



Legislation Text

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An Ordinance to Amend the Code of the City of Ann Arbor by Adding a New Chapter, Which New Chapter Shall be Designated as Chapter 25, Cost Recovery for Hazardous Material Response and Technical Rescue Services (Ordinance No. ORD15-17)

The proposed new chapter to the City Code would implement the means for recovering costs incurred for Hazardous Material and Technical Rescue Emergency Services.

The language of Chapter 25, Cost Recovery for Hazardous Material Response and Technical Rescue Services, includes two articles:[Article I - Hazardous Material and Article II - Technical Rescue Services] which will allow the means for the City to recover costs incurred onto the City for hazardous material or technical rescue emergency incidents. These articles will permit the City to redirect the costs to the responsible party(s) of such incidents requiring additional or outside emergency expertise in mitigating hazards, saving lives, or providing safer environments for its community.

Associated costs of specialty incidents occurring within the City's jurisdiction are the City's responsibility. With the merging of the City of Ann Arbor Fire Department's hazardous material and technical rescue specialty teams with the Washtenaw County specialty teams, these specialty incident costs have increased due to the need of requesting County specialty teams to respond and assist in handling such emergency incidents occurring within the City.

The City is a participating public agency in the Washtenaw County Hazardous Material Authority. The Authority was created to assist local fire department by providing on-scene support in the confinement/containment of environmentally dangerous chemical releases and to provide hazardous rescue when possible. Under the terms of Agreement between the Participating Agencies and the Authority, the City has an affirmative obligation to adopt a cost recovery ordinance. Until the adoption of the necessary ordinance to implement the means for recovering costs incurred for Hazardous Material and Technical Rescue Emergency Services the City is responsible for any and all costs associated with a response of the Authority where the City has requested such a response.

Adoption of the ordinance is recommended.

Prepared by: Kristen Larcom, Senior Assistant City Attorney and Mary Joan Fales, Senior Assistant City Attorney

Reviewed by: Ellen Taylor, Assistant Fire Chief and Larry Collins, Fire Chief; Service Area Administrator

Approved by: Steven D. Powers, City Administrator

ORDINANCE NO. ORD-15-17

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COST RECOVERY FOR HAZARDOUS MATERIALS

RESPONSE AND TECHNICAL RESCUE SERVICES

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF ANN ARBOR BY ADDING A NEW CHAPTER, WHICH NEW CHAPTER SHALL BE DESIGNATED AS CHAPTER 25, COST RECOVERY FOR HAZARDOUS MATERIAL RESPONSE AND TECHNICAL RESCUE SERVICES OF SAID CODE

The City of Ann Arbor Ordains:

Section 1: That the Ann Arbor City Code be amended to add a new Chapter 25, Cost Recovery for Hazardous Material Response and Technical Rescue Services, of Title I of the Code of the City of Ann Arbor to read as follows:

CHAPTER 25 - COST RECOVERY FOR HAZARDOUS MATERIAL RESPONSE AND TECHNICAL RESCUE SERVICES

ARTICLE I. HAZARDOUS MATERIAL RESPONSE.

1:850. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

- (1) *Hazardous material* means any substance that is or may become injurious to public health, safety or welfare or to the environment.
- (2) *Minor* means a person who is under the age of 18.
- (3) *Person* means any individual, parent or guardian of a minor, partnership, corporation, association, club, joint venture, estate, trust, sole proprietorship, legal entity, government corporation, a federal, state, or local unit of government, a political subdivision of a federal, state, or local unit of government, an interstate body, and any other group or combination acting as a unit and the individuals constituting such group or unit.
- (4) *Release* means and includes, but is not limited to, any actual or threat of spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of hazardous materials into the environment, or the abandonment or discarding of barrels, containers, and other closed receptacles containing a hazardous material.
- (5) *Responsible Party* means any person who owns, controls, or accepts for transport, storage, treatment or disposal any hazardous material that is released into the environment. Responsible party shall also include the owner, tenant, occupant or any other party in control of property, on which or from which there has been a release of hazardous material.

1:851. Costs Subject to Recovery from Responsible Party for Removal of Hazardous Material.

A responsible party or responsible parties shall be jointly and severally liable to and shall reimburse

the city for all costs incurred by the City in responding to a release. Such costs, include, but are not limited to, costs for the following:

- (1) Aid provided by the Washtenaw County Hazardous Materials Response Authority, any other governmental agency, or any other hazardous material resource(s) or person(s).
- (2) All personnel costs.
- (3) Contracting with any persons to assist in responding to the release.
- (4) The rental or purchase of machinery, equipment, materials or supplies required in responding to the release.
- (5) Usage cost of equipment, machinery and supplies along with vehicle response cost to the release.
- (6) The costs for repairs to or replacement of equipment and materials used in responding to the release that are damaged, lost, destroyed or rendered irreparable.
- (7) Charges related to the release imposed on the City by any local, state or federal governmental entities.
- (8) The accounting for all expenditures related to responding to the release, including billing and collection costs and attorney fees.
- (9) Any services required after responding to the release, such as cleanup of a site or the removal of items.
- (10) Any administrative costs generated in conjunction with an expense recovery.

1:852. Required Information.

Upon request by the City, any person(s) responsible or involved shall provide information to the City concerning any incident giving rise to a technical rescue, including but not limited to the following information:

- (1) His/her name, address, and any identifying information; all on scene parties including, contractors, residents, owners, witness and occupancies.
- (2) Insurance information
- (3) Other persons he/she believes were involved in or responsible for the incident.
- (4) Property owners and occupancy.

1:853. Collection of Charges.

- (1) The City Administrator or his/her designee shall send to the person or persons liable for the costs incurred by the City in performing a technical rescue an invoice for the total costs

incurred.

- (2) Payment of the invoice shall be made by the due date on the invoice.
- (3) Where services for technical rescue were rendered on real property owned by a private person, the costs incurred by the City, if not paid by the due date on the invoice, may be assessed against the parcel as provided for in section 1:292 of this Code.
- (4) Any person(s) who fails to pay the costs billed by the City within sixty (60) days of the date the bill was sent is responsible for a civil infraction punishable by a fine of \$100, plus costs of prosecution and costs incurred for services rendered by the City Attorney to collect on the bill.

ARTICLE II. TECHNICAL RESCUE SERVICES.

1:860. Definitions.

- (1) *Minor* means a person who is under the age of 18.
- (2) *Person* means any individual, partnership, corporation, association, club, joint venture, estate, trust, sole proprietorship, legal entity, government corporation, a federal, state, or local unit of government, a political subdivision of a federal, state, or local unit of government, an interstate body, and any other group or combination acting as a unit and the individuals constituting such group or unit.
- (3) *Technical Rescue* means all services rendered to save life or property that employ the use of tools and skills that exceed those normally needed for firefighting, medical emergency, and rescue. Technical rescue includes, but is not limited to:
 - a) Rope Rescue
 - b) Structural Collapse Search and Rescue
 - c) Confined Space Search and Rescue
 - d) Vehicle Search and Rescue
 - e) Water Search and Rescue
 - f) Wilderness Search and Rescue
 - g) Trench and Excavation Search and Rescue
 - h) Machinery Search and Rescue
 - i) Cave Search and Rescue
 - j) Mine and Tunnel Search and Rescue
 - k) Helicopter Search and Rescue
 - l) Tower Rescue
 - m) Animal Technical Rescue

1:861. Persons liable for costs.

The following persons shall be jointly and severally liable for all costs to the City incurred in performing the technical rescue

- (1) Any person or the parent or guardian of a minor, who accidentally, negligently, intentionally, or unintentionally causes or is responsible for the need for technical rescue shall be jointly and severally liable for all costs to the City incurred in performing the technical rescue.
- (2) The owner(s) of real property on which services are rendered in a technical rescue shall be jointly and severally liable for all costs to the City incurred in performing the technical rescue.
- (3) The owner(s) of a vehicle from which persons or property must be rescued by technical rescue and the person to whom the services are rendered shall be jointly and severally liable for all costs to the City incurred in performing the technical rescue.
- (4) Any person(s) involved in any activity which caused or contributed to the causation of the incident giving rise to the need for a technical rescue shall be jointly and severally liable for all costs to the City incurred in performing the technical rescue.
- (5) Any person(s) who makes a false report that results in the unnecessary dispatch of personnel to perform a technical rescue shall be jointly and severally liable for all costs to the City incurred in responding to the report;
- (6) The employer(s) of a person who, in the course of his/her employment, is involved in an incident requiring a technical rescue shall be liable for all costs to the City incurred in performing the technical rescue.
- (7) Any person(s) involved in any construction project in which a technical rescue is needed on the construction site shall be jointly and severally liable for all costs to the City incurred in performing the technical rescue.
- (8) In the case of the technical rescue of any property, the owner and titleholder of the property and the person in possession of the property at the time of the incident giving rise to the need for technical rescue are jointly and severally liable for all costs to the City incurred in performing the technical rescue.

1:862. Costs Subject to Recovery from Persons Liable for Technical Rescue.

The costs to the City of performing a technical rescue, for which the City shall be reimbursed, include, but are not limited to, costs for the following:

- (1) Aid provided by the Washtenaw County Technical Rescue Team, any other governmental agency, or any other technical rescue resource(s) or person(s).
- (2) All personnel costs.
- (3) Contracting with any persons to assist in a technical rescue.
- (4) The rental or purchase of machinery, equipment, materials or supplies required for the technical rescue.
- (5) Usage cost of equipment, machinery and supplies along with vehicle response costs to technical rescue.
- (6) Charges imposed on the City by any local, state or federal governmental entities related to performing the technical rescue.
- (7) The accounting for all expenditures related to technical rescue responses, including

billing and collection costs and attorney fees.

- (8) The costs for repairs to or replacement of equipment and materials used in the technical rescue that are damaged, lost, destroyed or rendered irreparable in connection with the technical rescue.
- (9) Any services required after the technical rescue, such as cleanup of a site or the removal of items.
- (10) Any administrative costs generated in conjunction with an expense recovery.

1:863. Required Information.

Upon request by the City, any person(s) responsible or involved shall provide information to the City concerning any incident giving rise to a technical rescue, including but not limited to the following information:

- (1) His/her name, address, and any identifying information; all on scene parties including, contractors, residents, owners, witness and occupancies.
- (2) Insurance information.
- (3) Other persons he/she believes were involved in or responsible for the incident.
- (4) Property owners and occupancy.

1:864. Collection of Charges.

- (1) The City Administrator or his/her designee shall send to the person or persons liable for the costs incurred by the City in performing a technical rescue an invoice for the total costs incurred.
- (2) Payment of the invoice shall be made by the due date on the invoice.
- (3) Where services for technical rescue were rendered on real property owned by a private person, the costs incurred by the City, if not paid by the due date on the invoice, may be assessed against the parcel as provided for in section 1:292 of this Code.
- (4) Any person(s) who fails to pay the costs billed by the City within sixty (60) days of the date the bill was sent is responsible for a civil infraction punishable by a fine of \$100, plus costs of prosecution and costs incurred for services rendered by the City Attorney to collect on the bill.

Section 2: In the event any court of competent jurisdiction shall hold any provision of this Ordinance invalid or unenforceable, such holding shall not invalidate or render unenforceable any other provision thereof.

Section 3: This Ordinance shall take effect on the tenth day following legal publication.

CERTIFICATION

I hereby certify that the foregoing ordinance was adopted by the Council of the City of Ann Arbor, Michigan, at its regular session of September 8, 2015.

Jacqueline Beaudry, City Clerk

Christopher Taylor, Mayor

I hereby certify that the foregoing ordinance received legal publication on the City Clerk's Webpage on September 11, 2015.

Jacqueline Beaudry, City Clerk