

GENERAL ORDINANCE NO. 93-1169**AN ORDINANCE PROVIDING FOR RECOVERY OF EXPENSES
OF THE CITY OF THE DALLES INCURRED IN RESPONSE TO
EMERGENCY ACTIONS INVOLVING RELEASE OR THREATENED
RELEASE OF MATERIAL INTO OR UPON THE ENVIRONMENT;
AND DECLARING AN EMERGENCY**

THE PEOPLE OF THE CITY OF THE DALLES ORDAIN AS FOLLOWS:

Section 1. Title. This Ordinance shall be known as the “City of The Dalles Environmental Recovery Ordinance”.

Section 2. Definitions. As used in this ordinance the following shall mean:

- 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 combination thereof.
- C. Recoverable Expenses. Recoverable expenses shall include those expenses of the City of The Dalles 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 or machinery used specifically for the emergency action (e.g., protective equipment or clothing, scientific and technical equipment).

- (4) Replacement costs for equipment or machinery 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 or machinery 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 release 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, including attorney fees and court costs, 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, 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 caused but not resulting in a release, but causing the City to undertake an emergency action.

Section 3. 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 rebuttal presumption that any person owning or controlling property causing a release or threatened release is responsible for such release or threatened release.

Section 4. Recovery of Expenses.

- A. Review of Potential Claims, Itemization of Recoverable Expenses. Upon completion of a response to an emergency action involving the release of hazardous material into or upon the environment, the City Manager, in consultation with appropriate staff personnel, shall review the City's response and determine whether the magnitude of expense incurred justifies the pursuit of a claim for recoverable expenses. All City personnel and departments involved in responding to an emergency action involving the release or potential release of hazardous materials shall keep an itemized record of recoverable expenses. [As amended by General Ordinance No. 95-1193, passed by the City Council and approved by the Mayor September 11, 1995.]
- 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. 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.

Section 5. Nothing in the Ordinance shall be construed to conflict with State or Federal laws requiring persons causing or responsible for releases or threatened releases from engaging in remediation activities and/or paying the costs thereof.

Section 6. Severability Clause. The invalidity of a section or part of a section of this ordinance shall not affect the validity of the remaining sections or parts of sections.

Section 7. Emergency Clause. Inasmuch as it is necessary for the immediate preservation of the peace, health and safety of the citizens of the City of The Dalles that this Ordinance shall have immediate effect, an emergency is hereby declared to exist and this Ordinance shall be in full force following its adoption by the Council and approval by the Mayor.

Passed by the Council and approved by the Mayor this 2nd day of August, 1993.