

## TITLE V PUBLIC ORDER, SAFETY, AND HEALTH

### CHAPTER 6 HAZARDOUS MATERIALS

5-6-1	Title	5-6-7	Law Enforcement Authority
5-6-2	Purpose	5-6-8	Liability
5-6-3	Definitions	5-6-9	Penalty
5-6-4	Cleanup Required	5-6-10	Enforcement
5-6-5	Liability for Cleanup Costs	5-6-11	Severability
5-6-6	Notification		

**5-6-1 TITLE.** An Ordinance requiring that persons responsible for the storing, handling and transportation of hazardous materials shall at their own cost clean up any leaks or spills of those materials and providing remedies for Sac County to clean up spills if the responsible party fails to do so, and to recover the cost.

**5-6-2 PURPOSE.** In order to reduce the danger to public health, safety and welfare from the leaks and spills of hazardous substances, these regulations are promulgated to establish responsibility for the treatment, removal and cleanup of leaks and spills within Sac County.

**5-6-3 DEFINITIONS.** For the purpose of this ordinance these words have the following meaning:

1. "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:

a. Causes, or significantly contributes to an increase in serious irreversible, or incapacitating reversible, illness.

b. Poses a substantial danger to human health or the environment. "Hazardous waster" 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:

a. Agricultural wastes, including matures and crop residues that are returned to the soil as fertilizers or soil conditioners.

b. Source, special nuclear, or by-product materials as defined in the Atomic Energy Act of 1954, as amended to January 1, 1979.

(455B.411(2), Code of Iowa)

2. "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 (EPA) under the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, or any toxic pollutant listed under sub 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 Material Transportation Act.

(455B.411(2), Code of Iowa)

3. "Hazardous conditions" 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.

(Sub section 445B.381(2), Code of Iowa)

4. "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 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.

(455B.381(8), Code of Iowa)

5. "Clean up" means action necessary to contain, collect, control, identify, analyze, clean up, treat, disperse, remove, or dispose of a hazardous substance or hazardous waste. (455B.381(6), Code of Iowa)

6. "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)

7. "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, safe for transport, amenable for recovery, amenable for storage, or to reduce it in volume. Treatment includes any activity or processing design to change the physical form or chemical composition of hazardous substance to render it non-hazardous.

#### 5-6-4 CLEANUP REQUIRED.

1. 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, defined by sub 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.

2. If the responsible person does not cause the clean-up 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 clean-up or the County may provide clean-up services.

If the cost of the clean up 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 clean up.

#### 5-6-5 LIABILITY FOR CLEANUP COSTS.

1. The reasonable person shall be strictly liable to the County for all of the following:

a. The reasonable cleanup costs incurred by the County as a result of the failure of the person to cleanup a hazardous substance or waste involved in a hazardous condition caused by that person, including emergency treatment of the hazardous condition.

b. The reasonable costs incurred by the County to evacuate people from the area threatened by a hazardous condition caused by the person.

c. 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.

#### 5-6-6 NOTIFICATION.

1. A person manufacturing, storing, handling, transporting, or disposing of a hazardous substance or waste shall notify the Sac County Communications Center in Sac City and/or contact the Department of Natural Resources in Des Moines, 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.

If the incident is reported to any local fire department, or law enforcement agency, they shall notify the Sac County Communications Center who will notify the proper State agencies in the manner established by the State.

2. Any county employee or any member of a law enforcement agency, or any member of a fire department who discovers a hazardous condition shall notify the Sac County Communications Center, who will notify the proper State Agencies in the manner established by the State.

#### 5-6-7 LAW ENFORCEMENT AUTHORITY.

If the circumstances reasonably so require, a Law Enforcement Officer or his representative may:

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1. Evacuate persons 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 and limit access to clean-up personnel.

No person shall disobey an order of any Law Enforcement Officer issued under this section.

**5-6-8 LIABILITY.** Sac 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 5-6-3(4).

**5-6-9 PENALTY.** Any person violating any provision, section, or paragraph of this Ordinance shall be guilty of a misdemeanor, or on conviction thereof be subject to a fine of not more than \$500.00 or be imprisoned for not more than 30 days. Each day a violation occurs shall constitute a separate offense.

**5-6-10 ENFORCEMENT.** This Ordinance may be enforced by any peace officer certified by the State of Iowa, by any County Emergency Management employee, Weed Control Commissioner, Roadside Maintenance Manager, or any member of, or employee of, the Sac County Secondary Roads Department.

**5-6-11 SEVERABILITY.** If any such provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of the Ordinance nor any part thereof other than that affected by such decision.

(Ord. 92-2, Passed Nov. 4, 1992)