

# CARTER LAKE, IOWA

## HAZARD MATERIAL ORDINANCE

### **Purpose.**

This Policy was created and adopted to protect and reduce the danger to public health, city and private properties, city response, safety and welfare of its citizens from the spills of hazardous substances. This Policy was created, adopted and will be legally enforced. This Policy also establishes the Cities response and responsibility for the removal and cleanup of spills within the City of Carter Lake, Iowa city limits.

### **Definitions.**

For the purpose of this Policy, these words have the following meanings:

- (1) "Cleanup" means action necessary to contain, collect, control, identify, analyze, clean up, treat, disperse, remove, or dispose of a hazardous substance or hazardous waste.
- (2) "Hazardous condition" means any situation involving the actual, imminent or probable spillage, leakage, or release of a hazardous substance or hazardous waste onto the land, into the water, or into the atmosphere which creates an immediate or potential danger to the public health or safety.
- (3) "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 designated under Section 311 of the Federal Water Pollution Control Act as amended to January 1, 1977, or any hazardous material designed by the secretary of transportation under the Hazardous Materials Transportation Act.
- (4) "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 of the following effects:
  - (a) Causes or significantly contributes to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or
  - (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.

- (5) "Hazardous waste" may also include:
  - (a) Agricultural wastes, including manures and crop residues that are returned to the soil as fertilizers or soil conditioners;
  - (b) Source, special nuclear, or by-product material as defined in the Atomic Energy Act of 1954, as amended to January 1, 1979.
- (6) "Person" means individual, corporation, firm, involved employer, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.
- (7) "Responsible person" means 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 owner of the hazardous substance or waste.

#### **Cleanup required.**

- (a) Whenever a hazardous condition is created so that a 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 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 cleanup shall be borne by the responsible person.
- (b) 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 city may, by authorization of the mayor or his/her designee, give reasonable notice based on the character of the hazardous condition, setting a deadline for commencing and accomplishing the cleanup, or the city may proceed to procure cleanup services. If the cost of the cleanup is beyond the capacity of the city to finance, the mayor or his/her designee may report to the city council and immediately seek any state or federal funds available for such cleanup.

#### **Liability for cleanup costs.**

The responsible person will be strictly liable to the city for all of the following:

- (1) The reasonable costs incurred by the city in containing and/or controlling a hazardous condition;
- (2) The reasonable cleanup costs incurred by the city as a result of the failure of the person to clean up a hazardous substance or waste involved in a hazardous condition caused by that person;

- (3) The reasonable costs incurred by the city to evacuate people from the area threatened by a hazardous condition caused by the person;
- (4) The reasonable damages to the city for the injury to, destruction of, or loss of city property, including parks and roads, resulting from a hazardous condition caused by that person, including the costs of assessing the injury, destruction, or loss.
- (5) The costs referenced above shall be as determined by the City Clerk and 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, gear 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 therefore.

**Notifications.**

- (a) A person manufacturing, storing, handling, transporting, or disposing of a hazardous substance or waste shall notify the Carter Lake fire chief and 911 of the occurrences of a hazardous condition as soon as possible, but no later than 5 minutes after the onset of the hazardous condition or discovery of the hazardous condition. The fire chief shall notify the proper Mutual Aid, local, state or federal offices in the manner established by the state or SOGs.
- (b) Any city employee who discovers a hazardous condition shall call 911 or notify the fire department, which shall notify the proper Mutual Aid, local, state or federal offices in the manner established by the state or SOGs.

**Police and Fire authority.**

If the circumstances reasonably so require, the Carter Lake fire chief and/or police chief, or their department representative(s), may:

- (1) Evacuate persons, even from their homes, to areas away from the site of a hazardous condition; and
- (2) 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 the police chief or fire chief or any other authorized fire personnel, deputy or peace officer/law enforcement officer issued under this section.

**Response.**

Dispatched City services have a duty to respond to all calls requested for hazardous material incidents. Dispatched City services also have a duty to use or notify all additional resources when needed including but not limited to mutual aid, local, city, county, state or federal assistance when required.

**City liability.**

The city of Carter Lake shall not be liable to any person for claims of damages, injuries, or losses resulting from any hazardous condition. Except, if the city is the responsible person.

**Penalty.**

Any person found guilty of a violation of the provisions of this policy shall, upon conviction, may be subject to the penalty under Local, City, State or Federal laws. Each day that a violation is allowed to continue shall constitute a separate and distinct violation. At the discretion of the city attorney, any violation of the provisions of this ordinance may be pursued as a municipal infraction in lieu of criminal prosecution.