



**Public Health**  
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Linn County, Iowa

**Linn County Public Health**  
501 13th Street NW  
Cedar Rapids, IA 52405-3700

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August 27, 2009

Linn County Board of Supervisors  
930 First Street SW  
Cedar Rapids, IA 52404-2161

Subject: Linn County Code of Ordinances, Chapter 10, Air Quality

Dear Board of Supervisors,

The ordinance being considered by the Board today has gone through several revisions. What the Board of Health considered in March, which was around the time that the Board of Supervisors held a meeting in Coggon, is significantly different than the proposal being considered today. The original draft was developed with strict adherence to EPA guidelines. Those who are familiar with the language of that original draft should now know the challenge we have in convincing EPA that our proposal to conditionally exempt existing boilers and heaters will still continue to protect public health. If we fail in that charge, then we are faced with a situation of adhering to EPA's response on the matter including enforcement our existing ordinance.

Over recent months, I have spoken and worked with many individuals to develop language for the ordinance that I believe could minimize the burden on existing boiler and furnace owners while still having something that EPA could approve. I greatly respect the concerns of many owners and sympathize with the health concerns of many neighboring residents. In the end, this proposal conforms to the manufacturer's association's recommended best practices. One manufacturer who provided written comment on this proposal, "Heatmor" includes these recommended practices in their brochure. Anyone who installed a boiler that meets these recommended practices will be not be required to make any physical modifications to their boiler. Those that did not install to manufacturer associations' recommended practices may have to increase the stack height on their boiler between 15 and 25 feet depending on their proximity to neighboring residents. As you are currently aware, the proposal also contains some operating requirements that will also minimize the air quality impacts. We are relying on those conditions to convince EPA that this proposal is appropriate and adequate to protect ambient air quality at health standards.

I know that the discussions during public hearings, emails, and meetings, have been between Linn County staff and the owners and distributors. While I believe we worked together well, any resulting criticisms that emerged have been directed at each other. You heard many of those criticisms at the public hearing last week.

With the exception of two sets of written comments, the manufacturers of these units have conveniently stayed out of the debate. Yet it has been the manufacturers of these units failure to provide the necessary information to the consumer and to the agency about the performance of their units leading us to this predicament. It is the manufacturers' responsibility to sell units that comply with the State and Local laws. It is not the responsibility of Linn County to certify

the legality of these units before they are sold. After reviewing many OWB manufacturers' brochures and websites, I found no published information on the emissions of their units. It was not the fault of the consumer that bought these units unknowing of their high pollution levels. Nor was it the fault of the Air Quality Division when we said they were exempt from permitting requirements. Again, had the manufacturer's acted more responsibly at the time of sale then we would not be in this situation. Well, it appears now that the Iowa Department of Justice (Attorney General's Office) also has reached this opinion. I was informed Tuesday that the Assistant Attorney General has sent out letters to 21 outdoor wood boiler manufacturers who sell their products in Iowa. A copy of this letter was shared with me that states:

"Our primary concerns relate to the ability of Iowa consumers to lawfully use your company's outdoor wood boiler products. As we understand it, the cost to a consumer of an outdoor wood boiler, on average, is in the range of \$10,000 with costs of up to \$50,000 for heavier users. Therefore, the consumer's ability to use the product lawfully is a material fact that may not be misrepresented to consumers or concealed from them pursuant to the Iowa Consumer Fraud Act, Iowa Code section 714.16. The Consumer Fraud Act is Iowa's civil consumer fraud law and is enforced by this office. In addition, as of July 1, 2009, Iowa consumers now also have private remedies for consumer fraud pursuant to a new law, House File 712."

While I do not know the path that the AG will take following this letter, I hope that it will help provide some level of remedy to the owners of existing boilers.

Yesterday, I provided to the Board a summary of comments that we made at the public hearing August 18 and those written comments submitted pursuant to the Public Notice that began July 16. I won't read through all of the comments unless the Board would like me to. I can also address any individual questions that you may have.

Respectively submitted,

James Hodina  
Air Pollution Control Officer  
Linn County, Iowa