

CHAPTER 37

HAZARDOUS SUBSTANCE SPILLS

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37.01 PURPOSE. In order to reduce the danger to the 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 City limits.

37.02 DEFINITIONS. For purposes of this chapter, these words have the following meanings:

1. "Cleanup" means action necessary to contain, collect, control, identify, analyze, clean up, treat, disperse, remove, or dispose of a hazardous substance or hazardous waste.

2. "Hazardous condition" means any situation involving the actual, imminent, or probable spillage, leakage, or release of a hazardous substance which, because of the quantity, strength and toxicity of the hazardous substance, its mobility in the environment and its persistence, creates an immediate potential danger to the public health or safety of persons or property. The term "hazardous condition" includes any accident involving hazardous materials required to be reported under Section 321.266(4) of the Code of Iowa.

3. "Hazardous substance" means and includes any, each and all substances or materials regulated pursuant to any Environmental Laws, including, but not limited to, any such substance, emission or material now defined as or deemed to be a regulated substance, hazardous substance, toxic substance, pesticide, explosives, radioactive materials, hazardous waste or any similar or like classification or categorization there under. "Hazardous substance" also means any substance or mixture of substances that presents a danger to the public health or safety or environment and includes, but is not limited to, a substance that is toxic, corrosive, or flammable, or that is an irritant or that in confinement generates pressure through decomposition, heat, or other means. The following are examples of substances which, in sufficient quantity, may be hazardous: acids; alkalis; explosives; fertilizers; heavy metals such as chromium, arsenic, mercury, lead and cadmium; industrial chemicals,

paint thinners; paints; pesticides; petroleum products; poisons; radioactive materials; sludge; and organic solvents. "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.

4. "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 of the following effects:

A. Causes or significantly contributes to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or

B. 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.

5. "Hazardous waste" does not include:

A. Agricultural wastes, including manures and crop residues that are returned to the soil as fertilizers or soil conditioners;

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

6. "Person" means individual, corporation, firm, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

7. "Responsible person" means the person, whether the owner, agent, lessor, tenant, or operator, in charge of the hazardous substance being stored, processed or handled, or the owner or bailee transporting hazardous wastes or substances whether on public ways or ground or on private property, where the existence or spill of such substance would cause danger to the public or to any person, or damage to the environment.

37.03 CLEANUP REQUIRED.

1. Whenever a hazardous condition is created so that a hazardous 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 in the preceding section, 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 costs of cleanup shall be borne by the responsible person.

2. 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 City may, by authorization of the Mayor or designee, give reasonable notice, based on the character of the hazardous condition, setting a deadline for commencing and accomplishing the cleanup, or the City may proceed to procure cleanup services. If the cost of the cleanup is beyond the capacity of the City to finance, the Mayor or designee may report to the City Council and immediately seek any State or Federal funds available for said cleanup.

37.04 LIABILITY FOR CLEANUP COSTS. The responsible person shall be strictly liable to the City for all of the following:

1. The reasonable costs incurred by the City or the agents of the City in containing and/or controlling a hazardous condition.

2. The reasonable cleanup costs incurred by the City or the agents of the City 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.

3. The reasonable costs incurred by the City or the agents of the City to evacuate people from the area threatened by a hazardous condition caused by the person.

4. The reasonable damages to the City for the injury to, destruction of, or loss of City 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. The excessive and extraordinary cost incurred by the City or the agents of the City in responding at and to the scene of a hazardous condition caused by that person.

6. The costs referenced above shall be as determined by the Fire Chief for: manpower, apparatus, ambulance/rescue squad, command vehicle or utility truck, supplies and outside services, mileage, and decontamination, repairs, replacement, maintenance of equipment, apparatus or supplies, plus a reasonable administrative fee. It is unlawful for any responsible person to fail to pay a billing for such services within thirty (30) days of the receipt therefor.

(Ord. 825 – Jan. 10 Supp.)

37.05 NOTIFICATIONS.

1. A person manufacturing, storing, handling, transporting, or disposing of a hazardous substance or waste shall notify the Chief of the Fire Department of the occurrence of a hazardous condition as soon as possible but no later than one hour after the onset of the hazardous condition or discovery of the hazardous condition. The Fire Chief shall notify the proper State office in the manner established by the State.
2. Any City employee who discovers a hazardous condition shall notify the fire department, which shall then notify the proper State office in the manner established by the State.

37.06 POLICE AUTHORITY. If the circumstances reasonably require, the Chief of the Fire Department or Chief of Police, or their representative(s) 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 and limit access to only cleanup personnel.

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

37.07 CITY LIABILITY. The City shall not be liable to any person for claims of damages, injuries, or losses resulting from any hazardous condition, except if the City is the responsible person as defined in Section 37.02(7).

37.08 PENALTY. Any person who fails to perform an act required by this chapter or who commits an act prohibited by this chapter shall be guilty of a County infraction punishable by a civil penalty as provided by in this Code of Ordinances. The responsible person or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties provided herein. Each day the responsible person or other person allows a violation to continue shall constitute a separate and distinct violation. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ch. 37 – Ord. 811 – May 08 Supp.)

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