

CHAPTER 5.40
ILLEGAL DUMPING

- 5.40.110 TITLE: This Ordinance shall be known and may be referred to as the “Pottawattamie County, Iowa, Illegal Dumping Ordinance”. (Ordinance #2003-11/09-19-03)
- 5.40.120 PURPOSE: The purpose of this Ordinance is to control *illegally dumped materials* in *public places* and on private property within the unincorporated areas of Pottawattamie County, Iowa and to promote health, safety and general welfare in the unincorporated areas of Pottawattamie County, Iowa. (Ordinance #2003-11/09-19-03)
- 5.40.130 JURISDICTION: The provisions of this Ordinance shall apply to all of the unincorporated territory of Pottawattamie County, Iowa. (Ordinance #2003-11/09-19-03)
- 5.40.140 APPLICATION OF REGULATIONS: The regulations set by this Ordinance shall be applicable to all *illegally dumped materials* in the County. (Ordinance #2003-11/09-19-03)
- 5.40.150 EXEMPTION: The terms of the Ordinance shall not apply to farm waste and farm buildings per Section 567-100.4, Iowa Administrative Code.
- 5.40.160 CITIZENS RESPONSIBILITY: It shall be the responsibility of all citizens of the *County* to assure that their *solid waste* is discarded in accordance with the regulations set by this Ordinance. (Ordinance #2003-11/09-19-03)
- 5.40.170 INTERPRETATION OF STANDARDS: In interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements. Whenever the requirements of this Ordinance are at variance with the requirements of any lawfully adopted rules, regulations, ordinance, deed restriction, covenants, or other provisions of law, the most restrictive or that imposing the higher standards, shall govern. (Ordinance #2003-11/09-19-03)
- 5.40.200 DEFINITIONS: For use in this Ordinance, the following terms and words are hereby defined. (Ordinance #2003-11/09-19-03)

The following rules of construction shall apply unless inconsistent with the plain meaning of the context of this Ordinance. (Ordinance #2003-11/09-19-03)

- .01 **TENSE**: Words used in the present tense include the future tense. (Ordinance #2003-11/09-19-03)
- .02 **NUMBER**: Words used in the singular include the plural, and words used in the plural include the singular. (Ordinance #2003-11/09-19-03)
- .03 **SHALL AND MAY**: The word “shall” is mandatory; the word “may” is permissible. (Ordinance #2003-11/09-19-03)

- .04 GENDER: The masculine shall include the feminine and the neuter. (Ordinance #2003-11/09-19-03)
- .05 PERSON: The word “person” includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual. (Ordinance #2003-11/09-19-03)
- .06 USED OR OCCUPIED: The word “used” or “occupied” include the words intended, designed, or arranged to be used or occupied. (Ordinance #2003-11/09-19-03)
- .07 HEADINGS: In the event that there is a conflict or inconsistency between the heading of a chapter, section or subsection of this Ordinance and the context thereof, the said heading shall not be deemed to affect the scope, meaning or intent of such context. (Ordinance #2003-11/09-19-03)
- .08 AUTHORIZED RECEPTACLE: A storage and collection receptacle designed for containment of *litter* in covered containers. (Ordinance #2003-11/09-19-03)
- .09 CONSTRUCTION AND DEMOLITION WASTE: Waste building materials including wood, metals and rubble which result from construction or demolition of structures. (Ordinance #2003-11/09-19-03)
- .10 COUNTY: Pottawattamie County, Iowa. (Ordinance #2003-11/09-19-03)
- .11 COUNTY ATTORNEY: The County Attorney of Pottawattamie County, Iowa. (Ordinance #2003-11/09-19-03)
- .12 COUNTY SHERIFF: The County Sheriff of Pottawattamie County, Iowa or an individual duly deputized by the State of Iowa. (Ordinance #2003-11/09-19-03)
- .13 DISCARD: To place, cause to be placed, throw, deposit or drop. (Ordinance #2003-11/09-19-03)
- .14 GARBAGE: All solid and semisolid, putrescible animal and vegetable wastes resulting from the handling, preparing, cooking, storing, serving and consuming of food or of material intended for use as food, and all offal, excluding useful industrial byproducts, and shall include all such substances from all public and private establishments and from all residences. (Ordinance #2003-11/09-19-03)
- .15 LITTER: Litter shall include, but not be limited to *garbage, refuse, rubbish, solid waste*, and other similar solid or semi-solid materials resulting from industrial, commercial, agricultural and domestic activities. (Ordinance #2003-11/09-19-03)
- .16 NONPUTRESCIBLE WASTE: A waste that is not liable to become putrid, decomposed, rotten, and foul smelling. (Ordinance #2003-11/09-19-03)

- .17 PERSON: Any person, firm, partnership, association, corporation, company or organization of any kind. *(Ordinance #2003-11/09-19-03)*
- .18 PLANNING DIRECTOR: The Director of Planning and Development of Pottawattamie County, Iowa. *(Ordinance #2003-11/09-19-03)*
- .19 PUBLIC PLACE: Any and all public highway, county road, street, sidewalk, alley or thoroughfare, including any portion of the right-of-way thereof, or any other public lands, spaces, grounds or buildings. This term also includes any freshwater lake, river, canal, ditch or stream. *(Ordinance #2003-11/09-19-03)*
- .20 PUTRESCIBLE: A waste that is liable to become putrid, decomposed, rotten, and foul smelling. *(Ordinance #2003-11/09-19-03)*
- .21 REFUSE: Putrescible and nonputrescible wastes including but not limited to garbage, rubbish, ashes, incinerator ash, incinerator residues, street cleaning, market and industrial solid wastes and sewage treatment wastes in dry or semisolid form. *(Ordinance #2003-11/09-19-03)*
- .22 RUBBISH: Nonputrescible solid waste consisting of combustible and noncombustible wastes, such as ashes, paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery or litter of any kind. *(Ordinance #2003-11/09-19-03)*
- .23 RUBBLE: Stone, brick or similar inorganic material. *(Ordinance #2003-11/09-19-03)*
- .24 SOLID WASTE: Garbage, refuse, rubbish, litter, construction and demolition waste and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste includes but is not limited to: municipal solid waste, old corrugated cardboard, waste paper, old tires, inoperative and abandoned household appliances, furniture, mechanical equipment, construction and demolition debris, brush or yard waste, junked or inoperable vehicles, junked or inoperable watercraft, aircraft, farm machinery, biosolids, or dead animals. *(Ordinance #2003-11/09-19-03)*

5.40.300 **ILLEGAL DUMPING ON PUBLIC PLACE PROHIBITED:** No *person* shall *discard solid waste* in or upon any *public place* within the *County*, except in *authorized receptacles* or in a State licensed sanitary disposal project. *(Ordinance #2003-11/09-19-03)*

5.40.305 **ILLEGAL BURNING:** No person shall burn electrical building wire in or upon any public place or private property within the County. This shall not be construed to include electric building wire that is located in and is a part of a structure which is being burnt as a training fire by a bona fide fire

department for which a permit has been issued by the Iowa Department of Natural Resources. (Ordinance #2007-08/09-14-07)

- 5.40.310 PLACEMENT OF LITTER IN RECEPTACLES AS TO PREVENT SCATTERING: *Persons placing solid waste in authorized receptacles shall do so in such a manner that the elements of nature will not carry the solid waste upon public places or private property. Such authorized receptacles shall be constructed in such a manner as to be strong, not easily corrodible, rodent proof, insect proof and shall be kept covered at all times, except when solid waste is being deposited therein or removed there from. All solid waste shall be collected frequently enough to prevent nuisance.* (Ordinance #2003-11/09-19-03)
- 5.40.320 LITTER DISCARDED FROM VEHICLES: No *person* shall *discard* any *litter* onto or into any water or land of this *County*, except that nothing in this Section shall be construed to affect the authorized collection and *discarding* of such *litter* in or on areas or receptacles provided for such purpose. When *litter* is *discarded* from a motor vehicle, the driver of the motor vehicle shall be responsible for the act, in any case where doubt exists as to which occupant of the motor vehicle actually *discarded* the *litter*. (Ordinance #2003-11/09-19-03)
- 5.40.330 LITTER FROM WRECKED OR DAMAGED VEHICLES: Any *person* removing a wrecked or damaged vehicle from or over a street or other *public place* shall remove all glass or other substances dropped upon the street or other *public place* from such vehicle. (Ordinance #2003-11/09-19-03)
- 5.40.340 LITTER ON PRIVATE PROPERTY: No *person* shall *discard litter* upon private property, except in an *authorized receptacle*, as provided in Section 5.40.310. (Ordinance #2003-11/09-19-03)
- 5.40.400 ENFORCEMENT IN PUBLIC PLACES: It shall be the duty of the *County Sheriff* to administer and enforce this Ordinance in accordance with its provisions in a *public place*. (Ordinance #2003-11/09-19-03)
- 5.40.410 ENFORCEMENT ON PRIVATE PROPERTY: It shall be the duty of the *Planning Director or the County Sheriff* to administer and enforce this Ordinance in accordance with its provisions on private property. (Ordinance #2015-01-05-28-15)
- In the case of burning electrical building wire, it shall also be the duty of the Planning Director or the County Sheriff to administer and enforce this Ordinance in accordance with its provisions on private property. (Ordinance #2007-08/09-14-07)
- 5.40.420 VIOLATIONS AND PENALTIES: The penalty for violating the provisions of this Ordinance shall be as set forth in Chapter 1.75, except the schedule of civil penalties shall be modified as follows:

- .01 For any person who engages in the act of illegal dumping in an amount not exceeding 10 pounds in weight or 15 cubic feet in volume:
- a. First Offense \$ 250
 - b. Second and Subsequent Offenses \$ 375
- (Ordinance #2003-11/09-19-03)*
- .02 For any person who engages in the act of illegal dumping in amounts exceeding 10 pounds in weight or 15 cubic feet in volume:
- a. First Offense \$ 500
 - b. Second and Subsequent Offenses \$ 750
- (Ordinance #2003-11/09-19-03)*
- .03 For any person who engages in the act of burning electrical wire:
- a. First Offense \$ 750
 - b. Second and Subsequent Offenses \$1000
- (Ordinance #2007-08/09-14-07)*

IOWA ADMINISTRATIVE CODE SECTION 567-100.4(455B)

567—100.4(455B) General conditions of solid waste disposal. Except as provided otherwise in 567—Chapters 100 to 121, a private or public agency shall not dump or deposit or permit the dumping or depositing of any solid waste at any place other than a sanitary disposal project approved by the director, or pursuant to a permit granted by the department which allows the disposal of solid waste on land owned or leased by the agency.

100.4(1) *Definitions.* For the purposes of this rule:

“Farm animals” means cattle, swine, sheep or lambs, horses, turkeys, chickens and other domestic animals;

“Farm buildings” means barns, machine sheds, storage cribs, animal confinement buildings, and homes located on the premises and used in conjunction with crop production or with livestock or poultry raising and feeding operations; and

“Farm waste” means machinery, vehicles and equipment used in conjunction with crop production or with livestock or poultry raising and feeding operations, trees, brush and grubbed stumps generated on the same property, or ashes from the burning thereof, but specifically does not include agricultural chemicals, fertilizers or manures, or domestic household wastes.

100.4(2) *Special requirements for farm waste, farm buildings, and dead animals.*

- a. A private agency may dispose of farm waste and farm buildings without first having obtained a sanitary disposal project permit, in accordance with paragraph 100.4(2)“c,” provided that:
 - (1) The farm waste was owned by the private agency and was used on the premises where disposal occurs.
 - (2) Prior to disposal of vehicles, machinery, and equipment, all fluids shall be drained, including motor oils, motor fuels, lubricating fluids, coolants and solvents, and agricultural chemicals; and all batteries and rubber tires shall be removed.
 - (3) Prior to disposal of storage or feeding equipment, the equipment shall be emptied of all contents not otherwise authorized for burial pursuant to these rules.
 - (4) Farm buildings have been emptied of contents not otherwise authorized for burial pursuant to these rules and have been buried on the premises where they were located.
 - (5) All materials drained or removed from farm waste or farm buildings prior to disposal shall be recycled, reused or disposed of in accordance with Iowa Code chapter 455B and the rules implementing that chapter.

- (6) The farm waste and farm buildings are buried in soils listed in tables contained in the county soil surveys and soil interpretation records (published by the U.S. Soil Conservation Service) as being moderately well drained, well drained, somewhat excessively drained, or excessively drained soils. Other soils may be used if artificial drainage is installed to obtain water-level depth more than two feet below the burial depth of the waste.
 - (7) The lowest elevation of the burial pit is six feet or less below the surface.
 - (8) The farm waste and farm buildings are immediately covered with a minimum of 6 inches of soil and finally covered with a total minimum of 24 inches of soil.
- b. A private agency may dispose of dead farm animals without first having obtained a sanitary disposal project permit, provided that the disposal is in accordance with paragraph 100.4(2)“c,” the rules of the department of agriculture and land stewardship, and:
- (1) The dead farm animals result from operations located on the premises where disposal occurs.
 - (2) A maximum loading rate of 7 cattle, 44 swine, 73 sheep or lambs or 400 poultry carcasses on any given acre per year. All other species will be limited to 2 carcasses per acre. Animals that die within two months of birth may be buried without regard to number.
 - (3) The dead animals are buried in soils listed in tables contained in the county soil surveys and soil interpretation records (published by the U.S. Soil Conservation Service) as being moderately well drained, well drained, somewhat excessively drained, or excessively drained soils. Other soils may be used if artificial drainage is installed to obtain water-level depth more than two feet below the burial depth of the waste.
 - (4) The lowest elevation of the burial pit is six feet or less below the surface.
 - (5) The dead farm animals are immediately covered with a minimum of 6 inches of soil and finally covered with a total minimum of 30 inches of soil.
- c. Farm waste, farm buildings, and dead farm animals must be disposed of in accordance with the following separation distances:
- (1) At least 100 feet from any private and 200 feet from any public well which is being used or would be used without major renovation for domestic purposes.
 - (2) At least 50 feet from adjacent property line.
 - (3) At least 500 feet from an existing neighboring residence.
 - (4) More than 100 feet from any body of surface water such as a stream, lake, pond, or intermittent stream, except as provided in (6) below.
 - (5) Outside the boundaries of a flood plain, wetland, or shoreline area, except as provided in (6) below.

- (6) Trees, brush and grubbed stumps generated as a result of clearing, snagging, maintenance or repair of drainage ditches or outlets may be buried within 100 feet of a surface water, and within a flood plain or shoreline area.

567—100.5(455B) Disruption and excavation of sanitary landfills or closed dumps. No person shall excavate, disrupt, or remove any deposited material from any active or discontinued sanitary landfill or closed dump without first having notified the department in writing.

100.5(1) Notification shall include an operational plan stating the area involved, lines and grades defining limits of excavation, estimated number of cubic yards of material to be excavated, sanitary disposal project where material is to be disposed and estimated time required for excavation procedures.

100.5(2) An excavation shall be confined to an area consistent with the number of pieces of digging equipment and trucks used for haulage.

100.5(3) The disposal of all solid waste resulting from excavation shall be in conformity with Iowa Code chapter 455B and these rules.

These rules are intended to implement Iowa Code section 455B.307.