

**DELAWARE COUNTY SECONDARY ROAD DEPARTMENT
POLICY AND PROCEDURE MEMORANDUM**

SUBJECT: Debris and Trash in the Right of Way

Delaware County's goal is to maintain safe roads and roadsides for the use of the travelling public. The practice of roadside dumping and burning of trash has never been condoned or permitted by Delaware County and with the closure of the county landfill, the Board of Supervisors and the Secondary Road department are very concerned that roadside dumping will increase. Trash piles in the right of way become magnets for illegal dumping. The county will contact owners of rural property to require removal of the accumulated waste and any burning receptacles placed in the right of way.

Not only is the debris and trash placement against the law, it degrades the appearance of the county roads and adjacent properties. Accumulated debris in the ditch may increase the severity of a run off the road accident for which landowners could be held liable. Additionally, these trash piles hinder snow removal, roadside mowing, roadside drainage and ditch-cleaning work.

Use of the right of way for disposal and burning of trash is prohibited by section 455B.307 of the Code of Iowa, which read as follows:

455B.307 Dumping -- where prohibited -- penalty.

1. A private agency 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 unless the agency has been granted a permit by the department which allows the dumping or depositing of solid waste on land owned or leased by the agency.

This section continues with the following:

3. Any person who violates any provision of part 1 of this division or any rule or any order adopted or the conditions of any permit or order issued pursuant to part 1 of this division shall be subject to a civil penalty, not to exceed five thousand dollars for each day of such violation.

The Iowa Code sections covering highway laws also address the disposal of trash and debris within county and state rights of way. The code reads as follows:

321.369 Putting debris on highway.

A person shall not throw or deposit upon a highway any glass bottle, glass, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris. A person shall not throw or deposit upon a highway a substance likely to injure any person, animal, or vehicle upon the highway. A person who violates this section or section 321.370 commits a misdemeanor punishable as a scheduled violation under section 805.8, subsection 2, paragraph "af".

The Iowa Code defines a highway as the entire area of the road maintained as right of way as is the case in the county road easement. Placement of trash and debris within the right of way is a misdemeanor, and upon arrest and conviction can subject the guilty party to a fine of \$50 to \$100 and up to 30 days in jail.

Property owners will be notified that they must remove any trash pile an/or burners from the county right of way within 30 days of receiving notice. They will be authorized to burn the accumulated material as long as it is done in a manner that will not result in smoke being blown across the traveled way where it can cause a visual obstruction and be a hazard to traffic. All material that is not burned shall be cleaned up and removed from the right of way. Any permanent burn barrels or other receptacles for burning trash are not allowed within the right of way as such objects constitute obstructions within the right of way.

If the property owner refuses to remove the trash and/or burner within the allotted 30-day period, the county will send a certified letter, return receipt requested, with final notice to remove the debris. Fourteen (14) days will be given upon the receipt of the final notice to clean the area in question. The county has authority under section 319.14 of the Code of Iowa to remove the trash or burn receptacle and bill the property owner for the expense of doing so. Section 319.14 reads as follows:

319.14 Permit required.

A person shall not excavate, fill, or make a physical change within the right-of-way of a public road or highway without obtaining a permit from the highway authority having jurisdiction of the public road or highway. Work performed under the permit shall be performed in conformity with the specifications prescribed by the highway authority. If the excavation, fill, or physical change within the right-of-way of a public road or highway does not conform to the specifications that accompany the permit the person shall be notified to make such conforming changes. If after twenty days the changes have not been made, the public road or highway authority may make the necessary changes and immediately send a statement of the cost to the responsible person. If within thirty days after sending the statement the cost is not paid, the highway authority may institute proceedings in the district court to collect the cost of correction.

Receipt of a letter from the county serves as the owner's permit to do the necessary work. Once trash is removed, property owners are not allowed to place trash within the right of way again. Trash placed after receipt of this notice will be subject to immediate removal with the cost of the removal billed to the property owner.

APPROVED:

Bill Skinner, Chairman-Delaware County Board of Supervisors

Mark J. Nahra, Delaware County Engineer

Attachments:

Letter to property owners on trash removal