

CHAPTER 1
HAZARDOUS SUBSTANCES
TITLE V - PUBLIC ORDER, SAFETY & HEALTH

TITLE: An ordinance regarding hazardous substances and wastes, and requiring persons responsible for the storing, handling and transportation of such substances to clean up spills, and providing remedies for the County of Jones to clean up such spills upon failure to do so, and providing penalties for the violation thereof.

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 the purpose of this ordinance these words have the following meaning:

- A. "Hazardous waste" means a waste or combination of wastes that, because of its quantity, concentration, biological degradation, leaching from precipitation, or physical, chemical, or infectious characteristics, has either the following effects:
1. Causes, or significantly contributes to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness.
 2. Poses a substantial danger to human health or the environment. "Hazardous waste" may include but is not limited to wastes that are toxic, corrosive or flammable or irritants, strong sensitizers or explosives.
- "Hazardous waste" does not include:
1. Agricultural wastes, including manures and crop residues that are returned to the soil as fertilizers or soil conditioners.
 2. Source, special nuclear, or by-product material as defined in the Atomic Energy Act of 1954, as amended to January 1, 1979 (Section 455B.411(2), Code of Iowa).
- B. "Hazardous substance" means any substance or mixture of substances that presents a danger to the public health or safety and includes, but is not limited to, a substance that is toxic, corrosive, or flammable, or that is an irritant or that generates pressure through decomposition, heat, or other means. "Hazardous substance" may include any hazardous waste identified or listed by the administrator of the United States Environmental Protection Agency under the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, or any toxic pollutant listed under Section 307 of the Federal Water Pollution Control Act as amended to January 1, 1977, or any hazardous substance designated under Section 311 of the Federal Water Pollution Control Act as amended to January 1, 1977, or any hazardous material designated by the secretary of transportation under the Hazardous Materials Transportation Act (Section 455B.381(1), Code of Iowa).

- C. "Hazardous condition" means any situation involving the actual, imminent or probable spillage, leakage, or release of a hazardous substance or hazardous waste onto the land, into a water of the state or into the atmosphere which creates an immediate or potential danger to the public health or safety (Section 455B.381(2), Code of Iowa).
- D. "Responsible person" means a person who at any time produces, handles, stores, uses, transports, refines, or disposes of a hazardous substance or hazardous waste the release of which creates a hazardous condition, including bailees, carriers, and any other person in control of a hazardous substance or hazardous waste when a hazardous condition occurs, whether the person owns the hazardous substance or waste or is operating under a lease, contract, or other agreement with the legal owner of the hazardous substance or waste (Section 455B.381(8), Code of Iowa).
- E. "Cleanup" means actions necessary to contain, collect, control, identify, analyze, clean up, treat, disperse, removed, or dispose of a hazardous substance or hazardous waste (Section 455.381(6), Code of Iowa).
- F. "Person" means individual, corporation, firm, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity (Section 4.1(20), Code of Iowa).

SECTION 3. CLEANUP REQUIRED

- A. Whenever a hazardous condition is created so that a hazardous substance or waste or a constituent of the hazardous waste or substance may enter the environment or be emitted into the air or discharged into any water, including ground waters, the responsible person shall cause the condition to be remedied by a cleanup, as defined by SECTION 2. E., as rapidly as feasible to an acceptable safe condition, and restore the affected area to its state prior to the hazardous condition as far as practicable. The cost of cleanup shall be borne by the responsible person.
- B. 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 character of the hazardous condition, setting a deadline for commencing and accomplishing the cleanup or the County may proceed to procure cleanup services. If the cost of the cleanup is beyond the capacity of the County to finance, the authorized officer shall report to the Board of Supervisors and immediately seek any state or federal funds available for such cleanup.

SECTION 4. LIABILITY FOR CLEANUP COSTS

- A. The responsible person shall be strictly liable to the County for all of the following:
 - 1. The reasonable cleanup costs incurred by the County as a result of the failure of the person to clean up a hazardous substance or waste involved in a hazardous condition caused by that person.
 - 2. The reasonable costs incurred by the County to evacuate people from the area threatened by a hazardous condition caused by the person.
 - 3. The reasonable damages to the County for the injury to, destruction of, or loss of County property, including parks and roads, resulting from a hazardous condition caused by that person, including the costs of assessing the injury, destruction or loss.

SECTION 5. NOTIFICATIONS

- A. A person manufacturing, storing, handling, transporting, or disposing of a hazardous substance or waste shall notify the Jones County Sheriff's Department of the occurrence of a hazardous condition as soon as possible but not later than six (6) hours after the onset of the hazardous condition or discovery of the hazardous condition. The Sheriff's Department shall notify the proper state office in the manner established by the state.
- B. Any County employee or any member of a law enforcement agency, or any member of a city, township or fire district fire department who discovers a hazardous condition shall notify the Sheriff's Department, which shall notify the proper state office in the manner established by the state.

SECTION 6. POLICE AUTHORITY

If the circumstances reasonably so require, the Jones County Sheriff or his representative may:

- A. Evacuate persons, even from their homes, to areas away from the site of a hazardous condition, and
- B. Establish perimeters or other boundaries at or near the site of a hazardous condition and limit access to cleanup personnel.

No person shall disobey an order of the Sheriff or any other deputy or peace officer/law enforcement officer issued under this section.

SECTION 7. COUNTY LIABILITY

Jones County shall not be liable to any person for claims of damages, injuries, or losses resulting from any hazardous condition. Except, if the County is the responsible person as defined in SECTION 2. D.

SECTION 8. PENALTY

Violation of this ordinance shall constitute a county infraction which shall be punishable by a civil penalty in an amount not to exceed that allowed by Iowa Code Section 331.307 (1.), as now or hereafter amended. Alternatively, or in addition to, constitution of a county infraction, a person found in violation of this ordinance may be guilty of a simple misdemeanor, and on conviction thereof be subject to such maximum penalty as the law allows in Iowa Code Section 903.1, as now or hereafter amended. Each day that a violation occurs or is permitted to exist by the respondent/defendant constitutes a separate offense.

SECTION 9. SEPARABILITY OF PROVISIONS

It is the intention of the Board of Supervisors that each section, paragraph, sentence, clause and provision is separable, and if any provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of this Ordinance nor any part thereof other than that affected by such decision.

That this Ordinance shall be in full force and effect from and after its passage and publication as provided by law.

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