

ORDINANCE NO. 314

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF BESSEMER BY ADDING A NEW CHAPTER TO TITLE IX, WHICH SHALL BE DESIGNATED AS CHAPTER 120.

THE CITY OF BESSEMER HEREBY ORDAINS:

The Code of the City of Bessemer is hereby amended to add the following Chapter 120 (DANGEROUS OR HAZARDOUS MATERIALS) of Title IX of the Bessemer City Code.

9.181 SHORT TITLE. This Ordinance shall be known and may be cited and referred to as the City of Bessemer Ordinance providing for the regulation of Dangerous or Hazardous Materials within the City of Bessemer.

9.182 PURPOSE. This Ordinance enables the City of Bessemer to require reimbursement from those responsible for leaking, spilling, or otherwise allowing certain dangerous or hazardous substances or materials to escape containment, which would require cleanup and disposal by the City of Bessemer or its agents.

9.183 DEFINITION. A "DANGEROUS OR HAZARDOUS" substance or material is defined as any substance which, when it is spilled, leaked, or otherwise released from its container, is in the determination of the Fire Chief or his authorized representative, **dangerous or harmful to the environment, human or animal life, health, safety or welfare**. This includes, but is not limited to, chemicals, gases, explosives, radioactive materials, petroleum, petroleum products, petroleum gases, poisons, etiologic (biologic) agents, flammables and corrosives.

9.184 RESPONSIBLE PARTY. Any person(s) or entity(s) who owns and/or operates the property, equipment, vehicle, or vessel upon which a dangerous or hazardous condition exists or which causes or contributes to a dangerous or hazardous condition, including but not limited to spilling, leakage, or any release from its container, which constitutes risk of danger or harm as set forth in Section 9.183 above.

9.185 DUTY TO REMOVE AND CLEAN UP. It shall be the duty of any responsible party as defined in Section 9.184 above to immediately remove the dangerous or hazardous substance and to clean up the area of spillage, leakage, or other release of substance in such manner that the area involved is fully restored to its condition before such happening.

9.186 FAILURE TO REMOVE AND CLEAN UP. Any responsible party which fails to comply with its duty to clean up or remove a hazardous or dangerous substance, as set forth in Section 9.185 above, shall be liable to and shall pay the City of Bessemer for

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whatever costs and expenses it incurs, including the costs incurred by the City to any party which it engages, for the complete abatement, clean up and restoration of the affected area. Costs incurred by the City of Bessemer shall include, but shall not necessarily be limited to, the following: actual labor cost of City personnel, including worker's compensation benefits, fringe benefits and administrative overhead; cost of equipment operation; cost of materials obtained directly by the City of Bessemer for use in the cleanup; and cost of any contract labor and materials. Costs under this section may include actual fire suppression services, unless included in those normally or usually provided by the City of Bessemer. Costs shall also include those necessary for treatment or disposal, if necessary.

9.187 ENFORCEMENT. If any responsible party fails to reimburse the City of Bessemer, as above provided, and is the owner of the affected property, equipment, vehicle, or vessel, the City of Bessemer shall have the right and the power to add all costs of clean up and restoration to the tax roll of the property and to levy and collect such costs in the same manner as provided for the levy and collection of real property taxes against said property. The City of Bessemer shall also have the right to bring an action in the appropriate court against each responsible party to collect such costs if it deems such action to be necessary or desirable.

9.188 EFFECTIVE DATE. This Ordinance shall be published pursuant to Section 6.4 of Chapter 6 of the City Charter and shall become effective immediately upon publication.

At a regular meeting of the Common Council for the City of Bessemer held on December 15, 1997, adoption of the foregoing Ordinance was moved by Bonovetz and supported by Bennetts.

AYES: Michelli, Bennetts, Bonovetz, Coleman, Frello

NAYS: None

The Mayor declared the Ordinance adopted.

Vivian M. Coleman
VIVIAN COLEMAN MAYOR

Penny Osier
PENNY OSIER DEPUTY CLERK