

## **IOWA COUNTY ORDINANCE NO. 44**

### **TITLE: IOWA COUNTY FLOW CONTROL ORDINANCE**

Be it enacted by the Board of Supervisors of the County of Iowa as follows:

#### **Section 1. Legislative Intent.**

- A. This is a local ordinance regulating the County-wide collection and disposition of solid waste generated in Iowa County.
- B. The management of solid waste is the inherent responsibility of local government, whose authority in this area is derived from its police powers. County-wide collection and disposition of solid waste, more commonly referred to as “flow control”, will allow for more effective and environmentally responsible waste planning and management, and more effective implementation of the County’s integrated solid waste management plan.
- C. Flow control will further the goals of protecting the public health, safety, and welfare of the citizens of Iowa County, IA by regulating the removal, transportation and disposal of solid waste, and having control over the waste produced within the County to secure the future of the landfill.
- D. Flow control will guarantee the quantity of waste and serve important environmental and public health, welfare, and safety objectives.

#### **Section 2. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

"Authority" means the Regional Environmental Improvement Commission of Iowa County (hereinafter referred to as “REIC”), a public non-profit organization organized and existing under the laws of the State of Iowa and Regional Environmental Improvement Commission of Iowa County Iowa Articles of Agreement (“28E Agreement”) January 21, 2026 (and subsequently adopted versions).

"County" means the County of Iowa County, IA, specifically excepting the city limits of Victor.

“Designated Facility” means any solid waste facility(ies) owned and/or operated by the authority, and designated by the authority for acceptance or disposal of solid waste. The current designated facility: Iowa County Landfill in Homestead, IA.

“Hauler” shall mean each such individual or carting company, or any municipality providing such collection service, authorized or contracted to collect, pickup, remove, transport

and/or dispose or cause to be collected, picked up, removed, transported or disposed any solid waste generated within the County and placed at curbside, dumpster, or other designated area for collection by such hauler.

"Municipality" means the County, any village, town, city, school district, special district, or public authority located in the County, or any combination thereof.

"Owner" means any Person who, alone or jointly or severally with another: (1) shall have legal title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or (2) shall have charge, care, or control of any dwelling or dwelling unit, as owner, lessee, mortgagee or vendee in possession, assignee of rents, or as a receiver; of an executor, administrator, trustee, or guardian of the estate of the owner. Any agent for any of the above shall be bound to comply with the provisions of this ordinance to the same extent as if he were the owner.

"Person" shall mean and include any individual; landlord, tenant, owner or manager of a multi-family residence, townhouse, cooperative or condominium apartment building or complex; chief executive officer, owner or manager of a commercial entity; director or manager of any institution, including non-profit or tax-exempt organizations; firm; public or private corporation; municipality; political subdivision; association; limited liability company, partnership; institution; public body; joint stock association or any other group of individuals, including apartment, condominium, and townhouse association, and the term person shall include plural as well as singular.

"Solid Waste" means all garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities as defined in Iowa Code §455B.301. However, the following materials are prohibited from disposal in the landfill and must be recycled through the Iowa County landfill recycling program: tires, lead acid and rechargeable batteries, appliances, metal, electronics, propane tanks, and household hazardous materials. (Landfill does not accept hazardous materials from businesses. For yard waste, individuals may also utilize their local community yard waste site).

### **Section 3. REIC of Iowa County**

The Authority shall implement and administer the provisions of this ordinance related to:

- A. Determination of the designated facility that shall serve the County;
- B. Coordination with the Board of Supervisors on the implementation and enforcement of this ordinance, and exchange of information with the Board of Supervisors related to such implementation and enforcement;
- C. Promulgation of such other regulations and performance of such other duties and functions determined by the Authority to be in furtherance of this ordinance, which

may include, but not be limited to, establishing a variance procedure.

- D. The Authority shall enforce violations for any non-compliance with the provisions of this ordinance. However, The Authority shall not have authority to seek enforcement of the ordinance against the Members of the Regional Environmental Improvement Commission of Iowa County 28E Agreement.
- E. All such costs incurred by the Authority to enforce or defend this ordinance shall be recoverable from the offender by the Authority, including enforcement actions. However, the Authority shall not obligate any Members of the Regional Environmental Improvement Commission of Iowa County 28E Agreement for any costs in enforcing or defending this ordinance.
- F. The Authority may require, at any time, any or all Haulers covered by this ordinance to submit a report, on forms provided by the Authority, of the amounts (in cubic yards or tons, as applicable) of solid waste, and the facility to which such materials were delivered.

#### **Section 4. Requirements for set out, collection, and disposal of solid waste.**

- A. All solid waste generated in the County must be delivered to the designated facility.
- B. It shall be a violation of this ordinance for any Person to bring solid waste generated in the County to a facility other than the designated facility.
- C. Each load of solid waste delivered to a facility other than the designated facility shall constitute a distinct and separate offense in violation of this ordinance.
- D. Failure to comply with the provisions of this Section shall subject the violator to the penalties set forth herein

#### **Section 5. Hauler waste collection and disposal requirements.**

- A. It shall be a violation of this ordinance for any Hauler to take solid waste to any facility other than the designated facility.
- B. Each load of solid waste delivered to a facility other than the designated facility shall constitute a distinct and separate offense in violation of this ordinance.
- C. Every Hauler, when requested by the Authority, shall submit written reports, on forms to be provided by the Authority, of the amounts (in cubic yards or tons, as applicable) of solid waste collected during the quarter ended and the facility to which such materials were delivered.
- D. Failure to comply with the provisions of this Section shall subject the violator to the

penalties set forth herein.

**Section 6. Enforcement; penalties for offenses.**

A. Presumptions. The following shall be rebuttable presumptions in the enforcement of the provisions of this ordinance:

- (1) The placement or presence of any container which is marked or identified with the name of any hauler, at any location within the County, shall be presumptive evidence that said hauler is providing solid waste collection services at said location within the County as of the date of said placement or presence.
- (2) Evidence of solid waste in a container and subsequent observation of the same container empty, shall be presumptive evidence that such were collected from the container by the hauler whose name is marked on the container. If such container does not bear the name of any hauler, the presumption shall be that solid waste was collected by the hauler who is responsible by contract or otherwise for collection of solid waste at that location. If there is no name on the container and no contract, then the presumption shall be that the solid waste was hauled by the Owner.
- (3) The failure to deliver any solid waste to the designated facility within seven days of the collection of such solid waste from any location within the County shall be presumptive evidence that the solid waste was illegally dumped or disposed of at a location other than the designated facility.
- (4) Service upon any hauler in a manner consistent with the requirements of the Iowa Rules of Civil Procedure shall be presumptive evidence that such notice was received by that hauler.
- (5) These presumptions are rebuttable and may be overcome upon a showing by a preponderance of the evidence that such Person or Hauler is not in violation of this ordinance.
- (6) **Exception.** It shall not be a violation of this Ordinance to bring waste to another facility, other than the designated facility, under the following circumstances:
  - (a) Only if such waste is first offered to the designated facility and turned down for disposal;
  - (b) If the Authority approves the waste to be disposed of at another facility;
  - (c) If the waste originates within the city limits of Victor, IA;
  - (d) If the Authority has entered into a stipulated agreement with such Person or Hauler for disposal of solid waste at another facility.

B. Enforcement by civil penalties.

- (1) The provisions of this ordinance may be enforced as deemed appropriate by the Authority.
- (2) The Authority shall prescribe and impose administrative sanctions and/or civil penalties for the violation of or failure to comply with any provision of this ordinance.
- (3) The Authority shall enforce violations of this ordinance only upon finding by a preponderance of the evidence that a violation has occurred.
- (4) Civil penalties.
  - (a) Any person, hauler, company, or Owner who violates this ordinance shall be subject to the imposition of a civil penalty of \$500 for each single violation or failure or omission to act for the first offense, \$750 for the second offense, and \$1,000 for each offense thereafter.
  - (b) The penalty provided for by this section may be sued for and recovered by the Authority in any court of competent jurisdiction.
  - (c) Each load of solid waste generated in the County and delivered to a facility other than the designated facility shall constitute a separate violation.
  - (d) For serious, repeated or persistent violations of any of the provisions of this ordinance or any regulations promulgated hereunder, the Authority may maintain an action in any court of competent jurisdiction to restrain by injunction violators of the provisions of this ordinance or any of the Authority's orders, rules and regulations, or of the Authority, promulgated in furtherance of the provisions of this ordinance.
  - (e) The Authority will provide written notice of violation and notice of a right to a hearing by certified mail or personal service.
- (5) Enforcement other than by prosecution.
  - (a) In lieu of enforcement of this ordinance by way of recovery of civil penalties or injunction, the Authority may seek to obtain the voluntary compliance with this ordinance by way of notice, warning or educational means, as deemed appropriate in the discretion of the Authority taking into consideration all the circumstances surrounding such violation.
  - (b) The Authority may also seek to obtain a stipulated agreement with the Person or Hauler in violation of the Ordinance.

- (c) This section shall not be construed to require that such non- compulsory methods must be employed or attempted before proceeding by way of compulsory or other legally proscribed procedures.

(6) Appeal

- (a) Upon receipt of notice of a violation, such offender shall have ten (10) days to request a hearing in front of the REIC board to challenge their assessment. Such hearing shall either be held at the next regularly scheduled meeting of REIC, or a special meeting will be conducted. A request for hearing shall be mailed to the Iowa County Landfill, 3369 Highway 6 Trl, Homestead, IA 52236.
- (b) The notice provided to any offender shall state the basis upon which the Authority has determined a violation has occurred by a preponderance of the evidence, and shall further notify the offender of the right to request a hearing, and if requested, the time, place, and nature of the hearing.
- (c) At the requested hearing, the Authority shall make a final decision as to the manner in which the dispute is to be resolved. Such hearing shall be confined to the issues created by the notice.
- (d) The Authority shall make its determination based upon a preponderance of the evidence. At such hearings, the offender may be represented by legal counsel, present documentary evidence and witnesses. Irrelevant, immaterial, or unduly repetitious evidence may be excluded. The Authority's findings shall be based upon the kind of evidence on which reasonably prudent persons are accustomed to rely for the conduct of their serious affairs, and may be based upon such evidence even if it would be inadmissible in a jury trial. Official notice may be taken of all facts of which judicial notice may be taken and of other facts within the specialized knowledge of the agency. The Authority's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.
- (e) Any party who believes evidence was improperly excluded may submit the excluded evidence in the form of an offer of proof. The offer of proof shall either be the exhibit the party seeks to introduce, or an affidavit of testimony/witness which was excluded. Said offer of proof shall be entered into the record and maintained with the appeal file.
- (f) Nothing herein shall prevent the Authority or its personnel from seeking an injunction prior to notice or hearing if delay may reasonably risk additional damage or significant inconvenience to the Authority or the

public.

- (g) If the offender fails to appear or participate in the hearing after service of notice, the Authority may enter a default decision or proceed with the hearing and make a decision in the absence of the offender. The offender will then be duly notified of the Authority's decision.
- (h) The Authority shall make its final decision in writing, and shall be accompanied by a concise and explicit statement of underlying facts supporting its findings.
- (i) Any Person or Hauler who has requested hearing and who is aggrieved or adversely affected by the Authority's final decision is entitled to judicial review. The filing of a petition for judicial review does not itself stay execution or enforcement of this ordinance. Unless precluded by law, the Authority may grant a stay on appropriate terms or other temporary remedies during the pendency of judicial review.

#### **Section 7. Implementation.**

The Authority shall cause this ordinance be mailed by certified mail return receipt requested to each affected municipality as well as to all trash haulers operating within the County and known to the Authority. Notice shall be provided within thirty (30) days of passage of this Ordinance.

#### **Section 8. Severability.**

If any part of this ordinance is found to be illegal by a court of competent jurisdiction, the remaining sections shall remain in full force and effect.

#### **Section 9. When effective.**

This ordinance shall be effective immediately upon its final passage, approval and publication as provided by law.

Effective Date: September 11, 2026