

## BOONE COUNTY ORDINANCE #18

TITLE. Hazardous Substances Cleanup Ordinance for Boone County.

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF BOONE COUNTY, IOWA:

Section 1. Purpose. In order to reduce the danger of 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 unincorporated areas of Boone County, Iowa.

Section 2. Definitions. For use in this Ordinance, the following terms or words shall be interpreted or defined as follows:

1. "Authorized Officer": The Boone County, Iowa Sheriff or his official deputy or any law enforcement officer of the State of Iowa or it's political subdivisions.

2. "Board of Supervisors": The Board of Supervisors of Boone County, Iowa.

3. "Cleanup": Actions necessary to contain, collect, control, identify, analyze, cleanup, treat, disperse, remove or dispose of a hazardous substance.

(455B.381(1), Code of Iowa)

4. "County": Boone County, Iowa.

5. "Hazardous Condition": Any situation involving the actual, imminent or probable spillage, leakage or release of a hazardous substance onto the land, into any waters of the state or into the atmosphere which creates an immediate or potential danger to the public health or safety or to the environment.

6. "Hazardous Substance": 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 or corrosive or flammable, 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 material designated by the Secretary of Transportation under the Hazardous Materials Transportation Act.

(455B.381 (5), Code of Iowa)

7A. "Hazardous Waste": 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:

(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, flammable, irritants, strong sensitizers, or explosives.

(455B.411 (4.a), Code of Iowa)

7B. "Hazardous Waste" does not include the following:

(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.

(455B.411 (4.b), Code of Iowa)

8. "Person": Any individual, corporation, firm, government or government subdivision or agency, business trust, estate, trust, partnership or association of any other legal entity.

(4.1 (13), Code of Iowa)

9. "Responsible Person": 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 of waste.

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

10. "Sheriff": The Boone County, Iowa, Sheriff.

11. "State": The State of Iowa.

### Section 3. CLEANUP REQUIRED.

1. Whenever a hazardous condition is created so that a hazardous substance or waste or a constituent of the hazardous substance or 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 Section 2, Para.3 "Cleanup", 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 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. The notice shall set forth a reasonable estimate of the cost of cleanup or treatment and state that the responsible person for the hazardous substance will be billed for all costs associated with the cleanup or treatment, including, but not limited to, equipment rendered unserviceable, personnel costs (including overtime), disposal costs and any other costs associated with the cleanup or treatment.

3. If the bill for the above services is not paid within thirty (30) days, Boone County may proceed, after service of notice, either by certified mail or by one publication in a newspaper of general circulation within Boone County and hearing before the Board of Supervisors, to obtain payment by all available legal means.

4. If the cost of the cleanup is beyond the capacity of the County to finance, the Authorized Officer shall proceed pursuant to Section 455B.387 (2), Code of Iowa and immediately seek any State or Federal funds available for such cleanup.

#### Section 4. Liability for Cleanup Costs.

1. The responsible 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 cause by that person.

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.

#### Section 5. Notifications.

1. A person manufacturing, storing, handling, transporting, or disposing of a hazardous substance or waste shall notify the 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 will notify the property State office.

2. Any county employee or any member of a Law Enforcement Agency or any member of a City Fire Department who discovers a hazardous condition shall notify the Sheriff's Department, which shall notify the proper State office.

Section 6. Law Enforcement Authority. If the circumstances reasonably so require, the Sheriff or his representative may:

1. Evacuate persons, even from their homes, to areas away from the site of a hazardous condition.