



City Attorney's Office

515 Clark Avenue, P. O. Box 811
Ames, IA 50010

Phone: 515-239-5146 • Fax: 515-239-5142

January 15, 2013

The Honorable Ann H. Campbell, Mayor,
and Members of the City Council
of the City of Ames, Iowa

Re: Ordinances striking all references to the board of health from the Ames Municipal Code

Dear Mayor Campbell and Council Members:

Attached please find two ordinances for your review and approval. The first ordinance removes all references to the board of health from Chapter 11 of the Ames Municipal Code. The second ordinance removes the references to board of health from the code's index pages. Because these references are in different areas of the code, two separate ordinances are needed to remove them.

As you can see, in the ordinance which deals with Chapter 11, Health and Sanitation, Sections 11.9, 11.10, and 11.11 have been removed in their entirety, while Sections 11.5, 11.6, 11.7 and 11.8 have been replaced. Sections 11.5 through 11.8 are the remaining sections of Chapter 11 that have been renumbered due to the removal of the three sections that refer to the board of health.

Iowa Code Chapter 137 establishes local boards of health. It creates both city boards of health and county boards of health. With the abolishment of our local board of health, the county board of health will take over the responsibilities that were previously identified in our municipal code. I have spoken with Margaret Jaynes at Story County Environmental Health and she has indicated that the county is willing and able to take over this role. I therefore do not have any concerns regarding the removal of these provisions from our code.

For your reference, I have attached the specific language that is being removed from Chapter 11 of the Ames Municipal Code.

Sincerely,

Kristine Stone
Assistant City Attorney

Sec. 11.5 BOARD OF HEALTH -- MEMBERSHIP, NAME.

The city council shall act as the board of health for the City of Ames, Iowa and at such times as the council acts in that capacity it may be called the "Board of Health of the City of Ames, Iowa.

(Ord. No. 763, Sec. 1; Code 1956, Sec. 19-1; Ord. No. 2985, Sec. 1, 9-22-87) [State Law Ref. Iowa Code Sec. 137]

Sec. 11.6. POWERS OF BOARD OF HEALTH.

The board of health shall have the following powers:

(1) To enforce the state health laws and the rules and lawful orders of the state department of health.

(2) To make and enforce such reasonable rules and regulations not inconsistent with law or with rules of the state board of health as may be necessary for the protection and improvement of the public health. Such rules and regulations shall become effective upon approval of the city council and publication in a newspaper having general circulation in the city. Before approving any rule or regulation, the board of health shall hold a public hearing on the proposed rule or regulation. The notice of the public hearing, stating the time and place and the general nature of the proposed rule or regulation shall be published at least ten (10) days before the hearing in a newspaper of general circulation in the area served by the board.

(Ord. No. 2523, Sec. 2, 8-5-75) [State Law Ref. Iowa Code Sec. 137.6 and 137.7]

Sec. 11.9 WASTEWATER DISPOSAL, STATE RULES ADOPTED

(1) The rules of the Iowa Department of Natural Resources pertaining to 'on-site wastewater treatment and disposal systems' promulgated as 567-69.1 through 567-69.16 Iowa Administrative Code, as the same may be amended or added to from time to time, are by this reference adopted and made a part of this section as if fully set out, except as hereinafter provided.

(2) Applications for permits under said rules shall be submitted to the Ames City Sanitarian, who shall make an inspection before construction and make a recommendation to the Ames City Council, acting as the local board of health, with respect to the issuance or denial of the permit.

(3) A permit to construct or reconstruct an on-site wastewater treatment and disposal system shall not be issued unless the City Council finds that:

(a) The City sanitary sewer system is not reasonably accessible at the site for which the application is made;

(b) The system can and will be designed, constructed and operated to meet the standards of the aforesaid rules;

(c) And any fees established by the City Council for the permit have been paid.

(4) No such system shall be used until it has been inspected by the City Sanitarian and found to meet the standards and requirements of the aforesaid rules.

(5) All existing systems shall be inspected and analyzed every other year, and at any time the Sanitarian has reason to suspect that a system has failed in its function. When any on-site wastewater treatment and disposal system is found by the City Sanitarian to be failing in its function, the owners or persons in control of the premises shall be sent a notice to connect the premises to the sanitary sewer system immediately. Failure to do so within 72 hours shall be a violation of this section unless the persons so ordered appeal to the City Council and the City Council finds that the sanitary sewer is not reasonably accessible at that site. If the Council finds that the sanitary sewer is not reasonably accessible, it shall, acting as the Board of Health, order the system reconstructed to meet the standards adopted in subsection (1) above.

(Ord. No. 3079, Sec. 1, 4-24-90)

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF AMES, IOWA, CHAPTER 11, HEALTH AND SANITATION, BY STRIKING ALL REFERENCES TO THE BOARD OF HEALTH AND RENUMBERING THE REMAINING SECTIONS IN THE CHAPTER.

BE IT ENACTED, by the City Council for the City of Ames, Iowa, that:

Section One. The Municipal Code of the City of Ames, Iowa shall be and the same is hereby amended by repealing Section 11.5 in its entirety and replacing it with the following Section 11.5:

“Sec. 11.5. PENALTIES FOR OFFENSES PERTAINING TO HEALTH AND SANITATION.

(1) A violation of any provision of Chapter 11, Health and Sanitation, shall be a municipal infraction punishable by a penalty of \$50 for a person’s first violation and \$100 for each repeat violation.

(2) Alternatively, a violation of any provision of Chapter 11, Health and Sanitation, can be charged by a peace officer of the city as a simple misdemeanor.

(Ord. No. 2523, Sec. 2, 8-5-75; Ord. No. 3497, Sec. 9, 8-25-98; Ord. No. 3551, 3-7-00) [State Law Ref. Iowa Code Sec. 137.21]”

Section Two. The Municipal Code of the City of Ames, Iowa shall be and the same is hereby amended by repealing Section 11.6 in its entirety and replacing it with the following Section 11.6:

“Sec. 11.6. BURIAL OF HUMAN BODIES OUTSIDE CEMETERIES.

Burial of human bodies outside legally established cemeteries is prohibited.

(Ord. No. 3027, Sec. 1, 11-22-88)”

Section Three. The Municipal Code of the City of Ames, Iowa shall be and the same is hereby amended by repealing Section 11.7 and replacing it with the following Section 11.7:

“Sec. 11.7. HAZARDOUS MATERIALS CLEAN UP.

(1) **Definitions.** For the purpose of this section these words and phrases have the following meanings:

(a) **Hazardous waste** means any substance as defined in section 455B.411, subsection 3, paragraph a, Code of Iowa, and the rules of the Iowa Department of Natural Resources.

(b) **Hazardous substance** means any substance as defined in section 455B.381, subsection 5, of the 1993 Code of Iowa.

(c) **Hazardous conditions** means the same as set out in section 455B.381, subsection 4, of the 1993 Code of Iowa.

(d) **Persons having control over a hazardous substance** means the same as set out in section 455B.381, subsection 7, of the 1993 Code of Iowa.

(e) **Clean up** means the same as set out in section 455B.381, subsection 1, of the 1993 Code of Iowa.

(f) **Treatment** means a method, technique, or process, including neutralization, designed to change the physical, chemical or biological character or composition of a hazardous substance so as to neutralize it or to render the substance non-hazardous, safe for, transport, amendable for recovery, amendable for storage, or to

reduce it in volume. Treatment includes any activity or processing designed to change the physical form or chemical composition of hazardous substance to render it non-hazardous.

(2) **Clean Up Required.** Whenever a hazardous condition is created by the deposit, injection, dumping, spilling, leaking or placing of a hazardous waste or substance, so that the hazardous substance or waste or a constituent of the hazardous waste or substance may enter the environment or be emitted into the air or discharged into any waters, including ground waters, the person having control over a hazardous substance shall cause the condition to be remedied by a clean up, as defined in the proceeding section, as rapidly as feasible to an acceptable, safe condition. The cost of clean up shall be borne by the person having control over a hazardous substance. If the person having control over a hazardous substance does not cause the clean up to begin in a reasonable time in relation to the hazard and circumstances of the incident, the City may proceed to procure clean up services and bill the person having control over a hazardous substance. If the bill for those services is not paid within thirty (30) days the City shall proceed to obtain payment by all legal means it deems reasonable and appropriate.

(3) **Notification.** The City employee leading the response to a hazardous materials spill shall notify the Story County Sheriff as soon as possible.
(Ord. No. 3271, Sec. 1, 4-26-94)"

Section Four. The Municipal Code of the City of Ames, Iowa shall be and the same is hereby amended by repealing Section 11.8 and replacing it with the following Section 11.8:

“SEC. 11.8. OUTDOOR STORAGE OF HOUSEHOLD APPLIANCES AND FIXTURES.

Any person who abandons or otherwise leaves unattended any refrigerator, icebox, washing machine, dishwasher, kitchen range, clothes dryer, freezer, commode, urinal, bathroom sink, kitchen sink, or other large household appliance, bathroom fixture, kitchen fixture, or similar container, outside of buildings, or any person who allows such refrigerator, ice box, washing machine, dishwasher, kitchen range, clothes dryer, freezer, commode, urinal, bathroom sink, kitchen sink, bathroom fixture, kitchen fixture, or other large household appliance, or similar container, to remain outside of buildings or premises in the person’s possession or control, abandoned or unattended, commits a violation of this section.

(Ord. No. 3486, Sec. 1, 6-9-98)"

Section Five. The Municipal Code of the City of Ames, Iowa shall be and the same is hereby amended by repealing Sections 11.9, 11.10 and 11.11 in their entirety.

Section Six. Violation of the provisions of this ordinance shall constitute a municipal infraction punishable as set out by law.

Section Seven. All ordinances, or parts of ordinances, in conflict herewith are hereby repealed to the extent of such conflict, if any.

Section Eight. This ordinance shall be in full force and effect from and after its passage and publication as required by law.

Passed this _____ day of _____, 2013

ATTEST:

Diane R. Voss, City Clerk

Ann H. Campbell, Mayor

ORDINANCE NO. _____

**AN ORDINANCE AMENDING THE MUNICIPAL CODE OF
THE CITY OF AMES, IOWA, INDEX, TO REMOVE ALL
REFERENCE TO THE BOARD OF HEALTH.**

BE IT ENACTED, by the City Council for the City of Ames, Iowa, that:

Section One. The Municipal Code of the City of Ames, Iowa shall be and the same is hereby amended by repealing the reference to “Board of Health” from the Index.

Section Three. This ordinance shall be in full force and effect from and after its passage and publication as required by law.

Passed this _____ day of _____, _____.

ATTEST:

Diane R. Voss, City Clerk

Ann H. Campbell, Mayor