

RECORDING FEE \$ NO FEE

FILED FOR RECORD THE 26 DAY OF

STATE OF IOWA, BUTLER COUNTY:

March 2002 AT 8:30

Craig J. Franke RECORDER

TRANSFER FEE \$

O'CLOCK A M. INSTRUMENT NO. 20021123

BY \_\_\_\_\_ DEPUTY

**ORDINANCE NO. IV, No. 5 (Amended)**

**AN ORDINANCE AMENDING COUNTY ORDINANCE CHAPTER IV, NO. 5, REGARDING THE PROHIBITION OF DUMPING ANY MATERIAL ON PUBLIC HIGHWAYS, DITCHES OR COUNTY PROPERTY**

**BE IT ENACTED BY THE BUTLER COUNTY, IOWA, BOARD OF SUPERVISORS:**

SECTION 1. Ordinance No. 5 of Chapter IV is replaced in its entirety and amended to read as follows:

**ORDINANCE NO. IV, NO. 5**

**1. VIOLATION:**

No person shall throw, dump, discard, deposit, or otherwise leave any material, including trash, debris, refuse, fluid, junk, manure, mud, solid waste, soil, industrial waste or other like substance on any public highway or roadway within Butler County or in any adjacent ditches, right of way, or on any county property, or on property where Butler County or the State of Iowa has an easement for road purposes, or other right of way.

**2. DEFINITIONS:**

- a. Trash, debris, or refuse shall include any litter, waste, garbage, rubbish, ashes, wood, rock, boulders, grain, industrial waste or other like substances.
- b. Fluid shall include industrial waste and any liquid substance except water safe for human or livestock consumption.
- c. Junk shall include, in addition to the above, any wrecked, salvaged or junked automobile, machinery, used tires, batteries, lumber, or other like substances.
- d. Manure shall include any animal waste products hauled on any vehicle from one location to another, and shall include any animal waste products deposited by any animals being transported from one location to another.
- e. Mud and soil shall include any form of soil, whether wet or dry, and whether mixed with manure, rock, grain, debris or other substances.
- f. Material shall include all of the above and any substance which creates an obstacle, temporary or permanent, on any public highway or roadway.
- g. Solid waste as regulated and listed in the most current revision of Iowa Administrative Code, 567 Chapter 121.

**3. VIOLATION BY OWNER AND OTHERS:**

- a. It is unlawful for the owner, or any other person, employing or otherwise directing the driver of any vehicle to require or knowingly to permit the operation of such vehicle in a manner in violation of this ordinance.
- b. It is unlawful for the owner, tenant, or any other person responsible for the care and maintenance of the property from which the material was obtained to require or to knowingly permit another to act in a manner in violation of this ordinance.

**4. PENALTIES:**

- a. Any person violating any provision of this ordinance shall, upon conviction, be fined a civil penalty of \$100.00 for a first violation, \$250.00, for a second violation, \$500.00 for a third violation, and \$750.00 for any subsequent violation.
- b. Any legal costs or surcharge otherwise provided by law shall be in addition to the civil penalty.
- c. An enhanced civil penalty shall not be imposed unless a conviction for

the prior violation had been entered by the Court prior to the pending violation. However, each continuing day of a violation may be considered a separate violation.

d. Violations of this ordinance are county infractions and the procedures for enforcement are governed by and subject to the limitations of Iowa Code 331.307.

5. RESTITUTION:

a. Any person convicted of a violation shall be required to provide restitution for any costs incurred by Butler County for clean up or repair of the area affected by the violation, in addition to any penalty, cost or surcharge imposed.

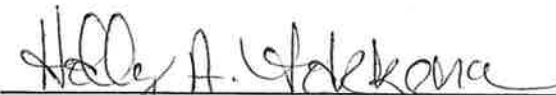
SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 4. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

  
\_\_\_\_\_  
Larry Backer, Chair  
Butler County Board of Supervisors

ATTEST:

  
\_\_\_\_\_  
Holly A. Fokkena, County Auditor

PUBLICATION DATES:

FIRST: 2/21/02 SECOND: 3/25/02 FINAL: Waived

**STATE OF IOWA**

**COUNTY OF BUTLER**

On this 25 day of March, 2002, before me the undersigned, a Notary Public in and for said County and State, personally appeared **Larry Backer** and **Holly A. Fokkena**, to me personally known, who, being duly sworn, did say that they are the Chairperson of the Board of Supervisors and County Auditor of Butler County, Iowa, respectively; that the seal affixed hereto is the seal of said County; that said instrument was signed and sealed on behalf of the said Butler County, Iowa, by authority of its Board of Supervisors and pursuant to **Ordinance IV, No. 5 (Amended)**, of said Board; and that said **Larry Backer** and **Holly A. Fokkena** as such officers, acknowledge the execution of said instrument to be the voluntary act and deed of said County, but it and by them voluntarily executed.

Joan C Becker  
Notary Public In and For Said County  
And State of Iowa

