

ORDINANCE NO. 23-43

AN ORDINANCE AMENDING ARTICLE V, ENTITLED "HAZARDOUS SPILLS," OF CHAPTER 42, ENTITLED "FIRE PREVENTION AND PROTECTION," OF THE CODE OF ORDINANCES, CITY OF ROLLING MEADOWS, ILLINOIS, REGARDING LIABILITY FOR PAYMENT OF COSTS ASSOCIATED WITH HAZARDOUS SPILLS

WHEREAS, the City of Rolling Meadows, Cook County, Illinois, ("City") is a home rule unit of government and, pursuant to the provisions of Article VII, Section 6(a) of the Illinois Constitution may exercise any power and perform any function pertaining to its government and affairs, except as limited by Article VII, Section 6 of the Illinois Constitution of 1970; and

WHEREAS, the deposit of hazardous materials within the corporate limits of the City is dangerous to the health, safety, welfare and convenience of the public, and such deposits require prompt abatement, mitigation and removal; and

WHEREAS, the City Council has found that the abatement, mitigation and removal of hazardous materials requires an extraordinary commitment of manpower, apparatus, equipment and supplies with a concomitant extraordinary and excessive cost which should not be borne by the public; and

WHEREAS, Title V of the Illinois Environmental Protection Act (415 ILCS 5/20 *et seq.*), provides that costs of removal or remedial action incurred by a unit of local government with respect to the release or substantial threat of release of hazardous materials may be recovered by the unit of local government; and

WHEREAS, currently, Sections 42-237 and 42-238 of Article V, Chapter 42 of the Code of Ordinances of the City of Rolling Meadows requires that the recipient of the City's remedial action and/or the owner of property on which a hazardous spill occurs are responsible for the costs associated with the City's response to such hazardous spill; and

WHEREAS, the City Council has determined that it is advisable, necessary and in the public interest to amend the Code of Ordinances of the City of Rolling Meadows to specify the regulations regarding the liability for costs associated with the spill or deposit of hazardous materials within the City.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Rolling Meadows, Cook County, Illinois, as follows:

Section 1. The recitals and statements set forth above are incorporated herein by this reference.

Section 2. Section 42-237, entitled "Obligation to reimburse city," of Article V, entitled "Hazardous Spills," of Chapter 42, entitled "Fire Prevention and Protection," of the Code of Ordinances, City of Rolling Meadows, Illinois, is hereby amended by replacing section 42-237 with the following:

Sec. 42-237. – Liability for Costs.

- (a) The following persons shall be jointly and severally liable for all costs of removal and remedial action incurred by the City of Rolling Meadows as a result of a release or threatened release of a hazardous material:
1. The owner and operator of a facility or vessel from which there is a release or substantial threat of release of a hazardous material.
 2. Any person who, at the time of disposal, transport, storage or treatment of a hazardous material, owned or operated the facility or vessel used for such disposal, transport, treatment or storage from which there was a release or substantial threat of a release of any such hazardous material.
 3. Any person who by contract, agreement or otherwise has arranged with another party or entity for transport, storage, disposal or treatment of hazardous materials owned, controlled or possessed by such person at a facility owned or operated by another party or entity from which facility there is a release or substantial threat of a release of such hazardous materials.
 4. Any person who accepts or accepted any hazardous materials for transport to disposal, storage or treatment facilities from which there is a release or a substantial threat of release of such hazardous substances.
- (b) Costs under this section include all costs determined reasonable and necessary by the City Manager associated with the city's performance of removal and remedial action for the release or substantial threat of a release of a hazardous material, including costs of supplies, equipment, third-party experts, contractors and consultants and payment for the work time of fire, public works and other city personnel.
- (c) Any person who is liable for the release or threatened release of a hazardous material who fails to pay for or provide removal or remedial action upon or in accordance with a notice and request of the city, or in accordance with any order of any court having jurisdiction on the matter, shall be liable to the city for any costs incurred by the city as a result of such failure to pay or take such removal or remedial action, together with the cost to ensure payment and/or of removal or remedial action taken by the city, and all attorney fees and related legal costs incurred in connection therewith.

Section 3. Section 42-238, entitled "Cost of nondepartmental personnel or equipment," of Article V, entitled "Hazardous Spills," of Chapter 42, entitled "Fire Prevention and Protection," of the Code of Ordinances, City of Rolling Meadows, Illinois, is hereby amended by replacing section 42-238 with the following:

Sec. 42-238. - Cost of third party personnel or equipment.

- (a) If the city requires the assistance of third party contractors, personnel or experts or equipment to properly respond to a hazardous spill, the cost of that contractor personnel, expertise or equipment shall be paid directly to the third-party supplier by the recipient to the city's response to the hazardous spill.
- (b) Whether to engage the services of third party contractors, personnel, experts or equipment will be a decision within the sole discretion of the City Manager, or his designee and/or the commanding officer at the scene of the hazardous spill.

Section 4. The amendments made by this Ordinance shall be deemed declarative of existing law and shall not be construed as a new enactment.

Section 5. The provisions of this Ordinance are hereby declared to be severable; and if any section, phrase, or provision shall for any reason be declared to be invalid, such declaration shall not affect the validity of the remainder of the sections, phrases or provisions.

Section 6. This Ordinance shall be in full force and effect after its passage, approval and publication in pamphlet form as provided by law.

PASSED AND APPROVED by the City Council of Rolling Meadows, Cook County, Illinois this 8th day of August, 2023.

AYES: Reytez, Koehler, McHale, Budmats, O'Brien, Vinezeano, Boucher

NAYS: 0

ABSENT: 0



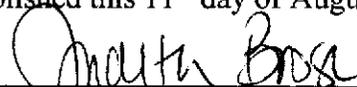
Lara Sanoica, Mayor

ATTEST:



Deputy City Clerk

Published this 11th day of August, 2023,



Deputy City Clerk