

(Summary Published in the McPherson Sentinel \_\_\_\_\_, 2018, once)

**ORDINANCE NO. 3263**

**AN ORDINANCE OF THE CITY OF MCPHERSON, KANSAS  
ADDING SECTION 34-4 TO THE CODE OF THE CITY OF  
MCPHERSON, KANSAS REGARDING COST RECOVERY FOR  
RESPONSE TO HAZARDOUS MATERIAL SPILLS.**

**WHEREAS**, the McPherson Fire Department routinely responds to hazardous material spills;

**WHEREAS**, the costs incurred mediating hazardous material spills can be significant;  
and

**WHEREAS**, the governing body believes that it is in the best interest of the citizens of McPherson, Kansas to seek cost recovery in hazardous material spill situations under certain circumstances;

**NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF MCPHERSON, KANSAS:**

**Section 1. Addition of Code section.** From and after the effective date of this Ordinance, the following new Code Section 34-4 is inserted:

Section 34-4. Cost Recovery for Hazardous Material Spills.

(a) *Definitions.* The following words and phrases when used in this section shall have the following definition.

- (1) **“Responsible Party”** means person or organization which has been placed or assumes control of hazardous material, including the vehicle or facility, where the hazardous material is located immediately before the spill;
- (2) **“Hazardous Materials”** or **“Hazardous Substances”** means those elements and compounds and hazardous wastes designated in 40 CFR 304.4 as amended;
- (3) **“Spill”** means any event required to be reported to proper state officials under K.A.R. 28-48-2.

(b) When a City emergency response team is activated to respond to a Spill, the Responsible Party for the Hazardous Materials shall be responsible for paying the costs incurred as a result of the emergency response. The costs shall be set from time to time by resolution of the governing body. The Responsible Party shall be billed by the McPherson Fire Department. If the Responsible Party fails to pay the

bill in full within thirty (30) days of its issue, a second billing shall be issued by the McPherson Fire Department. The second billing and any subsequent billings shall include interest on the unpaid balance equal to the statutory rate on unpaid judgments as published from time to time by the Kansas Secretary of State's office. If payment is not made in full within sixty (60) days of the initial billing, legal action may be brought to recover the costs of the response, reasonable attorneys' fees and costs, and any other related expenses.

- (c) Within thirty (30) days of the original billing issued, any Responsible Party who disagrees with a billing for costs incurred as a result of an emergency response may request a hearing before the governing body. The request for a hearing shall specifically identify the portion of the billing that is disputed and the factual basis of that dispute. Any remaining portion of the bill that is undisputed shall be paid in accordance with subsection (b). The decision of the governing body shall be final.

**Section 2. Repeal.** All or parts of the Code conflicting with the provisions of this Ordinance are hereby repealed.

**Section 3. Publication and Effective Date.** This ordinance shall take effect and be in full force and effect from and after its passage, signature and publication of a summary of this ordinance in the official city newspaper and posting of the full text of the ordinance on the city's website in compliance with K.S.A. 12-3007(b).

**ADOPTED** by the governing body this 5th day of February, 2018.

CITY OF MCPHERSON, KANSAS

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Thomas A. Brown, Mayor

[SEAL]

Attest:

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Tamra K. Seely, City Clerk

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## Ordinance No.3263, Summary

On February 5, 2018, the City of McPherson, Kansas adopted Ordinance No. 3263 adding Section 34-4 to the Code of the City of McPherson, Kansas regarding cost recovery for response to hazardous material spills. A complete copy of this Ordinance is available at [www.mcpcity.com](http://www.mcpcity.com) or at the Municipal Center, 400 E. Kansas, McPherson, Kansas. Jeffrey A. Houston, City Attorney, certified this summary.