or any offal, filth and any noisome substance to be collected deposited, or to remain in any place, to the prejudice of others or to allow the carcasses of a dead animal(s) or any part of decaying animal matter to remain not buried, destroyed or collected, within 24 hours after death.
- (b) To throw or deposit any offal, refuse, junk, or the carcass of any dead animal, in any water course, lake, pond, spring, well or common sewer, street, or public highway.
- (c) To corrupt or render unwholesome, or impure the water of any spring, river, stream, pond, lake, or underground water supply to the injury or prejudice of others.
- (d) To allow accumulations of manure, refuse, junk vehicles, junk mobile homes, human and industrial noxious or offensive waste except the normal storage on a farm of manure for agricultural purposes.
- (e) Any open well, cistern, hole or pit including excavation related to construction which is permitted to remain open must comply with Illinois Department of Health and Occupational Safety and Health Association Standards. Any such open well, cistern hole, or pit must be filled, or securely and tightly covered or barricaded and it shall be the duty of the owner, occupant, or agent of any property on which open well, cistern, hole, or pit is located to fill or keep the same securely and tightly covered or adequately barricaded. Water wells are required to be sealed according to Section 415 ILCS 30/9.
- (f) Weeds or other underbrush growing on platted lots which have grown to a height of two feet or more or allowed to flower.
- (g) To allow an abandoned refrigerator not having the doors, lock or latch removed to remain on any premises.

- (h) To allow any building, mobile home, shed, fence, or other man-made structure to exist which is dangerous to public health because of its condition, faulty construction, or lack of repair and which may cause or aid in the spread of disease or injury to the health of the occupants and/or neighboring structures occupants.
- (i) To allow the spillage, scatter or loss of refuse from any vehicle used to transport refuse.
- (j) Burning shall be governed by the Illinois Pollution Control Board Rules and Regulations; Chapter 1: Air Pollution, Subtitle B: part 237; Open Burning.
- (k) Those goods considered white goods as defined in the Illinois Pollution Control Board Rules and Regulations: 415 ILCS 5/1 et seq. will be regulated so as to prevent environmental contamination from said goods. These goods shall be disposed of according to the provisions listed in the Illinois Protection Act and its amendments thereto.
- (l) To store, dump, or permit the accumulation of debris, refuse, garbage, trash, tires, buckets, cans, wheelbarrels, garbage cans, or other containers in a manner that may harbor mosquitoes, flies, insects, rodents, nuisance birds, or other animal pests that are offensive, injurious, or dangerous to the health of individuals or the public.
- (m) To create any condition, through the improper maintenance of a swimming pool or wading pool, or by causing any action which alters the condition of a natural body of water, so that it harbors mosquitoes, flies, or other animal pests that are offensive, injurious, or dangerous to the health of individuals or the public.

## **SECTION IV-DANGEROUS BUILDINGS**

### **Part 1-Definitions**

The term "dangerous building" as used herein shall mean and include:

- (a) Any building, shed, fence on any plotted lot, or other manmade structure which is dangerous to the public health because of its condition, and which may cause or aid in the spread of disease, or injury to the health of the occupants, and/or of the neighboring structures and occupants.
- (b) Any building, shed, fence on any plotted lot, or other man-made structure which, because of faulty construction, age, lack of proper repair, or any other cause, is especially liable to fire, and constitutes, or creates a fire hazard.
- (c) Any building, shed, fence on any plotted lot, or other man-made structure which, by reason of faulty construction, age, lack of proper repair, or any other cause, is liable to cause injury, or damage by collapsing, or by a collapse or fall of any part of the structure.
- (d) Any building, shed, fence on any plotted lot, or other man-made structure which, because of its condition, or because of lack of doors or windows is available to and frequented by malefactors, or disorderly persons who are lawful occupants of such structure.

### **Part 2-Nuisance**

Any such dangerous building in the county is hereby declared a nuisance.

### **Part 3-Unlawful In County**

It shall be unlawful to maintain or permit the existence of any dangerous building in the county and it shall be unlawful for the owner, occupant, or person in custody of any dangerous building to permit the same to remain in a dangerous condition, or to occupy such building or permit it to be occupied while it remains in a dangerous condition.

## **SECTION V-ENFORCEMENT PROVISIONS**

### **Part 1-General**

This Ordinance shall be enforced by the Authorized representative of the Coles County Sheriff's Department or the Coles County Health Department., or other designated county or state officials.

### **Part 2- Complaints and Inspections**

All citizen complaints shall be reported to the Authorized Representative in writing and signed, unless there is a clear and imminent public health hazard, and initially inspected by the Health Authority. Authorized representatives are, hereby, authorized and directed to make such inspections as are necessary to determine satisfactory compliance with this ordinance. The authorized representative after proper identification and statement of the reason(s) for the visit, shall be permitted by the homeowner or occupant of the property to have access to the property at any reasonable time for the purpose of making an inspection to determine compliance with the requirements of the Ordinance. Refusal of right of entry, shall be cause for the health department or sheriff's department to seek permission of the court for right of entry.

### **Part 3-Notice to Abate**

Whenever an authorized representative of the health department or the sheriff's department determines that a violation of any provision of the Ordinance has occurred, the authorized representative shall give notice, signed by the Sheriff's Department and the Health Authority, to the person(s) responsible for such violation(s). The notice shall:

- (a) Be in writing;
- (b) Include a statement of reasons for issuance of notice;
- (c) Allow a reasonable amount of time as determined by the authorized representative for performance of any act it may require. Not to be less than 24 hours; except as determined by the Health Authority to be a violation that poses a imminent health hazard to the public. In the case of a imminent health hazard the Health Authority may request the help of other agencies in eliminating or alleviating the threat to the public.
- (d) A notice provided for in the Ordinance is properly served when it is personally delivered to the person(s) responsible for the violation(s), when it is sent by registered or certified mail, return receipt requested, to the last known address of the person(s) responsible for the violation(s), or when person(s) responsible for the violation(s) have been served with such notice by any other method authorized by the laws of the State of Illinois.

- (e) In the event that the violation(s) continues, the owner, occupant, or agent causing or allowing the violation shall be issued a formal notice by the authorized representative.

#### **Part 4-Formal Notice**

- (a) The filing of a formal complaint shall be noted on a violation notice and report form with the following information:
  - (1) the name and address of the respondent, if known;
  - (2) the name, address, and state vehicle registration number of the waste hauler who deposited the waste, if applicable;
  - (3) the type and nature of the violation;
  - (4) the date and time the violation was observed;
  - (5) the names of witnesses to the violation; and
  - (6) the address of the location or property where the violation is observed.
- (b) The violation notice and report form shall contain a file number and a hearing date noted by the authorized representative. The violation notice and report shall state that failure to appear at the hearing on the date indicated may result in a determination of liability for the cited violation and the imposition of fines and assessment of costs.
- (c) A copy of the violation notice and report form shall be served on the respondent either personally, or by first class mail, postage prepaid, sent to the address of the respondent. If the name of the respondent property owner cannot be ascertained, or if service on the respondent cannot be made by mail, service may be made on the respondents property owner by posting, not less than 20 days before the hearing is scheduled, a copy of the violation notice and report form in a prominent place on the property where the violation is found.

#### **Part 5-Subpoenas**

- (a) At any time prior to the hearing date, at the request of the authorized representative, attorney for the county, the respondent, or the attorney for the respondent, the hearing officer assigned to hear the case may issue subpoenas directing witnesses to appear and give testimony at the hearing.
- (b) If the respondent or the respondent's attorney fails to appear on the date set for the hearing, the hearing officer may find the respondent in default and shall proceed with the hearing and accept evidence relating to the existence of a code violation.

#### **Part 6-Representation at Hearings**

The case for the county may be presented by the authorized representative or by the State's Attorney. In no event, however, may the case for the county be presented by an employee of the code hearing unit. The case for the respondent may be presented by the respondent, or the respondent's attorney. If the respondent is a corporation, it may appear through any

officer, director, manager, or supervisor of the corporation.

### **Part 7-Evidence at Hearings**

The hearing officer shall preside at the hearing, shall hear testimony, and shall accept any evidence relevant to the existence, or non-existence of a code violation on the property indicated. The authorized representative signed violation notice and report form shall be prima facie evidence of the existence of the code violation described in the form. The strict rules of evidence applicable to judicial proceedings do not apply to the hearing.

### **Part 8-Findings, Decision, and Order**

At the conclusion of the hearing, the hearing officer shall make a determination on the basis of the evidence presented at the hearing as to whether a code violation exists. The determination shall be in writing and shall be designated as the hearing officer's findings, decision, and order. The findings, decision, and order shall include the hearing officer's finding of fact, a determination of whether a code violation exists based on the findings of fact, and an order imposing a fine or other penalty, directing the respondent to correct the violation(s), or dismissing the case if the violation(s) is not proved. If the hearing officer determines the respondent is liable for the cited violation, the hearing officer shall enter an order imposing sanctions that are provided in the Ordinance for the violation(s) proved, including imposition of fines and the recovery of costs of the proceedings. Cost may be recovered in the same manner as fines and penalties. A copy of the findings, decision, and order shall be served by personal service or by any method provided for service of the violation notice and report form under Part 4. The payment of any penalty or fine, or costs of proceedings and the disposition of that money shall be to the County's General Fund.

### **Part 9-Administrative Review**

The findings, decisions, and order of the hearing officer shall be subject to review in the circuit court of the county. The Administrative Review Law (735 ILCS 5/3-101 et seq.) and the rules adopted pursuant thereto shall apply to and govern every action for the judicial review of the final findings, decision, and order of a hearing officer.

### **Part 10-Sanctions; Transfer or Conveyance of Property**

The order to correct a code violation and the sanctions imposed by the county against a respondent property owner as the result of a finding of code violation shall attach to the property, subject to the interests of all lien holders of record, as well as to the owner of the property, so that the owner cannot avoid the finding of a code violation against the owner by conveying or transferring the property to another. Any subsequent transferee, or owner of the property takes the property subject to the findings, decision, and order of a hearing officer if a notice consisting of a copy of the order to correct a code violation and imposing any sanctions and costs, if applicable, and a description of the real estate affected that is sufficient to identify the real estate has been filed in the office of the Recorder by the county prior to the transfer or conveyance to subsequent transferee or owner

## **Part 11-Collection of Unpaid Fines or Other Sanctions**

- (a) Any fine or other sanction or costs imposed, or any part of any fine or other sanction, or costs imposed, remaining unpaid after the exhaustion of or failure to exhaust procedures for judicial review under the Administrative Review law is a debt due and owed the county, and, as such, may be collected in accordance with applicable law. Any subsequent owner or transferee of property takes subject to this debt if a notice has been filed pursuant to Part 10.
- (b) After expiration of the period within which judicial review under Administrative Review Law may be sought for a final determination of the code violation, the county may commence a proceeding in the circuit court of the county for the purpose of obtaining a judgement on the hearing officer's findings, decision, and order. Nothing in this Part prevents the county from consolidating multiple findings decisions and orders against a person or property in such a proceeding.
- (c) Upon commencement of the action, the county shall file a certified copy of the findings, decision, and order, which shall be accompanied by a certification that recites facts sufficient to show that the findings, decision, and order were issued in accordance with Part 8. Service of the summons and a copy of the petition may be by any method provided by Section 2-203 of the Code of Civil Procedure, or by certified mail, return receipt requested, provided the total amount of fines or other sanctions and cost imposed by the findings, decision, and order does not exceed \$5,000.
- (d) If the court is satisfied the findings, decision, and order were entered within the requirements of this Ordinance and that the respondent had the opportunity for a hearing and for judicial review as provided in Part 9:
  - (1) The court shall render judgement in favor of the county and against the respondent for the amount indicated in the findings, decision, and order plus court costs. The judgement has the same effect and may be enforced in the same manner as other judgements for the recovery of money.
  - (2) The court may issue other orders or injunctions, or both, requested by the county to enforce the order of the hearing officer or to correct a code violation.

## **Part 12-Penalties**

- (a) Any person(s) found guilty of violating any provision of this ordinance shall be fined a sum of not less than \$100.00 and not more than \$500. Each day's violation shall constitute a separate offense.
- (b) In addition thereto, such person(s), firm or corporation may be enjoined from continuing such violation, and if they violate or fail to comply with terms and



provisions of the Ordinance, each day shall constitute a separate offense.

- (c) The State's Attorney of Coles County, Illinois may prosecute all violations of this ordinance and may institute proceedings by complaint in lieu of administrative adjudication specified above. The State's Attorney may also institute proceedings to enjoin against any person(s) from creating a nuisance or creating a situation that is known to result in the development of nuisance in violation of this ordinance.

**SECTION VI-CONFLICT OF ORDINANCE, EFFECT OF PARTIAL INVALIDITY**

**Part 1-Conflict of Ordinance**

In any case where a provision of this ordinance is found to be in conflict with a provision of any other Ordinance or Code of Coles County existing on the effective date of this Ordinance which establishes a lower standard for the promotion and protection of the health and safety of the people of Coles County, Illinois; provisions of this Ordinance shall be deemed to prevail, and such other Ordinances or Codes are, hereby declared to be repealed to the extent that they conflict with this Ordinance.

**Part 2-Effect of Partial Invalidity**

If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance should be declared invalid for any reason whatsoever, such a decision shall not effect the remaining portion of this Ordinance, it shall remain in full force and effect and to this end, the provisions of this Ordinance are, hereby, declared to be severable.

**SECTION VI-EFFECTIVE DATE**

This ordinance shall be in full force after thirty (30) days of its acceptance as provided by law.

Passed and adopted this \_\_\_\_ day of \_\_\_\_\_, by the Coles County Board.

\_\_\_\_\_  
COUNTY BOARD CHAIRMAN