

JASPER COUNTY, IOWA

#16B

V-III

AN ORDINANCE AMENDING THE CODE OF ORDINANCES FOR THE JASPER COUNTY, IOWA REQUIRING THAT ORDINANCE V-II, FOR HANDLING HAZARDOUS MATERIALS INCIDENTS SHALL BE AMENDED TO ADD A SUBSECTION FOR IMPOUNDMENT OF VEHICLES IN ORDER TO LEVERAGE RESPONSIBLE PERSON COMPLIANCE FOR COST OF DAMAGE AND CLEANUP, AND TO EFFECT SIX MISCELLANEOUS AMENDMENTS TO IMPROVE LANGUAGE OR STRUCTURE WITHIN THE ORDINANCE.

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF JASPER COUNTY:

Section 1. Purpose. In order to amend Ordinance V-II, this ordinance shall describe in detail the specific changes necessary to change or improve the original ordinance.

Section 2. Ordinance V-II, Hazardous Materials, is amended as follows:

1. Section 2, Subsection 2, is amended to insert a new lead sentence and shall read as follows:

2. "Hazardous waste" means those wastes which are included by the definition in Iowa Code, Sec. 455B.411(3), Code of Iowa. In brief, a hazardous waste means 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 the following effects:

2. NEW SUBSECTION. Section 2, Subsection 8, is added to the ordinance and shall read as follows:

8. "Impoundment" means to seize and keep in legal custody.

3. Section 2, Subsection 2, paragraph b, is amended to add the paragraph alphabetical name of "c." to lead the phrase "'Hazardous waste' does not include:"; to strike the erroneous subparagraph name "a" and to add the subparagraph name "(1) to the following sentence; to strike the erroneous subparagraph name "b" and to add the new subparagraph name "(2)" to the second following sentence; and the amended subsection shall read as follows:

b. Poses a substantial danger to human health or the environment. "Hazardous waste" may include but is not limited to wastes that are toxic, corrosive or flammable or irritants, strong sensitizers or explosives.

c. "Hazardous waste" does not include:

(1) Agricultural wastes, including manures and crop residues that are returned to the soil as fertilizers or soil conditioners.

(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).

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4. Section 2, Subsection 5, is amended to insert the phrase, "and restoration of the affected environment." and shall read as follows:

5. "Cleanup" means actions necessary to contain, collect, control, identify, analyze, cleanup, treat, disperse, remove, or dispose of a hazardous substance or waste, and restoration of the affected environment. (455B.381(6), Code of Iowa).

5. Section 4 is amended to add the following new subsection "2." and shall read as follows:

2. Impoundment of the vehicle, the tractor, its trailers or cars, its containers and appurtenances, and all merchandise or other goods being shipped by the vehicle shall be within the power of the emergency management office of the county, the Sheriff or his deputies, and the Mayor and the council of the city to impose if written, telegraphic or other binding proof of acceptance of responsibility for damages or cleanup of spilled materials and restoration of the environment has not been obtained and in hand for any of the above mentioned authorities.

6. Section 6, Subsection 2, is amended to add the following new paragraph "c.":

c. Impound any vehicle or carrier of hazardous materials involved in a spill or release until such time that legally binding assurances have been received from the carrier or manufacturer assuming full responsibility for all the costs of the cleanup of the damaged caused and the restoration of the environment.

7. Section 9, is amended to read as follows:

Section 9. Separability Severability of Provisions.

It is the intention of the County that each section, paragraph, sentence, clause and provision is ~~separable, and if any provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of this ordinance nor any part thereof other than that affected by such decision~~ severable, and if any provision is adjudged invalid or unconstitutional for any reason, such adjudication shall not affect the validity of the ordinance as a whole nor any part thereof not adjudged invalid or unconstitutional.

8. First unnumbered paragraph following section 9, strike the following sentence:

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

- 9. ~~Second unnumbered paragraph, following section 9, strike the following sentence:~~

~~Signed this _____ day of _____, 1990~~

- 10. ~~NEW SECTION. Section 10,~~ is added to the ordinance and shall read as follows:

Section 10. When Effective. This ordinance shall be in effect after its final passage, approval, and publication as provided by law.

- 11. ~~NEW UNNUMBERED PARAGRAPH, following new section 10,~~ is added to the ordinance and shall read as follows:

Passed by the Board of Supervisors on the _____ day of _____, 1990, and approved this day _____ of _____, 1990.

Section 3. Attached to this Ordinance, V-III, is a copy of Ordinance V-II as amended by the above sections. Ordinance V-II, Amended, shall henceforth be the true reading of the hazardous materials ordinance, conveying for its purposes the intentions and authority of the Board of Supervisors.

Section 4. Severability of Provisions. It is the intention of the County that each section paragraph, sentence, clause and provision is severable, and if any provision is adjudged invalid or unconstitutional for any, reason, such adjudication shall not affect the validity of the ordinance as a whole nor any part thereof not adjudged invalid or unconstitutional.

Section 5. When Effective. This ordinance shall be in effect after its final passage, approval, and publication as provided by law.

Passed by the Board of Supervisors on the 27th day of

January, 1991, and approved this day 27th of January, 1991.

Howard Peters Jr.
Chair, Jasper County Board of Supervisors

Attest:

Linda Dwyer
Secretary to the Board

Lee Van Blarck
Member, Jasper County Board of Supervisors

Member, Jasper County Board of Supervisors