

ORDINANCE NO. 95- 02

AN ORDINANCE PROVIDING FOR THE RECOVERY OF COSTS IN
RESPONDING TO HAZARDOUS MATERIALS EMERGENCIES

Be it enacted and ordained by the City Council of Wendover, Tooele County, Utah, as follows:

SECTION ONE: PURPOSE. This ordinance is for the purpose of adopting and approving a mechanism and procedures to recover costs incurred by the City and its agencies in responding to hazardous materials emergencies, aggravated fire emergencies and aggravated emergency medical responses.

SECTION TWO: ADOPTION. An ordinance, to be known as the Wendover City Emergency Services Cost Recovery Ordinance, is hereby enacted and adopted and shall read in its entirety as follows:

Chapter 1

Cost Recovery - Hazardous Materials Emergencies

Sections:

1-101	Purpose
2-102	Definitions
3-103	Recovery Authorization and Procedure
4-104	No Admission of Liability
5-105	Action to Recover Expenses

Section 1-101. Purpose. This Chapter shall provide procedures for recovering costs incurred by the City or other local governmental agencies for assistance rendered in responding to hazardous materials emergencies, aggravated fire emergencies and aggravated emergency medical responses.

Section 2-102. Definitions. As used in this Chapter:

(1) "Hazardous materials emergency" means a sudden or unexpected release of any substance that, because of its quantity, concentration or physical, chemical or infectious characteristics, presents a direct and immediate threat to public safety or the environment and requires immediate action to mitigate the threat.

(2) "Aggravated fire emergency" means:

(a) A fire proximately caused by the owner or occupier of property or a structure, which presents a direct and immediate threat to public safety and requires immediate action to mitigate the threat, and the fire:

1) is caused or contributed to by the failure to comply with an order from any Federal, State, County, or local agency, department or official; or

2) occurs as a direct result of a deliberate act in violation of Federal or State law, or the ordinances or regulations of the City, County or other local agency.

(b) A fire that constitutes arson or reckless burning as defined by the Utah Code.

(c) An alarm that results in a City, County or local fire unit being dispatched, and the person transmitting, or causing the transmission of the alarm, knows at the time of said transmission that no fire or fire related emergency exists.

(3) "Aggravated medical emergency" means an alarm that results in a City, County or local fire unit or a City or County emergency medical unit being dispatched, and the person

transmitting, or causing the transmission of the alarm, knows at the time of said transmission that there are no reasonable grounds for believing that a medical emergency exists.

(4) "Expenses" means the actual costs of City, County or other local government and volunteer personnel, including worker's compensation benefits, fringe benefits, administrative overhead, costs of equipment, cost of equipment operation, cost of materials, costs of disposal and the cost of any contract labor and materials.

Section 1-1-3. Recovery Authorization and Procedure.

(1) The City is hereby empowered to recover expenses incurred by virtue of the City's or other local governmental agencies' response to a hazardous materials emergency, aggravated fire emergency or an aggravated medical emergency from any person, corporation, partnership or other individual or entity who caused such an emergency, pursuant to the following procedure:

(a) The City Police Department shall determine responsibility for the emergency or response as defined above and notify the responsible party by mail of the department's determination of responsibility and the expenses to be recovered.

(b) The notice shall specify that the determined responsible party may appeal the department's decision before a hearing officer designated by the City Council and establish a date by which the notice of appeal shall be filed. The appeal date shall be no less than fifteen (15) days from the date of the notice. Until otherwise provided by resolution of the City Council, the hearing officer shall be the Mayor of the City of Wendover.

(2) In the event the determined responsible party appeals the determination, the hearing officer shall hold a hearing to consider any issues raised by the appeal, at which hearing the appealing party and the Police Department or other local government shall be entitled to present evidence in support of their respective positions.

(3) After the hearing, the hearing officer shall make a recommendation to the City Council which shall issue a decision determining responsibility and assessing expenses. The City Council may adopt, modify or remand the recommendation of the hearing examiner for further proceedings. The City Council may, in its sole discretion, hear additional evidence prior to issuing its decision.

Section 1-104. No Admission of Liability. The payment of expenses determined owing under this Chapter does not constitute:

(1) an admission of liability or negligence in any legal action for damages; or

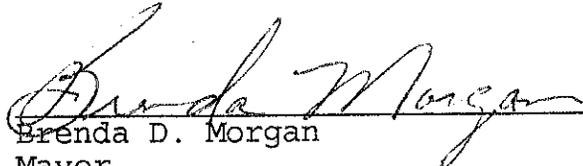
(2) a criminal fine.

Section 1-1-6. Action to Recover Expenses. In the event the party or parties determined to be responsible for the repayment of expenses incurred due to the City's or other local agencies' response to such an emergency fail to make payment to the City within thirty (30) days after a final administrative determination of any appeal to the City, or thirty (30) days from the deadline for appeal in the event no appeal is filed, the City may initiate legal action to recover from the determined responsible party the

expenses determined to be owing, including the City's reasonable attorney's fees.

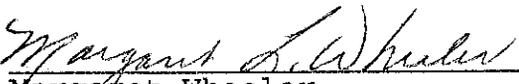
SECTION THREE: EFFECTIVE DATE. It is the opinion of the City Council that this Ordinance is necessary for the immediate preservation of peace, health or safety of the City and the inhabitants thereof and shall therefore take effect immediately upon publication.

IN WITNESS WHEREOF, the City Council of Wendover, Tooele County, Utah have passed, approved and enacted this Ordinance this 14 day of June, 1995.



Brenda D. Morgan
Mayor

ATTEST:



Margaret Wheeler
City Recorder

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