

ORDINANCE 340.4

AN ORDINANCE RELATING TO COST RECOVERY FOR
HAZARDOUS MATERIAL RESPONSE

WHEREAS, Hart Fiscal Court finds it to be in the best interest of Hart County to adopt cost recovery procedures for expenses incurred by Hart County, any Hart County Volunteer Fire Department, other County Agencies or other emergency response teams responding to hazardous material releases.

NOW THEREFORE, BE IT ORDAINED BY THE FISCAL COURT OF HART COUNTY, COMMONWEALTH OF KENTUCKY, that the attached "Hazardous Material Response Cost Recovery Standards," incorporated herein by reference, is hereby adopted as and shall have full force and effect.

This Ordinance is adopted pursuant to KRS 67.077 in that it was published in summary form on the 12 day of February 2004, and was introduced and read on the 3 day of February 2004, and given final reading on the 19 day of February 2004, and said Ordinance shall be in full force and effect upon signature, recordation, and publication in summary pursuant to KRS Chapter 424 and KRS 67.077, subsection 3.

APPROVED this 19 day of February, 2004.



TERRY SHELTON
HART COUNTY JUDGE/EXECUTIVE

ATTEST:

Nonna Centoss
CLERK

KOC 340.4

2nd
19th

HAZARDOUS MATERIAL RESPONSE COST RECOVERY STANDARDS

Section 1:

Cost Recovery for Emergency Responses Dealing with Hazardous Materials, as defined in KRS 411.450(2) and KRS 174.405(2), which are incorporated herein by reference, and Hazardous Substances as defined in KRS 39E.030(5), which is incorporated herein by reference:

A. Any person causing an unauthorized release of any hazardous substance which requires Hart County, any Hart County Volunteer Fire Department, any Hart County Agency or any Agent of Hart County to expend public funds for the response to the release, its abatement, or the cleanup or removal of such hazardous substance shall be liable to Hart County for all recoverable costs as outlined herein below incurred by Hart County, any Agent of Hart County for such response, cleanup and removal.

B. In the event of a hazardous substance release or threatened release involving materials in transit, the shipper or carrier, the owner of the substances and all other responsible persons, jointly and severally, shall be responsible for all costs incurred by Hart County, any Agent of Hart County, or any other dispatched emergency response team responding to the incident or providing mutual aid to Hart County or any Hart County Volunteer Fire Department, including but not limited to personnel costs incurred in responding to the release or threatened release, replacement costs of supplies and equipment contaminated as a result of the release or threatened release and proper disposal of contaminated materials, release and proper disposal of contaminated materials, cleanup, evacuation and administrative and other expenses that result from the release or threatened release, including legal expenses, incurred in recovering these costs. The County Attorney is hereby authorized and directed to initiate such proceedings, in the name of Hart County in any court having jurisdiction over such matters as are necessary to cover costs incurred as described herein.

C. In the event of a hazardous substance release or threatened release involving a fixed facility, the operator, owner and all other persons responsible for the release

**Section II: Response Outside Service Areas or Pursuant to
Mutual Aid Agreement:**

A. Hart County, any Hart County Volunteer Fire Department, and any Hart County Agency, any Agent of Hart County, or any other dispatched emergency response team responding to an incident, shall respond to releases or threatened releases outside its service area or jurisdiction only if written agreements are executed with the handler, user or other public entity requesting assistance, prior to the response. Said agreements to be approved by Hart County Fiscal Court.

B. In the event that Hart County, any Hart County Volunteer Fire Department, any Hart County Agency, any Agent of Hart County, or any other dispatched emergency response team responding to an incident, respond to a release or threatened release outside its service area or jurisdiction under the conditions described above, the handler, user or other public entity requesting assistance shall assume responsibility to Hart County or any Hart County Volunteer Fire Department or any other dispatched emergency response team, for all personnel costs incurred in responding to the release or threatened release, replacement costs of threatened release, replacement costs of supplies and equipment contaminated as a result of the release or threatened release and proper disposal of contaminated materials, cleanup, evacuation and administrative and other expenses that result from the release or threatened release. The County Attorney is hereby authorized and directed to initiate such proceedings against the handler, user or other public entity, in the name of Hart County, in any court having jurisdiction over such matters as are necessary to recover the costs described herein.

or threatened release of a hazardous substances shall be responsible for all costs incurred by Hart County, any Hart County Volunteer Fire Department, any Hart County Agency, any Agent of Hart County, or any other dispatched emergency response team responding to the incident or providing mutual aid to Hart County or any Hart County Volunteer Fire Department, including but not limited to personnel costs incurred in responding to the release or threatened release, replacement costs of supplies and equipment contaminated as a result for the release or threatened release and the proper disposal of all contaminated materials, including legal expenses, incurred in recovering these costs. The County Attorney is hereby authorized and directed to initiate such proceedings, in the name of Hart County in any court having jurisdiction over such matters as are necessary to cover costs incurred as described herein.

D. Any hazardous substance or threatened release shall be considered a public health hazard and for those responses by Hart County, any Hart County Volunteer Fire Department, and Hart County Agency, any Agent of Hart County, or any other dispatched emergency response team responding to the incident or providing mutual aid to Hart County or any Hart County Volunteer Fire Department including a fixed facility within the County, the County shall have a lien against the property for the recoverable costs described herein. The affidavit of the Hart County Judge Executive shall constitute prima facie evidence of the amount of the lien and shall be recorded in the office of the Hart County Clerk. The lien shall be notice to all persons from the time of its recording and shall bear interest thereafter at the rate of twelve percent (12%) until paid. The lien created shall take priority over all other subsequent liens, except those asserted by any city or other taxing district, which has priority under KRS 134.420, and may be enforced by judicial proceeding. The owner of property upon which a lien has been attached under this ordinance shall also be personally liable for the amount of the lien, including all interest, civil penalties, and other charges and the County shall have the same remedies as provided for the recovery of a debt owed.