

**TOOELE COUNTY
ORDINANCE 2021-15**

**AN ORDINANCE RENAMING AND AMENDING CHAPTER 15, COST
RECOVERY – HAZARDOUS MATERIALS EMERGENCIES, OF
TITLE 6, PUBLIC SAFETY, OF THE TOOELE COUNTY CODE**

WHEREAS, Tooele County has historically been governed by a Board of County Commissioners under the county commission form of government; and

WHEREAS, a majority of Tooele County voters who voted in the 2018 general election voted to change the form of Tooele County government from the county commission form of government to the council-manager form of government; and

WHEREAS, the change to the council-manager form of government occurred on January 1, 2021; and

WHEREAS, certain provisions of existing Title 6, Chapter 15 became obsolete on that same date; and

WHEREAS, a renamed and amended Title 6, Chapter 15 is expedient and necessary;

**NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE BODY OF
TOOELE COUNTY, UTAH AS FOLLOWS:**

SECTION I – CHAPTER 15 RENAMED AND AMENDED. Chapter 15, *Cost Recovery – Hazardous Materials Emergencies*, of Title 6, *Public Safety*, of the Tooele County Code is hereby renamed and amended to read as attached hereto, which attachment is, by this reference, made a part hereof.

SECTION II – REPEALER. Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Tooele County
Ord. 2021-15

SECTION III – EFFECTIVE DATE. This ordinance shall become effective fifteen (15) days after its passage, provided it has been published, or at such publication date if more than fifteen (15) days after passage.

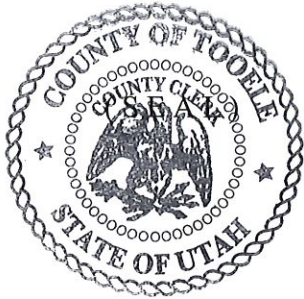
IN WITNESS WHEREOF the Tooele County Council, which is the legislative body of Tooele County, passed, approved and enacted this ordinance this 2nd day of March, 2021.

ATTEST:

TOOELE COUNTY COUNCIL:


MARILYN K. GILLETTE, Clerk


TOM TRIPP, Chair



Council Member Hamner voted	<u>aye</u>
Council Member Hoffmann voted	<u>aye</u>
Council Member Thomas voted	<u>aye</u>
Council Member Tripp voted	<u>aye</u>
Council Member Wardle voted	<u>absent</u>

APPROVED AS TO FORM:


COLIN R. WINCHESTER
Deputy Tooele County Attorney

TOOELE COUNTY CODE
TITLE 6
PUBLIC SAFETY

CHAPTER 15
RECOVERY OF EXPENSES FOR EMERGENCY RESPONSES

Section

- 6-15-1. Purpose.**
- 6-15-2. Definitions.**
- 6-15-3. Recovery authorization and procedure.**
- 6-15-4. No admission of liability.**
- 6-15-5. Civil action to recover expenses.**
- 6-15-6. Expenses owed to more than one agency.**

6-15-1. Purpose.

The purpose of this chapter is to establish procedures for recovering costs incurred by the county or other local governmental agencies for responding to hazardous materials emergencies, aggravated fire emergencies, aggravated medical emergencies, non-emergency situations and motor vehicle accidents.

6-15-2. Definitions.

As used in this chapter:

(1) "Hazardous materials emergency" means a sudden or unexpected release of any substance that, because of its quantity, concentration or physical, chemical or infectious characteristics, presents a direct and immediate threat to public safety or the environment and requires immediate action to mitigate the threat.

(2) "Aggravated fire emergency" means:

(a) A fire proximately caused by the owner or occupier of property or a structure, which presents a direct and immediate threat to public safety and requires immediate action to mitigate the threat, and the fire:

(i) is caused or contributed to by the failure to comply with an order from any state, county or local agency, department or official; or

(ii) occurs as a direct result of a deliberate act in violation of state law or an ordinance or regulation of the county or other local agency;

(b) A fire that constitutes arson or reckless burning as defined by the Utah Code; or

(c) An alarm that results in a county or local fire unit being dispatched, and the person or entity transmitting or causing the transmission of the alarm knows at the time of said transmission that no fire or fire related emergency exists.

(3) "Aggravated medical emergency" means an alarm that results in a county or local fire unit or a county emergency medical unit being dispatched, and the person or entity transmitting or causing the transmission of the alarm knows at the time of said transmission that there are no reasonable grounds for believing that a medical emergency exists.

(4) "Expenses" means labor costs (including worker's compensation benefits, fringe benefits and administrative overhead), equipment costs, equipment operation costs, equipment

repair costs, costs to repair damaged public property, towing costs, and incidental labor costs when the response extends for a period greater than four hours.

(5) “Non-emergency situation” means situations such as alcohol intoxication, minor lacerations, minor contusions and sprains, minor illness, insect and animal bites not deemed emergencies, rashes, skin disorders, hives without difficulty breathing, home delivery to avoid doctor and hospital services, venereal disease, patients seeking non-emergency transportation, forehead and scalp lacerations only, cold, sore throat, earache, hiccup, nervousness, anxiety, toothache, minor bruises, non-life threatening overdoses and non-life threatening self-inflicted injuries.

(6) “Motor vehicle accident” means an occurrence involving a motor vehicle that results in damage to property or injury to an individual.

6-15-3. Recovery authorization and procedure.

(1) The county may recover expenses incurred by virtue of the county’s or other local governmental agencies’ response to a hazardous materials emergency, aggravated fire emergency, aggravated medical emergency, non-emergency situation or motor vehicle accident from any person, corporation, partnership or entity that caused or contributed to the emergency or situation.

(2) The County Sheriff or the Sheriff’s designee shall determine responsibility for the emergency or situation and shall notify the responsible party by first-class mail of the determination and the expenses to be recovered.

(3) The notice shall specify that the responsible party may appeal the determination to an administrative hearing officer by filing a notice of appeal with the County Sheriff or the Sheriff’s designee within 30 days of the date of the notice.

(4) If the responsible party appeals the determination, the administrative hearing officer shall hold a hearing, during which hearing the appealing party and the Sheriff or the Sheriff’s designee shall be entitled to present evidence in support of their respective positions.

(5) After the hearing, the administrative hearing officer shall make a written recommendation to the council, which shall issue a decision determining responsibility and assessing expenses. The council may adopt, modify or reject the administrative hearing officer’s recommendation. The council may, in its sole discretion, hear additional evidence prior to issuing its decision.

(6) The responsible party may seek judicial review of the council’s decision by filing a petition in the district court within 30 days of the council’s decision.

6-15-4. No admission of liability.

The payment of expenses determined owing under this chapter does not constitute:

- (1) an admission of liability or negligence in any legal action for damages;
- (2) an admission of criminal liability; or
- (3) a criminal fine.

6-15-5. Civil action to recover expenses.

If a party determined to be responsible for the payment of expenses fails to make full payment to the county within 30 days after a final decision, the county may initiate a civil action to recover the expenses, including costs and reasonable attorneys’ fees.

6-15-6. Expenses owed to more than one agency.

Upon request, the county may also recover expenses on behalf of other agencies that assisted in the response. Recovery shall be apportioned among the responding agencies so that a responsible party is not obligated to pay more than the actual cost of the response.

TOOELE COUNTY CODE
TITLE 6
PUBLIC SAFETY

CHAPTER 15

COST RECOVERY HAZARDOUS MATERIALS EMERGENCIES
RECOVERY OF EXPENSES FOR EMERGENCY RESPONSES

Section

- 6-15-1. Purpose.**
- 6-15-2. Definitions.**
- 6-15-3. Recovery authorization and procedure.**
- 6-15-4. No admission of liability.**
- 6-15-5. Action-Civil action to recover expenses.**
- 6-15-6. Expenses owed to more than one agency.**

6-15-1. Purpose.

~~This chapter shall provide~~ The purpose of this chapter is to establish procedures for recovering costs incurred by the County-county or other local governmental agencies for ~~assistance rendered in~~ responding to hazardous materials emergencies, aggravated fire emergencies, ~~and aggravated emergency medical responses~~ aggravated medical emergencies, non-emergency situations and motor vehicle accidents.

6-15-2. Definitions.

As used in this chapter:

- (1) "Hazardous materials emergency" means a sudden or unexpected release of any substance that, because of its quantity, concentration or physical, chemical or infectious characteristics, presents a direct and immediate threat to public safety or the environment and requires immediate action to mitigate the threat.
- (2) "Aggravated fire emergency" means:
 - (a) A fire proximately caused by the owner or occupier of property or a structure, which presents a direct and immediate threat to public safety and requires immediate action to mitigate the threat, and the fire:
 - ~~1)-(i)~~ (i) is caused or contributed to by the failure to comply with an order from any ~~State, County, state, county~~ or local agency, department or official; or
 - ~~2)-(ii)~~ (ii) occurs as a direct result of a deliberate act in violation of ~~State-state~~ law or ~~the-an~~ ordinances or regulations of the County-county or other local agency; ~~;~~
 - (b) A fire that constitutes arson or reckless burning as defined by the Utah Code; ~~or~~
 - (c) An alarm that results in a County-county or local fire unit being dispatched, and the person ~~or entity~~ transmitting; or causing the transmission of the alarm; knows at the time of said transmission that no fire or fire related emergency exists.
- (3) "Aggravated medical emergency" means an alarm that results in a County-county or local fire unit or a county emergency medical unit being dispatched, and the person ~~or entity~~ transmitting; or causing the transmission of the alarm; knows at the time of said transmission that there are no reasonable grounds for believing that a medical emergency exists.

(4) “Expenses” means ~~the actual costs of County or other local government and volunteer personnel, including worker’s compensation benefits, fringe benefits, administrative overhead, costs of equipment, cost of equipment operation, cost of materials, costs of disposal and the cost of any contract labor and materials labor costs (including worker’s compensation benefits, fringe benefits and administrative overhead), equipment costs, equipment operation costs, equipment repair costs, costs to repair damaged public property, towing costs, and incidental labor costs when the response extends for a period greater than four hours.~~

(5) “Non-emergency situation” means situations such as alcohol intoxication, minor lacerations, minor contusions and sprains, minor illness, insect and animal bites not deemed emergencies, rashes, skin disorders, hives without difficulty breathing, home delivery to avoid doctor and hospital services, venereal disease, patients seeking non-emergency transportation, forehead and scalp lacerations only, cold, sore throat, earache, hiccough, nervousness, anxiety, toothache, minor bruises, non-life threatening overdoses and non-life threatening self-inflicted injuries.

(6) “Motor vehicle accident” means an occurrence involving a motor vehicle that results in damage to property or injury to an individual.

6-15-3. Recovery authorization and procedure.

(1) ~~The County is hereby empowered to~~ The county may recover expenses incurred by virtue of the County’s-county’s or other local governmental agencies’ response to a hazardous materials emergency, aggravated fire emergency, ~~or an~~ aggravated medical emergency, non-emergency situation or motor vehicle accident from any person, corporation, partnership ~~or other individual~~ or entity ~~who that~~ caused ~~such an emergency, pursuant to the following procedure: or contributed to the emergency or situation.~~

(a2) The County Sheriff’s ~~department~~ or the Sheriff’s designee shall determine responsibility for the emergency or ~~response as defined above situation~~ and shall notify the responsible party by first-class mail of the ~~department’s~~ determination ~~of responsibility~~ and the expenses to be recovered.

(b3) The notice shall specify that the ~~determined~~ responsible party may appeal the ~~department’s decision before a hearing officer designated by the County Commission and establish a date by which the notice of appeal shall be filed. The appeal date shall be no less than fifteen (15) days from the date of the notice determination to an administrative hearing officer by filing a notice of appeal with the County Sheriff or the Sheriff’s designee within 30 days of the date of the notice.~~

(24) ~~In the event the determined~~ If the responsible party appeals the determination, the administrative hearing officer shall hold a hearing ~~to consider any issues raised by the appeal, at during~~ which hearing the appealing party and the Sheriff’s ~~Department or other local government or the Sheriff’s designee~~ shall be entitled to present evidence in support of their respective positions.

(35) After the hearing, the administrative hearing officer shall make a written recommendation to the ~~County Commission council,~~ which shall issue a decision determining responsibility and assessing expenses. The ~~Commission council~~ may adopt, modify or ~~remand the recommendation of the hearing examiner for further proceedings reject the administrative hearing officer’s recommendation.~~ The Commission council may, in its sole discretion, hear additional evidence prior to issuing its decision.

(6) The responsible party may seek judicial review of the council's decision by filing a petition in the district court within 30 days of the council's decision.

6-15-4. No admission of liability.

The payment of expenses determined owing under this chapter does not constitute:

- (1) an admission of liability or negligence in any legal action for damages; ~~or~~
- (2) an admission of criminal liability; or
- ~~(23)~~ a criminal fine.

6-15-5. ~~Action~~ Civil action to recover expenses.

~~In the event the~~ If a party ~~or parties~~ determined to be responsible for the ~~repayment~~ of expenses incurred due to the County's or other local agencies' response to such an emergency fails to make full payment to the ~~County~~ county within ~~thirty (30)~~ 30 days after a final ~~administrative determination of any appeal to the County, or thirty (30) days from the deadline for appeal in the event no appeal is filed~~ decision, the ~~County~~ county may initiate ~~legal~~ a civil action to recover from the determined responsible party the expenses ~~determined to be owing~~, including the County's reasonable attorney's fees ~~costs and reasonable attorneys' fees~~.

6-15-6. Expenses owed to more than one agency.

Upon request, the county may also recover expenses on behalf of other agencies that assisted in the response. Recovery shall be apportioned among the responding agencies so that a responsible party is not obligated to pay more than the actual cost of the response.