

STOCKBRIDGE TOWNSHIP INGHAM COUNTY, MICHIGAN ORDINANCE #331  
AN ORDINANCE TO ALLOCATE RESPONSIBILITY FOR THE RELEASE HAZARDOUS  
MATERIALS AND TO PROVIDE FOR COST RECOVERY  
ASSOCIATED WITH THE TOWNSHIP'S RESPONSE.

THE TOWNSHIP OF STOCKBRIDGE ORDAINS:

**HAZARDOUS MATERIALS COST RECOVERY**

Sec. 1 FINDINGS AND PURPOSES. The Township of Stockbridge hereby finds and declares the purpose of this ordinance to be as follows.

- (1) A significant potential exists for responses to incidents involving the release or threatened release of hazardous materials.
- (2) That such incidents create a great likelihood of personal injury, property damage and environmental contamination.
- (3) The control and abatement of such incidents places a significant financial and operational burden upon the Township's fire fighting, rescue, and emergency medical services and other Township emergency services and resources.
- (4) This ordinance is necessary to establish the liability for such incidents and to establish a policy and methods which will allow the Township to obtain recovery of costs and expenses associated with emergency responses to hazardous material incidents.

Sec. 2 DEFINITIONS. The following definitions will apply in the interpretation, administration, and enforcement of this ordinance.

- (1) "Compressed Gas" shall mean any material regulated as a compressed gas by the United States Department of Transportation through regulations found in 49 CFR 173.115.
- (2) "Corrosive Material" shall mean any material regulated as a corrosive material by the United States Department of Transportation through regulations found in 49 CFR 173.136.
- (3) "Emergency Response" means the providing, sending, and/or utilizing of fire fighting, emergency medical and rescue, public safety, and public works services by the Township, or by a private industrial entity, corporation, or other assisting government agency operating at the request or direction of the Township or State of Michigan, for an incident resulting in a hazardous materials release or threatened release or the clean-up or abatement of same.
- (4) "Expenses of an Emergency Response" means the direct and reasonable costs incurred by the Township, SAESA, the Ingham County Hazmat Response Team, or by a private person, corporation, or

other assisting government agency, which is operating at the request or direction of the Township when making an emergency response to a hazardous materials incident, including the cost of providing fire fighting, rescue services, emergency medical services, police services, containment, storage, clean-up, and abatement of all hazardous materials and conditions at the scene of the incident. The costs further include all salaries, wages, or fringe benefits of the Township, SAESA, or the Ingham County Hazmat Response Team personnel responding to the incident; salaries and wages of the Township, SAESA, or the Ingham County Hazmat Response Team personnel engaged in the investigation, supervision and report preparation regarding the incident; all salaries, wages, or fringe benefits of personnel of assisting government agencies operating at the request or direction of the Township, SAESA, or the Ingham County Hazmat Response Team; and all costs connected with the administration of the incident relating to any prosecution of the person(s) responsible, including those relating to the production and appearance of witness at any court proceedings in relation thereto. Costs shall include such items as disposable materials and supplies used during the response to said incident, the rental or leasing of equipment including protective equipment and clothing used for the specific response, replacement of equipment which is contaminated beyond reuse or repair during the response to said incident, special technical services and equipment, laboratory costs and equipment, services and supplies purchased for any specific evacuation relating to the incident. Additional costs may include decontamination of equipment contaminated during the response, other special services required for the emergency response, costs associated with the services, medical expenses incurred as a result of response activities, legal expenses that may be incurred as a result of the emergency response including efforts to recover expenses pursuant to this ordinance.

(5) "Explosive" shall mean any material regulated as a class A or class B explosive by the United States Department of Transportation through regulation found in 49 CFR 173.50.

(6) "Flammable Liquid or Solid" shall mean any materials regulated as a flammable liquid or solid by the United States Department of Transportation through regulations found in 49 CFR 171.1 et. seq and particularly at 49 CFR 173.120 and 49 CFR 173.124.

(7) "Hazardous Material" means explosives, pyrotechnics, compressed gas, flammable liquid, flammable solid, combustible liquid, oxidizing material, poisonous gas, poisonous liquid, poisonous solid, etiological material, radioactive material, corrosive material, or liquefied petroleum gas and also including, but limited to any of the following:

(a) Any material listed in the list of toxic pollutants found in 40 CFR 401.15 as amended, or in Federal law or regulation;

(b) Any material designated as a hazardous material by the Secretary of the United States Department of Transportation through regulations found in 49 CFR 171.1 et. seq. and particularly at 49 CFR 171.8.

- (c) Any material deemed a "hazardous substance" as defined by 1994 PA 451, Part 207, Sub-Section 20101(n), MCL 324.201Q1(n).
- (d) Any material designated as hazardous material by state or federal law or regulation.
- (e) Any hazardous chemical substance or mixture with respect to which the Administrator has taken action pursuant to section 2605 of the Toxic Substance Control Act, 15 USC Sec. 2605.
- (f) Any otherwise non-hazardous material released is a hazardous material for the purpose of this ordinance if its presence causes a potential hazard to vehicular or pedestrian traffic.
- (8) "Ingham County Hazmat Response Team" shall mean the Ingham County Hazardous Response Team operating under the auspices of the Ingham County Office of Emergency Services.
- (9) "SAESA" shall mean the Stockbridge Area Emergency Services Authority.
- (10) "Owner" means any person having a vested or contingent interest in the premises, real property, personal property, container, or vehicle involved in the hazardous materials incident, including but not limited to, any duly authorized agent or attorney, purchaser devisee, or fiduciary of a person having said vested or contingent interest.
- (11) "Oxidizing Material" shall mean any material regulated as an oxidizing material by the United States Department of Transportation through regulations found in 49 CFR 173.127.
- (12) "Person" shall mean an individual, firm, joint venture, partnership, corporation, limited liability company, club and all associations or organizations of natural persons, either incorporated or unincorporated, howsoever operating or named, and whether acting by themselves or by servant, contractor, employee, agent of fiduciary, and includes all legal representatives, heirs, successors and assignees thereof.
- (13) "Poison" shall mean any liquid or gas that is life threatening when mixed with air in small amounts, and shall also include all those materials regulated as poison class A by the United States Department of Transportation through regulations found in 49 CFR 173.115 and 173.132.
- (14) "Premises" means any lot or parcel of land, exclusive of building, and includes a parking lot, tourist camp, trailer camp, airport, stockyard, junkyard, wharf, pier, public roadway, and any other place or enclosure, however owned, used, or occupied.
- (15) "Radioactive Material" shall mean any material required by the United States Department of Transportation to have type A packaging or other special protection or closed transport vehicles, under regulations found in 49 CFR 173.403.
- (16) "Release" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of a hazardous material into the environment or in

any way which causes damage or harm to person(s), property, natural resources, the public health, or the environment.

(17) "Threatened Release" shall mean any imminent or impending event potentially causing but not necessarily resulting in a release which causes the Township to undertake emergency response.

(18) "Township" shall mean the Township of Stockbridge.

(19) "Vehicle" shall mean any mode which is used as an instrument of conveyance, including but not limited to motor vehicles, railroads, boats, aircraft, etc.

### Sec. 3 LIABILITY FOR COSTS.

Any person causing or contributing to a release or threatened release shall be liable to the Township for the expense of an emergency response.

The following persons shall be jointly and severally liable to the Township for the payment of all costs and expenses incurred by the Township as a result of an emergency response, clean-up or abatement activity.

(a) Any person whose negligent or willful act or omission proximately caused or contributed to such release or threatened release;

(b) The owner, operator, occupant, or other person responsible for the operation, maintenance, and/or condition of any building, premises, property, or vehicle which was the sites or cause of a release or threatened release;

(c) The person who owned, transported, or had custody or control of the hazardous material at the time of such release or threatened release without regard to fault or proximate cause; and,

(d) The person who owned, transported, or had custody or control of the container which held hazardous material at time of or immediately prior to such release or threatened release without regard to fault or proximate cause.

### Sec. 4 RECOVERY OF COSTS.

(a) The expenses of an emergency response shall be a charge against the person(s) liable for the expenses under this ordinance. The charge constitutes a debt of the person(s) and is collectible by the Township in the same manner as an obligation under contract express or implied.

(b) The Township personnel and outside person, corporation, or governmental agencies assisting for mutual aid and cleanup involved in an emergency response shall keep an itemized record of recoverable costs resulting from a release or threatened release including an emergency response. Promptly after completion of an emergency response, they shall certify those expenses to the Township Supervisor.

(c) Costs of the Township shall not include costs of actual fire suppression services which are normally or usually provided by the emergency services in situations not involving hazardous materials.

(d) The Township shall, within thirty (30) days of receiving itemized costs, or any part thereof incurred for an emergency response, submit a bill for those costs by first class mail or personal service to the person(s) liable for the expense as enumerated under this ordinance. The bill shall include all recoverable costs of all other agencies assisting under mutual aid. The bill(s) shall require full payment within thirty (30) days from the date of mailing or service of said bill upon the responsible person. All payments received, less costs of collection shall be distributed pro rata to the Township and other assisting public agencies. The Township shall have the right to bring or commence an action in any court of competent jurisdiction to collect said costs.

(e) The expenses of an emergency response shall constitute a lien against the real property upon which the response activity occurred if the owner, operator, or owners lessee caused or contributed to the release, and, if not paid within sixty (60) days after payment is due, shall be reported by the Township Treasurer to the Board of Trustees on or before April 1<sup>Bt</sup> of each year. The Board of Trustees may order the costs of emergency response assessed by the special assessment against the lot, premises, or description of real property upon which such release occurred, and the same shall be reported by the Clerk to the Assessor who shall spread such amounts against the person(s) or descriptions of the real property chargeable therewith on the next roll for the collection of general township taxes, and the liens thereon shall be enforced in the same manner thereafter as provided by law for delinquent and unpaid township taxes.

#### Sec. 5. SEVERABILITY.

If any clause, sentence, paragraph or part of this ordinance shall for any reason be finally adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this ordinance but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment is rendered.

#### Sec. 6. EFFECTIVE DATE.

This ordinance shall become effective on its adoption and publication as provided by law.

TOWNSHIP OF STOCKBRIDGE

\_\_\_\_\_  
Mary Wilson, Clerk      Date

attested to by:

\_\_\_\_\_  
Paul Risner, Supervisor      Date

**CERTIFICATION**

**STATE of MICHIGAN COUNTY of INGHAM**

I, Mary Wilson, the duly elected, qualified and acting Clerk of the Township of Stockbridge, Ingham County, State of Michigan do hereby certify as follows:

1. The foregoing is a true and complete copy of Ordinance number, adopted by the Stockbridge Township Board at a regular meeting on April 18, 2011.

2. The foregoing ordinance was moved for adoption by \_\_\_\_\_, seconded by \_\_\_\_\_, and adopted by the following vote: Yes: \_\_\_\_ No: \_\_\_\_\_;

3. The Township Board members voted as follows:

Yeas: \_\_\_\_\_

Nays: \_\_\_\_\_

Abstaining: \_\_\_\_\_

Absent: \_\_\_\_\_

4. That said ordinance and the record of publication was duly recorded in the Non-Zoning Ordinance Book of the Township of Stockbridge and is available for public use and inspection at the office of the Stockbridge Township Office.

5. The foregoing ordinance was published on the \_\_ day of April 2011, in The Sun Time, a newspaper of general circulation in the Township of Stockbridge.

Mary Wilson Stockbridge Township Clerk