

Palo Alto County, Iowa No. 331
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LORI M. KLIEGL, RECORDER
J. Marie Gilman DEPUTY

Resolution Adopting Palo Alto County's
Rural Health and Family Farm Protection Ordinance

Ordinance Number 2-6-2002

Whereas the Palo Alto County Board of Supervisors published the County Ordinance for Rural Health and Family Farm Protection Ordinance set the first reading of the ordinance on Feb. 6th, 2002 and the second reading on Feb. 12th, 2002, and the third reading on Feb. 19th, 2002. A full copy of the Ordinance is available at the Palo Alto County Auditor's Office. Publication has been accomplished through the Emmetsburg Reporter-Democrat, the official publication for this County. The Supervisors held the first reading of the ordinance and waived the necessity of the second and third reading.

Whereas the Supervisors desire to enact the Ordinance, and move that this ordinance be passed by virtue of the Iowa Constitution Article III, section 39A; and Iowa Code Section 331.301(1) County Home Rule authority under Iowa Code Section 331.302.(5) and (6) and Local Boards of Health established under Iowa Code Sections 137.7 and 137.21

Now Therefore Be It Resolved the Palo Alto County Supervisors by affirmative recorded voice vote enact the Palo Alto County Rural Health and Family Farm Protection Ordinance effective this 6th of February 2002. The effective date of this Ordinance shall be the date of this resolution.

Ayes: Stratton, Gooden, Miller, Greene, Nelson

Nays: None

Resolution passed (failed) and attested and entered in the ordinance records by the Auditor.

Steven E. Nelson 2-6-02
Chairman of the Board of Supervisors

Mary Leonard
Palo Alto County Auditor and seal



PALO ALTO COUNTY RURAL HEALTH AND
FAMILY FARM PROTECTION ORDINANCE
Ordinance Number 2-6-2002

AN ORDINANCE ESTABLISHING HEALTH REGULATIONS FOR ANIMAL AND POULTRY CONFINEMENT OPERATIONS; PROVIDING STANDARDS FOR THE OPERATION OF ANIMAL AND POULTRY CONFINEMENT FACILITIES; PROVIDING DEFINITIONS; PROVIDING AN EFFECTIVE DATE AND PROVIDING FOR SEVERABILITY.

WHEREAS, IOWA CODE CHAPTER 137 DICTATES THE DUTIES AND RESPONSIBILITIES OF THE COUNTY BOARD OF HEALTH; AND,

WHEREAS, HEALTH STANDARDS AND CRITERIA FOR ANIMAL AND POULTRY CONFINEMENT OPERATIONS CONSISTENT WITH HEALTH LAW HAVE BEEN PROPOSED, BASED ON STATE LAW AND PROFESSIONAL STUDIES PRESENTED TO AND CONSIDERED BY THE PALO ALTO COUNTY BOARD OF HEALTH; AND,

WHEREAS, THE ADOPTION AND ENFORCEMENT OF SAID STANDARDS IS HEREBY FOUND NECESSARY TO ENHANCE THE PUBLIC HEALTH AND PREVENT THE ENTRANCE OF INFECTION, CONTAGION, AND COMMUNICABLE DISEASES INTO PALO ALTO COUNTY, AND;

WHEREAS, THE PALO ALTO COUNTY BOARD OF HEALTH REALIZES THE IMPORTANCE OF ANIMAL AND POULTRY AGRICULTURE TO PALO ALTO COUNTY AND THE ECONOMIC IMPACT IT HAS ON THE STATE OF IOWA; THE BOARD OF HEALTH BELIEVES THESE REGULATIONS ARE NECESSARY TO PRESERVE A HEALTHY ENVIRONMENT FOR THE CITIZENS OF OUR COUNTY; AND,

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF HEALTH OF PALO ALTO COUNTY, IOWA, AS FOLLOWS:

SECTION I: DEFINITIONS.

The following are definitions of words, terms, and phrases used in this ordinance.

1.1 ANIMAL AND POULTRY WASTE: Any animal or poultry excrement, animal or poultry carcass, feed waste, animal or poultry water waste or any other waste associated with animals or poultry.

1.2 ANIMAL AND POULTRY WASTE WATER: Any animal or poultry excreta, any liquid which comes into contact with any manure, litter, bedding, or other material or intermediate or final material or product used in or resulting from the production of animals or poultry or products directly or indirectly used in the operation of an animal or poultry confinement operation or any spillage or overflow from watering systems, any liquid used in washing, cleaning, or flushing pens, barns, or manure pits, or any liquid used in washing or spraying to clean animals or any liquid used for dust control on the premises of a confinement feeding operation.

1.3 APPLICATION: The injection of animal and or poultry waste or waste water by injection into the land or on top of the land.

1.4 CONFINEMENT FEEDING OPERATION: All land and/or lot, facility, parcel, or operating location in which animals or poultry have been, are, or will be stabled or confined and fed or maintained for a total of forty-five (45) days or more in any twelve (12) month period.

1.5 ANIMAL and POULTRY CONFINEMENT AREA: This includes the buildings or structures including the feedlots in which animals and or poultry are confined. This does not include contiguous land used for the application of liquid waste or land on which grass or crops are used for waste disposal, landscaping, or land upon which crops or other vegetation are raised independent from the animal and or poultry feeding operation.

1.6 FEEDLOT: Any land area, structure, yard, corral, or other area whether enclosed with a roof or unenclosed wherein animals or poultry are confined in close quarters for the purpose of fattening, feeding, growing, raising, or birthing such livestock for final shipment to market or slaughter. A "feedlot" does not include unenclosed pasture areas which are used for the raising of crops or other vegetation upon which livestock and or poultry are allowed to graze or feed.

1.7 LEASE: A written contract for the exclusive use of real property which specifically grants unto the lessee the right to apply animal and or poultry waste and waste water to the leased premises.

1.8 OWNER: Anyone who owns either individually and/or with any other persons any of the following interests in the rural property upon which a confinement animal or poultry operation is situated.

1.9.1 Fee simple title.

1.9.2 A leasehold interest.

1.9.3 Any interest in an entity which holds fee simple title; or

1.9.4 Any interest in any entity which has a leasehold interest.

1.10 PERSON: Includes natural persons and also includes corporations, partnerships, associations, and any other business or charitable entities, a natural person who has supervisory authority over the operation of a confinement feeding operation whether or not such a person is an owner of this operation and a natural person who applies animal or poultry waste or waste water originating from the operation.

1.11 **OBJECTIONABLE ODOR:** Any odor present in the ambient air that by itself or in combination with other odors that are harmful or injurious to human health or welfare. Odors are harmful and injurious to human health if they tend to lessen human food and water intake, interfere with sleep, upset appetite, produce irritation of the upper respiratory tract, or cause symptoms of nausea or if their chemical or physical nature is or may be detrimental or dangerous to human health.

1.12 **EXEMPTION:** This ordinance shall not apply to small livestock operations with fifty (50) or less animals.

RULES APPLICABLE TO ANIMAL AND POULTRY CONFINEMENT FEEDING OPERATIONS:

TOXIC AIR EMISSION: No person shall cause or allow to occur the emission of objectionable odorous air contaminants or toxic air emissions from confinement structures, manure storage and treatment, waste disposal modalities, land application, and/or carcass disposal to degrade air quality. In no event shall the concentration of gases at the complaining neighboring residence exceed the following levels:

<u>GAS</u>	<u>MAXIMUM ALLOWABLE CONCENTRATE-1</u>	<u>EXPOSURE PERIOD-2</u>
Hydrogen Sulfide (H ₂ S)	10 parts per million parts of atmospheric air	Averaged over a 10 minute Period
Ammonia	5 parts per million parts of atmospheric air	Not applicable

- 1) In parts of gas per million parts of atmospheric air.
- 2) The time during which the noxious effects of the gas are felt by an adult human.

Odor measurements shall be made within a period of one (1) hour; these measurements being separated by at least fifteen (15) minutes.

These measurements shall be made at the complaining neighboring residence. Readings for possible toxic air emissions shall be taken on existing confinement animal and poultry feeding operations in answer to complaints which are written, signed, and received by the Board of Health. The records for toxic air emissions shall include:

- 1) All odor emissions monitoring procedures or test methods.
- 2) Date.
- 3) Place of measurement.
- 4) Time of sampling.
- 5) Company or entity performing analysis.
- 6) Method used.
- 7) Results of analysis shall be sent to the Palo Alto County Board of Health.
- 8) Operating conditions existing at the time of analysis. (Temperature, wind direction, and wind rate.)
- 9) Estimated distance between the source of the emissions and the location of the measurement.

Failure to meet these standards allows the County all rights and remedies under Iowa Code 455.B.110.

COMPLAINT PROCEDURE: Complaints written, signed, and received by the Board of Health shall be processed in the following manner: Testing of the written and signed complaint will be conducted by an employee of the Board of Health at the complaining neighboring residence. This testing will be done on two (2) days in a fourteen (14) day period. This testing will be at the Board of Health expense. After testing results are received, the Board of Health will notify the person or entity against whom the complaint was advised and inform them whether a violation has or has not occurred. If the petitioner requires further investigation, that petitioner will pay for further testing. If the animal or poultry producer is in violation, further testing costs will be borne by the animal or poultry producer. The entity against whom the complaint has been lodged will have thirty (30) working days to correct the problem. If unable to do so, a petition may be presented to the Board of Health for extension.

The person submitting the complaint must be a property owner of a residence or a resident living within a two (2) mile radius of the site against which the complaint is lodged.

WATER POLLUTION

- 1) Clean water (rainfall falling on roofs of facilities, run-off from adjacent land or other sources) should be diverted from contact with feedlots and holding pens, animal or poultry manure) or manure storage systems.
- 2) Application systems, construction and maintenance of buildings, collection systems, conveyance systems, and permanent and temporary storage facilities shall prevent leakage of organic matter, nutrients, and pathogens to ground surface water or drainage tiles.
- 3) Monitoring of ground water at the outlet of any soil drainage system on the facility site shall be done periodically by the Board of Health upon receipt of a signed written complaint.
- 4) Samples must be collected with the protocol established by the State Hygienic Laboratory and forwarded to the State Hygienic Laboratory.
- 5) Reports shall be sent to the County Sanitation Officer directly from the Hygienic Laboratory .
- 6) An operation found to be in violation of the contaminant parameters as established by the Sate of Iowa Department of Health, shall have thirty (30) working days to rectify the situation upon notification by the Palo Alto County Board of Health. Failure to meet these standards allows the County all rights and remedies under Iowa Code 455.B.110.

7) Should a written, verified and signed complaint be received by the Board of Health, concerning any existing animal or poultry confinement operations covered by this ordinance and any violations found, this ordinance shall apply regardless of date of existence of the confinement operation. Any violation of this ordinance shall be subject to a maximum fine for each individual day in which the violation continues and each day in which a violation exists or continues to exist and shall constitute separate and individual simple misdemeanor(s).

SEVERABILITY: The regulations of this ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of these regulations shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of any court of competent jurisdictions, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this ordinance.

REPEAL OF REGULATIONS NOT TO AFFECT LIABILITIES, ETC.: Whenever any part of these regulations shall be repealed or modified, either expressly or by implication, by subsequent regulation, that part of the regulation thus repealed or modified shall continue in force until the subsequent regulation repealing or modifying it shall go into effect, unless therein otherwise expressly provided; but no suit, prosecution, proceeding right, fine, or penalty instituted, created, given, secured, or accrued under these regulations previous to their repeal shall not be affected, released, or discharged but may be prosecuted, enjoined, and recovered as fully as if these regulations had continued in force unless it shall therein be otherwise expressly provided.

EFFECTIVE DATE: This ordinance shall be in full force and effect from and after passage by the Board of Supervisors. This ordinance shall be applicable for all animal and poultry confinement operations commencing Feb. 6th, 2002.