

**Marshall County
Ordinance #5**

HAZARDOUS WASTE AND SUBSTANCE MANAGEMENT

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

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

SECTION 1. Purpose. In order to reduce the danger to the public health, safety and welfare resulting from hazardous conditions created by the storage, transportation, or handling of hazardous substances and/or wastes in Marshall County, these regulations are promulgated to establish the responsibility for the removal and clean-up of hazardous conditions involving hazardous substances and/or hazardous wastes which may create an immediate and/or potential danger to the public health, safety and welfare within the limits of Marshall County.

SECTION 2. Definitions. For the purpose this Ordinance, these terms have the following meanings.

A. "Hazardous Waste" means such wastes as defined in Section 455B.411, Code of Iowa: "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:

(1) Causes, or significantly contributes to increase in mortality or an increase in serious irreversible or incapacitating reversible, illness.

(2) Poses a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed. "Hazardous Waste" 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:

(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.

B. "Hazardous Substance" means any substances as defined in the Section 455B.381, Code of Iowa: 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.

C. “Hazardous Condition” means any circumstance as defined in Section 455B.381, Code of Iowa: Any situation involving the actual, imminent, or probable spillage, leakage, or release of a hazardous substance and/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. For purposes of this division, a site which is abandoned or uncontrolled disposal site as defined in Section 455B.411 is a hazardous condition.

D. “Person having control over a hazardous substance and/or hazardous waste” means a person who at any time in Marshall 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, including bailees, carriers, and person in control of a hazardous substance and/or hazardous waste when a hazardous condition occurs, whether the person owns the hazardous substance and/or hazardous waste, or is operating under a lease, contract, or other agreement with the legal owner of a hazardous substance and/or hazardous waste.

E. “Cleanup” means the same as defined in Section 455B.381, Code of Iowa, Actions necessary to contain, collect, control, identify, analyze, clean up, treat, disperse, remove, or dispose of a hazardous substance.

F. “Treatment” means the same as defined in Section 455B.411, Code of Iowa; A method, technique, or process, including neutralization, designed to change the physical, chemical or biological character or composition of a hazardous substance and/or hazardous waste so as to neutralize it and/or render it nonhazardous, safe for transport, amenable for recovery and for 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 and/or hazardous waste to render it nonhazardous.

G. “Authorized Person” means the Marshall County Sheriff or his or her duly appointed designee may also appoint the Fire Chief or Assistant Fire Chief of any municipality or fire district as his or her temporary deputy, or may delegate the duties of Authorized Person to such Fire Chief or Assistant Fire Chief, in his or her discretion.

H. “Release” means the same as defined in Section 455B381, Code of Iowa: A threatened or real emission, discharge, spillage, leakage, pumping, pouring, emptying, or dumping of a hazardous substance and/or hazardous waste into or onto the land, air, or waters of the state unless one of the following applies;

(1) The release is done in compliance with the conditions of a federal or state permit.

(2) The hazardous substance and/or hazardous waste is confined and expected to stay confined to property owned, leased or otherwise controlled by the person having control over the hazardous substance and/or hazardous waste.

(3) In the use of pesticides, the application is done in accordance with the product label.

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 Chapter 4, Section 4.1, Code of Iowa.

SECTION 3. Notifications.

A. Any person manufacturing, storing, handling, transporting, or disposing of a hazardous substance and/or waste shall notify the Marshall County Communication Center at the non-emergency number 641-754-5725 or life threatening emergency number (9-1-1) of the occurrence of a hazardous condition as soon as possible, but no later than six hours after the onset of the hazardous condition or discovery of the hazardous condition. The Communications Center shall immediately notify the Marshall County Emergency Management Agency and Department of Natural Resources at (515) 725-8694 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 Marshall County Communication Center. The authorized person shall notify Marshall County Emergency Management and proper state authority in the manner established by state regulation.

SECTION 4. Law Enforcement Authority. If the circumstances so require the authorized person may:

A. Order evacuation of persons to areas away from the site of a hazardous condition, and/or

B. Establish perimeters or other boundaries at or near the site of a hazardous condition and limit access to such site.

No person shall disobey an order of the authorized person or any law enforcement official, Emergency Management Agency or Fire Department 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 so that a hazardous substance and/or hazardous waste and/or a constituent of a hazardous substance and/or hazardous waste has entered or may enter the environment, be emitted into the air, and/or discharged into any waters, including ground waters, then 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 this 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 waste cannot be located within a reasonable period of time, or if the person having control over a hazardous substance and/or hazardous waste does not cause the treatment to begin within a time reasonable in relation to the hazard and circumstances of the incident, 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) The County will proceed to procure cleanup and/or treatment services if the cleanup and/or treatment is not accomplished within the deadline.
- (3) A reasonable estimate of the cost of the cleanup and/or treatment.
- (4) The person having control over a hazardous substance will be billed for all costs associated with the cleanup and/or treatment, including but not limited to equipment rendered unserviceable, personnel costs (including overtime), disposal costs and any other costs associated with the cleanup and/or treatment.

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

D. If the cost of the cleanup and/or treatment is beyond the capacity of the County to finance it, the authorized person shall proceed pursuant to Sections 455B.387 and 455B.423, Code of Iowa 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 Marshall County and Emergency Management Agency for cleanup costs incurred by Marshall County. The scope of the liability for cleanup costs shall be consistent with liability to the state as defined in Section 455B.392 Code of Iowa.

SECTION 7. County Liability. Except where Marshall 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 the Ordinance is separable, and if any such provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of the Ordinance or any part thereof other than that affected by such decision.

SECTION 10. Effect. The Amendment to this Ordinance shall be in effect after its final passage, approval and publication as provided by law.

History:

Hazardous Waste and Substance Management

Ordinance #5 was formerly titled: "Hazardous Substance"

July 18, 1988, Adopted, Recorded Instrument No. 01644-1988-9

May 28, 2019, Adopted Amendment No. 19-01, Recorded Instrument No. 2019-00003322