

CHAPTER 97: COST RECOVERY AND HAZARDOUS MATERIALS CLEANUP

Section

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§ 97.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

FACILITY. An area, place or property as defined in Part 201 of the Michigan Natural Resources and Environmental Protection Act, being M.C.L.A. §§ 324.20101 et seq.

HAZARDOUS MATERIALS. Any materials which pose a substantial present or potential hazard to human life, health and safety, or the environment, including but not limited to hazardous substances as defined in Part 201 of the Michigan Natural Resources and Environmental Protection Act, being M.C.L.A. §§ 324.20101 et seq., as amended, and any other substances that have been classified by the local, state or federal government or any of their departments or agencies to be hazardous or toxic.

HAZMAT UNIT. The vehicle provided by Ottawa County pursuant to an agreement with the city, equipped with apparatus designed to provide emergency service in situations involving the suspected or actual release, accident or other similar occurrence involving hazardous materials.

OPERATOR. A person or entity as defined in Part 201 of the Michigan Natural Resources and Environmental Protection Act, being M.C.L.A. §§ 324.20101 et seq.

RELEASE. Any unpermitted spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, leaching, dumping or disposing into the environment.

RESPONSIBLE PARTY. Any individual, firm corporation, association, partnership, commercial entity, consortium, joint venture, government entity or any other legal entity who, through the negligent or intentional actions of the person or of an employee or agent, is the proximate cause of a release, or is the operator of a facility at which a release occurred.

(Ord. 204, passed 8-4-03)

§ 97.02 DUTY TO REMOVE.

It shall be the duty of any responsible party to remove immediately hazardous materials released and undertake and complete a total cleanup of the area of the release in such a manner as to

ensure that the hazardous materials are fully removed and the area is fully restored to its condition prior to the release of such hazardous materials, or to conditions or standards established by Michigan Department of Environmental Quality pursuant to the Michigan Natural Resources and Environmental Protection Act, being M.C.L.A. §§ 324.20101 et seq., as amended, or other applicable law or regulation.

(Ord. 204, passed 8-4-03)

§ 97.03 FAILURE TO REMOVE.

(A) Any responsible party who fails to comply completely with § 97.02 shall be liable to the city, its agents, contractors and employees for any costs incurred in the removal and cleanup of any and all hazardous materials and the restoration of the affected property.

(B) In the event that any responsible party fails to remove immediately such hazardous material, the city shall have the right to enter on to the property involved with the release and remove and conduct a cleanup of all such hazardous materials, either by city employees or by contractors and agents of the city.

(C) Where the HazMat Unit is used for any aspect of the removal, cleanup, control or monitoring of any release or other incident involving hazardous materials, the responsible party shall be liable to the city for costs incurred in using the HazMat Unit.

(Ord. 204, passed 8-4-03)

§ 97.04 LIABILITY FOR COST RECOVERY.

(A) All costs incurred by the city under § 97.03 shall be the responsibility of the responsible party or, jointly, the responsibility of all responsible parties.

(B) In the event that said costs are not paid, the city may take whatever collection steps may be deemed appropriate, including the placement of all such charges on the tax roll for said property and to levy and collect such costs in the same manner as provided for the levy and collection of real property taxes against such property.

(C) The city may pursue any other remedy, or may institute any appropriate action or proceedings in a court of competent jurisdiction to collect costs for which liability is imposed under this chapter.

(D) The recovery of charges composed under this chapter does not limit or modify liability of parties under local ordinance, state or federal law, rule or regulation.

(Ord. 204, passed 8-4-03)