

ORDINANCE NO. 18

THE HAZARDOUS SUBSTANCE ORDINANCE OF CERRO GORDO COUNTY, IOWA. AN ORDINANCE, PROVIDING REGULATIONS REGARDING HAZARDOUS SUBSTANCES, AND REQUIRING PERSONS RESPONSIBLE FOR THE STORAGE, HANDLING, AND TRANSPORTATION OF SUCH SUBSTANCES TO CLEAN UP SPILLS, AND PROVIDING REMEDIES FOR THE COUNTY OF CERRO GORDO TO CLEAN UP SUCH SPILLS UPON FAILURE TO DO SO, AND PROVIDING PENALTIES FOR THE VIOLATIONS THEREOF.

The Cerro Gordo County Board of Supervisors, hereby adopts the following regulation to wit:

Section 1 - HAZARDOUS SUBSTANCES

1.1: PURPOSE. In order to reduce the danger to 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 County limits.

1.2: DEFINITIONS. For the purpose of this Chapter, these words have the following meanings:

(A) "Hazardous waste" means any substance as defined in Section 455.130, subsection 2, paragraph a, Code of Iowa.

(B) "Hazardous substance" means any substance as defined in Section 455B.110, subsection 1, Code of Iowa.

(C) "Hazardous condition" means the same as set out in Section 455B.110, subsection 2, Code of Iowa.

(D) "Responsible person" means the party, whether the owner, agent, leaser, tenant, in charge of the hazardous substance or hazardous wastes being stored, processed, or handled, or the owner of bailee transporting hazardous wastes or substances whether on public ways or grounds or on private property where the spill would cause danger to the public or to any person or to the environment.

(E) "Cleanup" means the removal of the hazardous wastes or substances to a place where the waste will not cause any danger to persons or the environment, in accordance with state rules thereof or the treatment of the material as defined herein to eliminate the hazardous condition, including the restoration of the area to a general good appearance without noticeable odor as far as practicable.

(F) "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 non-hazardous, safer for transport, amenable for recovery, amendable for storage, or to reduce it in volume.

Treatment includes any activity or processing designed to change the physical form or chemical composition of hazardous substance to render it non-hazardous.

Section 2 - CLEANUP RESPONSIBILITY

2.0: CLEANUP REQUIRED. Whenever a hazardous condition is created by the deposit, injection, dumping, spilling, leaking or placing of a hazardous waste or substance 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 County may, by an authorized officer, give reasonable notice, based on the hazardous condition, said notice setting a deadline for accomplishing the cleanup or that the County will proceed to procure cleanup services and setting forth a reasonable estimate of the costs of cleanup and bill the responsible person for all costs associated with the cleanup, including but not limited to equipment rendered unserviceable; personnel costs, including overtime; disposal costs; and any other costs associated therewith. If the bill for those services is not paid within thirty (30) days, the County of Cerro Gordo will proceed after service of notice by certified mail and if the responsible person does not acknowledge the certified letter by either failure to respond, sign or accept, the County of Cerro Gordo will proceed with one publication in the local newspaper and a hearing before the Board of Supervisors, to obtain payment by all legal means. If the cost of the cleanup is beyond the capacity of the County to finance it, the authorized officer shall report to the Board of Supervisors and immediately seek any state or federal funds available for said cleanup.

Section 3 - NOTIFICATION

3.0: The first county officer or employee who arrives at the scene or an incident involving hazardous substances, if not a peace officer, shall notify the Sheriff's Department which shall notify the proper state offices in the manner established by the state.

Section 4 - POLICE AUTHORITY

4.0: If the circumstances reasonably so require, the Sheriff of Cerro Gordo Sheriff's Department or his representative, may:

(A) Evacuate persons, even from their homes, to areas away from the site of a hazardous condition, and

(B) Establish perimeters or other boundaries at or near the site of a hazardous condition beyond which no person shall cross.

Section 5 - COUNTY LIABILITY

5.0: The County of Cerro Gordo shall not be liable for any losses occurring due to any hazardous condition created which may be claimed by any person, firm, or corporation.

Section 6 - PENALTIES

6.0: Any person, firm, or corporation violating any regulation in or any provisions of the Ordinance or of any amendment or supplement thereto, shall be guilty of a simple misdemeanor which is punishable by a fine or not more than one hundred dollars (\$100) or by imprisonment of not more than thirty (30) days and shall be guilty of a county infraction punishable by a civil penalty not to exceed two hundred dollars (\$200). Each day that a violation occurs or is permitted by the defendant to exist, constitutes a separate offense.

Section 7 - SEPARABILITY OF PROVISION

7.0: If any section, paragraph, clause or provision of this ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not effect any of the remaining provision of this ordinance.

Section 8 - REGULATION EFFECTIVE UPON PUBLICATION

8.0: This regulation being deemed essential and imperative for the preservation of the public health, shall be in force and effect from and after its passage and publication as provided by law.

Adopted by the Cerro Gordo County Board of Supervisors this 9th day of April, 1991.

Chairman, Board of Supervisors