

## **IOWA COUNTY ORDINANCE NO. 43**

### **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") dated December 11, 2024.

"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.

### **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.
- D. The Authority shall enforce violations for any non-compliance with the provisions of this ordinance.
- 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.
- 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.

**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 were 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) **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 REIC approves the waste to be disposed of at another facility.
  - (c) If the waste originates within the city limits of Victor, IA.

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, as prescribed below.
- (3) 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) REIC will provide written notice of any violation by certified mail.

(4) 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 of the circumstances surrounding such violation.

(b) 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.

(5) 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 then be held at the next regularly scheduled meeting of REIC. A request for hearing shall be mailed to the Iowa County Landfill, 3369 Highway 6 Trl, Homestead, IA 52236.

(b) At the requested hearing, REIC 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.

(c) Nothing herein shall prevent REIC or its personnel from commencing remedial action prior to notice or hearing if delay may reasonably risk additional damage or significant inconvenience to REIC or the public.

## **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.