

**ORDINANCE NO. 96-001
PALOS FIRE PROTECTION DISTRICT
AMENDING ORDINANCE 89-01
PROVIDING FOR REMOVAL OF RELEASED HAZARDOUS SUBSTANCES**

IT IS ORDAINED, by the Board of Trustees of Palos Fire Protection District, pursuant to the powers vested in said District under Chapter 70 ILCS 705, "AN ACT IN RELATION TO FIRE PROTECTION DISTRICTS," and in accordance with CHAPTER 430, PUBLIC SAFETY ACT 50, HAZARDOUS MATERIALS EMERGENCY ACT, as follows:

RESOLVED, The Board of Trustees of a PALOS FIRE PROTECTION DISTRICT adopted Ordinance 89-1 on January 9, 1989, providing for charges in connection with the REMOVAL OF RELEASED HAZARDOUS SUBSTANCES.

NOW THEREFORE, The Board of Trustees of a PALOS FIRE PROTECTION DISTRICT determines that pursuant to its authority, Ordinance 89-1 adopted on January 9, 1989 and amended on March 4, 1991, be repealed in part and amended in part concerning definitions and as it provides for charges in connection with the REMOVAL OF RELEASED HAZARDOUS SUBSTANCES, as follows:

SECTION 1, 89-1, DEFINITIONS: "HAZARDOUS MATERIALS" as defined is repealed and "HAZARDOUS MATERIALS" shall have the following amended meaning:

SECTION 1: Any material, substance or mixture of materials or substance which are toxic, flammable, corrosive, explosive, carcinogenic or radioactive, including, but not limited to, any substance or material which is designated a hazardous material pursuant to the "Hazardous Materials Transportation Act" (49 U.S.C.A., sections 1801 et seq.) in a quantity and form which may pose a substantial present or potential hazard to human health, property or the environment when improperly released, treated, stored, transported, disposed of, or otherwise managed. "Hazardous Materials" also means a substance or material in a quantity and form which may pose an unreasonable risk to health and safety or property, and which is designated a hazardous material pursuant to the "Hazardous Materials Transportation Act", (P.L. 93-633), 430 ILCS 50/2.05.

SECTION 9, 89-1 Subsection "C. Charges for removal or remedial action when rendered by the following named entities shall be as follows:" is repealed in its entirety, and amended as follows:

SECTION 9, C. Charges for removal or remedial action when rendered shall be in accordance with the charges under 70 ILCS 705/11f, and/or unless as otherwise provided by the State of Illinois, and the United States of America.

PALOS FIRE PROTECTION DISTRICT
THOMAS F. COURTNEY & ASSOCIATES
7000 West 127th Street
Palos Heights, Illinois 60463
(708) 448-4400

The Secretary of the Palos Fire Protection District is hereby directed to publish notice of this ordinance at least once in a newspaper published within the District within thirty days. The amendments to the Ordinance shall be effective and go into operation ten days subsequent to the publication of notice of this ordinance.

Ordinances ~~89~~-1 and 91-01 shall remain in full force and effect except as amended by this Ordinance 96-001.

ADOPTED BY THE BOARD OF TRUSTEES, PALOS FIRE PROTECTION DISTRICT
THIS 5 day of February, 1996.

AYES: 5

NAYS: 0

ABSTENTIONS: 0

ABSENT: 0

PALOS FIRE PROTECTION DISTRICT
COOK COUNTY, ILLINOIS

BY: Glenn A. Martin
GLENN A. MARTIN, PRESIDENT

ATTEST:

Susan Corso
SUSAN CORSO, SECRETARY

PALOS FIRE PROTECTION DISTRICT
THOMAS F. COURTNEY & ASSOCIATES
7000 West 127th Street
Palos Heights, Illinois 60463
(708) 448-4400

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ORDINANCE 91-01
PALOS FIRE PROTECTION DISTRICT
AMENDING ORDINANCE 89-01 RELATING TO REMOVAL
OF RELEASED HAZARDOUS MATERIALS

BE IT ORDAINED, by the Board of Trustees of Palos Fire Protection District, as follows:

SECTION 1: Section 9, Paragraphs A and B, of Ordinance 89-01 titled "ORDINANCE OF PALOS FIRE PROTECTION DISTRICT PROVIDING FOR REMOVAL OF RELEASED HAZARDOUS MATERIALS" is hereby amended to read as follows:

A. Any person who is liable for the release or threatened release of a hazardous material who fails without sufficient cause to pay for or provide removal or remedial action upon or in accordance with a notice and request of Palos Fire Protection District, or in accordance with any order of any court having jurisdiction on the matter, shall be liable to the District for any costs incurred by the District as a result of such failure to provide or take such removal or remedial action, together with the cost of any removal or remedial action taken by the District in accordance with this ordinance, and all attorneys fees and related legal costs incurred in connection therewith.

B. In addition, any such person shall be guilty of a violation of this ordinance and shall be fined not less than one hundred dollars (\$100.00) nor more than one thousand dollars

(\$1,000.00) for each offense. A separate offense shall be deemed committed for each day on which a violation occurs or continues. Where such violation is found to be the result of willful and/or wanton conduct or gross negligence, or the person committing such violation attempts to evade responsibility hereunder by leaving the scene of the occurrence or by other means, that person shall be subject to a fine as provided for above or a fine in an amount equal to three times the costs, including attorneys' fees and legal costs, for which it is liable under Paragraph A, whichever is greater.

SECTION 2: This Ordinance shall be in full force and effect from and after its adoption, approval, and publication, as provided by law.

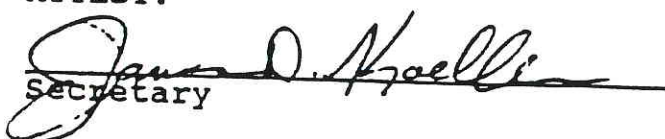
ADOPTED BY THE BOARD OF TRUSTEES, PALOS FIRE PROTECTION DISTRICT this 4th day of March, 1991.

AYES: O'Malley, Jeanes, Koeller
NAYS: None
ABSTAIN: None
ABSENT: None

PALOS FIRE PROTECTION DISTRICT
COOK COUNTY, ILLINOIS

By: 
President

ATTEST:


Secretary

FILE COPY

ORDINANCE 89-1

ORDINANCE OF PALOS FIRE PROTECTION DISTRICT PROVIDING FOR REMOVAL OF RELEASED HAZARDOUS MATERIALS

BE IT ORDAINED by the Board of Trustees of Palos Fire Protection District as follows:

SECTION 1: DEFINITIONS: As used in this Ordinance, the following terms shall have the following meanings:

COSTS	All expenses incurred by the Palos Fire Protection District for any removal or remedial action.
FACILITY	Any building, structure, installation, equipment, pipe or pipeline including but not limited to any pipe into a sewer or publicly owned treatment works, well, pond, lagoon, impoundment, ditch, landfill, storage container, tank, motor vehicle, truck trailer, rolling stock or aircraft. Also, any site or area where a hazardous material has been deposited, stored, disposed of, abandoned, placed, or otherwise come to be located.
HAZARDOUS MATERIALS	Any material, substance or mixture of materials or substances which are toxic, flammable, corrosive, explosive, carcinogenic or radioactive including, but not limited to, any substance or material which is designated a hazardous material pursuant to the "Hazardous Materials Transportation Act" (49 U.S.C.A., sections 1801 et seq.) in a quantity and form which may pose a substantial present or potential hazard to human health, property or the environment when improperly released, treated, stored, transported, disposed of, or otherwise managed.
PERSON	Any individual, business, firm, partnership, corporation, association, trust, estate, joint venture or other legal entity, or their legal representative, agent or assign.
RELEASE	Any spilling, leaking, pumping, pouring, emitting, escaping, emptying, discharging, injecting, leaching, dumping or disposing of a hazardous material into or on any land, air,

water, well, stream, sewer or pipe so that such hazardous material or any constituent thereof may enter the environment.

REMEDIAL
ACTION

Any action consistent with permanent remedy taken instead of, or in addition to, removal actions in the event of a release or threatened release of a hazardous material into the environment, to prevent or minimize the release of hazardous materials so that they do not migrate to cause a substantial present or potential hazard to human health, property or the environment. The term includes, but is not limited to, such actions at the location of the release as storage, confinement, perimeter protection using dikes, trenches, or ditches, clay cover, neutralization, cleanup of released hazardous materials or contaminated materials, recycling or reuse, diversion, destruction, segregation of reactive wastes, repair or replacement of leaking containers, collection of leachate and runoff, onsite treatment or incineration, provision of alternate water supplies, and any monitoring reasonably required to assure that such actions protect the public health and welfare and the environment.

REMOVAL

The cleanup or removal of released hazardous materials from the environment, such actions as may be necessary or appropriate to monitor, assess, and evaluate the release or threat of release of hazardous materials, the disposal of removed material, or the taking of such action as may be necessary to prevent, minimize, or mitigate damage to the public health or welfare of the environment. The term includes, but is not limited to, security fencing, provision of alternative water supplies, and temporary evacuation of threatened individuals.

RESPONSE

Any removal or remedial action.

SECTION 2: PROHIBITED ACTS: No person shall cause, threaten or allow the release of hazardous materials into the environment unless such release is in accordance with an appropriate permit granted by the Illinois Environmental Protection Agency or other State or Federal agency having primary jurisdiction over the

release and such release is in such place and manner as will not create a substantial present or potential hazard to human health, property or the environment.

SECTION 3: RESPONSE AUTHORITY:

A. The Fire Chief or his authorized representative shall have authority to respond to any release or threatened release of hazardous materials within the District or affecting the public water supply, wells or sewage treatment works located within the District. This authority includes, but is not limited to, remedial action and removal.

B. The Fire Chief shall have primary authority to respond to any release or threatened release of hazardous materials as described above. The Fire Chief shall report any release or threatened release of hazardous materials to all appropriate Federal, State and local public health, safety and emergency agencies within twenty-four (24) hours of any substantial release of hazardous materials. The Fire Chief shall relinquish his response authority at such time, if any, as the Federal, State or local public health, safety or emergency agency having primary jurisdiction over the release or threatened release has assumed responsibility for response to the release or threatened release.

C. The Fire Chief, during such time as response authority is vested in him, shall be authorized to utilize all District personnel and equipment and he may, in his sole discretion, take such remedial or removal action as he may deem necessary or appropriate to respond to the release or threatened release of hazardous material.

D. All District personnel shall cooperate with and operate under the direction of the Fire Chief or other person then exercising response authority under this ordinance until such time as the person exercising such response authority has determined that the response is complete or responsibility for response is assumed by the Federal, State or local public health, safety or emergency agency having primary jurisdiction over the release or threatened release.

E. The person exercising response authority under this ordinance shall coordinate and/or cooperate with other Federal, State or local public health, safety or emergency agencies involved in response to the release or threatened release of hazardous materials.

SECTION 4: LIABILITY FOR COSTS:

A. Notwithstanding any other provision or rule of law, and subject only to the defenses set forth in Section 5 hereof, the following persons shall be jointly and severally liable for all costs of removal and remedial action incurred by the District as a result of a release or threatened release of a hazardous material, provided such persons are not at the time of release or threatened release tax payers of the District.

1. The owner and operator of a facility or vessel from which there is a release or substantial threat of release of a hazardous material.
2. Any person who, at the time of disposal, transport, storage or treatment of a hazardous material, owned or operated the facility or vessel used for such disposal, transport, treatment or storage from which there was a release or substantial threat of a release of any such hazardous material.

3. Any person who by contract, agreement, or otherwise has arranged with another party or entity for transport storage, disposal or treatment of hazardous materials owned, controlled or possessed by such person at a facility owned or operated by another party or entity from which facility there is a release or substantial threat of a release of such hazardous materials.
4. Any person who accepts or accepted any hazardous materials for transport to disposal, storage or treatment facilities from which there is a release or a substantial threat of release of such hazardous substances.

B. Notwithstanding anything to the contrary in Paragraph A of this Section, taxpayers of the District shall be jointly and severally liable for all costs of removal and remedial action incurred by the District as a result of a release or threatened release of hazardous material only if:

1. Such hazardous material was stored, produced, transported or used in violation of any Federal, State or local statute, regulation or ordinance;
2. Such persons are determined by the Board of Trustees to have chronically released or threatened to release such hazardous material;
3. Such persons are determined by the Board of Trustees to have been grossly negligent in the storage, production, transportation, or use of such hazardous material or the release or threatened release was due to gross negligence by such persons or by their willful and wanton conduct.

For the purpose of this paragraph, taxpayers of the District shall not include any persons, firms or corporations, who, while engaged in commerce or business for profit, or for their own account as a part of their own for profit business operations, by themselves by or through their agents, employees, officers, or servants, carry and/or transport any hazardous material, as defined herein, within the District by means of any vehicle, including, but not limited to, a truck, train, boat, ship, barge, or automobile, whether or not such entity is otherwise considered a taxpayer of

the District.

SECTION 5: DEFENSES: There shall be no liability under Section 4 hereof for a person otherwise liable who can establish by a preponderance of the evidence that the release or substantial threat of release of a hazardous material and the damages resulting therefrom were caused solely by:

- A. An act of nature over which he had no control;
- B. An act of war;
- C. An act or omission of a third party, other than his employee or agent, or other than one whose act or omission occurs in connection with a contractual relationship existing directly or indirectly with him (except where the sole contractual arrangement arises from a published tariff and acceptance for carriage by a common carrier by rail), if he establishes by a preponderance of the evidence that:
 - 1. He exercised due care with respect to the hazardous materials concerned, taking into consideration the characteristics of such hazardous material, in light of all relevant facts and circumstances; and,
 - 2. He took precautions against foreseeable acts or omissions or any such third party and the consequences that could foreseeably result from such acts or omissions.
- D. Any combination of the foregoing.

SECTION 6: RELEASE IN ACCORDANCE WITH LAW: There shall be no liability under this ordinance for any release permitted by State or Federal law, but only to the extent that such release is made in accordance with applicable State and Federal law, regulations and permit requirements and the ordinances of the

Palos Fire Protection District.

SECTION 7: PUBLIC DUTY IMMUNITY: There shall be no liability under this ordinance for damages as a result of any actions taken or omitted by the response authority, its agents and employees with respect to an incident creating a danger to public health, welfare or the environment as a result of any release or threatened release of a hazardous material including, but not limited to, actions taken or omitted in the course of rendering:

A. Remedial action or removal under this Ordinance;

B. Care, assistance or advice in accordance with this ordinance;

C. Care, assistance or advice in accordance with the National Contingency Plan pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (P.L. 96-510, as amended).

D. Care, assistance or advice in accordance with the Illinois Emergency Services and Disaster Act of 1975 (Illinois Revised Statutes, chapter 127, sections 1101 et seq., as amended);

E. Care, assistance or advice at the direction of the response authority;

F. Care, assistance or advice at the direction of an on-site coordinator appointed under said National Contingency Plan, the Illinois Emergency Services and Disaster Act, any Village's or City's Emergency Service and Disaster Basic Plan or by such other public health, safety or emergency agency exercising jurisdiction over the release or threatened release of a hazardous material.

B. In addition, any such person shall be guilty of a violation of this ordinance and shall be fined not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00) for each offense. A separate offense shall be deemed committed for each day on which a violation occurs or continues.

C. Charges for removal or remedial action when rendered by the following named entities shall be as follows:

SECTION 8: CONTRACTUAL INDEMNIFICATION; SUBROGATION:

A. No conveyance, transfer, sale, indemnification, hold harmless, or similar agreement shall be effective to release the owner or operator of any facility or vessel or any person who may be liable for a release or threat of release under this ordinance from the liability imposed under this ordinance. Nothing in this section shall bar any agreement to insure, hold harmless or indemnify a party to such agreement for any liability under this ordinance.

B. Nothing in this section, including the provisions of subsection A hereof shall bar a cause of action that an owner or operator or any other person subject to liability under this ordinance, or a guarantor, has or would have, by reason of subrogation or otherwise against any person.

SECTION 9: COSTS AND PENALTIES

A. Any person who is liable for the release or threatened release of a hazardous material who fails without sufficient cause to pay for or provide removal or remedial action upon or in accordance with a notice and request of Palos Fire Protection District, or in accordance with any order of any court having jurisdiction of the matter, shall be liable to the District for any costs incurred by the District as a result of such failure to provide or take such removal or remedial action, together with the cost of any removal or remedial action taken by the District in accordance with this ordinance.

1. When provided by Palos Fire Protection District:

\$25.00 per hour per Vehicle
\$25.00 per hour per Chief Officer
\$20.00 per hour per Line Officer
\$18.00 per hour per Engineer
\$16.00 per hour per Paramedic
\$12.00 per hour per Firefighter
Replacement cost value for any expended item for
the necessary mitigation of the incident;

2. When provided by a Mutual Aid company:

\$30.00 per hour per Squad Company
\$30.00 per hour per Engine Company
\$30.00 per hour per Truck Company
\$30.00 per hour per Tanker Company
\$40.00 per hour per Chief Officer
\$50.00 per hour per Ambulance Company
Replacement cost value for any expended item for
the necessary mitigation of the incident;

3. When provided by Southwest Hazardous Materials
Response Team:

\$100.00 per hour per Response Trailer
\$ 75.00 per hour per Decontamination Trailer
\$ 65.00 per hour per Foam Trailer
\$ 60.00 per hour per Team Chief
\$ 50.00 per hour per Sector Officers
\$ 45.00 per hour per Team Member
Replacement cost value for any expended item for
the necessary mitigation of the incident;

ADOPTED BY THE BOARD OF TRUSTEES, PALOS FIRE PROTECTION
DISTRICT, this 9th day of January, 1989, on roll call vote as
follows:

AYES: O'Malley, Jeanes, Sanders

NAYS: None

ABSTAIN: None

ABSENT: None

PALOS FIRE PROTECTION DISTRICT
COOK COUNTY, ILLINOIS
By: 
President

ATTEST


Secretary

Published on the 26th day
of January, 1989.


Secretary