

TITLE V

PUBLIC ORDER, SAFETY AND HEALTH

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ORDINANCE NO. 5.1

AN ORDINANCE TO ESTABLISH COUNTY CONSERVATION OFFICERS LAW ENFORCEMENT AUTHORITY

Be It Enacted by the Board of Supervisors of Franklin County, Iowa:

SECTION 1. Purpose. This ordinance authorizes the Franklin County Conservation Officers to exercise law enforcement authority outside County Conservation Board areas in Franklin County.

SECTION 2. Definitions. For use in this ordinance, certain terms or words used herein are defined as follows:

1. "County Conservation Board" shall mean the County Conservation Board of Franklin County, Iowa.
2. "Peace Officer" shall mean the employees of the County Conservation Board designated as police officers by the County Conservation Board.

SECTION 3. Police Powers outside the Park System. All Peace Officers designated under the provisions of Chapter 350, Code of Iowa, 2013, shall have all the police powers conferred by law on police officers, peace officers or sheriffs in the enforcement of the laws of the State of Iowa and the apprehension of violators thereof through Franklin County for violations having occurred outside the County Conservation Board areas.

SECTION 4. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

ORDINANCE NO. 5.2

AN ORDINANCE TO DEFINE, PROHIBIT AND ABATE NUISANCES TO PUBLIC AND PRIVATE PROPERTY

Be It Enacted by the Board of Supervisors of Franklin County, Iowa:

SECTION 1. Purpose. The purpose of this ordinance is to define and prohibit nuisances to public and private property in the unincorporated area of the County and provide for their abatement.

SECTION 2. Definitions. For use in this ordinance, certain terms or words used herein shall be interpreted or defined as follows:

1. "Nuisance" shall mean whatever is injurious to health, indecent or offensive to the senses, or an obstacle to the free use of property so as to essentially interfere with the comfortable enjoyment of life or property. The following, but not limited to the following, may be found to be nuisances:
 - a. **Offensive Smells.** The erecting, continuing or using of any building or other place for the exercise of any trade, employment or manufacture, which, by occasioning noxious exhalations, offensive smells or other annoyances, becomes injurious and dangerous to the health, comfort or property of individuals or the public.
 - b. **Offal or Filthy Substance.** The causing or suffering any offal or filthy substance to be collected or to remain in any place to the prejudice of others.
 - c. **Air Pollution.** The emission of dense smoke, noxious fumes, fly ash or other particulate matter.
 - d. **The maintaining of any accumulations of refuse, junk or inoperable vehicles and/or equipment, except in a junkyard operated under County permit as provided in Chapter 306C, Code of Iowa, 2013.**
 - e. **Trees infected with a disease, or dead trees that may pose a hazard.**
 - f. **Impeding Passage of River - The obstructing or impeding without legal authority the passage of any river or body of water.**
 - g. **Water Pollution.** The corrupting or rendering unwholesome or impure the water of any stream, pond or aquifer or unlawfully diverting a stream from its natural course or state, to the injury or prejudice of others.

- h. Effluent from a septic tank or drain field or ponding of polluted water over an overloaded or non-operating drain-field or to a waterway or the ground surface.
 - i. Obstruction of View. All trees, hedges, billboards or other obstructions which prevent person from having a clear view of traffic approaching an intersection from cross roads in sufficient time to bring a motor vehicle driven at a reasonable speed to a full stop before the intersection is reached.
 - j. All buildings, walls and other structures which have been damaged by fire, decay or otherwise to such an extent that the same endanger the safety of the public.
 - k. Blocking Public and Private Ways. The obstructing or encumbering by fences, building or otherwise the public roads, right-of-ways, streets, alleys, private ways, landing places or burying grounds.
 - l. Any use of property abutting on a public roadway which causes large crowds of people to gather, obstructing traffic and free use of the roadways.
 - m. Any use of property or storage or disposal of any materials and substances of any nature whatsoever on such property which creates an unsanitary, immoral or unsafe condition on such property or which endangers the free use and enjoyment of property by adjoining owners, or which creates any condition injurious to be public health, safety, comfort or morals.
 - n. Any discharge of liquids or placing of rocks, trees, snow or debris within the right-of-way of public roadways which may prove to be a safety hazard, be offensive or interfere with the maintenance of the public roadway and right-of-way.
2. "Property owner" Shall mean the contract purchaser if there is one of record, otherwise the record holder of legal title.

SECTION 3. Nuisances Prohibited. The creation or maintenance of a nuisance is hereby prohibited, and a nuisance, public or private, may be abated in the manner provided in this ordinance.

SECTION 4. Notice to Abate Nuisance. Whenever the Board of Supervisors finds that a nuisance exists, the Chairperson shall cause to be served upon the property owner a written

notice to abate the nuisance within a reasonable time after notice.

SECTION 5. Contents or Notice to Abate. The notice to abate shall contain:

1. A description of what constitutes the nuisance.
2. A location of the nuisance.
3. A statement of the act or acts necessary to abate the nuisance.
4. A reasonable time within which to complete the abatement.
5. A statement that if the nuisance is not abated as directed and no request for hearing is made within the time prescribed, the County will abate it and assess the costs against such person.

SECTION 6. Method of Service. The notice may be served by the Sheriff or sent by certified mail to the property owner as shown by the records of the County Auditor.

SECTION 7. Request for Hearing. Any person ordered to abate a nuisance may have a hearing with the Board of Supervisors as to whether a nuisance exists, to request a change in the acts necessary to abate the nuisance, or to request an extension of time for the prescribed abatement. A request for a hearing must be made in writing and delivered to the County Auditor within the time stated in the notice, or it will be conclusively presumed that a nuisance exists and it must be abated as ordered. The hearing will be before the Board of Supervisors at a time and place fixed by the Board of Supervisors. The findings of the Board of Supervisors shall be conclusive and, if a nuisance is found to exist, it shall be ordered abated within a reasonable time under the circumstances.

SECTION 8. Abatement in Emergency. If it is determined that an emergency exists by reason of the seriousness of the nuisance or condition, the County may perform any action which may be required under this ordinance without prior notice. The County shall assess the costs as provided in Section 9 of this ordinance, after notice to the property owner under the applicable provisions of Sections 4, 5 and 6 and hearing as provided in Section 7.

SECTION 9. Collection of Costs of Abatement. The County Auditor shall mail a statement of the total expense incurred to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within thirty (30) days, he shall certify that the costs shall then be collected with, and in the same manner, as general property taxes.

SECTION 10. Installment Payment of Cost of Abatement. If the amount to abate the nuisance exceeds one hundred dollars (\$100.00), the County shall permit the assessment to be paid in up to ten (10) installments, to be paid in the same manner and with the same interest as benefitted

property.

SECTION 11. Penalty. Any person found in violation of this ordinance shall be guilty of a simple misdemeanor and shall receive a penalty of up to one hundred dollars (\$100.00) fine or up to thirty (30) days in jail.

SECTION 12. 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.

ORDINANCE NO. 5.3

AN ORDINANCE TO ESTABLISH A PERMIT SCHEDULE AND REGULATIONS FOR PUBLIC ACTIVITIES

Be It Enacted by the Board of Supervisors of Franklin County, Iowa:

SECTION 1. Purpose. This ordinance provides for the regulations, in the unincorporated area of the County, of public activities including the prohibition of festival or general admission seating at certain public activities on private or public property in order to prevent disorder and to protect the public health, safety and welfare. This ordinance also requires permits for such public activities and provides a permit fee schedule and penalties for violations of the provisions found herein.

SECTION 2. Definitions. For use in this ordinance, certain terms or words used herein shall be interpreted or defined as follows:

1. "Board" shall mean the Franklin County Board of Supervisors.
2. "Chairperson" shall mean the Chairperson of the Franklin County Board of Supervisors.
3. "Festival seating" or "general admission seating" shall mean the seating at an event wherein persons are admitted without assigning them a particular seat or individual seating place.
4. "Person" shall mean any individual, firm, corporation, unincorporated association or other entity.
5. "Public activity" shall mean an activity organized on public or private property for public attendance which may attract a large gathering of people and have the potential of creating disorder, or have an impact on the public health, safety or welfare.

SECTION 3. Permit Required. No person shall conduct a public activity which is covered by the provisions of this ordinance unless such person has obtained a permit from the Board. A separate permit is required for each place at which a herein defined public activity is conducted.

SECTION 4. Permit Procedure. Written application for a permit shall be made to the Board at least fifteen (15) days in advance of the proposed date of the activity. The application shall be signed and sworn to by the applicant, or, if the applicant is a partnership, by an authorized partner, or, if a corporation or association, by an authorized officer of the corporation or association. The applicant shall state:

1. Name and address of the applicant;
2. The nature of the public activity and the estimated attendance;
3. The location, including a legal description of the property within the County, where the activity is proposed to be held;
4. The period of time during which the public activity is proposed to be conducted;
5. A statement as to whether any person having a financial interest in the proposed public activity has ever been convicted of any offense against the laws of the United States, or any state or territory thereof, or any political subdivision of any state or territory;
6. A statement as to whether any alcoholic beverages will be sold or allowed at the proposed public activity;
7. Information regarding the provision of adequate parking area and sanitation facilities;
8. Proof of liability insurance; and
9. Such other information as the Board may reasonably require.

SECTION 5. Permit Fees. The following permit fees are imposed and shall be submitted to the Board at the time of making application for a permit:

<u>Public Activity</u>	<u>Permit Fee</u>
Concerts or Music Festivals	\$100.00
Circuses or Carnivals	\$ 50.00
Consignment Auctions*\$ 25.00

*This shall not apply to farm, household and livestock auctions.

Any other public activity not covered by this listing shall be charged a fee as determined appropriate by the Board.

The Board may waive the payment of the permit fee upon a finding by the Board that the public activity is to be conducted by a civic, educational or charitable organization and any proceeds of the public activity will be used exclusively for the purposes of the organization.

SECTION 6. Conditional Issuance of Permits. Upon receipt of an application, the Board shall review the application and make any investigation deemed necessary and appropriate in

considering said application. The Board may refuse to issue a permit if they determine that public order would not be adequately assured or that the public health, safety or welfare is not adequately protected. In approving a permit, the Board may set such reasonable conditions of approval which must be complied with the same as if those conditions were fully set forth herein this chapter, and a violation of those conditions, as set by the Board, will be considered the same as a violation of any other provisions of this ordinance. All public activities permits shall be valid only for the time period and place specified in the permit.

SECTION 7. Revocation of Permit. Any permit issued may be revoked upon finding by the Board that any conditions of issuance of permit or provisions of this ordinance have been violated, or that any other County, State or Federal law, ordinance or regulation has been violated.

SECTION 8. Regulations. All public activities shall:

1. Have adequate off-street parking facilities to prevent the obstruction of traffic on public roads;
2. Have containers for the disposal of solid waste generated in connection with the public activity and provide for daily collection and disposal of such solid waste;
3. Be conducted without any acts of omissions of fraud or misrepresentation;
4. Comply with all County, State and Federal laws, rules and regulations;
5. Not be conducted in such a manner as to breach the peace, invade privacy, disrupt the quietude of residential areas surrounding the location of the public activity, or otherwise interfere with or endanger the health, safety and welfare of the citizens of the County;
6. Be conducted in compliance with any license conditions imposed by the Board; and
7. Not allow festival or general admission seating wherein persons are admitted without assigning them a particular reserved seat, when the seating capacity or attendance is 2,000 or more, except when an exemption to this provision is granted by the Board.

SECTION 9. County Sheriff - Duties. The County Sheriff is hereby authorized and directed to make periodic inspections of any public activity licensed under the provisions of this ordinance, to determine whether all laws of the State of Iowa and ordinances, rules and regulations of the County are being observed, and to investigate complaints. The County Sheriff is directed to make recommendations to the Chairperson concerning revocation of licenses issued under this ordinance. The Sheriff and his designees shall have the right of entry to any premises covered by

a public activities permit for purposes of investigation and enforcement.

SECTION 10. Penalty. Any person found in violation of this ordinance shall be guilty of a simple misdemeanor and shall receive a penalty of up to one hundred dollars (\$100.00) fine or up to thirty (30) days in jail.

SECTION 11. Abatement as Nuisance. If the Board shall find that a violation of the provisions of this chapter constitutes a nuisance, the activity or condition creating the nuisance may be abated in the manner as provided for in Chapter 657 of the State Code of Iowa, 2013.

SECTION 12. 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.

ORDINANCE NO. 5.4

AN ORDINANCE TO CONTROL LITTER IN PUBLIC PLACES

Be It Enacted by the Board of Supervisors of Franklin County, Iowa:

SECTION 1. Purpose. The purpose of this ordinance is to control the litter problem in public places within the County and to promote the health, safety and general welfare in Franklin County, Iowa.

SECTION 2. Definitions. For use in this ordinance, certain terms or words used herein shall be interpreted or defined as follows:

1. "Authorized receptacle" shall mean a storage and collection receptacle designed for litter.
2. "Discard" shall mean to place, cause to be placed, throw, deposit or drop.
3. "Garbage" shall mean animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.
4. "Litter" shall mean garbage, refuse, rubbish and other similar solid or semi-solid materials, including but not limited to such materials resulting from industrial, commercial, agricultural and domestic activities.
5. "Person" shall mean any person, firm, partnership, association, corporation, company or organization of any kind.
6. "Public place" shall mean any and all streets, sidewalks, alleys or other public ways and any and all public spaces, grounds or buildings.
7. "Refuse" shall mean any and all putrescible solid or semi-solid materials, including but not limited to garbage, ashes, street cleanings, dead animals, yard clippings, leaves or wood.
8. "Rubbish" shall mean any and all nonputrescible solid or semi-solid materials, including but not limited to paper, wrappings, cigarettes, cardboard, tin cans, clothing, glass, metal and crockery.

SECTION 3. Litter in Public Places. No person shall discard litter in or upon any public place within the County except in authorized receptacles or in official dumps.

SECTION 4. Placement of Litter in Receptacles so as to Prevent Scattering. Persons placing litter in authorized receptacles shall do so in such a manner that the elements of nature will not

carry the litter upon public places or private property.

SECTION 5. Litter Discarded from Vehicles. No person, while a driver or passenger in a vehicle, shall discard litter upon any street or other public place or upon private property. This section includes any litter which is dropped or blown from any truck or piece of farm equipment whether intentional or otherwise.

SECTION 6. 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 any glass or other substance dropped upon the street or other public place from such vehicle.

SECTION 7. Litter on Private Property. No person shall discard litter upon private property except in such manner as to prevent the litter from being carried by the elements of nature upon any street or other public place, or upon other private property.

SECTION 8. Special Account - Use of Account. All fines and other monies available or paid to the County under the provisions of this ordinance shall be placed in the County general fund and credited to a special agency account to be designated as the 'Anti-Litter' account. This fund shall be available to the Board by appropriation and shall be expended for the administration and enforcement of this ordinance and for any other expenses incurred by the County directly or indirectly due to the provisions set forth by this ordinance. Any unencumbered and any unexpended balance of this account remaining at the end of any fiscal year shall not lapse, but shall be carried forward for the purposes of this ordinance until expended or until appropriated by subsequent Board action.

SECTION 9. Penalty. Any person found in violation of this ordinance shall be guilty of a simple misdemeanor and shall receive a penalty of up to one hundred dollars (\$100.00) fine or up to thirty (30) days in jail.

SECTION 10. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 11. 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.

ORDINANCE NO. 5.5

AN ORDINANCE PROVIDING REGULATIONS REGARDING HAZARDOUS SUBSTANCES AND REQUIRING PERSONS RESPONSIBLE FOR THE STORAGE, HANDLING AND TRANSPORTATION OF SUCH SUBSTANCES TO CLEAN UP SPILLS, AND PROVIDING REMEDIES FOR FRANKLIN COUNTY TO CLEAN UP SUCH SPILLS UPON FAILURE TO DO SO, AND PROVIDING PENALTIES FOR THE VIOLATIONS THEREOF

Be It Enacted by the Board of Supervisors of Franklin County, Iowa:

SECTION 1. Purpose. In order to reduce the danger to public health, safety and welfare from the spills of hazardous substances, these regulations are promulgated to establish responsibility for the removal and cleanup of spills within the County limits.

SECTION 2. Definitions. For use in this ordinance, certain terms or words used herein shall be interpreted or defined as follows:

1. "Hazardous waste" means any substance as defined in Section 455B.411, Code of Iowa, 2013.
2. "Hazardous substance" means any substance as defined in Section 455B.411, Code of Iowa, 2013.
3. "Hazardous condition" means the same as set out in Section 455B.381, Code of Iowa, 2013.
4. "Responsible person" means the party, whether the owner, agent, leaser, tenant, in charge of the hazardous substance or hazardous wastes being stored, processed or handled, or the owner or bailee transporting hazardous wastes or substances whether on public ways or grounds or on private property where the spill would cause danger to the public or to any person or to the environment.
5. "Cleanup" means the removal of the hazardous wastes or substances to a place where the waste will not cause any danger to persons or the environment, in accordance with State rules thereof or the treatment of the material as defined herein to eliminate the hazardous condition, including the restoration of the area to a general good appearance without noticeable odor as far as practicable.
6. "Treatment" means a method, technique or process, including neutralization, designed to change the physical, chemical or biological character or composition of a hazardous substance so as to neutralize it or to render the substance non-hazardous, safer for transport, amendable for recovery, amendable for storage, or to reduce it in volume.

Treatment includes any activity or processing designed to change the physical form or chemical composition of hazardous substance to render it non-hazardous.

SECTION 3. Cleanup Responsibility. Whenever a hazardous condition is created by the deposit, injection, dumping, spilling, leaking or placing of a hazardous waste or substance which may enter the environment or be emitted into the air or discharged into any waters, including groundwater, the responsible person shall cause the condition to be remedied by a cleanup, as defined in the preceding section, as rapidly as feasible to an acceptable, safe condition. The costs of cleanup shall be borne by the responsible person. If the responsible person does not cause the cleanup to begin in a reasonable time in relation to the hazard and circumstances of the incident, the County may, by an authorized officer, give reasonable notice, based on the hazardous condition, said notice setting a deadline for accomplishing the cleanup or that the County will proceed to procure cleanup services and setting forth a reasonable estimate of the costs of cleanup and bill the responsible person for all costs associated with the cleanup, including, but not limited to, equipment rendered unserviceable; personnel costs, including overtime; disposal costs; and any other costs associated therewith. If the bill for those services is not paid within thirty (30) days, the County will proceed after service of notice by certified mail and if the responsible person does not acknowledge the certified letter by either failure to respond, sign or accept, the County will proceed with one publication in the local newspaper and a hearing before the Board of Supervisors, to obtain payment by all legal means. If the cost of the cleanup is beyond the capacity of the County to finance it, the authorized officer shall report to the Board of Supervisors and immediately seek any State or Federal funds available for said cleanup.

SECTION 4. Notification. The first County officer or employee arriving at the scene of an incident involving hazardous substances, if not a peace officer, shall notify the office of the Sheriff which shall notify the proper State offices in the manner established by the State.

SECTION 5. Police Authority. If the circumstances reasonably so require, the Sheriff or his representative, may:

1. Evacuate persons, even from their homes, to areas away from the site of a hazardous condition, and
2. Establish perimeters or other boundaries at or near the site of a hazardous condition beyond which no person shall cross.

SECTION 6. County Liability. Franklin County shall not be liable for any losses occurring due to any hazardous condition created which may be claimed by any person, firm or corporation.

SECTION 7. Penalties. Any person, firm or corporation violating any regulation or provision of this ordinance, or any amendment or supplement thereto, shall be guilty of a simple misdemeanor which is punishable by a fine of not more than one hundred dollars (\$100.00) or by imprisonment of not more than thirty (30) days and shall be guilty of a County infraction

punishable by a civil penalty not to exceed two hundred dollars (\$200.00). Each day that a violation occurs or is permitted by the defendant to exist, constitutes a separate offense.

SECTION 8. Severability of Provision. If any section, paragraph, clause or provision of this ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this ordinance.

ORDINANCE NO. 5.6

AN ORDINANCE PROVIDING FOR MUNICIPAL DISPOSAL OF SOLID WASTE; DEFINING TERMS; PRESCRIBING RULES AND REGULATIONS THEREFOR; REGULATING THE PRIVATE DISPOSAL OF SOLID WASTE; PROVIDING PENALTIES FOR VIOLATION THEREOF; AND REPEALING ALL OTHER ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT THEREWITH

Be It Enacted by the Board of Supervisors of Franklin County, Iowa:

SECTION 1. Definitions. For use in this ordinance, certain terms or words used herein shall be interpreted or defined as follows:

1. "Agency" shall mean the Landfill of North Iowa.
2. "Person" shall mean any individual, firm, association, syndicate, co-partnership, corporation, trust, or other legal entity having proprietary interest in a premise, or other legal entity having responsibility for an act.
3. "Garbage" shall mean the solid or semi-solid animal and vegetable waste resulting from the handling, preparation, cooling and serving foods, including cans, bottles and cartons in which it was received and wrappings in which it may be placed for disposal.
4. "Solid waste" shall mean unwanted or discarded materials resulting from commercial, industrial, domestic and agricultural operations and normal community activities. Wastes which are solid or semi-solid containing insufficient liquid to be free-flowing are considered to be solid wastes; and include in part the following: garbage, rubbish, ashes and other residue of incineration; street refuse or sweepings; dead animals; solid animal waste; abandoned automobiles; agricultural, commercial and industrial wastes; construction and demolition wastes; and sewage treatment solid residue.

SECTION 2. By virtue of agreement dated June 27, 1994, between the County and the Agency, the sanitary landfill sites now and hereafter operated by the Agency are hereby designated as the public disposal sites for all garbage and refuse collected within the corporate limits of the County.

SECTION 3. The rules and regulations governing the use of the sanitary landfill sites shall be as determined by the Agency to be in the best interests of the general public.

1. The landfill sites shall normally be open to the public on such days and hours as the Agency may designate; however, the Agency may alter the days and hours so scheduled to satisfy unusual conditions or emergencies.

2. The Agency shall be responsible for the operation of the landfill sites in a manner which will assure sanitary and safe conditions at all times.
3. The operation of the landfill sites shall comply with all regulations of all local, State, County or Federal agencies which may have jurisdiction over such operation.

SECTION 4. No person, firm or corporation shall permanently dispose of solid waste of any kind upon any land outside the incorporated areas of the County and/or within the boundaries of the County unless such land has been designated by the Agency as a public landfill site; provided, however, that the prohibition contained in this paragraph shall not apply to the deposit of inert wastes, not potentially injurious to health or the public welfare where permission to make such a deposit has been obtained from the owner or responsible agent, nor to the filling in or grading of property with earth, mud, ashes or similar materials; providing all other applicable local and State laws have been complied with.

SECTION 5. No person, firm or corporation shall deposit any solid waste at any Agency landfill site, except in compliance with posted instructions or instructions of an attendant in charge.

SECTION 6. Certain materials may be excluded from those refuse materials, which may be deposited at an Agency landfill site. These excluded materials may include junk automobile bodies and similar bulky objects, which may require special processing prior to disposal; trees and tree limbs, unless they have been cut into pieces not exceeding ten (10) feet in length; burning materials or material containing hot or live coals; hazardous materials; and other materials which the Agency deems necessary to exclude. However, hazardous materials may be deposited upon the receipt of written permission of a responsible official or attendant of the Agency and subject to any special instruction issued with said permission. Hazardous materials shall include explosive materials, materials contaminated by infectious or contagious disease, fly ash or other fine or powdery material, and other material which may present a special hazard to landfill personnel, equipment or to the public.

SECTION 7. It shall be unlawful for any person, firm or corporation other than the Agency or County on its behalf to receive payment of any kind or request payment of any kind for the disposal of any solid waste at any sanitary landfill site within the County. The charging fee for the collection of any garbage or other solid waste from a customer by a private refuse collector, shall not be construed as a violation of the Section since the disposal is considered to be incidental to the total collection and disposal service, provided, however, such collection and disposal shall be conducted entirely by forces with equipment owned or operated by the private refuse collector.

SECTION 8. It shall be unlawful for any person, firm or corporation within the County to sell or offer for sale, or to install, any device intended for use as a garbage or solid waste burner or

incinerator; except when the intended user of such a device has secured a license to operate or use such a device from the County or when the device will be operated by or for the County.

SECTION 9. Fees paid to or for the benefit of the Agency for the use of the public landfill facilities shall be in accordance with the posted and published schedule of fees of the Agency or County, as provided in the Agreement referenced in Section 2.

SECTION 10. It shall be the duty of the Sheriff's Department and its officers to enforce the provisions of this ordinance.

SECTION 11. If any section, subsection, sentence or part of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 12. Any person, firm or corporation violating any of the provisions of this ordinance shall upon conviction be subject to a fine of not more than one hundred dollars (\$100.00) or to imprisonment for not more than thirty (30) days.

ORDINANCE NO. 5.7

AN ORDINANCE DEFINING AND PROVIDING FOR THE SEPARATION OF YARD WASTES

Be It Enacted by the Board of Supervisors of Franklin County, Iowa:

SECTION 1. Definition of Yard Wastes. "Yard wastes" means all vegetative debris consisting of grass clippings, leaves, brush, trees and wastes from garden residues.

SECTION 2. Separation of Yard Wastes Required. All yard wastes shall be separated by the owner or occupant from all other garbage and refuse accumulated on the premises, and shall be composted, mulched or utilized on the premises in such a manner so as not to cause a public nuisance, or placed in suitable containers and set out for collection by public or private hauler(s).

SECTION 3. Collection of Yard Wastes. All yard wastes that are collected shall be kept separate from all other garbage and refuse.

SECTION 4. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 5. 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.

ORDINANCE NO. 5.8

AN ORDINANCE ESTABLISHED TO REGULATE DRUG PARAPHERNALIA

Be It Enacted by the Board of Supervisors of Franklin County, Iowa:

SECTION 1. Purpose. It is the purpose and intent of this Franklin County Board of Supervisors to promote the health, safety and morals of the citizens of Franklin County, Iowa. Except as authorized by Chapter 124, Code of Iowa, 2013, the use or administration of controlled substances is clearly illegal. Objects in close connection and adapted for the use of controlled substances should also be controlled because of the lack of social or practical purposes of such objects or paraphernalia, whether the use be by adults or minors. It is also strong public policy to protect children from the unsupervised exposure and familiarity of drug paraphernalia. In addition to education about the items in school and at home, it is also essential to discourage open use, possession, manufacture and commerce of these drug related items.

SECTION 2. Definitions. For use within this Article, the following words and terms are defined:

1. “Deliver” shall mean to transfer from one person to another.
2. “Drug paraphernalia” shall mean:
 - a. All equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance, as defined in Chapter 124 of the 2013, Code of Iowa. The term includes, but is not limited to:
 - (1) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting, of any species of plant which is a controlled substance or from which a controlled substance can be derived.
 - (2) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.
 - (3) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is controlled substance.

- (4) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances.
- (5) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances.
- (6) Diluents and adulterants, such as quinine, hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances.
- (7) Separation gins and sifters used, designed for use, or intended for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana.
- (8) Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances.
- (9) Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances.
- (10) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances.
- (11) Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body.
- (12) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:
 - (a) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
 - (b) Water pipes;
 - (c) Carburetion tubes and devices;

- (d) Smoking and carburetion masks;
- (e) Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette that has become too small or too short to be held in the hand;
- (f) Miniature cocaine spoons, and cocaine vials;
- (g) Chamber pipes;
- (h) Carburetor pipes;
- (i) Electric pipes;
- (j) Air-driven pipes;
- (k) Chillums;
- (l) Bongs; and
- (m) Ice pipes or chillers.

b. In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

1. Statements by an owner or by anyone in control of the object concerning its use.
2. Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance.
3. The proximity of the object, in time and space, to a direct violation of this Article.
4. The proximity of the object to controlled substances.
5. The existence of any residue of controlled substances on the object.
6. Direct or circumstantial evidence of the intent of any owner, or of anyone in control of the object, to deliver it to persons whom he knows, or should reasonably know, intent to use the object to facilitate a violation of this Article, the innocence of any owner, or of anyone in control of the object, as to a direct violation of this Article shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia.

7. Instructions, oral or written, provided with the object concerning its use.
 8. Descriptive materials accompanying the object which explain or depict its use.
 9. National and local advertising concerning its use.
 10. The manner in which the object is displayed for sale.
 11. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community such as a licensed distributor or dealer of tobacco products.
 12. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise.
 13. The existence and scope of legitimate uses for the object in the community.
 14. Expert testimony concerning its use.
3. "Person" shall mean a natural person of any firm, partnership, association, corporation or cooperative association.

SECTION 3. Possession of Drug Paraphernalia. It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this Article.

SECTION 4. Manufacture or Delivery of Drug Paraphernalia. It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this Article.

SECTION 5. Delivery of Drug Paraphernalia to a Minor. Any person eighteen (18) years of age or over who violates Section 3 by delivering drug paraphernalia to a person under eighteen (18) years of age, who is at least three (3) years his/her junior, is guilty of a special offense and, upon conviction, may be imprisoned for not more than thirty (30) days, fined not more than one hundred dollars (\$100.00), or both.

SECTION 6. Advertisement of Drug Paraphernalia. It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication, any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in

whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.

SECTION 7. Penalties. Any person, firm, or corporation violating any provision, section, or paragraph of this Article shall be guilty of a crime or a Municipal infraction. Each day a violation occurs shall constitute a separate offense.

SECTION 8. 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.

ORDINANCE NO. 5.9

RESIDENCY RESTRICTIONS FOR SEX OFFENDERS

- 34.1 PURPOSE
- 34.2 DEFINITIONS
- 34.3 JURISDICTION
- 34.4 RESIDENCY RESTRICTION
- 34.5 RESIDENCY EXCEPTION
- 34.6 VIOLATIONS
- 34.7 EFFECTIVE DATE

34.1 PURPOSE.

This ordinance is a regulatory measure aimed at protecting the health and safety of children in Franklin County from the risk that convicted sex offenders may reoffend in locations close to their residences. As recognized by the Eight Circuit United States Court of Appeals in its April 29, 2005 decision of *Doe v. Miller*, and as recognized by the Iowa Supreme Court in *State v. Seering*, decided on July 29, 2005, the county finds and declares that sex offenders are a serious threat to public safety. When convicted sex offenders reenter society, they are much more likely than any other type of offender to be re-arrested for a new rape or sexual assault. Given the high rate of recidivism for sex offenders and that reducing opportunity and temptation is important to minimizing the risk of reoffense, there is a need to protect children where they congregate or play in public places in addition to the protections afforded by state law near schools and day care centers. Franklin County finds and declares that in addition to schools and daycare centers, children congregate or play at child-oriented facilities identified in section 34.4 (1).

34.2 DEFINITIONS.

As used in this section and unless the context otherwise requires:

1. **“Aggravated offense”** means a conviction for any of the following offenses:
 - a. Sexual abuse in the first degree in violation of Iowa Code §709.2.
 - b. Sexual abuse in the second degree in violation of Iowa Code §709.3
 - c. Sexual abuse in the third degree in violation of Iowa Code §709.4(1).
 - d. Lascivious acts with a child in violation of Iowa Code §709.8(1).
 - e. Assault with intent to commit sexual abuse in violation of Iowa Code §709.11.
 - f. Burglary in the first degree in violation of Iowa Code §713.3(1)(d).
 - g. Kidnapping, if sexual abuse as defined in Iowa Code §709.1 is committed during the offense.

- h. Murder, if sexual abuse as defined in Iowa Code §709.1 is committed during the offense.
 - i. Criminal transmission of human immunodeficiency virus in violation of Iowa Code §709C.1 (1)(a).
2. **“Criminal offense against a minor”** means any of the following criminal offenses or conduct:
- a. Kidnapping of a minor, except for the kidnapping of a minor in the third degree committed by a parent.
 - b. False imprisonment of a minor, except if committed by a parent.
 - c. Any indictable offense involving sexual conduct directed toward a minor.
 - d. Solicitation of a minor to engage in an illegal sex act.
 - e. Use of a minor in a sexual performance.
 - f. Solicitation of a minor to practice prostitution.
 - g. Any indictable offense against a minor involving sexual contact with the minor.
 - h. An attempt to commit an offense enumerated in this subsection.
 - i. Incest committed against a minor.
 - j. Dissemination and exhibition of obscene material to minors in violation of Iowa Code §728.2.
 - k. Admitting minors to premises where obscene material is exhibited in violation of Iowa Code §728.3.
 - l. Stalking in violation of Iowa Code §708.11 (3)(b)(3), if the fact-finder determines by clear and convincing evidence that the offense was sexually motivated.
 - m. Sexual exploitation of a minor in violation of Iowa Code §728.12.
 - n. Enticing away a minor in violation of Iowa Code §710.10(1).
 - o. An indictable offense committed in another jurisdiction which would constitute an indictable offense under paragraphs (a) through (n).
3. **“Other relevant offense”** means any of the following offenses:
- a. Telephone dissemination of obscene materials in violation of Iowa Code §728.15.
 - b. Rental or sale of hard-core pornography in violation of Iowa Code §728.4.
 - c. Indecent exposure in violation of Iowa Code §709.9.
 - d. Incest committed against a dependent adult as defined in Iowa Code §235B.2 in violation of Iowa Code §726.2.
 - e. A criminal offense committed in another jurisdiction which would constitute an indictable offense under paragraphs (a) through (d) if committed in this state.
4. **“Person”** means a person who has committed a criminal offense against a minor, or an aggravated offense, sexually violent offense, or other relevant offense that involved a minor.

5. **“Residence”** means the place where a person sleeps, which may include more than one location, and may be mobile or transitory.

6. **“Sexually violent offense”** means any of the following indictable offenses:
 - a. Sexual abuse as defined under Iowa Code §709.1.
 - b. Assault with intent to commit sexual abuse in violation of Iowa Code §709.11.
 - c. Sexual misconduct with offenders in violation of Iowa Code §709.16.
 - d. Any of the following offenses, if the offense involves sexual abuse or attempted sexual abuse; murder, attempted murder, kidnapping, burglary or manslaughter.
 - e. A criminal offense committed in another jurisdiction which would constitute an indictable offense under paragraphs (a) through (d) if committed in this state.

34.3 JURISDICTION

This ordinance applies only to those residences within the limits of unincorporated Franklin County. This ordinance does not apply to any residences within the corporate limits of any municipality within Franklin County.

34.4 RESIDENCY RESTRICTION

1. A person shall not reside within two thousand feet of the real property comprising any of the following child oriented facilities:
 - a. a public park;
 - b. a public swimming pool;
 - c. a public library; or
 - d. a public school bus stop that collects students from 2 or more residences as designate by the School District.

2. The distance shall be measured from the closest boundary line of the residence to the closest boundary line of the child oriented facilities identified in section 34.4(1).

34.5 RESIDENCY EXCEPTION

A person residing within two thousand feet of the real property comprising a child oriented facility identified in section 34.4(1) does not commit a violation of this article if any of the following apply:

1. The person is required to serve a sentence at a jail, juvenile facility, or other correctional institution or facility.

2. The person is subject to an order of commitment under Iowa Code Chapter 229A.

3. The person has established a residence prior to the effective date of this Ordinance, or a child oriented facility as identified in section 34.4(1) is newly located on or after the effective date of this ordinance and the person has established a residence prior to the date of the start of construction of such newly located child oriented facility.
4. The person is a minor or a ward under a guardianship.

34.6 VIOLATIONS

Any person who resides within two thousand feet of the real property comprising a child oriented facility identified in section 34.4(1) in violation of this article shall be guilty of a simple misdemeanor punishable by a fine up to \$500.00 or thirty (30) days in jail per occurrence.

34.7 EFFECTIVE DATE

This Ordinance shall become effective upon publication.

-ORDINANCE 5.10

**AN ORDINANCE PROVIDING FOR THE LIABILITY OF A LANDOWNER OF LAND
WHERE LIVESTOCK ARE KEPT OR AN OWNER OF ADJOINING LAND FOR
ERECTING AND MAINTAINING A FENCE**

SECTION 1.

1. “Fence” means a fence as described in Chapter 359A which is lawful and tight as provided in that Chapter, including but not limited to a partition fence. For purposes of this Chapter, “fence” includes a fence bordering a public road.

2. “Landowner” means a person who holds an interest in land, including a titleholder or tenant.

3. “Livestock” means an animal belonging to the bovine, caprine, equine, ovine or porcine species; ostriches, rheas, or emus; farm deer as defined in Section 170.1; or poultry.

4. “Livestock owner” means the person who holds title to livestock or who is primarily responsible for the care and feeding of the livestock as provided by the livestock.

5. “Public road” means a thoroughfare and its right-of-way, whether reserved by public ownership or easement, for use by the traveling public.

SECTION 2. Habitual Trespass.

A habitual trespass occurs when livestock trespasses from the land where the livestock are kept onto the land of a neighboring landowner or strays from the land where the livestock are kept onto a public road, and on three or more separate occasions within the prior twelve-month period the same or different livestock kept on that land have trespassed onto the land of the same neighboring landowner or strayed from the land where the livestock are kept on the same public road. The local authority upon its own initiative or upon receipt of a complaint shall determine whether livestock are trespassing or straying from the land where the livestock are kept on a public road, and make record of its findings.

SECTION 3. Habitual Trespass.

A landowner of land where livestock are kept or an owner of adjoining land shall be liable to erect or maintain a fence if the livestock trespasses upon the land of a neighboring landowner or strays from the land where the livestock are kept onto a public road, as provided in Section 169C.6.

SECTION 4.

Any person found in violation of this ordinance shall receive a penalty of \$250.00. If the violator has a prior conviction within the previous 6 years, the penalty will be \$500.00. If the violator has two previous convictions within the previous 6 years, the penalty will be \$750.00.

ORDINANCE NO. 5.11

**INTENTIONAL CONSUMPTION OR INTENTIONAL INTOXICATION FROM
INHALATION IN PUBLIC PLACES**

1. As used in this section unless the context otherwise required:
 - a. Inhalant means any substance which, when inhaled, causes intoxication.
 - b. School means a public or private school or that portion of a public or private school including all grades.
2. A person shall not intentionally use or consume any inhalant upon the public streets or highways or intentionally use or consume any inhalant in any public place and school and a person shall not be intoxicated by the intentional use or consumption of any inhalant in a public place and school. A person violating this subsection is guilty of a simple misdemeanor.
3. A person shall not intentionally use or consume any inhalant intending to become intoxicated or possess an inhalant with the intent to use for intentional intoxication anywhere within the county. A person violating this subsection is guilty of a simple misdemeanor.

This Ordinance shall become effective upon publication.

Ordinance 5.12

AN ORDINANCE PROVIDING FOR THE SOCIAL HOST AND UNDERAGE CONSUMPTION

Section 1. DEFINITIONS

- a. "Alcoholic beverage" means the same as defined in Iowa Code Section 123.3(4).
- b. "Event, gathering, or party" means any group of three (3) or more persons who have assembled or gathered together for a social occasion or other activity.
- c. "Juvenile" means a person under the age of eighteen (18).
- d. "Legal age" means the same as defined in Iowa Code Section 123.3(24).
- e. "Parent" means any person having legal custody of a juvenile: (1) as a natural parent, adoptive parent, or step-parent; (2) as a legal guardian; or (3) as a person to whom legal custody has been given by order of the court.
- f. "Person" means any individual, partnership, corporation, or any association of one or more individuals.
- g. "Possession or control" means actual possession or constructive possession based on facts which permit the inference of intent to possess or control alcoholic beverages.
- h. "Premises" means any home, yard, farm, field, land, apartment, condominium, hotel or motel room, other dwelling unit, hall or meeting room, garage, barn, park, or any other place conducive to assembly, public or private, whether occupied on a permanent or temporary basis, whether occupied as a dwelling or specifically for an event, gathering, or party, and whether owned, leased, rented or used with or without permission or compensation.
- i. "Public place" means the same as defined in Iowa Code Section 123.3(36).
- j. "Social host" means any person (see Section 1(f)) who aids, allows, entertains, organizes, supervises, controls or permits an event, gathering, or party. This includes, but is not limited to: (1) the person(s) who owns, rents, leases, or otherwise has control of the premises where the event, gathering, or party takes place; (2) the person(s) in charge of the premises; or (3) the person(s) responsible for organizing the event, gathering, or party.
- k. "Underage person" means any person under the "legal age".

SECTION 2. AFFIRMATIVE DUTIES

It is the duty of the social host of an event, gathering, or party to take all reasonable steps to prevent alcoholic beverages from being possessed or consumed by underage persons on the premises. Reasonable steps include, but are not limited to:

- a. Controlling underage persons' access to alcoholic beverages,
- b. Controlling the quantity of alcoholic beverages,
- c. Verifying the age of persons being served, in the possession of, or consuming alcoholic beverages at the event, gathering, or party by inspecting drivers' licenses or other government-issued identification cards,

- d. Supervising the activities of underage persons at the party, and
- e. Notifying law enforcement of underage possession or consumption of alcoholic beverages, and allowing law enforcement to enter the premises for the purpose of stopping the possession or consumption by underage person.

SECTION 3. PROHIBITIONS

A. It is unlawful for any social host of an event, gathering, or party on the social host's premises to knowingly permit or allow underage persons to consume alcoholic beverages, or knowingly permit or allow underage persons to possess alcoholic beverages on the premises, whether or not the social host is present on the premises.

B. A person or persons under the legal age shall not purchase or attempt to purchase, or individually or jointly have alcoholic liquor, wine, or beer in their possession or control. (as set out in Iowa Code Section 123.47(2)). A person under the legal age who has consumed alcoholic liquor, wine, or beer shall be presumed to have had the same in his or her possession or control prior to its consumption.

SECTION 4. EXCEPTIONS

A. This Ordinance shall not apply to:

- 1. Conduct solely between an underage person and his or her parents while present in the parents' household,
- 2. Legally protected religious observances, or
- 3. Situations where underage persons are lawfully in possession of alcoholic beverages during the course and scope of employment.

B. The exceptions outlined in Section 4(a) shall not apply under circumstances in which the underage person leaves the home, religious gathering, or place of employment and subsequently violates Iowa Code Section 123.46(2), **consumption or intoxication in public places.**

SECTION 5. ENFORCEMENT

The provisions of this Ordinance shall be enforced by the Franklin County Sheriff's Department. The Franklin County Sheriff's Department shall have primary but not exclusive enforcement responsibility for this Ordinance.

SECTION 6. PENALTIES

A. Violations of Section 3(a) are declared to be county infractions, punishable by civil penalty. A seven hundred and fifty dollar (\$750.00) civil penalty shall be imposed for a social host's first offense. A one thousand dollar (\$1,000.00) civil penalty shall be imposed for a social host's second or subsequent offense. The County may also seek reimbursement for enforcement services provided by emergency responders related to the event, gathering, or party.

B. A person who violates Section 3(b) commits the following:

1. A simple misdemeanor, a scheduled violation under Iowa Code Section 805.8 punishable by a fine or not more than two hundred fifty dollars (\$250.00) for the first offense.
2. A second offense shall be a simple misdemeanor punishable by a fine of not more than five hundred dollars (\$500.00).
3. A third or subsequent offense shall be a simple misdemeanor punishable by a fine of not more than five hundred dollars (\$500.00).
4. The court may, in its discretion, order the person who is under the legal age to perform community service work under Iowa Code Section 909.3A, of an equivalent value to the fine imposed under this section (As set out in Iowa Code Section 123.47(3)(b)).
5. In determining if a violation charged is a second or subsequent offense, conviction for violation of this section, Iowa Code Section 123.47, or an ordinance of any city or county in the State of Iowa that substantially corresponds to this section or Iowa Code Section 123.47, shall be counted as previous offenses.

SECTION 7. JURISDICTION

The provisions of this Ordinance shall apply throughout Franklin County, Iowa, including municipalities that have not enacted a municipal ordinance dealing with similar subject matter.