

Ordinance No. 11061A

AN ORDINANCE relating to the Fire Department; adding new Sections 3.16.200, 3.16.220 and 3.16.230 to the Seattle Municipal Code, designating the Seattle Fire Department as the Hazardous Materials Incident Command Agency within its respective boundaries, and authorizing the Fire Department to accept mutual assistance between the City and persons with equipment, personnel and expertise in the handling of hazardous materials incidents, by establishing limitations on liability for those persons responding.

5/19/82 PASS

COMPTROLLER
FILE NUMBER _____

WR

Council Bill No. 103020

INTRODUCED: APR 26 1982	BY: EXECUTIVE REQUEST
REFERRED: APR 26 1982	TO: PSEH
REFERRED:	
REFERRED:	
REPORTED: MAY 24 1982	SECOND READING: MAY 24 1982
THIRD READING: MAY 24 1982	SIGNED: MAY 24 1982
PRESENTED BY MAYOR: MAY 25 1982	APPROVED: JUN 1 1982
RETD. TO CITY CLERK: JUN 1 1982	PUBLISHED:
VETOED BY MAYOR:	VETO PUBLISHED:
PASSED OVER VETO:	VETO SUSTAINED:

10

SRS:rl
4/21/82

ORDINANCE NO. 110614

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2
3 AN ORDINANCE relating to the Fire Department; adding new
4 Sections 3.16.200, 3.16.220 and 3.16.230 to the Seattle
5 Municipal Code, designating the Seattle Fire Department
6 as the Hazardous Materials Incident Command Agency
7 within its respective boundaries, and authorizing the
8 Fire Department to accept mutual assistance between the
9 City and persons with equipment, personnel and expertise
10 in the handling of hazardous materials incidents, by
11 establishing limitations on liability for those persons
12 responding.

13 WHEREAS, The City of Seattle is required by 4.24 RCW to
14 designate a Hazardous Materials Incident Command Agency;
15 and

16 WHEREAS, designated Hazardous Materials Incident Command
17 Agencies are authorized and encouraged, prior to a
18 hazardous materials incident, to enter individually or
19 jointly into written hazardous materials emergency
20 assistance agreements with any person whose knowledge
21 or expertise is deemed potentially useful; Now, Therefore,

22 BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

23 Section 1. There is added to the Seattle Municipal Code,
24 Chapter 3.16, a new Subchapter IV, Hazardous Materials Handling,
25 as follows:

26 Section 3.16.200 The governing body of The City of Seattle
27 hereby designates the Seattle Fire Department as the Hazardous
28 Materials Incident Command Agency for all hazardous materials
incidents within the corporate limits of The City of Seattle.

Section 3.16.210A The Fire Chief is authorized to enter
into agreements with persons, agencies, and/or corporations
who, may provide assistance with respect to a hazardous
materials incident. In accordance with the provisions RCW 4.24
such persons, agencies, and/or corporations are not liable for
civil damages resulting from any act or omission in the rendering
of such care, assistance, or advice, other than acts or omissions
constituting gross negligence or wilful or wanton misconduct,
provided:

1 (1) The Seattle Fire Department and the person whose
2 assistance is requested have entered into a written
3 hazardous materials assistance agreement prior
4 to the incident which incorporates the terms of
5 Section 3.16.220, except as specified in Section
6 3.16.230 of this Ordinance;

7 (2) The request for assistance comes from the Seattle
8 Fire Department.

9 Section 3.16.220A Hazardous materials emergency
10 assistance agreements which are executed prior to a hazardous
11 materials incident shall include the following terms and
12 conditions:

- 13 (1) The person requested to assist shall not be
14 obligated to assist;
- 15 (2) The person requested to assist may act only under
16 direction of the incident commander or his
17 representative;
- 18 (3) The person requested to assist may withdraw his
19 assistance if he deems the actions or directions
20 of the incident commander to be contrary to
21 accepted hazardous materials response practices;
- 22 (4) The person requested to assist shall not profit
23 from rendering the assistance;
- 24 (5) The person requested to assist shall not be a
25 public employee acting in his official capacity
26 within the boundaries of his political subdivision;
- 27 (6) Any person responsible for causing the hazardous
28 materials incident shall not be covered by the
liability standard defined in Section 2 of this
Ordinance.

1 B. It is the responsibility of both parties to ensure
2 that mutually agreeable procedures are established when
3 assistance is requested, for recording the name of the person
4 whose assistance is requested, and the time and date of the
5 request, which records shall be retained for three years by
6 the Seattle Fire Department. A copy of the official incident
7 command agency designation shall be a part of the assistance
8 agreement specified in this section.

9 Section 3.16.230(A) The Chief of the Fire Department
10 or his representative may enter into verbal hazardous materials
11 emergency assistance agreements at the scene of an incident
12 where execution of a written agreement prior to the incident
13 is not possible. A notification of the terms of this section
14 shall be presented at the scene by the incident commander or
15 his representative to the person whose assistance is requested.
16 The incident commander and the person whose assistance is
17 requested shall both sign the notification which appears in
18 subsection (B) of this section, indicating the date and
19 time of signature. If a requesting agency deliberately
20 misrepresents individual or agency status, that agency shall
21 assume full liability for any damages resulting from the
22 actions of the person whose assistance is requested, other
23 than those damages resulting from gross negligence or wilful
24 or wanton misconduct.

25 (B) The notification required by subsection (A) of this
26 section shall be as follows:

27 NOTIFICATION OF "GOOD SAMARITAN" LAW

28 You have been requested to provide emergency assistance by
a representative of a designated hazardous materials incident
command agency. To encourage your assistance, the Washington
State Legislature has passed "Good Samaritan" Legislation

1 (Chapter 4.24 RCW, part) to protect you from potential
2 liability. The law reads, in part:

3 "Any person who, in good faith, renders emergency
4 care, assistance, or advice with respect to a
5 hazardous materials incident is not liable for
6 civil damages resulting from any act or omission
7 in the rendering of such care, assistance, or
8 advice, other than acts or omissions constituting
9 gross negligence or wilful or wanton misconduct."

10 The law requires that you be advised of certain conditions
11 to ensure your protection:

- 12 1. You are not obligated to assist and you may
13 withdraw your assistance at any time.
- 14 2. You cannot profit from assisting.
- 15 3. You must agree to act under the direction of
16 the incident commander.
- 17 4. You are not covered by this law if you caused
18 the initial accident or if you are a public
19 employee doing your official duty.

20 I have read and understand the above.

21 (Name) _____

22 Date _____ Time _____

23 I am a representative of a designated hazardous
24 materials incident command agency and I am
25 authorized to make this request for assistance.

26 (Name) _____

27 Date _____ Time _____

28 Section 2. Any act consistent with the authority and
prior to the effective date of this ordinance is hereby
ratified and confirmed.

(To be used for all Ordinances except Emergency.)

Section 3..... This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed by the City Council the 24 day of May, 1982, and signed by me in open session in authentication of its passage this 24 day of May, 1982. *Jeanette Williams* President of the City Council.

Approved by me this 1st day of June, 1982. *Charles Roper* Mayor.

Filed by me this 1st day of June, 1982.

Attest: *Jim Hill* City Comptroller and City Clerk.

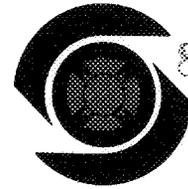
(SEAL)

Published.....

By *Theresa Dunbar* Deputy Clerk.

**Your
Seattle
Fire Department**

Robert L. Swartout, Chief
Charles Royer, Mayor



820711

April 2, 1982

Mr. John Saven, Director
Office of Management and Budget
200 Municipal Building
Seattle, Washington 98104

Attention: Ms. Nancy Saari, Budget Analyst

Dear Mr. Saven:

Attached are two proposed City Ordinances dealing specifically with Fire Department business, that are a direct result of recently-passed State legislation.

RCW 4.24 requires local jurisdictions to designate a Hazardous Materials Incident Command Agency within their boundaries. Also "Good Samaritan" legislation which is of vital importance to the Agency and their ability to react to hazardous materials emergencies is included.

RCW 70.77 authorizes local jurisdictions to provide by Ordinance for a permit fee in an amount sufficient to cover legitimate administrative costs for permit processing and inspection, but in no case to exceed \$100.00 for any one year, relative to the use of fireworks. This proposal would better reflect the actual permit cost incurred by our Department.

Because both proposals require immediate attention and resolution, they have been submitted with the emergency clause.

Yours truly,

Robert L. Swartout,
Chief of Fire Department

RLS:ct

Attachments

**Your
Seattle
Fire Department**

Robert L. Swartout, Chief
Charles Royer, Mayor

*Carol
Please do
not fold
this letter*



April 2, 1982

The Honorable Douglas N. Jewett
City Attorney
City of Seattle

Dear Mr. Jewett:

Attached are two proposed City Ordinances dealing specifically with Fire Department business that are a direct result of recently passed state legislation.

RCW 4.24 requires local jurisdictions to designate a Hazardous Materials Incident Command Agency within their boundaries. Also "Good Samaritan" legislation which is of vital importance to the Agency and their ability to react to hazardous materials emergencies is included.

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Because both proposals require immediate attention and resolution, they have been submitted with the emergency clause.

Sincerely,

Robert L. Swartout, Chief
Seattle Fire Department

RLS:ko
BLH/HSM

Attachments

Your City, Seattle

Executive Department-Office of Management and Budget

John Saven, Director
Charles Royer, Mayor

#3918



COPY OF WITHIN RECEIVED

April 5, 1982.

APR 6 1982

The Honorable Douglas Jewett
City Attorney
City of Seattle

Douglas N. Jewett
CITY ATTORNEY

Dear Mr. Jewett:

The Mayor is proposing to the City Council that the enclosed legislation be adopted.

REQUESTING
DEPARTMENT: Fire Department

SUBJECT: An Ordinance to designate the Seattle Fire Department as the Hazardous Materials Incident Command Agency within its respective boundaries, and authorizing the Fire Department to accept mutual assistance between the City and persons with equipment, personnel and expertise in the handling of hazardous materials incidents.

Pursuant to the City Council's S.O.P. 100-014, the Executive Department is forwarding this request for legislation directly to your office for review and drafting.

After reviewing this request and drafting appropriate legislation:

- (X) File the legislation with the City Clerk for formal introduction to the City Council as an Executive Request.
- () Do not file with City Council but return the proposed legislation to OMB for our review. Return to _____.

Sincerely,

Charles Royer
Mayor

By

John Saven
Budget Director

JS/ ns

Enclosure

cc: Seattle Fire Department

An equal employment opportunity - affirmative action employer

Affidavit of Publication

STATE OF WASHINGTON KING COUNTY—SS.

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

Ordinance No. 110614

was published on June 3, 1982

B. Blain
Subscribed and sworn to before me on

June 3, 1982

Robert A. Simon
Notary Public for the State of Washington,
residing in Seattle.

AN ORDINANCE relating to the Fire Department, adding new sections 3.15.220, 3.15.222 and 3.15.230 to the Seattle Municipal Code, designating the Seattle Fire Department as the Hazardous Materials Incident Command Agency within its respective boundaries, and authorizing the Fire Department to accept mutual assistance between the City and persons with equipment, personnel and expertise in the handling of hazardous materials incidents, by establishing limitations on liability for those persons responding.

WHEREAS, The City of Seattle is required by 4.14 RCW to designate a Hazardous Materials Incident Command Agency; and

WHEREAS, designated Hazardous Materials Incident Command Agencies are authorized and encouraged, prior to a hazardous materials incident, to enter individually or jointly into written hazardous materials emergency assistance agreements with any person whose knowledge or expertise is deemed potentially useful; Now, Therefore,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. There is added to the Seattle Municipal Code, Chapter 3.16, a new Subchapter IV, Hazardous Materials Handling, as follows:

Section 3.16.280 The governing body of The City of Seattle hereby designates the Seattle Fire Department as the Hazardous Materials Incident Command Agency for all hazardous materials incidents within the corporate limits of The City of Seattle.

Section 3.15.210A The Fire Chief is authorized to enter into agreements with persons, agencies, and/or corporations who may provide assistance with respect to a hazardous materials incident. In accordance with the provisions RCW 4.24 such persons, agencies, and/or corporations are not liable for civil damages resulting from any act or omission in the rendering of such care, assistance, or advice, other than acts or omissions constituting gross negligence or willful or wanton misconduct, provided:

- (1) The Seattle Fire Department and the person whose assistance is requested have entered into a written hazardous materials assistance agreement prior to the incident which incorporates the terms of Section 3.15.220, except as specified in Section 3.15.230 of this Ordinance;
- (2) The request for assistance comes from the Seattle Fire Department.

Section 3.15.220A Hazardous materials emergency assistance agreements which are executed prior to a hazardous materials incident shall include the following terms and conditions:

- (1) The person requested to assist shall not be obligated to assist;
- (2) The person requested to assist may act only under direction of the incident commander or his representative;
- (3) The person requested to assist may withdraw his assistance if he deems the actions or directions of the incident commander to be contrary to accepted hazardous materials response practices;
- (4) The person requested to assist shall not profit from rendering the assistance;
- (5) The person requested to assist shall not be a public employee acting in his official capacity within the boundaries of his political subdivision;
- (6) Any person responsible for causing the hazardous materials incident shall not be covered by the liability standard defined in Section 2 of this Ordinance.

B. It is the responsibility of both parties to ensure that mutually agreeable procedures are established when assistance is requested, for recording the name of the person whose assistance is requested, and the time and date of the request, which records shall be retained for three years by the Seattle Fire Department. A copy of the official incident command agency designation shall be a part of the assistance agreement specified in this section.

Section 3.15.230(A) The Chief of the Fire Department or his representative may enter into VERBAL hazardous materials emergency assistance agreements at the scene of an incident where execution of a written agreement prior to the incident is not possible. A notification of the terms of this section

shall be presented at the scene by the incident commander or his representative to the person whose assistance is requested. The incident commander and the person whose assistance is requested shall both sign the notification which appears in subsection (B) of this section, indicating the date and time of signature. If a requesting agency deliberately misrepresents individual or agency status, that agency shall assume full liability for any damages resulting from the actions of the person whose assistance is requested, other than those damages resulting from gross negligence or willful or wanton misconduct.

(B) The notification required by subsection (A) of this section shall be as follows:

NOTIFICATION OF "GOOD SAMARITAN" LAW

You have been requested to provide emergency assistance by a representative of a designated hazardous materials incident command agency. To encourage your assistance, the Washington State Legislature has passed "Good Samaritan" Legislation (Chapter 4.24 RCW, part) to protect you from potential liability. The law reads, in part:

"Any person who, in good faith, renders emergency care, assistance, or advice with respect to a hazardous materials incident is not liable for civil damages resulting from any act or omission in the rendering of such care, assistance, or advice, other than acts or omissions constituting gross negligence or willful or wanton misconduct."

The law requires that you be advised of certain conditions to ensure your protection:

- 1. You are not obligated to assist and you may withdraw your assistance at any time.
- 2. You cannot profit from assisting.
- 3. You must agree to act under the direction of the incident commander.
- 4. You are not covered by this law if you caused the initial accident or if you are a public employee doing your official duty.

I have read and understand the above.

(Name) _____

Date _____ Time _____

I am a representative of a designated hazardous materials incident command agency and I am authorized to make this request for assistance.

(Name) _____
Date _____ Time _____

Section 2. Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and confirmed.

Section 3. This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed by the City Council the 24 day of May, 1982, and signed by me in open session in authentication of its passage this 24th day of May, 1982.

Approved by me this 1st day of June, 1982. *James Williams* President of the City Council.
Charles Poppe Mayor

Filed by me this 1st day of June, 1982. *Jim Hill* Attest, City Comptroller and City Clerk.

(SEAL)

By *Theresa Dumbaw* Deputy Clerk.