

Chapter 244

HAZARDOUS MATERIALS

[**HISTORY: Adopted by the Common Council of the City of Bayfield 4-1-1992 (§§ 5-3-2, 5-3-3, 8-2-1 and 8-2-2 of the 1992 Code of Ordinances). Amendments noted where applicable.**]

GENERAL REFERENCES

Fire Department — See Ch. 60.
Fire prevention — See Ch. 223.
Nuisances — See Ch. 289.
Wellhead protection — See Ch. 489.

ARTICLE I

Disclosure of Hazardous Materials and Infectious Agents; Reimbursement for Cleanup of Spills

§ 244-1. Notification required; applicability.

- A. All persons, firms or organizations using, researching, producing or storing hazardous materials and/or infectious agents shall notify the Fire Department as prescribed by this article.¹
- B. The provisions of this article shall apply to all persons, firms or organizations using, researching, producing or storing hazardous materials and/or infectious agents on and after the effective date of this article.

§ 244-2. Definitions.

The following definitions shall be applicable in this chapter:

DISCHARGE — Means, but is not limited to, any spilling, leaching, pumping, pouring, emitting, emptying, escaping, releasing, disposing, injecting or dumping.

HAZARDOUS MATERIALS — Any material of a solid, liquid or contained gaseous or semisolid form which, because of its quantity, concentration or physical, chemical or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or pose a substantial present or potential hazard to human health or the environment. Such material includes, but is not limited to, material which is toxic, carcinogenic or flammable. Such material also includes irritants and strong sensitizers and materials which generate pressure because of decomposition or heat. "Toxic material" includes containers and receptacles previously used in transportation, storage, use or application of material described herein as hazardous material.²

HAZARDOUS WASTE — Any solid waste as defined in § NR 500.03, Wis. Adm. Code, as

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

amended from time to time.

INFECTIOUS AGENT — A bacterial, mycoplasmal, fungal, parasitic or viral agent known to cause illness in humans which is used, researched, produced or stored within or on premises.

PERSON — Any individual, owner, operator, corporation, partnership or association.

§ 244-3. Information required.

- A. Any person, firm or organization using, researching, producing and/or storing any hazardous materials shall provide in writing to the Fire Department the following information:
- (1) Address, location of where hazardous materials are used, researched, stored or produced;
 - (2) The trade name of the hazardous material;
 - (3) The chemical name and any commonly used synonym for the hazardous material and the chemical name and any commonly used synonym for its major components;
 - (4) The exact locations on the premises where materials are used, researched, stored and/or produced;
 - (5) Amounts of hazardous materials on premises per exact location;
 - (6) The boiling point, vapor pressure, vapor density, solubility in water, specific gravity, percentage volatile by volume, evaporation rate for liquids and appearance and odor of the hazardous material;
 - (7) The flashpoint and flammable limits of the hazardous substance;
 - (8) Any permissible exposure level, threshold limit value or other established limit value for exposure to a hazardous material;
 - (9) The stability of the hazardous substance;
 - (10) Recommended fire extinguishing media, special fire-fighting procedures and fire and explosion hazard information for the hazardous material;
 - (11) Any effect of overexposure to the hazardous material, emergency and first aid procedures and telephone numbers to call in an emergency;
 - (12) Any condition or material which is incompatible with the hazardous material and must be avoided;
 - (13) Any personal protective equipment to be worn or used and special precautions to be taken when handling or coming into contact with the hazardous materials;
 - (14) Procedures for handling or coming into contact with the hazardous materials.
- B. Any person, firm or organization using, researching, producing and/or storing infectious

agent and/or carrier of an infectious agent shall provide in writing to the Fire Department the following:

- (1) The name and any commonly used synonym of the infectious agent;
- (2) Address/location where infectious agents are used, researched, stored and/or produced;
- (3) The exact locations where infectious agents are used, researched, stored and/or produced;
- (4) Amount of infectious agent on premises per exact locations;
- (5) Any methods of route of transmission of the infectious agents;
- (6) Any symptoms of effect of infection, emergency and first aid procedure and a telephone number to be called in an emergency;
- (7) Any personal protective equipment to be worn or used and special precautions to be taken when handling or coming in contact with the infectious agent;
- (8) Procedure for handling, cleanup and disposal of infectious agents leaked or spilled.

§ 244-4. Reimbursement for cleanup of spills.

Any person who possesses or controls a hazardous material or infectious agent which was discharged or caused the discharge of a hazardous material or infectious agent shall reimburse the City for actual and necessary expenses incurred by the City or its agent to contain, remove or dispose of the hazardous substance or infectious agent or take any other appropriate action which is deemed appropriate under the circumstance.

§ 244-5. Disclaimer of City's obligation.

Nothing herein shall obligate the City to perform any of the remedial measures set forth in § 244-4 above. The City shall endeavor in all cases to have such remedial measures performed by the persons set forth in § 244-4 hereof, and in default of such performance, shall itself perform such remedial measures only if the exigencies of time and circumstances indicate that the public health, safety and welfare require such City intervention.

§ 244-6. Discharge and cleanup of hazardous materials.

- A. Prohibited discharge. No person shall discharge or permit to be discharged, upon or into any public street, alley or public property or onto the ground, surface water, subsurface waters, or aquifers, or on any private property except those areas licensed for waste disposal or landfill activities, any hazardous waste and/or hazardous material as defined in this chapter.
- B. Containment cleanup and restoration. Any person in violation of this section must, upon the direction of any of the City's police/fire officers or public health official, take immediate action to contain, clean up and remove to an approved depository the offending

material(s) and restore the site to its original condition. Should any person fail to engage or complete the requirement of this section, the Police Department or Fire Department may order the owner or lessee to take the required action or, in default thereof, may on behalf of the City, without taking bids, do the necessary work with all costs incurred by the City to be reimbursed by the violator(s) of this section.³

- C. Public protection. Should any prohibited discharge occur that reasonably causes a threat to the life, safety, welfare or health of the public, a Police Department or Fire Department officer or employee on the scene may order evacuation of the area or take other appropriate protective steps for such period of time as needed.⁴
- D. Access. When a prohibited discharge has occurred or is reasonably thought to have occurred, access to the site, upon notice to the owner or occupant, whether on public or private land, shall be granted to Police Department and Fire Department personnel for the purpose of evaluating the extent of the discharge, monitoring the cleanup and restoration of the site. Notice to the owner or occupant is not required if the delay will result in imminent risk to public health or safety or the environment.⁵

§ 244-7. Notice.

Upon learning that a prohibited discharge, as set forth in this article, has taken place, all persons shall immediately notify the Police Department of the time and place of the prohibited discharge and the substance discharged, if known.

§ 244-8. Enforcement; violations and penalties.

- A. Enforcement. A law enforcement officer shall have the authority to make complaints and issue citations and summons under this article.
- B. Civil liability. Any person, firm, or corporation in violation of this article shall be liable to the City and to any individual whose person or property was damaged by such violation for any and all expenses incurred by the City and loss or damage sustained by the City, or assisting private or public agencies by reason of such violation.
- C. Penalties. Any person, firm, or corporation found guilty of violating any provisions of this section shall be subject to a forfeiture as provided in Chapter 1, General Provisions, Article I, § 1-3, Violations and penalties, of the Code of the City of Bayfield.

§ 244-9. Recovery of costs.

- A. Every person, firm or corporation using, storing, handling or transporting flammable or combustible liquids, chemicals, gasses or other hazardous materials shall comply with the requirements of Ch. Comm 10, Wis. Adm. Code, as the same is now in force and may hereafter from time to time be amended.

3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

4. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

5. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- B. Every person, firm or corporation using, storing, handling or transporting (whether by rail or on the highways) flammable or combustible liquids, chemicals, gasses or other hazardous materials shall be liable to the City for the actual cost of labor and materials associated with the use of any specialized extinguishing agent, chemical, neutralizer or similar material or equipment employed to extinguish, confine or clean up any such hazardous material which is involved in any accidental spill or in threat of any fire or accidental spill.

ARTICLE II
Pollution Abatement

§ 244-10. Cleanup of spilled or accidentally discharged wastes.

- A. Cleanup required. All persons, firms, or corporations delivering, hauling, disposing, storing, discharging or otherwise handling potentially polluting substances, solid or liquid, such as, but not limited to, the following: fuel oil, gasoline, solvents, industrial liquids or fluids, milk, grease trap and septic tank wastes, sewage sludge, sanitary sewer wastes, storm sewer catch basin wastes, oil or petroleum wastes, shall immediately clean up any such spilled material to prevent its becoming a hazard to health or safety or directly or indirectly causing pollution to the lakes and streams under the jurisdiction of the City.
- B. Notification. Spills or accidental release of hazardous materials or pollutants at a site or of a quantity or nature that cannot adequately be cleaned up by the responsible party or parties shall be immediately reported to the City Clerk so that assistance can be given by the proper agency.
- C. Financial liability. The party or parties responsible for the release, escape or discharge of wastes shall be held financially liable for the cost of any cleanup or attempted cleanup deemed necessary or desirable and undertaken by the City, or its designated agent, in an effort to minimize the polluttional effects of the discharged waste.

§ 244-11. Storage of polluting substances.

It shall be unlawful for any person, firm or corporation to store any potentially polluting substances unless such substances are stored in such manner as to securely prevent them from escaping onto the ground surface and/or into any street, sewer, ditch or drainageway, lake or stream within the jurisdiction of the City of Bayfield.