

Submitted by
MJR 7/12/99

Proposed Amendment to Ordinance 0-99-21; Legistar Number 980747

1. Add to Section 11.5-32, the following:

~~Sec. 11.5-32. Hazardous Materials Incidents - Liability for Costs - Defenses~~

The Incident Commander or Fire Chief is hereby duly authorized to take all reasonable measures to respond to and stabilize the hazardous material incidents. Any responsible party who causes a hazardous material incident shall be liable to the City of Gainesville for the payment of all reasonable direct costs incurred in response to, stabilization of, and any necessary monitoring of such an incident.

The City of Gainesville will seek all available remedies at law including the provisions of this ordinance, against any parties responsible for any hazardous material incident, to include those actions and remedies available under the United States Bankruptcy Code relating to such matters.

There shall be no liability under this ordinance for any Responsible Party who can establish by a preponderance of the evidence that the release was caused by: a) an act of God which means only an unforeseeable act exclusively occasioned by the violence of nature without the interference of any human agency; b) an act of war directly relating to active combat; c) an act or omission of a third party, other than an employee or agent of the Responsible Party, or other than one whose act or omission occurs in connection with a contractual relationship with the Responsible Party; or d) any combination thereof. These defenses shall be narrowly construed.

1 **2. Add to Section 11.5-34, the following:**

2 **Sec. 11.5-34 Supervision**

3 ~~In the event that any person(s) undertakes, upon order or direction of the Incident~~
4 Commander or Fire Chief, to clean up or abate the effects of any hazardous material unlawfully
5 released into the environment, the Incident Commander or Fire Chief may take any action
6 necessary to supervise such cleanup or abatement. The person(s) described in Section 11.5-32 of
7 this ordinance shall be liable to the City for all costs incurred as a result of such supervision,
8 except when a federal, state or other governmental agency is supervising or abating any such
9 release, unless the Incident Commander or Fire Chief is requested by any such agency to take
10 action.