

**CHAPTER 5.10  
HAZARDOUS SUBSTANCES**

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5.10.010 **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 unincorporated areas of Pottawattamie County, Iowa. (*Ordinance #88-7/July 1, 1988*)

5.10.020 **DEFINITIONS:** For the purpose of this Chapter, the following terms and words are hereby defined. (*Ordinance #88-7/July 1, 1988*)

.01 **AUTHORIZED OFFICER:** The Pottawattamie County, Iowa, Sheriff or his official deputy. (*Ordinance #88-7/July 1, 1988*)

.02 **BOARD OF SUPERVISORS:** The Board of Supervisors of Pottawattamie County, Iowa. (*Ordinance #88-7/July 1, 1988*)

.03 **CLEANUP:** Actions necessary to contain, collect, control, identify, analyze, clean up, treat, disperse, remove or dispose of a hazardous substance or hazardous waste. (455B.381(6), Code of Iowa) (*Ordinance #88-7/July 1, 1988*)

.04 **COUNTY:** Pottawattamie County, Iowa. (*Ordinance #88-7/July 1, 1988*)

.05 **HAZARDOUS CONDITION:** Any situation involving the actual, imminent or probable spillage, leakage, or release of a hazardous substance 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. (455B.381(2), Code of Iowa) (*Ordinance #88-7/July 1, 1988*)

.06 **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, corrosive or flammable, or that is an irritant or that generates pressure through decomposition, heat or other means. (*Ordinance #88-7/July 1, 1988*)

“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 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. (455B.381(1), Code of Iowa) (*Ordinance #88-7/July 1, 1988*)

.07 **A. 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: (*Ordinance #88-7/July 1, 1988*)

(1) Causes, or significantly contributes to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness. (*Ordinance #88-7/July 1, 1988*)

(2) Poses a substantial danger to human health or the environment. “Hazardous Waste” which may include but is not limited to wastes that are toxic, corrosive or flammable or irritants, strong sensitizers or explosives. (*Ordinance #88-7/July 1, 1988*)

**B. HAZARDOUS WASTE** does not include the following: (*Ordinance #88-7/July 1, 1988*)

(1) Agricultural wastes, including manure and crop residues that are returned to the soil as fertilizers or soil conditioners. (*Ordinance #88-7/July 1, 1988*)

(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(2), Code of Iowa) (*Ordinance #88-7/July 1, 1988*)

.08 **PERSON:** Any individual, corporation, firm, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity. (4.1(13), Code of Iowa) (*Ordinance #88-7/July 1, 1988*)

.09 **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 a 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 owners of the hazardous substance or waste. (455.381(8), Code of Iowa) (*Ordinance #88-7/July 1, 1988*)

.10 **SHERIFF:** The Pottawattamie County, Iowa, Sheriff. (*Ordinance #88-7/July 1, 1988*)

.11 **STATE:** The State of Iowa. (*Ordinance #88-7/July 1, 1988*)

5.10.030 **CLEANUP REQUIRED:**

.01 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

responsible person shall cause the condition to be remedied by a cleanup, as defined in Subsection 5.10.020.05, 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 the clean shall be borne by the responsible person. (Ordinance #88-7/July 1, 1988)

- .02 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. If the cost of the cleanup is beyond the capacity of the County to finance, the authorized officer shall report to the Board of Supervisors and immediately seek any state or federal funds available for such cleanup. (Ordinance #88-7/July 1, 1988)

5.10.040 **LIABILITY FOR CLEANUP COSTS:**

- .01 The responsible person shall be strictly liable to the County for all of the following: (Ordinance #88-7/July 1, 1988)
  - 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 caused by that person. (Ordinance #88-7/July 1, 1988)
  - B. The reasonable costs incurred by the County to evacuate people from the area threatened by the hazardous condition caused by the person. (Ordinance #88-7/July 1, 1988)
  - 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. (Ordinance #88-7/July 1, 1988)

5.10.050 **NOTIFICATIONS:**

- .01 A person manufacturing, storing, handling, transporting, or disposing of a hazardous substance or waste shall notify the Pottawattamie County, Iowa, 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 shall notify the proper State office in the manner established by the State. (Ordinance #88-7/July 1, 1988)
- .02 Any County employee or any member of the law enforcement agency, or any member of a city, township or fire district fire department who discovers a hazardous condition shall notify the Sheriff's Department, which shall notify the proper State office in the manner established by the State. (Ordinance #88-7/July 1, 1988)

5.10.060 **POLICE AUTHORITY:** If the circumstances reasonably so require, the Pottawattamie County Sheriff or his representative may: (Ordinance #88-7/July 1, 1988)

- .01 Evacuate persons, even from their homes, to areas away from the site of a hazardous condition, and
- .02 Establish a perimeter or other boundaries at or near the site of a hazardous condition and limit access to cleanup personnel.

No person shall disobey an order of the Sheriff or any other deputy or peace officer/law enforcement officer issued under this Section. (Ordinance #88-7/July 1, 1988)

5.10.070 **COUNTY LIABILITY:** Pottawattamie County, Iowa, shall not be liable to any person for claims of damages, injuries, or losses resulting from any hazardous condition, except, if the County is the responsible person as defined in Subsection 5.10.020.04. (Ordinance #88-7/July 1, 1988)

5.10.080 **PENALTY:** Any person violating any provision, section or paragraph of this Chapter, shall be guilty of a simple misdemeanor, and on conviction thereof be subject to a fine of not more than \$100.00 or be imprisoned for not more than thirty (30) days for each offense. (Ordinance #88-7/July 1, 1988)

Each day a violation occurs shall constitute a separate offense.