

## TITLE III – PUBLIC ORDER AND SAFETY (Chapters 20-25)

**CHAPTER 20****HAZARDOUS WASTE**

20.01	Purpose.	20.05	Cleanup Required.
20.02	Definitions.	20.06	Liability for Cleanup.
20.03	Notifications.	20.07	County Liability.
20.04	Law Enforcement Authority.	20.08	Severability Clause.

**20.01 PURPOSE.**

This Chapter establishes responsibility for removal, disposal and/or cleanup of hazardous substances and/or hazardous wastes stored, transported, or handled in Warren County.

**20.02 DEFINITIONS.**

For use in this chapter, the following terms are defined:

1. “Authorized person” means the Warren County Sheriff, who also may appoint the Warren County Emergency Management Coordinator, or a Fire Chief from within the County.
2. “Cleanup” means the same as defined in Section 455B.381(6) of the Iowa Code.
3. “County” means Warren County, Iowa.
4. “Hazardous condition” means any substance as defined in Section 455B.381(2) of the Iowa Code.
5. “Hazardous substance” means any substance as defined in Section 455B.381(1) of the Iowa Code.
6. “Hazardous waste” means such waste as defined in Section 455B.411(4a) and (4b) of the Iowa Code.
7. “Person having control over a hazardous substance and/or hazardous waste” means a person or an entity who at any time in the County produces, handles, stores, uses, transports, refines or disposes of a hazardous substance and/or hazardous waste.
8. “Release” means the same as defined in Section 455B.381(9) of the Iowa Code.
9. “Treatment” means the same as defined in Section 455B.411(10) of the Iowa Code.

**20.03 NOTIFICATIONS.**

1. Any person or entity having control over a hazardous substance and/or hazardous waste shall notify the Iowa Department of Natural Resources, the County Sheriff's Office, and the Emergency Management Coordinator 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 and/or Emergency Management shall immediately notify the Iowa Department of Natural Resources, and:
  - a. Warren County Disaster Services, Emergency Management Coordinator.
  - b. Any member of the appropriate fire department who has received special training in the handling and disposal of the hazardous substance and/or manner established by Iowa state regulations.
2. Any Warren 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 Warren County Sheriff's Office. The Sheriff's Office and/or the Emergency Management Coordinator shall immediately notify the Iowa Department of Natural Resources.

**20.04 LAW ENFORCEMENT AUTHORITY.**

If circumstances do require action, the authorized person may:

1. Order evacuation of persons to areas away from the site of a hazardous condition; and/or
2. Establish perimeters or other boundaries at or near the site of a hazardous condition and limit access to such site.

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

**20.05 CLEANUP REQUIRED.**

1. Whenever a hazardous condition is created, the person having control over a hazardous substance and/or hazardous waste shall alleviate the condition by cleanup and/or treatment, as defined in Section 20.02 of this chapter, and shall restore the affected area to its condition prior to the hazardous condition as far as practicable. The cost of cleanup and/or treatment shall be borne by the person or entity having control over the hazardous substance and/or hazardous waste.

2. If the person or entity having control over a hazardous substance and/or hazardous waste cannot be located within a two-hour period of time, or if the person or entity having control over a hazardous substance and/or hazardous waste does not cause the cleanup and/or treatment to begin within a two-hour period of time, Warren County may, at the direction of the authorized person, give notice (which shall be reasonable in form considering the character of the hazardous condition). The notice shall state the following:
  - a. A deadline for accomplishing the cleanup and/or treatment; and
  - b. That Warren County will proceed to procure cleanup and/or treatment services if the cleanup and/or treatment is not accomplished within the deadline; and
  - c. A reasonable estimate of the cost of cleanup and/or treatment; and
  - d. That the person or entity having control over a hazardous substance and/or hazardous waste will be billed for all costs associated with the cleanup and/or treatment, including but not limited to, equipment rendered unserviceable, personnel costs (including overtime), disposal costs and any other costs associated with the cleanup and/or treatment.
3. If the bill for the services is not paid within thirty (30) days, Warren County may proceed, after service of notice, either by certified mail or by publication for three consecutive issues in a newspaper having general circulation within Warren County, and a hearing before the Warren County Board of Supervisors, to obtain payment by all available legal means.
4. If the cost of cleanup and/or treatment is beyond the County's capacity to finance, the authorized person shall proceed pursuant to Section 455B.423 of the Iowa Code and immediately seek any State or federal funds available for such cleanup and/or treatment.

#### **20.06 LIABILITY FOR CLEANUP COSTS.**

The person or entity having control over a hazardous substance and/or hazardous waste shall be strictly liable to Warren County for cleanup and/or treatment costs incurred by the County. The scope of liability for cleanup costs shall be consistent with liability to the State as defined in Section 455B.392 and 455B.418(1)(c) of the Iowa Code.

#### **20.07 COUNTY LIABILITY.**

Except where Warren County is the entity having control over a hazardous substance and/or hazardous waste, Warren County shall not be liable to any person or entity for claims of damages, injuries, or losses resulting from any hazardous condition.

**20.08 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, paragraph, provision, or part thereof not adjudged invalid or unconstitutional.