

AN ORDINANCE REGARDING HAZARDOUS SUBSTANCES AND WASTES, REQUIRING PERSONS RESPONSIBLE FOR THE STORING, HANDLING AND TRANSPORTATION OF SUCH SUBSTANCES AND WASTES TO RECTIFY HAZARDOUS CONDITIONS: PROVIDING REMEDIES FOR THE COUNTY OF CLARKE TO RECTIFY HAZARDOUS CONDITIONS UPON FAILURE TO DO SO BY THE RESPONSIBLE PERSONS: PROVIDING PENALTIES FOR THE VIOLATION THEREOF.

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

SECTION 1. PURPOSE. In order to reduce the danger to the public health, safety and welfare resulting from conditions created by the storage, transportation, or handling of hazardous substances and/or wastes in Clarke County, these regulations are promulgated to establish the responsibility for the removal, disposing and/or cleaning involving hazardous substances and/or hazardous wastes of Clarke County.

SECTION 2. DEFINITIONS. For the purpose of this ordinance, these terms have the following meanings:

- a. "Hazardous waste" means such wastes as defined in Section 455B.411(4) (a & b), Code of Iowa (1989).
- b. "Hazardous substances" means any substances as defined in Section 455B.381 (1), Code of Iowa (1989).
- c. "Hazardous conditions" means any circumstance as defined in Section 455B.381 (2), Code of Iowa (1989).
- d. "Person having control over a hazardous substance and/or hazardous waste" means a person who at any time in Clarke County produces, handles, stores, uses, transports, refines, or disposes of a hazardous substance and/or hazardous waste the release of which creates a hazardous condition.
- e. "Cleanup" means the same as defined in Section 455B.381 (6), Code of Iowa (1989).
- f. "Treatment" means the same as defined in Section 455B.411 (10), Code of Iowa (1989)
- g. "Authorized person" means the Clarke County Sheriff or his or her duly appointed designee may also appoint the Fire Chief or Disaster Service Director.
- h. "Release" means the same as defined in Section 455B.381 (9), Code of Iowa (1989).
- i. "Person" means individual, corporation, firm, government or government subdivision or agency, business trust estate, trust partnership or association, or any other legal entity as defined in Section 4.1 (13), Code of Iowa (1989).

SECTION 3. NOTIFICATIONS.

- a. Any person manufacturing, storing, handling, transporting, or disposing of a hazardous substance and/or waste shall notify the Clarke County Sheriff's Department (342-2914) of the occurrence of a hazardous condition as soon as possible, but no later than two hours after onset of the hazardous condition or the discovery of the hazardous condition. The Sheriff shall immediately notify (1) Clarke County Disaster Service (342-6654), The Department of Natural Resources at (515) 281-8694 and any member of the appropriate fire department who has received special training in the handling and disposal of a hazardous substance and/or waste.
- b. Any county or municipal employee or member of a law enforcement agency, city or township fire department, or ambulance service who discovers a hazardous condition shall immediately notify the Clarke County Sheriff's Department (342-2914). The authorized person shall notify proper state authority in the manner established by state regulation.

SECTION 4. LAW ENFORCEMENT AUTHORITY. If the circumstances require, the authorized person may:

- a. Order evacuation of person to areas away from the site of a hazardous condition, and/or
- b. Establish perimeters or other boundaries at or near the site of hazardous condition and limit access to such site.

No person shall disobey an order of the authorized person or any law enforcement official acting under direction of the authorized person issued under this Section. Disobedience of an order issued under this Section is punishable as stated in Section 8 of this Ordinance.

SECTION 5. CLEANUP REQUIRED.

- a. Whenever a hazardous condition is created, the person having control over a hazardous substance and/or hazardous waste shall alleviate the condition by cleanup and/or treatment, as defined by Section 2(e) and (f) of the Ordinance, and shall restore the affected area to its condition prior to the hazardous condition as far as practicable. The cost of cleanup and/or treatment shall be borne by the person having control over a hazardous substance and/or hazardous waste.
- b. If the person having control over a hazardous substance and/or hazardous waste cannot be located within a two hour period of time or if the person having control over a hazardous substance and/or hazardous waste does not cause the cleanup and/or treatment to begin within a two hour period of time, the County may, by the authorized person, give notice (which shall be reasonable in form considering the character of the hazardous condition). The notice shall

state (1) A deadline for accomplishing the cleanup and/or treatment. (2) That the county will proceed to procure cleanup and/or treatment service if the cleanup and/or treatment is not accomplished within the deadline. (3) A reasonable estimate of the cost of cleanup and/or treatment. (4) The person having control over a hazardous substance will be billed for all cost associated with the cleanup and/or treatment, including, but not limited to equipment rendered unserviceable, personnel cost (including overtime), disposal cost and any other cost associated with the cleanup and/or treatment.

- c. If the bill for the above services is not paid within thirty (30) days, Clarke County may proceed after service of notice, either by certified mail or by three publications in a newspaper having general circulation within Clarke County, and hearing before the Board of Supervisors, to obtain payment by all available legal means.
- d. If the cost of cleanup and/or treatment is beyond the capacity of the County to finance it, the authorized person shall proceed pursuant to Section 455B.423, Code of Iowa (1989) and immediately seek any state or federal funds available for such cleanup or treatment.

SECTION 6. LIABILITY FOR CLEANUP COST. The person having control over a hazardous substance and/or hazardous waste shall be strictly liable to Clarke County for cleanup costs incurred by Clarke County. The scope of the liability for cleanup cost shall be consistent with liability to the state as defined in Section 455B.392 & 455B.418 (1) (c) Code of Iowa (1989).

SECTION 7. COUNTY LIABILITY. Except where Clarke County is the responsible person as defined in Section 2 (e) of this Ordinance. The County shall not be liable to any person for claims of damages, injuries, and/or loss resulting from any hazardous condition(s).

SECTION 8. PENALTY. Any person violating any provision, section, or paragraph of this Ordinance shall be guilty of a simple misdemeanor, and upon conviction be subject to a fine not exceeding \$100.00 or be imprisoned for not more than thirty (30) days. Each day of violation 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 of this Ordinance is separable, and if any such provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of this Ordinance or any part thereof other than that affected by such decision.

SECTION 10. This Ordinance shall be in full force and effect from and after its passage and publication as provided by law.

PASSED AND ADOPTED by the Clarke County Board of Supervisors this 3rd day of June, 1991; and effective this 3rd day of June, 1991.

CLARKE COUNTY BOARD OF SUPERVISORS

CLARKE COUNTY AUDITOR

Leonard Siefkas, Chairman

ATTEST: Anita Chandler

Dennis Chaney, Member

Steve Smith, Member