

**CITY OF EL PASO, TEXAS**  
**AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM**

**DEPARTMENT:** Fire Department

**AGENDA DATE:** Introduction 8/14/12, Public Hearing 8/21/12

**CONTACT PERSON/PHONE:** Otto Drozd, Fire Chief, 485-5605

**DISTRICT(S) AFFECTED:** ALL

**SUBJECT:**

**APPROVE a resolution / ordinance / lease to do what? OR AUTHORIZE the City Manager to do what? Be descriptive of what we want Council to approve. Include \$ amount if applicable.**

Approve an Ordinance Amending Title 9 (Health and Safety) Chapter 9.52 (Fire Prevention Code), Section 9.52.120 (Chapter 27, Hazardous Materials – General Provisions, Amended) To Recover All labor Charges Necessary to Mitigate HazMat Incidents; The Penalty as Provided in Section 9.52.030 of the El Paso City Code

**BACKGROUND / DISCUSSION:**

**Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?**

The proposed ordinance will provide the City with the ability to recover all costs associated responding to and mitigating hazardous materials incidents. Under the proposed ordinance any person or persons causing or responsible for an abandonment or an unauthorized discharge or threatened unauthorized discharge of hazardous materials resulting in emergency action, other than routine investigation by the fire department, the department of environment services or any other city department, shall be jointly and severally liable to the city for incurred expenses.

**PRIOR COUNCIL ACTION:**

**Has the Council previously considered this item or a closely related one?**

N/A

**AMOUNT AND SOURCE OF FUNDING:**

**How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?**

None

**BOARD / COMMISSION ACTION:**

**Enter appropriate comments or N/A**

\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**LEGAL:** (if required) \_\_\_\_\_ **FINANCE:** (if required) \_\_\_\_\_

**DEPARTMENT HEAD:** \_\_\_\_\_  
(Example: if RCA is initiated by Purchasing, client department should sign also)  
*Information copy to appropriate Deputy City Manager*

**APPROVED FOR AGENDA:** \_\_\_\_\_

**CITY MANAGER:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING TITLE 9 (HEALTH AND SAFETY), CHAPTER 9.52 (FIRE PREVENTION CODE), SECTION 9.52.120 (CHAPTER 27, HAZARDOUS MATERIALS – GENERAL PROVISIONS, AMENDED) TO RECOVER ALL LABOR CHARGES NECESSARY TO MITIGATE HAZMAT INCIDENTS; THE PENALTY AS PROVIDED IN SECTION 9.52.030 OF THE EL PASO CITY CODE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

**Section 1.** That Title 9 (Health and Safety), Chapter 9.52 (Fire Prevention Code), Section 9.52.120 (Chapter 27, Hazardous Materials – General Provisions, Amended), Subsection 9.52.120.2, Section 2703.3.1.5 Response Expenses be amended to read as follows:

**9.52.120.2 Section 2703.3.1.5 Response Expenses, amended.** International Fire Code, 2009 Edition, Section 2703.3.1.5 Response Expenses, is hereby amended to read as follows:

**2703.3.1.5 Response Expenses.** Any person or persons causing or responsible for an abandonment or an unauthorized discharge or threatened unauthorized discharge of hazardous materials resulting in emergency action, other than routine investigation by the fire department, the department of environmental services, or any other city department, shall be jointly and severally liable to the city for its reasonably and necessarily incurred expenses, as defined below, resulting from such emergency action. Hazardous materials response expenses are defined as those non-reusable materials and supplies which are required for responding to hazardous materials emergencies and which are actually expended in an emergency action. Hazardous materials response expenses are defined to also include reusable response equipment which is required for responding to hazardous materials emergencies and which is rendered non-reusable during an emergency action due to damage other than by wear and tear. Hazardous materials response expenses shall include all labor costs, to include but not be limited to overtime expenditures, necessary to mitigate the emergency action. Hazardous materials responses are not considered to be routine firefighting services. Hazardous materials response expenses shall not include routine firefighting services.

**Section 2.** That except as expressly amended herein Title 9 (Health and Safety), Chapter 9.52 (Fire Prevention Code) shall remain in full force and effect.

(Signatures follow on next page)

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

CITY OF EL PASO

\_\_\_\_\_  
John F. Cook  
Mayor

ATTEST:

\_\_\_\_\_  
Richarda Duffy Momsen  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Josette Flores  
Assistant City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Otto Drozd, Fire Chief  
El Paso Fire Department

ORDINANCE NO. \_\_\_\_\_

12-1006-095/PL#111581 v2/Hazmat Cost Recovery Amendment 9.52.120.2/JF