

ORDINANCE NO. 0408-2019

**AN ORDINANCE RELATING TO THE RELEASE AND CLEANUP OF
HAZARDOUS MATERIALS OR ENVIRONMENTALLY DAMAGING
SUBSTANCES**

BE IT ORDAINED by the City Council of the City of Shawneetown, Illinois:

SECTION 1: UNLAWFUL RELEASES PROHIBITED

No person shall cause, threaten or allow the release of hazardous materials or environmentally damaging substances within the corporate limits of the City of Shawneetown, or within the response area covered by the City of Shawneetown Fire Department, unless such release is in accordance with an appropriate permit granted by the Illinois Environmental Protection Agency or other state or federal agency having primary authority over the release and such release is in such a place and manner as will not create a substantial present or potential hazard to any human, health, property or the environment. Any prohibited release is hereby declared a public nuisance.

SECTION 2: DEFINITIONS

HAZARDOUS MATERIALS: Any substance or material in a quantity or form determined by the U.S. Occupational Safety and Health Administration, the U.S. Department of Transportation, the U.S. Environmental Protection Agency or the U.S. Nuclear Regulatory Commission to be a "hazardous material". Said materials are generally considered to be any item or agent biological, chemical or physical which has the potential to cause harm to humans, animals or the environment either along or through interaction with other chemicals or compounds.

RELEASE: To leak, seep, spill, emit or discharge, or to create a substantial threat of release requiring emergency response.

RESPONSIBLE PARTY: Any person, corporation, partnership, unincorporated association or any unit of federal, state or local government or any other entity who, whether intentionally or unintentionally:

- A. Owns or has custody of hazardous material that is involved in an incident requiring emergency action by an emergency response agency in response to a release, as defined herein; or
- B. Owns or has custody of bulk or nonbulk packaging or transport vehicle that contains hazardous material that is involved in an incident requiring emergency action by an emergency response agency in response to a release, as defined herein; or
- C. Causes or substantially contribute to the cause of an incident of release, as defined herein.

SECTION 3: A responsible party shall be jointly and severally liable to the City of Shawneetown (City) for the payment of all costs incurred by the City as a result of a response to, cleanup of, or abatement of any release of hazardous materials, including costs and attorney's fees incurred in the collection of the amounts due, and shall include any costs incurred by the City for additional manpower by any hazardous material team, or any other municipal or fire protection district, any party to a mutual aid agreement or any other independent contractors as deemed necessary by the Fire Chief during the incident.

When a response is required outside the corporate limits of the City, a responsible party shall be liable for the City's normal charge for out of town fire calls as established from time to time, in addition to costs incurred as set forth herein for the cleanup or abatement of hazardous materials.

SECTION 4: The Shawneetown Fire Department is authorized and directed to respond immediately upon being notified, and to do all things within their capabilities to contain, remove and dispose of any materials hazardous to the public health and safety, as defined herein, that are released within the corporate limits of the City or the City of Shawneetown Fire Department's response area.

SECTION 5: The amount to be paid by the responsible party for costs incurred by The City of Shawneetown for the use of personnel and equipment is designated as follows:

- A. PUMPER TRUCK, AERIAL LADDER TRUCK, COMMUNICATIONS UNIT AND HAZARDOUS MATERIALS TRUCK - \$300 PER HOUR
- B. OUT OF CITY – RATES BASIC \$1500.00
- C. MATERIALS COST OF REPLACEMENT
- D. OTHER EQUIPMENT REGULAR HOURLY RATE

SECTION 6: PAYMENT

- A. The City shall, within thirty (30) days of completion of cleanup, containment or abatement of any hazardous material release, provide an invoice for the costs incurred by the City as set forth herein, to the person or persons determined by the City to be the responsible parties.
- B. The responsible party or parties shall submit payment for the invoice within thirty (30) days of the date of the City's invoice.
- C. In the event any responsible party fails to pay the amount invoiced within thirty (30) days after the date of the City's invoice, then the responsible party or parties shall be responsible for all costs of collection of the amounts due, including reasonable attorney fees and court costs incurred by the City in enforcement of this Ordinance.
- D. The remedies provided by this section shall be in addition to any other remedies provided by law.

SECTION 7: Should any portion of this Ordinance hereafter be declared by a court of competent jurisdiction to be invalid, such declaration shall not affect the validity or enforceability of the remaining provisions of this Ordinance.

SECTION 8: This Ordinance shall be in full force and effect from and after its passage, approval and publication according to the laws of the State of Illinois.

Adopted at a regular meeting on this 8th day of April, 2019, on roll call vote as follows:

AYES 4 Brandon Vickery, Melissa Charleton, Lisa Smith, Steve Wood

NAYS 0

ABSENT 2 Michael Blain, June Rushing entered meeting at 7:00 PM.



DAVID BARKER, MAYOR

ATTEST:



NANCY LARKIN, CITY CLERK