



ARTICLE I. PURPOSE

It is the purpose of this ordinance to provide for the orderly and expeditious control and clean-up of any hazardous materials which are a threat to health and safety of people, animals, wildlife, vegetation, property, water ways or the environment; that may escape from the control of the person or persons having possession of them, and thereby pose a threat to the City of Winooski. Further, it is the purpose of this ordinance to require that any person possessing any such hazardous material shall compensate the city for all services provided by the city in relation to the control, containment or cleanup of hazardous materials and to reimburse the city for any costs or damages, direct or indirect, incurred by the city as a result of its efforts to contain, control or clean up such hazardous material.

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ARTICLE III. GENERAL PROVISIONS

SECTION 8.01. APPLICATION OF ARTICLE

This ordinance applies to all incidents involving hazardous materials within the boundaries of the City of Winooski, and to all persons who may possess such materials found within the boundaries of the City of Winooski, except as state or federal law and/or regulation may take precedence and authority over

any such incident or person. This ordinance shall be in addition to any and all provisions of said state or federal law and/or regulation.

SECTION 8.02. DEFINITIONS

HAZARDOUS MATERIALS - Those substances or materials in such quantity and form which may pose an unreasonable risk to health and safety or property, which may include but are not limited to explosives, radioactive materials, etiologic agents, flammable liquids or solids, combustible liquids or solids, poisons, oxidizing or corrosive materials, and compressed gases which are listed by the Materials Transportation Bureau of the United States Department of Transportation in Title 49 the Code of Federal Regulation and any amendment thereto, or those materials the disposal of which is regulated under 9 V.S.A. § 2821 et seq., 10 V.S.A. § 6601 et seq., and 10 V.S.A. § 7001 et seq.

PERSON - Shall mean any individual, corporation or other entity having the recognized legal status of a person (i.e., association) or any partnership, trust or other legal entity as distinguished from the individual members thereof.

POSSESSION - Shall mean to possess, own, hold or have within his/her or its control any material defined as hazardous. In the case of any corporation or other legal entity, in addition to the legal responsibility for the control of said entity shall be deemed to be in possession. It is the intention of this ordinance to include within the concept “person in possession” not only the legal owner but also any and all other persons who may at any time come within the chain of control without regard to the issue of legal title. Person in possession shall include not only the owner but any agent, consignee, employee, contractor, or representative within a chain of control.

SECTION 8.03. DUTIES OF PERSON(S) POSSESSING HAZARDOUS MATERIALS

The person or persons in possession of any hazardous material shall have the duty to prevent its discharge or release and to assure that any such material is used in a manner which will prevent its escape from safe containment, in any manner which poses an actual or potential threat to people, animals, wildlife, vegetation, property or the environment. No person in possession shall dump, discharge, deposit, release or dispose of any hazardous material within the city. In the event of the discharge or relapse of any hazardous material from safe containment, the person in possession at the time of discharge, shall immediately report the same to the Winooski Fire Department Dispatch Center.

SECTION 8.04. CONTROL, CONTAINMENT AND CLEAN-UP

The city shall take such action as necessary to protect public health, safety, welfare, property and the environment.

SECTION 8.05. LIABILITY AND COST

The person(s) in possession of any hazardous materials which are accidentally discharged or released shall be strictly liable to the city for all costs incurred in the control, containment, and clean-up of hazardous materials. For this purpose, all of the possessors of any hazardous materials shall be jointly and severally liable and all costs may be recovered from any one of them by a suit in any court with jurisdiction over the parties and the amount claimed.

SECTION 8.06. ENFORCEMENT OF ARTICLE

Code Enforcement shall be responsible for the enforcement of this article.

ARTICLE IV. PENALTIES

Any person who fails to report, intentionally releases, or causes another to discharge or release, any hazardous materials from their safe container, in any manner which poses an actual or potential threat to people, animals, wildlife, vegetation, property, or the environment, shall be assessed a civil forfeiture not to exceed one thousand dollars (\$1,000.00) including all cost of material, labor, and equipment used or solicited by the city.

ARTICLE V. SEVERABILITY

If any action, subsection, sentence, clause, phrase, or part of this ordinance shall be held invalid for any reason whatsoever, such decision shall not affect the remaining portions, which shall remain in full force and effect; and to this end, the provisions of this ordinance are severable.

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