

CHAPTER VIII. HEALTH AND WELFARE

ARTICLE 4. COST RECOVERY FROM ENVIRONMENTAL RELEASES

SECTIONS

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8-401. DEFINITIONS.

- (a) **Emergency action.** Emergency action shall mean all exigent activities conducted in order to prevent or mitigate harm to the public health and safety and the environment from a release or threatened release of any material into or upon land, water or air.
- (b) **Person.** Person shall include any individual, corporation, association, partnership, firm, trustee, legal representative, or any combination thereof.
- (c) **Recoverable expenses.** Recoverable expenses shall include those expenses of the City of Leawood that are reasonable, necessary and allocable to an emergency action. Recoverable expenses shall not include normal budgeted expenditures that are incurred in the course of providing what are traditionally city services and responsibilities, such as routine fire fighting protection. Expenses allowable for recovery may include, but are not limited to:
 - (1) Disposable materials and supplies consumed and expended specifically for the purpose of the emergency action.
 - (2) Compensation of employees for the time and efforts devoted specifically to the emergency action.
 - (3) Rental or leasing of equipment used specifically for the emergency action (e.g., protective equipment or clothing, scientific and technical equipment).
 - (4) Replacement costs for equipment owned by the City that is contaminated beyond reuse or repair, if the equipment was a total loss and the loss occurred during the emergency action (e.g., self-contained breathing apparatus irretrievably contaminated during the response).
 - (5) Decontamination of equipment contaminated during the response.
 - (6) Special technical services specifically required for the response (e.g., costs associated with the time and efforts of technical experts or specialists not otherwise provided for by the City).
 - (7) Other special services specifically required for the emergency action.
 - (8) Laboratory costs of analyzing samples taken during the emergency action.
 - (9) Any costs of cleanup, storage, or disposal of the released material.
 - (10) Costs associated with the services, supplies and equipment procured for a specific evacuation of persons or property.
 - (11) Medical expenses incurred as a result of response activities.

- (12) Legal expenses that may be incurred as a result of the emergency action, including efforts to recover expenses pursuant to this ordinance.
- (d) **Release.** Release shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into or upon land, water or air, of any material.
- (e) **Threatened Release.** Threatened release shall mean any imminent or impending event potentially causing but not resulting in a release, but causing the City to undertake an emergency action.

(Ord. 1102C; 06-19-89)

8-402. STRICT LIABILITY. Any person causing or responsible for a release or threatened release resulting in an emergency action shall be strictly liable to the City for the recoverable expenses resulting from the emergency action. There shall be a rebuttable presumption that any person owning or controlling property causing a release or threatened release is responsible for such release or threatened release.

(Ord. 1102C; 06-19-89)

8-403. RECOVERY OF EXPENSES.

- (a) Itemization of Recoverable Expenses. City personnel and departments involved in an emergency action shall keep an itemized record of recoverable expenses resulting from an emergency action. Promptly after completion of an emergency action, the appropriate City department shall certify those expenses to the City Administrator.
- (b) Submission of Claim. The City shall submit a written itemized claim for the total expenses incurred by the City for the emergency action to the responsible person and a written notice that unless the amounts are paid in full to the City within thirty (30) days after the date of the mailing of the claim and notice, the City will file a civil action seeking recovery for the stated amount.
- (c) Lien on Property. The City may cause a lien in the amount of the recoverable expenses to be placed on any real property located with the City owned by the person causing or responsible for the emergency action.
- (d) Civil Suit. The City may bring a civil action for recovery of the recoverable expenses against any and all persons causing or responsible for the emergency action.

(Ord. 1102C; 06-19-89)