

## ORDINANCE NO. V.1

### **AN ORDINANCE RELATING TO HAZARDOUS SUBSTANCES AND WASTE REQUIRING PERSONS RESPONSIBLE FOR THE STORING, HANDLING AND TRANSPORTATION OF SUCH SUBSTANCES TO CLEAN UP SPILLS AT THEIR OWN COST, AND PROVIDING REMEDIES FOR TAMA COUNTY TO CLEAN UP SUCH SPILLS IF THE PERSONS RESPONSIBLE FAIL TO DO SO, AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF**

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

SECTION 1. PURPOSE. In order to reduce the danger to public health, safety and welfare from the storage, transportation, and spills of hazardous substances. These regulations are promulgated to establish responsibility for the removal and cleanup of spills, leakage or release of hazardous substances that create an immediate or potential danger to the public health or safety within the limits of Tama County.

SECTION 2. DEFINITIONS. For the purpose of this Ordinance these terms have the following definitions:

- a. “Hazardous waste” is waste as defined in Section 455B.411 (3)(a), Code of Iowa, 2021.
- b. “Hazardous substance” is any substance as defined in Section 455B.381(5) Code of Iowa,2021.
- c. “Hazardous condition” is any circumstances as defined in Section 455B.381(4) Code of Iowa,2020.
- d. “Person having control over a hazardous substance” is 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 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, as defined in Section 455B.381(7)(a), Code of Iowa,2021.
- e. “Cleanup” is the same as defined in Section455B.381 (1), Code of Iowa, 2021.
- f. “Treatment” is a method, technique, or process, including neutralization, designed to change the physical, chemical or biological character or composition of a hazardous substance to as if neutralize it or to render the substance non-hazardous, safe for transport, amenable for recovery and for storage, 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 to render it non-hazardous.
- g. “Authorized person” is the Tama County Emergency Manager or his or her duly appointed designee, The Emergency Manager or his or her duly appointed designee may also

appoint one or more Fire Chiefs or Assistant Fire Chiefs of any municipality or Fire District as his or her temporary deputy, or may delegate the duties of Authorized Person to one or more such Fire Chiefs or Assistant Fire Chiefs, in his or her discretion.

### SECTION 3. CLEANUP REQUIRED.

a. Whenever a hazardous condition is created so that a hazardous substance or waste or a constituent of a hazardous substance or waste has entered or may enter the environment, be emitted into the air, or discharged into any waters, including ground waters, the person having control over a hazardous substance shall alleviate the condition by cleanup or treatment, as defined by Section 2(e) & 2(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 or treatment shall be borne by the person having control over a hazardous substance.

b. If the person having control over a hazardous substance cannot be located within a reasonable period of time, or if the person having control over a hazardous substance does not cause the cleanup or 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 considering the character of the hazardous condition. The notice shall state a deadline for accomplishing the cleanup or treatment and state that the County will proceed to procure cleanup or treatment services if the cleanup or treatment is not accomplished within the deadline. The notice shall set forth a reasonable estimate of the cost of cleanup or treatment and state that the person having control over a hazardous substance will be billed for all costs associated with the cleanup or treatment, including but not limited to equipment rendered unserviceable, personnel costs (including overtime), disposal costs and any other costs associated with the cleanup or treatment.

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

d. If the cost of cleanup or treatment is beyond the capacity of the County to finance it, the authorized person shall immediately seek any other funding sources.

SECTION 4. LIABILITY FOR CLEANUP COSTS. The person having control over a hazardous substance shall be strictly liable to Tama County, or the appropriate City or fire district if City or fire district personnel or equipment is involved, for all of the following:

a. Those costs set forth in Section 3(b) of this Ordinance, as may be incurred by the County and City or fire district.

b. The reasonable costs incurred by the County, and any City or Fire District to evacuate persons from the area threatened by a hazardous condition caused by the person having control over a hazardous substance.

c. Reasonable damages for injury to, destruction of, or loss of County property, including parks and roads, resulting from a hazardous condition caused by the person having control over a hazardous substance, including the cost of assessing the injury, destruction or loss.

d. The replacement costs for all equipment lost, contaminated or otherwise rendered unusable, including disposal costs; costs of repair or decontamination of equipment; medical expenses and personal injury to personnel responding to the hazardous condition; and all such other costs and expenses of the County or City or Fire District expended to deal with the hazardous condition.

#### SECTION 5. NOTIFICATIONS.

a. Any person, manufacturing, storing, handling, transporting, or disposing of a hazardous substance or waste shall notify the Tama County 911 Center, who shall then notify the appropriate agency of the occurrence of a hazardous situation immediately. The Emergency Manager shall immediately notify Waterloo Fire Rescue/Northeast Iowa Response Group, as well as the Iowa Department of Natural Resources.

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 Tama County 911 Center, and upon receipt of such notification the sheriff shall proceed in the manner provided in Section 5a of this Ordinance.

a. Order the 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 to persons engaged in cleanup or treatment.

No person shall disobey an order of the authorized person or any law enforcement official acting under direction of the authorized person issued under this Section.

SECTION 6. COUNTY LIABILITY. Except where Tama 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 or damages, injuries, or loss resulting from any hazardous condition.

SECTION 7. PENALTY. Any person violating any provision, section, or paragraph of this Ordinance shall be guilty of a misdemeanor, and upon conviction be subject to a fine not exceeding \$500.00 or be imprisoned for not more than thirty (30) days. Each day of the violation shall constitute a separate offense.

SECTION 8. SEPARABILITY OF PROVISIONS. It is the intention of the Board of Supervisors that each section, paragraph, sentence, clause, and provision of this Ordinance is separable, and if any such provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of this Ordinance or any part thereof other than that affected by such.

SECTION 9. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

SECTION 10. Effective Date: This ordinance shall be effective on March 26, 2021, after its final passage, approval, and publication as provided by law.

Passed and adopted this 8<sup>th</sup> day of March, 2021.

Signed: \_\_\_\_\_

Larry Vest, Chairman  
Tama County Board of Supervisors

ATTEST: \_\_\_\_\_

Laura Kopsa, County Auditor