

**CHAPTER 18**

**HEALTH REGULATIONS**

**ARTICLE I – HAZARDOUS SUBSTANCE POLICY**

**18-1-1 DEFINITIONS.** The following terms are defined as follows:

**"Costs"** shall mean all expenses incurred by the City or any public agency assisting the City, as a result of any removal of remedial action.

**"Facility"** shall mean 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.

**"Hazardous Materials"** shall have that meaning set forth in **430 ILCS 55/3(f)**.

**"Mutual Aid"** shall mean any action taken by the City or any other public agency, pursuant to an Intergovernmental Agreement.

**"Person"** shall mean any individual, business, firm, partnership, corporation, association, trust, estate, joint venture, or other legal entity, or their legal representative, each of their assign.

**"Release"** shall mean any spill, leaking, pumping, pouring, emitting, escaping, emptying, discharging, injecting, leaching, dumping or disposing of 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"** shall have that meaning set forth in **430 ILCS 55/3(a)** and shall further mean any action consistent with permanent remedy taken instead 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 releases of hazardous materials so that they do not migrate to cause a substantial present or potential hazard to human health, property, or environment. The term includes, but is not limited to, such actions at the location of the release as storage, isolation, confinement, perimeter protection using dikes, trenches or ditches, clay cover, neutralization, cleanup of released diversion, destruction, segregation of reactive wastes, repair or replacement of leaking containers collection of leachate and runoff, on-site treatment or incineration, provisions or alternate water supplies and any monitoring reasonably required to assure that such actions protect the public health and welfare and the environment.

**"Removal"** shall mean any 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 an environment. The term includes, but is not limited to, security, fencing, provision of alternative water supplies and temporary evacuation of threatened individuals.

**"City Unit"** shall mean any one or more vehicle, dump truck, loader, backhoe or other piece of equipment of the City and/or one City employee.

**"Response"** shall have that meaning set forth in **430 ILCS 55/3(a)** and shall further mean any removal or medial action.

**18-1-2      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 Illinois 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.

**18-1-3      RESPONSE AUTHORITY.** The Chief of Police and any other Department Head of the City or their authorized representative(s) are authorized to respond to any release or threatened release of hazardous materials within the territory of the City affecting the public streets, water supply, wells or sewage treatment works located or servicing the City or pursuant to any lawful Intergovernmental Agreement or which the City is a party. This authority includes, but is not limited to, remedial action or removal.

The Police Chief and the other City Department Heads shall have the authority to respond to any release or threatened release of hazardous materials as described above. Their primary responsibility shall be to respond to all releases, and shall cooperate with the Wade Fire Protection District and the County of Jasper in connection with all such releases or threatened releases. The City shall have authority for those properly permitted discharges into the sanitary or storm sewer systems of the City, and they shall report any release or threat of release of hazardous materials to the Wade Fire Protection District and to all appropriate federal, state and local public health, safety and emergency agencies as required by applicable law.

The Police Chief and Department Heads during such time as response authority is vested in them, shall be authorized to utilize all necessary personnel and equipment and to take such remedial or removal action as may be necessary or appropriate to respond to the release or threatened release of hazardous material, in conjunction with the efforts of Wade Fire Protection District, the County of Jasper and any other governmental entity.

All responding personnel of the City shall cooperate with and operate under the direction of the Police Chief or other person then exercising response authority under this Chapter 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 proper federal or state public health, safety or emergency agency primary jurisdiction over the release or threatened release. The person exercising response authority under this Chapter 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.

**18-1-4**     **LIABILITY FOR COSTS.** Notwithstanding any other provision or rule of law, and subject only to the defenses set forth in **Section 18-1-5**, hereinafter, the following persons shall be jointly and severally liable for all costs of removal or remedial action incurred by City as a result of a release or threatened release of hazardous material.

(A)           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 or a release of any such hazardous material.

(B)           Any person who by contract, agreement or otherwise has arranged with another person, 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 person, party or entity from which facility there is a release or substantial threat of release of such hazardous materials.

(C)           Any person who accepts or accepted any hazardous material for transport, disposal, storage or treatment facility from which there is a release or a substantial threat of release of such hazardous materials.

**18-1-5**     **DEFENSES.** There shall be no liability under **Section 18-1-4** hereof for a person 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 in accordance with any of the permitted defenses enumerated in **415 ILCS 5/22.2**.

**18-1-6**     **COSTS AND PENALTIES.** Any person who is responsible for or liable for any remedial action, removal, release or threatened releases of hazardous materials shall reimburse the City in accordance with **430 ILCS 55/5** for all costs and charges incurred in connection with any such remedial action, removal, release or threatened release of hazardous material emergency action for removal or remedial action with **thirty (30) days** after such action is rendered by the City or any other agency rendering mutual aid. Minimum charges for such remedial action, removal, release or threatened release of hazardous material shall be as follows:

(A)           **Five Hundred Dollars (\$500.00)** per hour per each "City Unit" responding.

(B) The cost of all materials and equipment used, expended, depleted, destroyed or removed from service in accordance with federal, state or local law, regulations or ordinance as a result of the remedial action, removal, release or threatened release of hazardous material, or any mitigation or containment operations.

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 the City or in accordance with any order of any court having jurisdiction on the matter, shall be liable to the City for any costs incurred by City as a result of such failure to provide or take such removal or remedial action, together with the costs of any removal or remedial action taken by the City in accordance with this Chapter, and all attorney's fees and related legal costs incurred in connection therewith.

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