

ORDINANCE NO. 13
REVISED (2008)
HAZARDOUS SUBSTANCE SPILLS

AN ORDINANCE PROVIDING FOR THE TREATMENT, REMOVAL AND CLEANUP OF HAZARDOUS SUBSTANCE SPILLS

1. **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 Adair County.

2. **DEFINITIONS:** For purpose of this Ordinance the following terms are defined:
 - A. "Cleanup" means actions necessary to contain, collect, control, identify, analyze, cleanup, treat, disperse, remove or dispose of a hazardous substance.
 - B. "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. For purpose of this division, a site which is a hazardous waste or hazardous substance disposal site as defined in Iowa Code Section 455B.411 Subsection 4, as amended, is a hazardous condition.
 - C. "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 designed under Section 311 of the Federal Water Pollution Control Act as amended to January 1, 1977, or any Hazardous Materials Transportation Act.
 - D. "Responsible Person" 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.

3. **CLEANUP REQUIRED:** Whenever a hazardous condition is created by the deposit, injection, dumping, spilling, leaking or release of a hazardous substance, so that the hazardous substance or a constituent of the hazardous 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 such as the Emergency Management Coordinator (EMC), give reasonable notice, based on the character of the hazardous condition, said notice setting a deadline for accomplishing the

cleanup and stating that the County will proceed to procure cleanup services and bill the responsible person for all costs associated with the cleanup if the cleanup is not accomplished within the deadline. In the event that it is determined that immediate cleanup is necessary as a result of the present danger to the public health, safety and welfare, then no notice shall be required and the County may proceed to procure the cleanup and bill the responsible person for all costs associated with the cleanup. If the bill for those services is not paid within thirty (30) days, the County Attorney shall proceed to obtain payment by all legal means. If the cost of the cleanup is beyond the capacity of the County to finance, the EMC shall report to the Board of Supervisors and immediately seek any State or Federal funds available for said cleanup.

4. LIABILITY FOR CLEANUP COSTS: The responsible person shall be strictly liable to the County for all the following:
 - A. The reasonable cleanup costs incurred by the County as a result of the failure of the responsible person to clean up a hazardous substance involved in a hazardous condition.
 - B. The reasonable costs incurred by the County to evacuate people from the area threatened by a hazardous condition caused by the responsible person.
 - 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.
 - D. The reasonable costs incurred by the County in containing and/or controlling a hazardous condition.
 - E. The costs referenced above shall be as determined by the local fire chief for: manpower, apparatus, ambulance/rescue squad, command vehicle or utility truck, supplies and outside services, mileage, and decontamination, repairs, replacement, maintenance of equipment, apparatus or supplies, plus a reasonable administrative fee. It is unlawful for any responsible person to fail to pay a billing for such services within thirty (30) days of receipt.

5. NOTIFICATIONS:
 - A. The responsible person or representative of the responsible person shall immediately notify the Adair County Sheriff's office of any release of a hazardous substance that may, or has in fact, spread beyond the confines of the responsible person's property, thereby posing the possible or actual adverse effect on any population, public or private property, including roads, streets or alleys and their rights-of-way, or to the environment. The Adair County Sheriff's Office shall immediately notify the Adair County Emergency Management Coordinator, who will notify the applicable emergency response services and the Iowa Department of Natural Resources.
 - B. Any other person who discovers a hazardous condition shall notify the Adair County Sheriff's Office, which shall then notify the Adair County Emergency Management Coordinator, who will notify the applicable emergency response services and the Department of Natural Resources.

6. AUTHORITY: If the circumstances reasonably so require, a law enforcement officer or an authorized representative of the Fire Department may:
 - A. Evacuate persons 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 and limit access to cleanup personnel.

No person shall disobey an order of any law enforcement officer or authorized representative of the Fire Department issued under this section.

- 7. LIABILITY: The County shall not be liable to any person for claims of damages, injuries, or losses resulting from any hazardous condition, unless the County is the responsible person as defined herein.
- 8. REPEALER: All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed. However, such repeal shall be only to the extent of such conflict.
- 9. SEVERABILITY CLAUSE: If any section, provision or part of this ordinance shall be adjudged invalid, or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.
- 10. EFFECTIVE DATE: This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed by the Adair County Board of Supervisors the 13th day of May, 1998, and approved this 13th day of May, 1998.

Richard Reis, Chairman

ATTEST:

Jenice Wallace, Auditor

Passed this amended Hazardous Substance Spill Ordinance by the Adair County Board of Supervisors the 16th day of January, 2008, and approved this 16th day of January, 2008.

Richard Dolan, Chairman

ATTEST:

Jenice Wallace, Auditor

1st Reading__ 1-9-08_____

2nd Reading__ 1-16-08_____

3rd Reading__ waived_____