

CARROLL COUNTY ORDINANCE #3

ENVIRONMENTAL HEALTH ORDINANCE

- 3.01.010 Title:** An ordinance prescribing powers of a county board of health: regulating on-site sewage treatment; regulating non-public water wells; Requirements for Properly Plugging Abandoned Wells; and regulating nuisances, open dumping and disposal of dead animals, open burning, junk, rat harborages, animal waste control, dangerous buildings, lead hazard inspections, and real estate transfer inspections, in Carroll County, Iowa.
- 3.01.020 Purpose:** The provisions of these regulations shall apply throughout Carroll County, Iowa, and to those cities and towns in the county that have adopted or submitted to the jurisdiction of the Department of Health. This ordinance was formulated with the protection and improvement of the public health of Carroll County as the primary objective. It shall apply to all situations, and does not include “grandfathering” of pre-existing conditions.
- 3.01.030 Repealer:** All ordinances in conflict with the provisions of this ordinance are hereby repealed. When any ordinance repealing a former ordinance, clause or provision is repealed, the repeal shall not be construed to revive the former ordinance, clause or provision, unless it is specifically stated.
- 3.01.040 Effective Date:** This Ordinance shall be in full force and effective after its passage, approval, and publication as provided by law.

DEFINITIONS

- 3.02.010 CONSTRUCTION OF TERMS:** For the purpose of this Ordinance, certain terms and words are hereby defined. The following rules of construction shall apply unless inconsistent with the plain meaning of the context of this Ordinance.
- .01 TENSE: Words used in the present tense include the future tense.
 - .02 NUMBER: Words used in the singular include the plural, and words in the plural include the singular.
 - .03 SHALL AND MAY: The word “shall” is mandatory; the word “may” is permissible.
 - .04 GENDER: The masculine shall include the feminine and the neuter.
 - .05 PERSON: The word “person” includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.
 - .06 USED OR OCCUPIED: The word “used” or “occupied” include the words intended, designed, or arranged to be used or occupied.
 - .07 HEADINGS: In the event that there is a conflict or inconsistency between the heading of a chapter, section or subsection of this Ordinance and the context thereof, the said heading shall not be deemed to affect the scope, meaning or intent of such context.
 - .08 REFERENCE TO CODE OF IOWA: Reference numbers are to the Code of Iowa sections in effect on the date of adoption of this ordinance. These references are for convenience only.
- 3.02.020 Administrative authority.** The “administrative authority” is the local board of health as authorized by Chapter 137, Code of Iowa.
- 3.02.030 Reserved.**
- 3.02.040 Approved.** “approved” means accepted or acceptable under an applicable specification stated or cited in these rules, or accepted as suitable for the proposed use by the administrative authority.
- 3.02.050 Board of Health.** Members of the Carroll County Board of Health.

- 3.02.060 Cesspool.** A covered excavation, lined or unlined, into which wastes from toilets or urinals are discharged for disposal. Cesspools are not an approved method of sewage disposal.
- 3.02.070 Cistern.** A large receptacle or tank, usually underground, used for storing water.
- 3.02.080 Discard.** “Discard” means to place, cause to be placed, throw, deposit, or drop.
- 3.02.090 Dwelling.** “Dwelling” means any house or place used or intended to be used by human occupants as a place of residence.
- 3.02.100 Enforcement Officer.** The Environmental Health Director or authorized representative.
- 3.02.110 Health Department.** Carroll County Health Department, comprised of the Board of Health, employees, or duly authorized representative.
- 3.02.120 Health Officer.** The Environmental Health Director or authorized representative.
- 3.02.130 Junk.** Scrap metals or dismantled, or partially dismantled motor vehicles, other vehicles or appliances.
- 3.02.131 Junk Vehicle.** A vehicle that has been left on a property for more than sixty (60) days and lacks current license plates or lacks two or more wheels or other parts which renders the vehicle inoperable.
- 3.02.140 Litter.** “Litter” means any garbage, rubbish, trash, refuse, waste materials, construction waste materials, or debris.
- 3.02.150 On-site Wastewater Treatment and Disposal System.** All equipment and devices necessary for proper conduction, collection, storage, treatment, and disposal of wastewater from a dwelling or other facility serving the equivalent of fifteen persons (1500 Gallons per day) or less. Included within the scope of this definition are building sewers, septic tanks, subsurface absorption systems, mound systems, subsurface sand filters, gravelless systems, open sand filters, and individual mechanical aerobic wastewater treatment systems.
- 3.02.160 Open Dumping.** Discarding litter onto or in any water or land other than authorized collection receptacles or sanitary landfills approved by the Health Department.
- 3.02.170 Person.** Any individual, firm, corporation, trust, any other organized group, or any government.
- 3.02.180 Real Estate Transfer Inspection.** Means the inspection of real estate proposed to be sold, for water quality, on- site sewage treatment system, abandoned wells, and dangerous buildings.
- 3.02.190 Refuse.** All garbage, rubbish, ashes or other substances offensive to sight or smell, dangerous to the public health or detrimental to the best interests of the community.
- 3.02.200 Rubble.** Stone, brick or other similar inorganic material.
- 3.02.210 Scum.** “Scum” is a mass of sewage matter which floats on the surface of sewage.
- 3.02.220 Secondary Treatment System.** Required on all on-site wastewater treatment and disposal systems. A drainage system to disperse the effluent from the septic tank which provides filtering of the effluent before it reaches the groundwater or surface water. Included within the scope of this definition are subsurface absorption systems, mound systems, subsurface sand filters, gravelless systems, open sand filters, and individual mechanical aerobic wastewater treatment systems.
- 3.02.230 Septic Tank.** A watertight structure into which wastewater is discharged for solids separation and digestion, referred to as part of the closed portion of the treatment system.
- 3.02.240 Subsurface Absorption System.** An open-jointed or perforated system of pipes into which the primary treated effluent from the distribution box is discharged for direct absorption into the soil, referred to as part of the open portion of the treatment system.

GENERAL PROVISIONS

3.03.010 BOARD. The Carroll County Board of Health is established under Iowa Code 137. The board shall remain established under this provision and shall have all powers granted to it by law.

3.03.020 ENFORCEMENT. It shall be the duty of the health officer to enforce the provisions of this ordinance and all minimum standards imposed under the Code of Iowa 137; however, this duty may be delegated to an authorized representative. Peace officers, when called upon by the local board or its authorized representatives, shall assist in the enforcement of the rules, regulations, and lawful orders of said board. No person shall interfere with members of the local board, its authorized agents, or peace officers in the discharge of any duty imposed by the law or the rules of the State Health Department or the local board. All expenses incurred by the local board in proceeding to enforce provisions of this ordinance may be recovered by suit in the name of the local board; or said board may certify the amount of said expense together with a description of the property to the county treasurer, who shall enter the same upon the tax books as costs for enforcing this ordinance and said amount shall be collected as other taxes.

3.03.030 INSPECTIONS. Whenever the Health Officer has reasonable grounds to believe that a violation of this regulation exists, he may enter upon and make an inspection of such premises, dwelling or other building to gather necessary information, including water samples or other specimens for the purpose of laboratory analysis. The owner or occupant of such premises shall permit the Health Officer to enter such premises to make such inspection and to obtain such samples, at the request of the Health Officer. Such inspection shall be made between the hours of 8 a.m. and 5 p.m., Monday through Friday, and other times with the consent of the occupant or in case of an emergency. These provisions shall apply to all premises, building or dwellings, vacant or occupied. The Health Officer may make as many additional inspections of such premises as are deemed necessary. Every occupant of a dwelling or dwelling unit shall give the owner thereof, or his agent or his employees, access to any part of such dwelling or dwelling unit or its premises at all reasonable times for the purpose of making such repairs or alterations as necessary to effect compliance with the provisions of this Regulation or with any lawful regulation adopted or any lawful order issued pursuant to the provisions of this Regulation.

3.03.040 REFUSAL OF ADMITTANCE. In the event the Health Officer, in proceeding to enter any premises for the purpose of making an inspection to carry out the provisions of this ordinance, shall be refused entry, a complaint may be made under oath at the District Court in the county and said Court thereupon issue a warrant directed to some peace officer of the county, commanding him between the hours of sunrise and sunset, accompanied by the Health Officer, to enter upon the premises and make such inspection, and to obtain such samples as may be required to carry out the provisions of this ordinance.

3.03.050 NOTICE

.01 Whenever the Health Officer determines that there are reasonable grounds to believe there has been a violation of any provisions of this ordinance, he shall give notice of such alleged violation to the person or person responsible, as thereof provided. Such notice shall:

- A. Be in writing.
- B. Include a statement of the reasons why it is being used.
- C. Allow reasonable time for the performance of any act it requires.
- D. Be served upon the owner or his agent or occupant, as the case may require. Such notice shall be deemed to be properly served upon him personally, or if a copy is sent by certified mail to his last known address; or if he is served with

such notice by any other method authorized or required under laws of this state.

.02 Such notice may contain an outline of remedial action which, if taken, will effect compliance with the provision of this ordinance.

.03 This provision is not meant to limit the Health Officer's right of entry during his investigation.

3.03.060 HEARINGS. In the event any person is aggrieved by any order made by the Health Officer, he may within twenty (20) days of the date of such order, appeal to the Board of Health and in writing state his reasons for requesting such order to be rescinded or modified. The Board of Health shall review the action of the Health Officer, and if reasonable grounds exist, shall modify, withdraw, or order compliance with the said order. Appeal from any order of the Board of Health may be taken within twenty (20) days to the District of Carroll County, Iowa.

3.03.070 SEPARABILITY OF PROVISION. If any section, paragraph, clause or provision of this ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this ordinance.

3.03.080 SEPARABILITY OF VIOLATIONS. Each violation of any provision of this ordinance shall be a separate offense; and each additional day of neglect or failure to comply with such provision, rule or lawful order after notice of violation by the Board of Health shall constitute a separate offense.

3.03.090 PENALTIES. Any person, firm or corporation which knowingly violates any provision of this ordinance or any lawful order, written or oral, of Carroll County Board of Health or its authorized agents, shall be guilty of a County Infraction pursuant to Iowa Code Section 331.307. This section does not preclude an officer of the County from issuing a criminal citation for a violation of a State Code or regulation if criminal penalties are provided for the violation.

3.03.100 COURT ORDER. Whenever in the judgment of the board any person has engaged, or is about to engage, in any acts or practices which constitute, or will constitute a violation of this ordinance, the board may make application to the appropriate court for an order enjoining such acts or practices, and upon a showing by the board that such person has engaged, or is about to engage, in any such acts or practices, an injunction, restraining order, or such other order as made appropriate shall be granted by the court without bond.

3.03.110 VARIANCES. Variances from this ordinance may be granted by the Board of Health provided sufficient and proposed alternative information is afforded to substantiate the need and propriety of such action. Variances and reasoning shall be in writing.

3.03.120 AMENDMENTS. Amendments and additions to this ordinance shall be made as required by Carroll County Ordinance No. 1. The Board of Health shall propose amendments and additions to this ordinance to the Board of Supervisors whenever the Board of Health determines such changes are necessary to fulfill the purpose of this ordinance. Amendments or other changes to those portions of the Iowa Code and/or the Iowa Administrative Code which have been adopted by reference shall serve as an automatic modification of the ordinance.

3.03.130 PERMITS: Any person, firm or corporation, prior to construction of an on-site waste water treatment and disposal system, or private water well, must file with the Carroll County Health Department an application stating therein the owners name, address, location and such other pertinent information as may be required. Upon approval of this application by the Carroll County Health Department the permit will be issued upon payment of the required fees. Permits must be signed by the investigating official upon final inspection.

3.03.140 FEES: The Carroll County Health Department will set the fee schedule for permits and services and such fees will be payable to the Carroll County Health Department.

ON-SITE SEWAGE TREATMENT AND DISPOSAL

- 3.04.010** 567 IAC 69 in its entirety shall heretoforth be the On- Site Wastewater Treatment and Disposal Rules of Carroll County.
- 3.04.020** CONTRACTOR LICENSE: No person (including in that term any firm, corporation or other legal entity) shall install, reconstruct, alter or repair, or provide onsite services assisting in the installation, reconstruction, alteration or repair of, any onsite wastewater treatment and disposal system on property within Carroll County not owned, or occupied under a written agreement with a term of more than ninety days, by that person unless the person possesses a valid Onsite Wastewater Treatment and Disposal System Contractor's License.
- 3.04.030** An application form for the Contractor's License may be obtained from the Department and must be returned fully completed and accompanied by a nonrefundable application fee, payable to the Department in an amount as prescribed from time to time by resolution of the Carroll County Board of Health.
- 3.04.040** The Health Department will issue a Contractors License at such time as the Department is satisfied that the applicant is aware of all relevant rules and regulations. Renewal of the license shall be considered after application is received accompanied by the application fee, and proof of completion of two (2) hours of annual continuing education conducted by the Department, or from an alternative source pre-approved by the Department. Renewals shall be effective the first of April of each year.
- 3.04.050** The Director or a designee may revoke the license, if it is found that the licensee has violated any rule in this Chapter. A revocation or suspension may be appealed as provided by Section 3.03.060 providing for appeal of an order by a Health Officer. No person or business in whose name a revoked license was issued shall be issued a new license within a period of twelve months after the effective date of the revocation except on recommendation of the Board of Health.

NON-PUBLIC WATER WELLS

- 3.05.010** 567 IAC 49 in its entirety shall henceforth be the Non- Public Water Well Rules of Carroll County. If any provision under Iowa Administrative Code Chapter 49 conflicts with any provision in the other sections of this ordinance, the most restrictive and/or specific provision will control.
- 3.05.020** No dwelling or structure wherein persons congregate or are employed, shall be occupied unless it is served by an approved, safe, potable water supply.
- 3.05.030** No private well shall be installed where a public water supply is reasonable accessible, unless approved by the Health Officer. Variances may be freely granted in agricultural areas.
- 3.05.040** All private water wells in existence before the effective date of this regulation and within the jurisdiction of the Carroll County Board of Health, shall comply with the requirements of these regulations when in the opinion of the Health Department a public health hazard exists.

REQUIREMENTS FOR PROPERLY PLUGGING ABANDONED WELLS

- 3.06.010** 567 IAC 39 in its entirety shall henceforth be the Non- Public Water Well Rules of Carroll County.

NUISANCES

- 3.07.010** Iowa Code Chapter 657, Iowa Code Chapter 654B, and Iowa Code Chapter 172D (1993) adopted by this reference shall henceforth be the Nuisance Rules of Carroll County.

OPEN DUMPING & DISPOSAL OF DEAD ANIMALS

- 3.08.010** Iowa Code Chapter 455B Part III, Iowa Code Chapter 167, and 567 IAC 101.3-101.3(2) (1993) adopted by this reference shall henceforth be the Open Dumping and Dead Animal Disposal Rules of Carroll County.

OPEN BURNING

- 3.09.010** 567 IAC 23.2(455B) (1993) adopted by this reference shall henceforth be the Open Burning Rules of Carroll County.

JUNK & JUNK VEHICLES

- 3.10.010 Prohibitions.** No person shall permit refuse or junk to accumulate or be stored upon premises owned or occupied by him or her, nor shall there be deposited refuse or junk on any other premises, except premises designated by the County for that purpose. Junk vehicles shall not be permitted to be stored upon premises within a city limits unless allowed by the zoning authority in that city, and subject to regulations imposed by that city for the protection of the public health. Junk Vehicles shall not be accumulated on property in the unincorporated areas of the county unless allowed as part of a properly permitted rural enterprise authorized under the county Zoning Ordinance. Refuse may be allowed to accumulate and be stored on premises if it is enclosed in a water tight container made of galvanized iron or other non-rusting material. Junk may also be allowed to accumulate and be stored at a legally authorized junkyard pursuant regulations governing same.
- 3.10.020 Disposal.** Each person shall dispose of all refuse and junk accumulation on any premises he or she owns or occupies before it becomes a nuisance. If it does become a nuisance, all expenses incurred by the local board in proceeding to abate a nuisance may be recovered by suit in the name of the local board; or said board may certify the amount of said expense together with a description of the property to the county treasurer, who shall enter the same upon the tax books as costs for removing a nuisance and said amount shall be collected as other taxes.

RAT HARBORAGE

- 3.11.010** Rat harborage is any condition which provides shelter or protection for rats, thus favoring their multiplication and continued existence in, under, or outside of any structure.

- 3.11.020** It shall be unlawful for any person to permit to accumulate on any property, any articles or materials that may constitute a rat harborage. Such materials or articles shall be placed on racks that are elevated not less than eighteen inches above the ground and evenly piled or stacked.
- 3.11.030** If a rat harborage is adjudge to exist, a written notice or order will be served by the local board of health. The owner of the property specified therein shall take immediate measures for rat control. In the event such control measures are not instigated within the time designated, the board may instigate condemnation and destruction proceedings or take such actions deemed necessary. All expenses incurred by the local board in proceeding to abate a nuisance may be recovered by suit in the name of the local board; or said board may certify the amount of said expense together with a description of the property to the County Treasurer, who shall enter the same upon the tax books as costs for removing a nuisance and said amount shall be collected as other taxes.

RESERVED

3.12.010 Reserved

DANGEROUS BUILDINGS

- 3.13.010** All dangerous buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal.
- 3.13.020** The following is a definition of a dangerous building.
- .01 Dangerous Building. All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety, health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster damage, or abandonment. Whenever a building or structure, used, or intended to be used for dwelling purposes because of inadequate maintenance, dilapidation, decay, damage, faulty construction provide for inadequate light, air, or sanitation facilities or otherwise is determined by any health officer to be unsanitary, contaminated, unfit for human habitation, or in such condition that it is likely to cause sickness or disease.
 - .02 Contamination. Whenever a building or structure used or intended to be used for dwelling purposes contains accessible substances determined to be at levels considered unsafe as recommended by the Centers for Disease Control.
- 3.13.030** All abatement of abandoned buildings must include treating and properly filling abandoned septic tanks, cesspools, and cisterns.
- 3.13.040** **Notice to Owner.** Whenever the enforcement officer finds a building or structure or portion thereof dangerous or damaged and , if such is found to be an unsafe building as defined in this section, the enforcement officer shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within forty-eight (48) hours or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within ninety (90) days from date of notice, unless otherwise stipulated by the enforcement officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not re-occupied until the required repairs and

improvements are completed, inspected and approved by the enforcement officer. (Code of Iowa, Sec. 331.384)

- 3.13.050 Notice Served.** Such notice shall be served by Certified Mail to the owner of record, according to Section 331.384[2] of the Code of Iowa. The designated period within which said owner or person in charge is required to comply with the order of the enforcement officer shall begin as of the date the notice is sent.
- 3.13.060 Posting of Signs.** The enforcement officer shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. COUNTY OF CARROLL, IOWA." Such notice shall remain posted until the required repairs, demolition, or removal are completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.
- 3.13.070 Right to Demolish.** In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the Board of Supervisors may order the owner of the building prosecuted as a violator of the provisions of this section, and may order the enforcement officer to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Board of Supervisors. (Code of Iowa, Sec. 331.384)
- 3.13.080 Costs.** Costs incurred under Section 3.13.070 of this Ordinance shall be paid out of the County Treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes.

REAL ESTATE TRANSFERS

An ordinance of the County of Carroll, Iowa, providing for requirements concerning wastewater treatment and disposal systems on real estate.

Section 1 The Ordinances of the County of Carroll, Iowa, are amended by adopting new provisions in lieu of those previously adopted in Ordinance No. 3, which new sections are:

- 3.14.010** All on-site wastewater treatment and disposal systems except those exempt under 3.14.040, shall be inspected for compliance with Chapter 69.1(3)b of the Iowa Administrative Code [567] which prohibits discharge of any wastewater from on-site wastewater treatment and disposal systems (except under an NPDES permit) to any ditch, stream, pond, lake, natural or artificial waterway, county drain tile, surface water drain tile, land drain tile or to the surface of the ground. Under no conditions shall effluent from on-site wastewater treatment and disposal systems be discharged to any abandoned well, agricultural drainage well, or sinkhole. The inspection shall take place prior to any change in ownership of the land on which the system and/or building served is located. The property owner selling the property shall obtain the inspection report from the Carroll County Environmental Health Department, and present it to the buyer of the property prior to, or during the negotiation of all sales consummated on or after the adoption of this Ordinance.
- 3.14.020** The inspection shall include unearthing, emptying, and inspection of the septic tank and the distribution box. All costs of the inspection shall be negotiated between the buyer and the seller.
- 3.14.030** All on-site wastewater treatment and disposal systems found to be in violation of standards set forth in the Iowa Administrative Code 567, Chapter 69.1(3)b, shall be updated prior to sale. Existing discharges to any of the above listed locations of structures

shall be eliminated by constructing a system which is in compliance with the requirements of these rules. The following conditions shall require the corresponding action.

01. When a cesspool exists and the entire system shall be required to be replaced starting with an approved septic tank and secondary treatment system.
02. When a septic tank and an unknown amount of lateral drain field exists, and the system is working properly, this may be allowed to continue.
03. When a system is discharging into an old well, the entire system shall be replaced with an approved septic tank and secondary treatment system. The well shall be pumped out until all solids are removed. A determined amount of lime or other suitable material will be added to stabilize the remaining area. The well shall be properly plugged according to Chapter 39 of the Iowa Administrative Code 567.
04. No portion of wastewater (dishwater, washing machine water, shower or bath water, etc.) shall be allowed to discharge to the surface, all wastewater derived from the household shall be piped to the septic tank and treated.

3.14.040 Any wastewater treatment and disposal system which was installed under County Permit, or passed County inspection within two (2) years previous to sale or transfer, is exempt from inspection.

Also, the following transfers are exempt from inspection:

- .01 Any deed, instrument, or writing in which the United States or any agency or instrumentality thereof or the state of Iowa or any agency, instrumentality, or governmental or political subdivision thereof is the grantor, assignor, transferor, or conveyor; and any deed, instrument or writing in which any of such entity is the grantee or assignee.
- .02 Deeds which secure a debt or other obligation, except those included in the sale of real property.
- .03 Deeds for the release of a security interest in property excepting those pertaining to the sale of real estate.
- .04 Deeds which, without additional consideration, confirm, correct, modify, or supplement a deed previously recorded.
- .05 Deeds between husband and wife, or parent and child, without actual consideration. A cancellation of indebtedness alone which is secured by the property being transferred and is not actual consideration within the meaning of this subsection.
- .06. Tax deeds.
- .07 Deeds of partition where the interest conveyed is without consideration.
- .08 The making or delivering of instruments of transfer resulting from a corporate merger, consolidation, or reorganization or a merger, consolidation, or reorganization of a limited liability company under the laws of the United States or any state thereof, where such instrument states such fact on the face thereof.
- .09 Deeds between a family corporation, partnership, limited partnership, limited liability partnership, or limited liability company and its stockholders, partners, or members for the purpose of transferring real property in an incorporation or

corporate dissolution or the organization or dissolution of a partnership, limited partnership, limited liability partnership, or limited liability company under the laws of this state, where the deeds are given for no actual consideration other than for shares or for debt securities of the corporation, partnership, limited partnership, limited liability partnership, or limited liability company. For purposes of this subsection, a family corporation, partnership, limited partnership, limited liability partnership, or limited liability company is a corporation, partnership, limited partnership, limited liability partnership, or limited liability company where the majority of the voting stock of the corporation, or of the ownership shares of the partnership, limited partnership, limited liability partnership, or limited liability company is held by and the majority of the stockholders, partners, or members are persons related to each other as spouse, parent, grandparent, lineal ascendants of grandparents or their spouses and other lineal descendants of the grandparents or their spouses, or persons acting in a fiduciary capacity for persons so related and where all of its stockholders, partners, or members are natural persons or persons acting in a fiduciary capacity for the benefit of natural persons.

- .10 Deeds for the transfer of property or the transfer of an interest in property when the deed is executed between former spouses pursuant to a decree of dissolution of marriage.
- .11 Deeds transferring easements.
- .12 Deeds giving back real property to lienholders in lieu of forfeitures or foreclosures.
- .13 Deeds executed by public officials in the performance of their official duties.
- .14 Deeds transferring distributions of assets to heirs at law or devisees under a will.

Section 2. REPEALER. Sections 3.14.010, 3.14.020, 3.14030 and 3.14.040 of Ordinance No 3 and all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 3. SEVERABILITY CLAUSE. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section 4. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

BOH ord amend 5-8-06, published 6-30-06

LEAD HAZARDS IN DWELLINGS

3.15.010 Definitions: The following words shall have the following meaning for the purpose of this regulation.

- .01 Accessible, Impact, or Friction surfaces; shall include but not be limited to such surfaces as windowsills, doors and door frames, protruding corners, stair treads and lips, floors, and any other areas offering Accessible, Impact, or Friction surfaces.
 - A. Accessible - means any surface at a level or height which is easily accessible for children to bite, chew, or mouth. (e.g. windowsills).

- B. Impact - means any surface where hard objects often hit or run into the surface and cause the paint to be knocked off. (e.g. protruding corners)
- C. Friction - means any surface where there is any rubbing movement that creates dust. (e.g. floors)
- .02 Child-occupied facility: A building, or portion of a building, visited by the same child, six years of age or under, for a period that exceeds six (6) hours within any week (Sunday through Saturday period). Child occupied facilities may include, but are not limited to, day-care centers, preschools, and kindergarten classrooms.
- .03 Deteriorated lead-based paint; means any lead-based paint that is loose, chipping, peeling, cracking, flaking, chalking, or otherwise coming off a surface.
- .04 Dwelling; means a building or structure occupied or designed or intended to be occupied as a place for human habitation and use, including any accessory building, structure, or yard area belonging thereto.
- .05 Dwelling unit; means any room or group of rooms located within a dwelling and forming a single habitable unit, with facilities which are used or intended to be used for any of the following: living, sleeping, cooking, and/or eating.
- .06 EBL (Elevated Blood Lead) Child: Any child who has had one venous blood lead level of > 20 micrograms per deciliter or at least two venous blood lead levels of 15 to 19 micrograms per deciliter.
- .07 Health Department; means the Carroll County Health Department.
- .08 Health Officer; means the Environmental Officer or authorized representative of the Carroll County Board of Health.
- .09 Lead-Based Paint; means any paint or other surface coating already applied which contains a quantity of lead equal to or in excess of 1.0 milligrams of lead per square centimeter (1.0 mg/cm²) when tested by a radioisotope X-ray fluorescence analyzer (XRF) or more than five-tenths of one percent (0.5%) lead by weight.
- .10 Lead Hazard; any lead-based paint shall be considered a lead hazard if:
 - A. The paint exists in or about a dwelling or other child-occupied facility in which children under age six (6) commonly reside or visit,
 - and**
 - B. The paint is determined to be on any accessible, impact or friction surface or on any other surface where the paint is determined to be deteriorating in any manner. This shall also include areas of bare soil, which contain lead-based paint chips. In addition, this shall also include surfaces which contain lead dust that exceeds the EPA/HUD guidelines (Bare floors -100 milligrams per square foot, Interior window sills - 500 milligrams per square foot, Window wells - 800 milligrams per square foot).
- .11 Occupant; means any person living, sleeping, cooking, eating in, or having any actual possession of a dwelling or dwelling unit.
- .12 Owner; means any person who, alone or jointly with others: (1) shall have legal title to any dwelling, with or without accompanying actual possession thereof, or (2) shall have charge, care or control of any dwelling by acting as the agent of the owner or as the executor, administrator, trustee, or guardian of the estate of the owner.
- .13 Premises; means a lot, plot or parcel of land including all facilities and improvements thereon.

3.15.020 Scope and Applicability: Section 3.15 of this Environmental Health Ordinance shall affect only those dwellings or dwelling units in which an EBL child resides or commonly visits. All owners shall comply with the provisions of this ordinance and of the rules, resolutions, and order adopted pursuant to this ordinance.

3.15.030 Use or Sale of Lead-Based Paint: No person shall possess, sell, expose for sale, deliver, or give away any lead-based paint intended for painting or covering any surface on the interior or exterior of a residential dwelling.

3.15.040 Disposal of Lead-Based Paint: Lead-based paint shall be disposed of in accordance with local, state, and federal regulations for disposing of hazardous waste. All repair, renovation, or remodeling waste that contains lead-based paint shall be disposed of according to local waste disposal regulations. No person shall re-use or recycle such waste for residential purposes.

3.15.050 Inspections

.01 The Health Officer may cause to have inspected the dwelling or child-occupied facility of an EBL child for lead hazards. The inspection shall consist of a visual assessment of the condition of all interior and exterior surfaces and a determination of the lead content of the paint on these surfaces. The lead content of the paint shall be determined only through the use of an X-ray fluorescence (XRF) analyzer or laboratory chemical analysis. Methods such as swabs shall not be considered an acceptable means of testing for lead-based paint. Tests that show the presence of lead-based paint on a surface may be extrapolated to similar surfaces in the same room that would be expected to be finished with the same type of paint. A determination of the lead hazards will be made from lead content of the paint and the conditions observed. The findings of such inspection will be recorded and documented by the Health Officer.

.02 When a lead hazard is found in a dwelling or dwelling unit inspected pursuant to this section or otherwise, the Health Officer shall recommend to have examined all children under six (6) years of age, such other children he/she may find advisable to examine, or other persons, residing or who have recently resided, or frequently visit in said dwelling or dwelling unit, for undue lead exposure. The results of such examination shall be reported to the Health Officer, the affected individual, and when applicable, their parent or legal guardian.

.03 The results of an investigation for lead hazards, including the presence or absence of lead-based paint which are not considered to be lead hazards, shall be reported in a written notice, with suggested remedial/maintenance actions, within one (1) week to the owner. The Health Officer shall inform such other persons or agencies as he/she deems advisable.

3.15.060 Refusal of Admittance: In the event the Health Officer, in proceeding to enter any premises for the purpose of making an inspection to carry out the provisions of this ordinance, shall be refused entry, a complaint may be made under oath to any magistrate of the county who shall issue a warrant to a peace officer of the county directing him between the hours of sunrise and sunset, to accompany the Health Officer, when entering said premise to make such inspection, and to obtain such samples as may be required to carry out the provisions of this ordinance.

3.15.070 Hazard Reduction

.01 When the Health Officer determines that a lead hazard is present in a dwelling or dwelling unit where an EBL child lives, frequently visits, or has recently resided, he/she shall, in accordance with Section 3.15.050.03, issue a written notice within one (1) week to the owner to eliminate the hazard with suggested remedial/ maintenance actions to be completed in a time period not to exceed thirty(30) days. However, at the discretion of the Health Officer, additional time may be granted to eliminate said hazard. Methods for compliance shall be in accordance with this section.

A. In the event the dwelling is vacated by the occupant who occupied same at the time of the issuance of corrective notice referred to in this section, such

dwelling shall not be let or occupied by any other person until such corrective notice is complied with.

- .02 The owner of any dwelling or dwelling unit which has been determined to contain lead hazards shall correct these lead hazards by methods approved by the Health Officer within the time period allowed by the Health Officer in a written notice. Failure to correct the lead hazard(s) within the allotted time period shall result in the appropriate legal action against the owner for noncompliance, pursuant to Section 3.03.080 and 3.03.090.
- .03 Lead hazards on surfaces other than accessible, impact, or friction surfaces shall be corrected through one of the three (3) following methods:
 - A. All areas of deteriorating lead-based paint on both interior and exterior surfaces and any other appurtenances shall be properly prepared before repainting with lead-free paint or refinishing so that the surface does not begin to deteriorate again. Repainting with lead-free paint without prior removal of all deteriorating lead-based paint shall not be considered an approved method of correcting lead hazards.
 - B. The interior or exterior surface or appurtenance, which has areas of deteriorating lead-based paint, shall be removed from the dwelling and replaced with a surface free of a lead-based paint.
 - C. The interior or exterior surface or appurtenance, which has areas of deteriorating lead-based paint, shall be covered with a permanently affixed lead-free covering. The permanently affixed covering shall be incapable of being readily chewed through, torn from the surface, pierced, or otherwise removed so as to expose the hazardous surface.
- .04 Lead hazards on surfaces which are accessible, impact, or friction surfaces shall be corrected through one of the three (3) following methods:
 - A. All lead-based paint on both interior and exterior surfaces and appurtenances, which are on accessible, impact, or friction surfaces shall be entirely removed to the substrate. The surface(s) must be properly prepared and repainted with lead-free paint or refinished. Repainting with lead-free paint without prior removal of all lead-based paint down to the substrate shall not be considered an approved method of correcting lead hazards on accessible, impact, or friction surfaces.
 - B. The interior or exterior surface or appurtenance, which is or contains an accessible, impact, or friction surface shall be removed from the dwelling and replaced with a surface or appurtenance that is finished with a lead-free coating.
 - C. The interior or exterior surface or appurtenance, which is an accessible, impact or friction surface, shall be covered with a permanently affixed lead-free covering. The permanently affixed covering shall be incapable of being readily chewed through, torn from the surface, pierced, or otherwise removed so as to expose the hazardous surface.
- .05 Lead Hazards which are identified in the soil surrounding a building shall be corrected through one of the two (2) following methods:
 - A. If soil is removed, the lead-contaminated soil shall be replaced with soil that is not lead-contaminated.
 - B. If soil is not removed, the lead-contaminated soil shall be permanently covered.

- .06 The Health Officer shall inspect all areas cited as lead hazards after remediation is complete and approve them as “lead-safe”. A written notice shall be issued to all affected parties and retained by the Health Officer, stating that the property is “lead-safe” and that proper maintenance must occur to ensure the property remains “lead-safe”.

3.15.080 Retaliatory Actions

- .01 It shall be unlawful for the lessor of a dwelling, or his/her employees, agents or persons acting in his/her behalf to retaliate against lessees of dwellings whose occupants have been tested for lead poisoning.
- .02 It shall be unlawful for the lessor of a dwelling, or his/her employees, agents, or persons acting in his/her behalf to prohibit or discourage the occupants of the dwelling from participating in the lead poisoning screening program.
- .03 “Retaliation” shall include harassment, termination of the tenancy, discontinuation of utilities or other services, and any other action taken against the lessee.
- .04 “Occupants” shall include visitors in the dwelling.
- .05 An action taken against the tenant shall not be considered retaliation if:
 - A. It is supported by reasonable cause unrelated to the occupants’ participation in the lead poisoning screening program; OR
 - B. It is shown to have occurred as a result of accident or mistake, and is not the intentional act of the lessor or his/her employees, agents or persons acting in his/her behalf.

3.15.090 Variances: The Health Officer shall have the authority to determine a surface that may otherwise be identified as a lead hazard, lead safe. If the Health Officer is able to determine a surface (that fits the description of a lead hazard) is not causing or does not have reasonable potential to cause lead exposure, the Health Officer may, with written notice, deem that surface as lead safe. This may be done only after a thorough investigation of the entire premises is complete, and careful evaluation of the source(s) identified as the cause or potential cause of lead poisoning are identified. Detailed documentation of such surfaces shall be included in the final report of the premises and be provided to the owner, tenant, and Health Officer. Any surface with deteriorating lead-based paint will not, under any circumstances, be identified as lead-safe.

We Certify the above and foregoing AMENDED Ordinance was adopted on _____.

Attest:

Neil Trobak
Chair, Carroll County Board of Supervisors

Paul Fricke
Carroll County Auditor