
HAZARDOUS SUBSTANCES ORDINANCE

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 Clayton to clean up such spills upon failure to do so, and providing penalties for the violation thereof.

HAZARDOUS SUBSTANCES

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. (445B.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 307 of the federal Water Pollution Control Act as amended to January

1, 1977, or any hazardous substance designated under 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. (445B.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. (445B.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. (445B.381(8), Code of Iowa).
- E. "Cleanup" means actions necessary to contain, collect, control, identify, analyze, clean up, treat, disperse, remove, or dispose of a hazardous substance or hazardous waste. (445B.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.

(4.1(13), 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 waters, including ground waters, the responsible person shall cause the condition to be remedied by a cleanup, as defined by .02(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 the 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 Clayton 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 and county office in the manner established by the state.

SECTION 6. POLICY AUTHORITY: If the circumstances reasonably so require, the Clayton 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: Clayton 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 ~~.02 (d)~~ SECTION 2. D.

SECTION 8. PENALTY: Any person violating any provision, section, or paragraph of this Ordinance shall be guilty of a misdemeanor, and on conviction thereof, be subject to a fine of not more than ~~\$100.00~~ \$1000 or be imprisoned for not more than 30 days. Each day a violation occurs shall constitute 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.

Changes to the ordinance:

1. The word title is added.
2. The Sections and subsequent lettering are cleaned up.
3. Under section 2.A.1 the comma needs to be removed after irreversible.
4. Under Notifications, section 5, I have added letter B. Jones county has this in their ordinance. I spoke with Sarah Moser, EMA, and she thought this was a good addition to our ordinance.

