

CHAPTER 1741
Hazardous Substances

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CROSS REFERENCES

Labeling of hazardous wastes - see Ohio R.C. Ch. 3716

Hazardous wastes - see Ohio R.C. Ch. 3734

1741.01 DEFINITIONS.

For the purpose of this chapter, the following words and phrases shall have the following meanings ascribed to them respectively:

- (a) "Hazardous substances" means any of the following:
 - (1) Any hazardous waste.
 - (2) Any radioactive material.
 - (3) Any chemical substance listed below, or mixture containing any chemical substances listed below:
PCB or PCBs (polychlorinated biphenyl)
- (b) "Hazardous waste" means any waste or combination of wastes which pose a substantial present or potential hazard to human health or living organisms because such wastes are nondegradable or persistent in nature or because they can be biologically magnified, or because they can be lethal or because they may otherwise cause or tend to cause detrimental cumulative effects, including any substance, combination of substances or mixtures as defined as "hazardous waste" in the Code of Federal Regulations (CFR), Title 40, Part 261, Subpart A 261.3 which is not specifically excluded under 261.4(b) under such Title or this chapter of the Codified Ordinances. The provisions of 40 CFR Part 261, Subpart A 261.2, 261.3 and 261.4, and corresponding sections of Subparts C and D and appendices cited therein, which define, describe and identify hazardous waste are hereby incorporated by reference into this section and made a part hereof the same as if each were set forth fully herein. All subsequent amendments to such provisions of Subparts C and D and appendices cited therein which define, describe and identify hazardous waste, and the section of Subpart B specifically delineated herein, automatically

become a part of this section as of the effective dates of each amendment, subject to the provisions of this section. Hazardous wastes do not include chemical substances or mixtures listed in Section 1741.01(a)(3) hereof or any radioactive material.

- (c) "PCB" and "PCBs" means any chemical substance that is limited to the biphenyl molecule that has been chlorinated to varying degrees or any combination of substances, or mixture which contains chlorinated biphenyl molecules.
- (d) "PCB article" means any manufactured article other than a PCB container that contains PCBs and whose surface(s) has been in direct contact with PCBs. "PCB article" includes capacitors, transformers, electric motors, pumps, pipes and any other manufactured item
 - (1) which is formed to a specific shape or design during manufacture;
 - (2) which has end use function(s) dependent in whole or in part upon its shape or design during end use; and
 - (3) which has either no change of chemical composition during its end use or only those changes of composition which have no commercial purpose separate from that of the PCB article.
- (e) "PCB equipment" means any manufactured item, other than a PCB container or a PCB article container, which contains a PCB article or other PCB equipment and includes microwave ovens, electronic equipment and fluorescent light ballasts and fixtures.
- (f) "PCB container" means any package, can, bottle, barrel, drum, tank or other device exclusive of a PCB article or PCB equipment that contains a PCB or PCBs article and whose surface(s) has been in direct contact with PCBs.
- (g) "Chemical substance" except as provided in subsection (3) hereof, means any organic or inorganic substance of a particular molecular identity, including:
 - (1) Any combination of such substances occurring in whole or part as a result of a chemical reaction or occurring in nature, and
 - (2) Any element or uncombined radical.
 - (3) Such term does not include:
 - A. Any mixture;
 - B. Any pesticide, as defined in the Federal Insecticide, Fungicide and Rodenticide Act, when manufactured, processed or distributed in commerce for use as a pesticide;
 - C. Tobacco or any tobacco product;
 - D. Any source material, special nuclear material, or by-product material, as such terms are defined in the Atomic Energy Act of 1954, as amended, and regulations issued under such Act, and the Energy Reorganization Act of 1974 and any regulations issued under such Act;
 - E. Any article the sale of which is subject to the tax imposed by Section 4181 of the Internal Revenue Code of 1954, determined without regard to any exemptions from such tax provided by Section 4182 or Section 4221 or any provisions of such Code; and
 - F. Any food, food additive, drug, cosmetic, or device, as such terms are defined in Section 201 of the Federal Food, Drug and Cosmetic Act, when manufactured, processed or distributed in commerce for use as a food, food additive, drug, cosmetic or device.

- (h) "Mixture" means any combination of two or more chemical substances if the combination does not occur in nature and is not, in whole or in part, the result of a chemical reaction; except that "mixture" includes any combination which occurs, in whole or in part, as a result of a chemical reaction if none of the chemical substances comprising the combination is a new chemical substance and if the combination could have been manufactured for commercial purposes without a chemical reaction at the time the chemical substances comprising the combination were combined.
- (i) "By-product" means a chemical substance produced without separate commercial intent during the manufacturing or processing of another chemical substance(s) or mixture(s).
- (j) "Use" means putting into service to attain an end other than disposal.
- (k) "Store for disposal" means to store, confine or contain for or incidental to discarding, destroying, decontaminating, degrading, reprocessing or recycling of substances whose useful lives have been terminated or completed, or which have otherwise been taken out of service.
- (l) "Person" means any natural or legally created artificial person including any individual, corporation, partnership or association. "Person" includes any individual, partnership, association or corporation engaged in the transportation of passengers or property, as common, contract or private carrier, or freight forwarder, as those terms are used in the Interstate Commerce Act, as amended.
- (m) "Radioactive material" means any material or combination of materials, which spontaneously emits ionizing radiation. Materials in which the estimated specific activity is not greater than 0.002 microcuries per gram of material, and in which the radioactivity is essentially uniformly distributed, are not considered to be radioactive materials.
 - (n) "Curie" means an expression of the quantity of radiation in terms of the number of atoms which disintegrate per second; a curie is that quantity of radioactive material which decays such that thirty-seven billion atoms disintegrate per second.
- (o) "Microcurie" means one millionth of a curie.
- (p) "Waste oil" means used products primarily derived from petroleum, which include, but are not limited to, fuel oils, motor oils, gear oils, cutting oils, transmission fluids, hydraulic fluids and dielectric fluids.
- (q) "Hazardous substance disposal site" means any chemical waste landfill or incinerator used to dispose of hazardous substances.
- (r) "Chemical waste landfill" means a landfill at which protection against risk of injury to health or the environment from migration of hazardous substances to land, water or the atmosphere is provided from hazardous substances deposited therein by locating, engineering and operating the landfill in accordance with Federal and State law.
(Ord. 83-309. Passed 6-28-83.)

1741.02 DISPOSAL OF HAZARDOUS WASTE.

- (a) No person shall knowingly discard, dispose, discharge, deposit, inject, dump, spill, leak, spray, place or otherwise cast into or upon any land, whether improved or unimproved, upon any public or private street, roadway or highway, into any drain, gutter, sewer or culvert, into any lake, pond, watercourse or ditch, or into any pit or excavation, or into or atop of any aquifer, any hazardous waste within the corporate limits of the City.

(b) No person shall knowingly cause any other persons by contract or otherwise to discard, dispose, discharge, deposit, inject, dump, spill, leak, spray, place or otherwise cast into or upon any land, whether improved or unimproved, upon any public or private street, roadway or highway, into any drain, gutter, sewer or culvert, into any lake, pond, watercourse or ditch, or into any pit or excavation, or into or atop of any aquifer, any hazardous waste within the corporate limits of the City.

(c) No person shall negligently discard, dispose, discharge, deposit, inject, dump, spill, leak, spray, place or otherwise cast into or upon any land, whether improved or unimproved, upon any public or private street, roadway or highway, into any drain, gutter, sewer or culvert, into any lake, pond, watercourse or ditch, or into any pit or excavation, or into or atop of any aquifer, any hazardous waste within the corporate limits of the City.
(Ord. 83-309. Passed 6-28-83.)

1741.03 DISPOSAL AND STORAGE OF PCB OR PCBs.

(a) No person shall knowingly discard, dispose, discharge, deposit, inject, dump, spill, leak, spray, place or otherwise cast into or upon any land, whether improved or unimproved, upon any public or private street, roadway or highway, into any drain, gutter, sewer or culvert, into any lake, pond, watercourse or ditch, or into any pit or excavation, or into or atop of any aquifer, any PCB or PCBs either in liquid, crystalline or solid resin form, within the corporate limits of the City.

(b) No person shall knowingly cause any person by contract or otherwise to discard, dispose, discharge, deposit, inject, dump, spill, leak, spray, place or otherwise cast into or upon any land, whether improved or unimproved, upon any public or private street, roadway or highway, into any drain, gutter, sewer or culvert, into any lake, pond, watercourse or ditch, or into any pit or excavation, or into or atop of any aquifer, any PCB or PCBs either in liquid, crystalline or solid resin form, within the corporate limits of the City.

(c) No person shall negligently discard, dispose, discharge, deposit, inject, dump, spill, leak, spray, place or otherwise cast into or upon any land, whether improved or unimproved, upon any public or private street, roadway or highway, into any drain, gutter, sewer or culvert, into any lake, pond, watercourse or ditch, or into any pit or excavation, or into or atop of any aquifer, any PCB or PCBs either in liquid, crystalline or solid resin form, within the corporate limits of the City.

(d) After October 1, 1983, no person shall store for disposal any PCB or PCBs, regardless of form, in one or more PCB containers, within the corporate limits of the City at any of the following locations:

- (1) Within the Fire Zone, within any floodplain, atop any aquifer or within any drainage basin of any aquifer, lake or pond;
- (2) Any other location not enumerated in subsection (d)(1) hereof.

(e) After October 1, 1983, no person shall cause any other person by contract or otherwise to store for disposal any PCB or PCBs, regardless of form, in one or more PCB containers, within the corporate limits of the City at any of the following locations:

- (1) Within the Fire Zone, within any floodplain, atop any aquifer or within any drainage basin of any aquifer, lake or pond;
- (2) Any other location not enumerated in subsection (e)(1) hereof.

(f) (1) "PCB" and "PCBs" as used in this section means any chemical

substance, combination of substances or mixture that contains fifty parts per million, on a dry weight basis, or greater of PCBs, as defined in Section 1741.01(c) hereof including any by-product, intermediate or impurity manufactured at any point in the process.

- (2) Substances that are regulated by this section include, but are not limited to, dielectric fluids, contaminated solvents, waste oils, heat transfer fluids, hydraulic fluids, paints, sludges, slurries, dredge spoils, soils, materials contaminated as a result of spills and other chemical substances or combination of substances, or mixtures of substances, including impurities and by-products, provided, such chemical substances or combination of substances or mixtures, regardless of form contain PCB or PCBs.

(g) Storage or use of PCB or PCBs in PCB articles or PCB equipment is not in violation of this section. Disposal of PCB articles or PCB equipment containing any measurable amount of PCB or PCBs therein is not a violation of this section. (Ord. 83-309. Passed 6-28-83.)

1741.04 USE OF PCB OR PCBs.

(a) No person shall use any PCB or PCBs other than in the manufacturing or processing of other substances or mixtures, or in PCB articles, PCB equipment or incidental to placing into service or continuing service of PCB articles or PCB equipment.

(b) The prohibitions of subsection (a) hereof shall be subject to the exemptions set forth in Section 1741.07(b) of this chapter. (Ord. 83-309. Passed 6-28-83.)

1741.05 TRANSPORTATION AND SHIPMENT OF RADIOACTIVE MATERIAL.

No person shall ship or transport into, within, through or out of the City any radioactive material contrary to the applicable Federal regulations of the Department of Transportation and the Nuclear Regulatory Commission in effect at the date of shipment or transport.

(Ord. 83-309. Passed 6-28-83.)

1741.06 APPLICATION OF OTHER REGULATORY PROVISIONS.

Regardless and notwithstanding the provisions of Section 1741.03, any and all applicable provisions, ordinances and regulations requiring permits for the storage of any hazardous materials are still in full force and effect unless otherwise specifically repealed. (Ord. 83-309. Passed 6-28-83.)

1741.07 EXEMPTIONS.

(a) The provisions of this chapter shall not apply to the storage or disposal of hazardous waste and PCB or PCBs in any hazardous substance disposal site specifically approved by either the U.S. Environmental Protection Agency or the Ohio Environmental Protection Agency and which comport to Federal and State law.

(b) A person may petition the City Manager or his designee for an exemption from the requirement of Section 1741.04(a), and the City Manager or his designee may grant in writing an exemption, where not precluded by State or Federal law, if he finds that:

- (1) Unreasonable risk of injury to health or environment would not result;

- (2) Good faith efforts have been made to develop a chemical substance which does not present an unreasonable risk of injury to health or the environment and which may be substituted for such PCB;
- (3) The best interests of the City would be served by granting the exemption.

(c) The provisions of Sections 1741.03 and 1741.04 shall not apply to the use of waste samples of PCB or PCBs, samples of other substances or material containing PCB or PCBs, or PCB or PCBs reference samples for or in conducting analytical tests to determine the composition or characteristics of the sample.

(d) The provisions of Section 1741.02 shall not apply to the discharge of wastewater or wastewater derivatives authorized under a valid National Pollution Discharge Elimination System permit, or otherwise authorized to be discharged into a publicly-owned water treatment works.

(e) The provisions of Section 1741.03(d) shall not apply to the temporary storage of PCB or PCBs taken out of service, provided:

- (1) The temporary storage does not exceed sixty days from the date that the PCB or PCBs are taken out of service;
- (2) The PCB or PCBs being temporarily stored were previously placed into use and taken out of service within the corporate limits of the City or removed from service by a person lawfully using the PCB or PCBs within the corporate limits of the City;
- (3) The PCB or PCBs being temporarily stored remain in the possession, custody, control or ownership of the person who used the PCB or PCBs;
- (4) The previous use of the PCB or PCBs being temporarily stored was lawful;
- (5) The date or dates that the PCB or PCBs were taken out of service and an indication that the containerized substance or mixture is a PCB or PCBs are clearly and indelibly marked on each respective storage container utilized whether a "PCB container", other container or receptacle. The date so marked shall be prima facie evidence of the date the PCB or PCBs were taken out of service.

(f) Notwithstanding the provisions of subsection (e) hereof, the provisions of Section 1741.03(d) shall not apply to the temporary storage or temporary accumulation of a PCB or PCBs taken out of service and being temporarily stored or temporarily accumulated, on or after January 1, 1983, and prior to the effective date of this chapter, which storage or accumulation is prior to the movement of the PCB or PCBs off-site for disposal at another location outside the corporate limits of the City, provided:

- (1) The incidental temporary storage or accumulation does not exceed sixty days from the date that the respective PCB or PCBs were taken out of service; and
- (2) Effective October 1, 1983, the date or dates the PCB or PCBs were taken out of service are clearly and indelibly marked on each respective storage container utilized whether a "PCB container" or other container, or receptacle in which the PCB or PCBs are being temporarily stored or temporarily accumulated, together with a clear

and indelible indication that the particular containerized substance or mixture is a PCB or PCBs. The date or dates so marked shall be prima facie evidence of the date or dates the PCB or PCBs were taken out of service.

(Ord. 83-309. Passed 6-28-83.)

(g) The provisions of Section 1741.03(d)(2) shall not apply to the storage of a PCB or PCBs taken out of service, provided:

- (1) That not more than 2,000 gallons of a PCB or PCBs may be stored by any one person within the City;
- (2) That the PCB or PCBs being stored remain in the possession, custody, control or ownership of the person who used the PCB or PCBs;
- (3) That the previous use of the PCB or PCBs being stored was lawful;
- (4) That the PCB or PCBs being stored were previously placed into use and taken out of service within the corporate limits of the City or removed from service by a person lawfully using a PCB or PCBs within the corporate limits of the City;
- (5) That the substance being stored contain not more than 500 parts per million, on a dry weight basis, of the PCB or PCBs including any by-product, intermediate or impurity manufactured at any point in the process;
- (6) That the PCB or PCBs be stored in a solid steel container completely enclosed in reinforced concrete and that the storage site be secured against acts of trespass, theft and vandalism;
- (7) That the solid steel container in which the PCB or PCBs are being stored is emptied at least once every six months, and that the contents thereof be safely removed and disposed of at a hazardous substance disposal site;
- (8) That the solid steel container in which the PCB or PCBs are being stored be inspected to determine its continued safe use at least once every year and that the City Manager be given written notice of any such inspection at least ten days in advance thereof;
- (9) That upon the abandonment or discontinuance of use of any such solid steel container in which the PCB or PCBs have been or are being stored, the contents thereof, if any, together with the solid steel container and reinforced concrete enclosure be safely removed and disposed of at a hazardous substance disposal site. (Ord. 85-642. Passed 11-19-85.)

1741.08 INSPECTIONS.

The Fire Chief or his designated representative, any law enforcement officer or building, housing or zoning inspector shall have the authority to inspect all structures and premises as often as may be necessary for the purpose of ascertaining or causing to be corrected, any condition which may be a violation of this chapter, or otherwise enforcing any of the provisions of this chapter.

(Ord. 83-309. Passed 6-28-83.)

1741.09 RIGHT OF ENTRY.

Whenever necessary for the purpose of enforcing the provisions of this chapter, or whenever the Fire Chief or his designated representative, any law enforcement officer or any building, housing or zoning inspector has reasonable cause to believe that there exists in any

structure or upon any premises, any condition which constitutes a violation of this chapter, such officials may enter the structure or premises at all reasonable times to inspect the same, or to perform any duty imposed upon any of such respective officials by law; provided, that if such structure or premises are occupied, he shall first present proper credentials and request entry. If such entry is refused, the official seeking entry shall have recourse to every remedy provided by law to secure entry.
(Ord. 83-309. Passed 6-28-83.)

1741.10 INJUNCTIVE RELIEF.

Violation of the provisions of Sections 1741.02 and 1741.03 shall constitute a public nuisance. The Director of Law shall have the authority to commence any action in a court of competent jurisdiction to enjoin the actions of any person who violates any of the provisions of Sections 1741.02 and 1741.03.
(Ord. 83-309. Passed 6-28-83.)

1741.99 PENALTY.

The following criminal penalties apply to this chapter:

- (a) Whoever violates Section 1741.02(a) shall be guilty of a first degree misdemeanor.
- (b) Whoever violates Section 1741.02(b) shall be guilty of a first degree misdemeanor.
- (c) Whoever violates Section 1741.02(c) shall be guilty of a second degree misdemeanor.
- (d) Whoever violates Section 1741.03(a) shall be guilty of a first degree misdemeanor.
- (e) Whoever violates Section 1741.03(b) shall be guilty of a first degree misdemeanor.
- (f) Whoever violates Section 1741.03(c) shall be guilty of a second degree misdemeanor.
- (g) Whoever violates Section 1741.03(d)(1) shall be guilty of a first degree misdemeanor. If any violation of Section 1741.03(d)(1) is a continuing one, each day of such violation shall constitute a separate offense.
- (h) Whoever violates Section 1741.03(d)(2) shall be guilty of a second degree misdemeanor. If any violation of Section 1741.03(d)(2) is a continuing one, each day of such violation shall constitute a separate offense.
- (i) Whoever violates Section 1741.03(e)(1) shall be guilty of a first degree misdemeanor.
- (j) Whoever violates Section 1741.03(e)(2) shall be guilty of a second degree misdemeanor.
- (k) Whoever violates Section 1741.04 shall be guilty of a first degree misdemeanor.
- (l) Whoever violates Section 1741.05 shall be guilty of a first degree misdemeanor.
- (m) Any individual director, officer or agent of a corporation who knowingly and willfully authorizes, orders or performs any of the acts constituting a violation of any of the provisions of Sections 1741.02, 1741.03, 1741.04 or 1741.05 shall be subject to the penalties under this section without regard to any penalty to which that corporation may be subject for violation of Sections 1741.02, 1741.03, 1741.04 or 1741.05.
(Ord. 83-309. Passed 6-28-83.)