

CHAPTER 36

HAZARDOUS SUBSTANCE SPILLS

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36.01 PURPOSE. In order to reduce the danger to the public health, safety and welfare from the leaks and spills of hazardous substance or hazardous wastes, these regulations are promulgated to establish responsibility for the treatment, removal and cleanup of hazardous substance or hazardous waste spills within the City limits.

36.02 DEFINITIONS. For purposes of this chapter the following terms are defined:

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

(Code of Iowa, Sec. 455B.381[1])

2. “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 or to the environment.

(Code of Iowa, Sec. 455B.381[4])

3. “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.

(Code of Iowa, Sec. 455B.381[5])

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.

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. It does not include (a) agricultural wastes, including manures and crop residues that are returned to the soil as fertilizers or soil conditioners; or (b) source, special nuclear or by-product material as defined in the Atomic Energy Act of 1954, as amended.

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

6. “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 hazardous waste or is operating under a lease, contract, or other agreement with the legal owner of the hazardous substance or hazardous waste.

(Code of Iowa, Sec. 455B.381[7])

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 nonhazardous, safer for transport, amenable for recovery, amenable for storage or to reduce it in volume. Treatment includes any activity or processing designed to change the physical form or chemical composition of a hazardous substance to render it nonhazardous.

36.03 CLEANUP REQUIRED. Whenever a hazardous condition is created by the deposit, injection, dumping, spilling, leaking or placing of a hazardous substance or hazardous waste, so that the hazardous substance or hazardous waste or a constituent of the hazardous substance or hazardous waste 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. The costs of cleanup shall be borne by the responsible person. 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 an authorized officer, give reasonable notice, based on the character of the hazardous condition, said notice setting a deadline for accomplishing the cleanup and stating that the City will proceed to procure cleanup services and bill the responsible person for all costs associated with the cleanup if the cleanup is not accomplished within the deadline. In the event that it is determined that immediate cleanup is necessary as a result of the present danger to the public health, safety and welfare, then no notice shall be required and the City may proceed to procure the cleanup and bill the responsible person for all costs associated with the cleanup. If the bill for those services is not paid within thirty (30) days, the City Attorney shall proceed to obtain payment by all legal means. If the cost of the cleanup is beyond the capacity of the City to finance it, the authorized officer shall report to the Council and immediately seek any State or Federal funds available for said cleanup.

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

1. The reasonable cleanup costs incurred by the City as a result of the failure of the responsible person to clean up a hazardous substance or hazardous waste involved in a hazardous condition caused by that person, including emergency treatment of the hazardous condition.
2. The reasonable costs incurred by the City to evacuate people from the area threatened by a hazardous condition caused by the person.
3. 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.

36.05 NOTIFICATIONS.

1. A person manufacturing, storing, handling, transporting, or disposing of a hazardous substance or hazardous waste shall notify the State Department of Natural Resources and the Fire 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 Fire Chief shall immediately notify the Department of Natural Resources.

2. Any other person who discovers a hazardous condition shall notify the Fire Department, which shall then notify the Department of Natural Resources.

36.06 POLICE AUTHORITY. If the circumstances reasonably so require, the law enforcement officer or an authorized representative may:

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 cleanup personnel.

No person shall disobey an order of any law enforcement officer issued under this section.

36.07 LIABILITY. The City shall not be liable to any person for claims of damages, injuries, or losses resulting from any hazardous condition, unless the City is the responsible person as defined in Section 36.02[6].

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