

CHAPTER 4**HAZARDOUS MATERIALS INCIDENT RESPONSE**

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SECTION 400. DEFINITIONS

A. For purposes of this chapter, "hazardous substance" means any substance that, because of its quantity, concentration or physical or chemical characteristics, poses a significant present or potential hazard, according to federal, state, and/or local standards and regulations, to human health and safety or to the environment if released from its intended container.

B. For purposes of this chapter, a hazardous materials incident is defined as any incident involving the release, abandonment, discharge, or deposit of any hazardous material from its intended container which, unless otherwise provided herein, has the potential to harm persons, property, or the environment.

C. Business entity or person means any corporation, sole proprietorship, partnership, limited partnership, person, firm, or other similar entity engaged in any commercial, business, or industrial transaction of any nature.

D. Hazardous materials response team means the hazardous materials response team of the City's Fire Department.

E. Responsible party means, jointly and severally, all persons involved in the possession, ownership, or transportation of any hazardous material that is released, abandoned, discharged, or deposited.

Ord. Nos. 20646, 20721, 21148

SECTION 401. NUISANCE

Due to the harmful effects of hazardous substances, a hazardous materials incident is hereby declared to be a nuisance.

Ord. Nos. 20646, 21148

SECTION 402. RESPONSE

The Mayor, or his designee, is authorized to respond in such manner as he deems appropriate, but shall not be obligated by any provision of this chapter to respond, to any hazardous materials incident within or outside the City of Tulsa in order to mitigate the effects of any hazardous substance or waste unlawfully, accidentally, or negligently released, abandoned, discharged, or deposited.

Ord. Nos. 20646, 21148

SECTION 403. RESPONSIBILITY

A. Any of the following described persons shall be liable to the City for the payment of costs incurred by the City as provided herein:

1. The person or persons whose accidental, negligent, or willful act or omission proximately caused such release, abandonment, discharge, or deposit; or
2. The person or persons who owned or had custody or control of the hazardous substance or waste at the time of such release, abandonment, discharge, or deposit without regard to fault or proximate cause; or
3. The person or persons who owned or had custody or control of the container that held such hazardous waste or substance at the time or immediately prior to such release, abandonment, discharge, or deposit without regard to fault or proximate cause.

B. The costs for responding to a hazardous materials incident by the City shall be computed as follows:

1. For response at a hazardous materials incident, when the response team expends resources to mitigate an incident, the rate shall be One Thousand Eight Hundred Dollars (\$1,800.00) per hour or any portion thereof; and
2. The actual costs of equipment, supplies, materials consumed in the response to the hazardous materials incident, and any contract labor utilized in the mitigation efforts.

Ord. Nos. 20646, 21148

SECTION 404. EXEMPTIONS

A. Notwithstanding any other provision of this chapter, any individual who constitutes a responsible party as defined in Section 400 shall not be required to pay charges authorized under Subsection 403.B for the release, abandonment, discharge, or deposit of any hazardous material if any one of the following conditions is met:

1. The individual otherwise responsible or liable for the hazardous materials incident is not involved in the possession, ownership, or transportation of the hazardous materials as the employee, agent, or servant of any business entity or person; or

2. The individual involved in the lawful possession, ownership, or transportation of the hazardous materials released, abandoned, discharged, or deposited is involved solely for private, noncommercial purposes related to the individual's own residential property, real property, or private personal property, and the individual receives or is to receive no compensation for any services involving the hazardous materials, provided the hazardous materials possessed, owned, or being transported by the individual are in forms, quantities, and containers ordinarily and lawfully available for sale as consumer products to members of the general public.

3. The hazardous material giving rise to the hazardous materials incident was used for the sole purpose of providing power to the vehicle involved in the incident.

B. The Mayor and his designee may by contract enter into mutual aid agreements for hazardous materials response services with various persons. No charge shall apply where a contract calls for reciprocal service or supplies without charge.

C. None of these exemptions apply if the hazardous materials incident is caused by an act which would constitute a felony, independent of any charge arising from the release, abandonment, discharge, or deposit of the hazardous materials.

Ord. Nos. 20646, 20721, 21148

SECTION 405. ANNUAL FEE IN LIEU OF COSTS

Any entity or person whose principle place of business is within the city limits of Tulsa, may pay an annual fee calculated as set forth hereafter. The fee shall be due on March 1 of each year.

If this fee is paid and is current before a response is made to any hazardous materials incident, the entity or person shall be exempt from any charges pursuant to Section 403.

This fee-in-lieu exemption shall not apply to a hazardous materials incident resulting from an intentional act.

A. For businesses according to the number of employees at each fixed facility, the fee per facility shall be:

1 - 5 employees\$	100.00
6 - 10 employees\$	250.00
More than 10 employees\$	500.00

B. For trucking firms, a fee, in addition to the appropriate fee for fixed facilities set out in Subsection A, above, shall be required according to the number of trucks operated as follows:

1 - 5 trucks	\$ 100.00
6 - 10 trucks	\$ 250.00
More than 10 trucks	\$ 500.00

C. For railroad companies, a fee, in addition to the appropriate contribution for fixed facilities set out in Subsection A, above, shall be required as follows:

For each railroad company\$ 500.00

D. For pipeline companies, a fee, in addition to the appropriate fee for fixed facilities set out in Subsection A, above, shall be required as follows:

For each pipeline company\$ 500.00

E. For barge companies, a fee, in addition to the appropriate fee for fixed facilities set out in Subsection A, above, shall be required according to the number of barges utilized as follows:

1 - 5 barges	\$ 100.00
6 - 10 barges	\$ 250.00
More than 10 barges	\$ 500.00

F. No single business entity or person shall be required to pay more than Five Thousand Dollars (\$5,000.00) per year as a fee in lieu of costs.

G. For any other business, entity, or person, an annual fee of Twenty-five Dollars (\$25.00).

Ord. Nos. 20646, 20712, 21148

SECTION 406. ANNUAL FEE IN LIEU OF COSTS FOR PERSONS OUTSIDE THE CITY OF TULSA

Any entity or person whose principle place of business is outside the city limits of Tulsa, may pay an annual fee calculated as set forth hereafter. The fee shall be due on March 1 of each year.

If this fee is paid and is current before a response is made to any hazardous materials incident, the entity or person shall be exempt from any charges pursuant to Section 403.

This fee-in-lieu exemption shall not apply to a hazardous materials incident resulting from an intentional act.

A. For businesses according to the number of employees at each fixed facility, the fee per facility shall be:

1 - 5 employees	\$ 200.00
6 - 10 employees	\$ 500.00
More than 10 employees	\$ 1,000.00

B. For trucking firms, a fee, in addition to the appropriate fee for fixed facilities set out in Subsection A, above, shall be required according to the number of trucks operated as follows:

1 - 5 trucks	\$ 200.00
6 - 10 trucks	\$ 500.00
More than 10 trucks	\$ 1,000.00

C. For railroad companies, a fee, in addition to the appropriate contribution for fixed facilities set out in Subsection A, above, shall be required as follows:

For each railroad company\$ 1,000.00

D. For pipeline companies, a fee, in addition to the appropriate fee for fixed facilities set out in Subsection A, above, shall be required as follows:

For each pipeline company\$ 1,000.00

E. For barge companies, a fee, in addition to the appropriate fee for fixed facilities set out in Subsection A, above, shall be required according to the number of barges utilized as follows:

1 - 5 barges	\$ 100.00
6 - 10 barges	\$ 500.00
More than 10 barges	\$ 1,000.00

F. No single business entity or person shall be required to pay more than Ten Thousand Dollars (\$10,000.00) per year as a fee in lieu of costs.

G. For any other business, entity, or person, an annual fee of Twenty-five Dollars (\$25.00).

Ord. Nos. 20646, 20712, 20735, 21148

SECTION 407. SERVICE LIMITS

The service provided by the hazardous materials response team is limited to the initial emergency response to a hazardous materials release, abandonment, discharge, or deposit incident and includes only those stabilization and protective measures deemed necessary and feasible by the incident commander to initially address the immediate threat to the public health and safety. Deployment of the team beyond the scope of the team's resources and capabilities for such an initial response is not contemplated under this title and the City reserves the right to terminate the services of the team at any time after arrival at the site. Protective and stabilization requirements continuing beyond the cessation of service, along with the cleaning up, removal, or disposal of hazardous materials, and any testing, monitoring, or long-term care of the site of the hazardous materials incident shall remain the duty of the responsible party. The provisions of this chapter shall not be construed to excuse or exempt any responsible party from any legal duties, liabilities, or costs associated with the hazardous materials release, abandonment, discharge, or deposit other than the costs for the services of the hazardous materials response team for the duration of the service call.

Ord. Nos. 20646, 21148

SECTION 408. APPEAL

Anyone assessed the costs of mitigating a hazardous materials incident may appeal the assessment to the City Council by notifying the Council Secretary within thirty (30) days of the date of the notification of the assessment or invoice, whichever is first, said notification of assessment or invoice shall contain language advising the recipient of the time requirements and location at which an appeal must be filed.

Ord. Nos. 20646, 21148