

CERRO GORDO COUNTY, IOWA  
HEALTH NUISANCE ORDINANCE NO. 11

EFFECTIVE DATE:

FEBRUARY 7, 1989

## HEALTH NUISANCE ORDINANCE

A regulation governing public health nuisance for the purpose of promoting public health and safety in Cerro Gordo County, Iowa; and providing penalties for violation of the provisions hereof.

The Cerro Gordo County Board of Health, hereby adopts the following regulation to wit;

### SECTION 1. DEFINITIONS

1.1 "ADMINISTRATIVE AUTHORITY" is the Cerro Gordo County Health Officer or his/her authorized representative.

1.2 "ASHES" shall mean the waste products of coal and or other fuels, to include wood, which have been used for industrial purpose and in homes for cooking and heating.

1.3 "BACKYARD BURNING" means the disposal of residential waste by open burning on the premises of the property where such waste is generated.

1.4 "BOARD OF HEALTH" means the Cerro Gordo County Board of Health.

1.5 "BUILDING" means any structure designed or intended for the support, enclosure, shelter or protection of persons, animals, or property, but not including signs or billboards. When a structure is divided in separate parts by unpierced walls extending from the ground up, each is deemed a separate building.

1.6 "DWELLING" any building or portion thereof which is designated or used exclusively for residential purposes but not including a garage, tent, cabin, trailer, or travel trailer, motor home or bus.

1.7 "GARBAGE" means all solid and semisolid, putrescible animal and vegetable waste resulting from the handling, preparing, cooking, storing, serving and consuming of food or of material intended for use as food, and all offal, excluding useful industrial byproducts, and shall include all such substance from all public and private establishments and from all residences.

1.8 "HEALTH HAZARD" shall mean any condition which can or has the potential to cause injury or sickness to human life, animal life or to the environment.

1.9 "HEALTH NUISANCE" shall mean whatever is injurious to health, indecent, or offensive to the senses, or an obstruction to the free use of property, so as essentially to interfere with the comfortable enjoyment of life or property.

1.10 "OPEN BURNING" means any burning of combustible materials where the products of combustion are emitted into the

open air without passing through a chimney or stack.

1.11 "PERSON" any individual, firm, corporation or other legal entity and authorized agents and/or officer thereof.

1.12 "REFUSE" shall mean all putrescible and nonputrescible solid wastes, with the exception of body waste and shall include, but not limited to, garbage, rubbish, ashes, street sweepings, dead animals and abandoned automobiles.

1.13 "RUBBISH" shall include both combustible and noncombustible substances, such as cans, paper, brush, glass, cardboard, wood, scrap metals, bedding, yard clippings, crockery, automobile parts and abandoned household appliances.

## SECTION 2. CONSTITUTES HEALTH NUISANCE

Health nuisances include, but are not limited to, the following:

2.1 the storage, collections, accumulation, discharge, or depositing of any offal, fecal matter, filth, refuse, weeds, vegetation, dead organic material, junk, debris, contaminated material, garbage, stagnant or polluted waters, combustible materials and similar materials in any place or on any property so as to threaten the health or safety of the individuals or the public or to be conducive to the breeding of flies, rats or other vermin, or to the prejudice of others.

2.2 the discharge or depositing of any liquid waste, filth, dead animal(s) or other polluting material into any stream, river, lake, pond, channel or other body of water, so as to render the water, shore, channel, bottom or other features thereof unsafe for the uses to which they are put or as to otherwise injure or threaten the health and safety of individuals or the public.

2.3 the presence of rats, flies or other vermin in or on any premises.

2.4 establishing, continuing, maintaining, or operating any building or place which is conducive to the breeding, harboring, feeding or sheltering of any insect, rodent or pest such as, but not limited to flies, rats, mice, cockroaches and pigeons.

2.5 inadequate or unsanitary plumbing facilities in living quarters offered for rent or lease to the general public.

2.6 an operable water well found to be contaminated beyond restoration or any abandoned well not properly plugged as provided in 1987 Iowa Code, 455B.190, Chapter 39, Requirements For Properly Plugging Abandoned Wells.

2.7 failure to secure areas, buildings, equipment or places against unauthorized access where such threatens the health or safety of individuals.

2.8 any nuisance capable of allurement which may prove detrimental to life, health, or safety whether in a building, on the premises of a building, or upon an unoccupied lot. This includes any abandoned well shaft, basement, excavation, or discarded, abandoned, unattended, or used refrigerators, iceboxes and similar containers equipped with airtight door or lid, snap lock or other locking device which may not be released from the inside.

2.9 any building that is a menace to the public health, welfare, or safety, or that is structurally unsafe, unsanitary, or not provided with adequate safe egress, or that constitutes a fire hazard, or is otherwise dangerous to human life, or that in relation to the existing use constitutes a hazard to the public health, welfare, or safety by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment.

2.10 the dense growth of all weeds, vines, brush, or other vegetation which constitutes a health, safety or fire hazard.

2.11 the collection, storage, depositing or discharge of flammable refuse, liquid or other material in any building or on any place in such manner as to constitute a hazard of fire injury to individuals or the public.

2.12 the unlawful disposal of the carcasses of dead animals or the failure to properly dispose of the carcasses of dead animals. Such carcasses shall be disposed of as provided in Chapter 167 of the Code of Iowa.

2.13 the exposure of any person to any infectious or communicable disease or condition by any act or practice.

2.14 the burning of treated wood or untreated wood tainted with a chemical, abdicating the natural physical composition, in a wood stove or small residential heating unit for the purpose of heating or cooking.

2.15 any person allowing, causing or permitting open burning or combustible materials, except as provided in the following exemptions:

A. Disaster rubbish. The open burning of rubbish, including landscape waste, for the duration of the county disaster period in cases where an officially declared emergency condition exists.

B. Diseased trees. The open burning of diseased trees. However, when the burning of diseased trees causes a nuisance, the

Board of Health may take appropriate action to secure relocation of the burning operation. Rubber tires shall not be used to ignite diseased trees.

C. Landscape waste. The disposal by open burning of landscape waste originating on the premises. However, the burning of landscape waste produced in clearing, grubbing and construction operations shall be limited to areas located at least one-fourth mile from any inhabited building. Rubber tires shall not be used to ignite landscape waste.

D. Recreational fires. Open fires for cooking, heating, recreation and ceremonies.

E. Residential waste. Backyard burning of residential waste at dwellings of four (4)-family units or less.

F. Training fires. Fires set for the purpose of bona fide training of public or industrial employees in fire fighting methods, with the approval of all regulating local and state governmental agencies.

G. Paper or plastic pesticide containers and seed corn bags. The disposal by open burning of paper or plastic pesticide containers (except those formerly containing organic forms of beryllium, selenium, mercury, lead, cadmium or arsenic) and seed corn bags resulting from farming activities occurring on the premises. Such open burning shall be limited to areas located at least one-fourth mile from any inhabited building, livestock area, wildlife area, or water source. The amount of paper or plastic pesticide containers and seed corn bags that can be disposed of by open burning shall not exceed one (1) day's accumulation or fifty (50) pounds, whichever is less. However, when the burning of paper or plastic pesticide containers or seed corn bags causes a nuisance, the Board of Health may take action to secure relocation of the burning operation. Since the concentration levels of pesticide combustion products near the fire may be hazardous, the person conducting the open burning should take precautions to avoid inhalation of the pesticide combustion products.

2.16 any person allowing, causing or permitting burning by commercial incinerator to cause or permit any visible emission in a nonattainment area of suspended particulate matter to go beyond the lot line of the property on which a traditional source is located without taking reasonable precautions to prevent emission that otherwise would endanger human health, create safety hazard, damage livestock, damage plant life or damage property. No commercial incinerator shall be located within 100 feet of the lot line of the property on which the source is located.

### SECTION 3. GENERAL

Whatever is injurious to health, indecent, or offensive to the senses, or an obstruction to the free use of property, so as essentially to interfere with comfortable enjoyment of life or property, is a nuisance.

#### SECTION 4. INVESTIGATION

The Health Officer shall investigate, upon complaint of any person or on his/her own initiative, any health nuisance in Cerro Gordo County and shall order the person on whose property the nuisance exists or the person whose act or omission to act gives rise to the nuisance, to abate said nuisance. The Health Officer may specify a reasonable time for abatement.

#### SECTION 5. ENFORCEMENT

It shall be the duty and responsibility of the Board of Health to enforce the provisions of this regulation, however, this duty may be delegated to the Health Officer or an authorized representative. The ordinance may be enforced by either issuing a civil citation for a county infraction or by issuing a criminal citation, or both, for a violation of the County Ordinance.

#### SECTION 6. REFUSAL OF ADMITTANCE

In the event the Administrative Authority, 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/her between the hours of sunrise and sunset, accompanied by the Administrative Authority, 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.

#### SECTION 7. NOTICE

Whenever the Administrative Authority determines that there are reasonable grounds to believe there have been a violation of any provisions of this regulation, he/she shall give notice of such alleged violation to the person or persons responsible, as thereof provided. Such notice shall:

- A. Be in writing.
- B. Included a statement of the reasons why it is being used.
- C. Allow reasonably time for performance of any act it requires.
- D. Be served upon the owner or his/her agent or occupant, as the case may require. Such notice shall be deemed to be properly served upon him/her last known address, or if he/she is served with such notice by any other method authorized or required by the laws of this state.

#### SECTION 8. HEARING

In the event any person is aggrieved by any order made by the

Administrative Authority, he/she may within twenty (20) days of the date of such order, appeal to the Board of Health and in writing state his/her reasons for requesting to be rescinded or modified. The Board of Health shall review the action of the Administrative Authority, 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 Court of Cerro Gordo County, Iowa.

#### SECTION 9. PENALTIES

Any person, firm or corporation violating any regulation in or any provision of the Ordinance or of any amendment or supplement thereto, shall be guilty of a simple misdemeanor which is punishable by a fine of not more than one hundred dollars (\$100) or by imprisonment of not more than thirty (30) days and shall be guilty of a county infraction punishable by a civil penalty not to exceed two hundred dollars (\$200). Each day that a violation occurs or is permitted by the defendant to exist, constitutes a separate offense.

#### SECTION 10. COLLECTION OF COST OF ABATEMENT

Upon failure of any person to abate or remove a health nuisance from his/her property or the property he/she occupies, the Health Officer may direct or cause the abatement or removal of said nuisance. All expenses incurred thereby shall be paid by the owner, agent or occupant of said property and the same shall be a lien upon said property.

#### SECTION 11. AMENDMENTS

Amendments and additions to this ordinance shall be made as required by Iowa Code, Chapter 137.6. The Board of Health shall propose amendments and additions to this regulation to the Board of Supervisors whenever the Board of Health determines such changes are necessary to fulfill the purpose of this regulation.

#### SECTION 12. 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 effect any of the remaining provision of this ordinance.

#### SECTION 13. REGULATION EFFECTIVE UPON PUBLICATION

This regulation being deemed essential and imperative for the preservation of the public health, shall be in force and effect from and after its passage and publication as provided by law.

THE REQUIREMENTS OF CERRO GORDO COUNTY HEALTH NUISANCE ORDINANCE ARE IN ADDITION TO ANY REQUIREMENTS IMPOSED BY THE CODE OF IOWA, CHAPTER 657, NUISANCES; THE CODE OF IOWA, CHAPTER 657A, ABANDONED BUILDINGS - ABATEMENT BY REHABILITATION, AND THE IOWA ADMINISTRATIVE CODE, CHAPTER 23.2 (455B), OPEN BURNING.

Approved by the Cerro Gordo  
County Board of Health  
December 9, 1988

Adopted by the Cerro Gordo  
County Board of Supervisors  
February 7, 1989

Effective on February 7, 1989

Revised July 16, 1991