

TITLE II - COMMUNITY PROTECTION  
DIVISION 2 - ENFORCEMENT: PUBLIC OFFENSES

CHAPTER 50  
HAZARDOUS SUBSTANCE SPILLS

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

50.02 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.

(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 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.

(Code of Iowa, Sec. 455B.381[3])

5. "Person having control over a hazardous substance" means a person who at any time produces, handles, stores, uses, transports, refines, or disposes of a hazardous substance, the release of which creates a hazardous condition, including bailees, carriers, and any other person in control of a hazardous substance when a hazardous condition occurs, whether the person owns the hazardous substance or is operating under a lease, contract, or other agreement with the legal owner of the hazardous substance.

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

**50.03 CLEANUP REQUIRED.** Whenever a hazardous condition is created so that a hazardous substance or waste or a constituent of the hazardous waste or substance may enter the environment or be emitted into the air or discharged into any waters, including ground waters, the person having control over the hazardous substance 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 person having control over the hazardous substance. If the person having control over the hazardous substance 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 person having control over the hazardous substance for all costs associated with the cleanup. If the cost of the cleanup is beyond the capacity of the City to finance, the authorized officer shall report to the Council and immediately seek any State or Federal funds available for said cleanup.

50.04 LIABILITY FOR CLEANUP COSTS. The person having control over the hazardous substance 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 said person to clean up a hazardous substance or waste involved in a hazardous condition caused by that person.
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.

50.05 NOTIFICATIONS.

1. A person manufacturing, storing, handling, transporting, or disposing of a hazardous substance or waste shall notify the State Department of Natural Resources and the Police Department of the City 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 Police Chief shall immediately notify the Department of Natural Resources.
2. Any other person who discovers a hazardous condition shall notify the Police Department, the Fire Department or the County Office of Emergency Management, which shall then notify the Department of Natural Resources.

50.06 POLICE AUTHORITY. If the circumstances reasonably so require, the Police Department and/or the County Office of Emergency Management 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 such site to persons engaged in cleanup or treatment.

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

50.07 CITY LIABILITY. Except where the City is the person having control over the hazardous substance as defined in this chapter, the City shall not be liable to any person for claims of damages, injuries, or losses resulting from any hazardous condition.

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