

HAZARDOUS SUBSTANCE CONTROL CODE
OF THE HUDSON REGIONAL HEALTH COMMISSION.

1: TITLE AND CITATION

1:1 This Ordinance shall be known as the Hazardous Substance Control Code of the Hudson Regional Health Commission.

1:2 Findings and Declaration of Policy: It is hereby declared that the release of hazardous substances and pollutants into the environment is a menace to the public health and environmental quality of the municipalities of Hudson County which are collectively members of the Hudson Regional Health Commission. For purposes of mitigating the adverse impact upon the environment and reducing the potential of such releases it is hereby declared the policy of the Hudson Regional Health Commission to establish standards for the prohibition of the unpermitted discharges of hazardous substances; monitoring commercial/industrial enterprises involving the treatment, disposal and/or cleanup of hazardous substances, and to establish procedures and requirements for recovering direct costs incurred in official activities attending incidents involving the accidental or criminal discharges or abandonment of such substances.

2: DEFINITIONS:

2:1 MEANING OF CERTAIN WORDS: The following terms wherever used or referred to in this code shall have respective meanings assigned to them unless a different meaning clearly appears from the context.

DIRECTOR: means the Director of the Hudson Regional Health Commission.

DISCHARGE: means any intentional or unintentional action or omission resulting in the releasing, spilling, leaking, pumping, pouring, emitting, emptying, dumping, or placing of a hazardous substance or pollutant into any waters or onto any land within Hudson County.

GOVERNMENTAL AGENCIES: means those Federal, State or local entities or bodies or political subdivisions thereof created by an act of legislation to carry out governmental functions.

HAZARDOUS SUBSTANCE: means such substances which are designated as hazardous substances by the Spill Compensation and Control Act and its regulations including the "environment hazardous substances" on the environmental hazardous substance list adopted by the department pursuant to section 4 of P.L. 1983, c. 315 (C.34:5A-4): such elements and compounds, including petroleum products, which are defined as such by the department, after public hearing, and which shall be consisted to the maximum extent possible with, and which shall include, the list of hazardous substances adopted by the federal Environmental Protection Agency pursuant to section 311 of the federal Water Pollution Control Act Amendments of 1972, Pub.L 92-500, as amended by the Clean Water Act of 1977, Pub.L. 95-217 (33. U.S.C. 1251 et seq.); the list of toxic pollutants designated by Congress or the EPA pursuant to section 307 of that act; and the list of hazardous substances adopted by the federal Environmental Protection Agency pursuant to section 101 of the "Comprehensive Environmental Response, Compensation and Liability Act of 1980," Pub.L. 96-510 (42 U.S.C. 9601 et seq.); provided, however, that sewage and sewage sludge shall not be considered as hazardous substances for the purpose of this act.

HAZARDOUS WASTE: means any solid waste or combination of solid wastes, including toxic, corrosive,

irritating, sensitizing, radioactive, biologically infectious, explosive or flammable solid waste, which poses a present or potential threat to human health, living organisms or the environment, provided that the solid waste is hazardous in accordance with the standards and procedures set forth at N.J.A.C. 7:26-8 et seq.

PERSON: means public or private corporations, companies, associations, societies, firms, partnerships, joint stock companies and individuals.

POLLUTANT: means any dredged spoil, solid waste, incinerator residue, sewage, garbage, refuse, oil, grease, sewage sludge, chemical wastes, biological materials, wrecked or discarded equipment, construction or demolition debris, industrial, commercial or agricultural waste or other residue discharged to the land, groundwater or surface water of Hudson County.

3: PROHIBITIONS:

3:1 The discharge of air release of a hazardous substance, hazardous waste or pollutant is prohibited. This section shall not apply to discharges or air releases conducted in compliance with the conditions of a valid federal, state or local permit.

3:2 The abandonment of hazardous substance or hazardous waste is prohibited.

4: RESPONSIBILITIES OF PERSON(S) CAUSING A DISCHARGE OR AIR RELEASE.

4:1 Any person responsible for the discharge or air release of a hazardous substance, hazardous waste or pollutant, or who causes or is in any way responsible for a situation in which such a discharge or air release is threatened shall immediately institute measures to mitigate such discharge or air release.

4:2 Any person responsible for the discharge or air release of a hazardous substance, hazardous waste, or pollutant shall be reimburse the Commission for unanticipated expenses directly incurred by the Commission during the investigation, or mitigation of said discharge or air release. Unanticipated expenses include but are not limited to: overtime wages, replacement cost of protective clothing, equipment and supplies, repair cost of damaged equipment, laboratory costs for analysis of samples of hazardous substances, hazardous wastes, pollutants, or air contaminants, absorbents, foams, sealants and other items expended to stop or contain a discharge or air release; and costs associated with the use of contractors to mitigate or assess the effects of a discharge or air release.

4:3 Any person responsible for reimbursement of unanticipated expenses to the Commission under Section (4:2) above shall submit payment within 30 days of the receipt of an itemized bill certified by the Director for said expenses.

5: RIGHT OF ENTRY AND INSPECTIONS:

5:1 All premises subject to this code or which may contain hazardous substances or hazardous waste are subject to inspection by representatives of the Commission upon the presentation of proper credentials.

5:2 Any person responsible for such premises shall allow representatives of the Commission immediate access to said premises for purposes of inspection or investigation of actual, potential or suspected sources of a hazardous substance or pollutant discharge.

5:3 Any person responsible for a facility storing hazardous substances which is required to maintain a discharge prevention, containment or countermeasure (D&CC) plan and a discharge cleanup and removal (DCR) plan pursuant to N.J.A.C. 7:1E-4.1 et seq. Shall make a copy of such plan available to representatives of the Commission on request.

6: PENALTIES:

6:1 Any person who shall violate any of the provisions of this code or who shall fail to comply therewith shall be subject to punishment by a fine of not less than \$100.00 nor greater than \$500.00 or upon failure to pay such penalty be subject to imprisonment for a period not to exceed ninety (90) days.

6:2 Each day that such violation shall continue shall constitute a separate and distinct offense.

6:3 The violation of any section or sub-section of this code shall constitute a separate and distinct offense independent of the violation of any other section or sub-section, or of any order issued pursuant to this code.

7: CONSTRUCTION AND SEVERABILITY:

7:1 This code is to be liberally construed to effectuate the purpose herein described. Nothing herein is to be construed as repealing or abridging the emergency powers of any agency of government except to extent expressly set forth herein.

7:2 If any section, sub-section, paragraph, sentence, clause, phrase, or portion of this ordinance shall be adjudged or declared invalid for any reason whatsoever, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity, of the remaining portions hereof which shall remain in full force and effect.

7:3 This ordinance is promulgated and adopted in accordance with P.L. 1977 C. 443, P.L. 1970 C.60, P.L. 1950 C.188 and P.L. 1953 C.26.

8: ENFORCEMENT AUTHORITY

8:1 Within the respective municipalities comprising the Commission, the Director may with the approval of the Mayor appoint the local Health Authority as a local enforcement agent. The Mayor may with the approval of the Director appoint additional local enforcement agents. In municipalities organized under the Walsh/Commission Form of Government, the Commissioner in charge of the local health authority may with the approval of the Director, appoint additional local enforcement agents.

9: GENERAL EXEMPTIONS:

9:1 Governmental agencies shall be exempt from the precepts of this ordinance.

I, Robert Ferraiuolo, Director of the Hudson Regional Health Commission in the County of Hudson, New Jersey, DO HEREBY CERTIFY that the foregoing is a true and correct copy of an Ordinance adopted by the Board of Commissioners of the Hudson Regional Health Commission, Hudson County, New Jersey, at a meeting held on May 24, 2001. IN WITNESS WHEREOF, I, the said Director have hereunto set my hand, this July 5, 2001.

Robert Ferraiuolo,

Director