

HAZARDOUS MATERIALS INCIDENT COST RECOVERY ORDINANCE

TUSCOLA TOWNSHIP, TUSCOLA COUNTY, MICHIGAN

ORDINANCE NO. 25

THE TOWNSHIP OF TUSCOLA ORDAINS:

Section 1: PURPOSES

To control and abate release or threatened release of hazardous material and avoid personal injury and property damage.

Section 2: DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance it's most reasonable application.

“Emergency Response” means the providing, sending and/or utilizing of police, firefighting, emergency medical and rescue services by the Township of Tuscola, or by a private industrial entity or corporation operating at the request or direction of the Township of Tuscola or State of Michigan, for an incident resulting in a hazardous materials release or threatened release.

“Hazardous Material” means explosives, pyrotechnics, flammable compressed gas, flammable liquid, combustible liquid, oxidizing material, poisonous gas, poisonous liquid, poisonous solid, irritation material, etiological material, radioactive materials, corrosive material, or liquefied petroleum gas and other materials classified as hazardous by local, state or federal government (s).

“Building” means any structure used or intended for supporting or sheltering any use or occupancy.

“Premises” means any lot or parcel of land, exclusive of buildings, and includes a parking lot, tourist camp, trailer camp, airport, stockyard, junkyard, wharf, pier, public roadway, and any other place of enclosure, however owned, used or occupied.

“Owner” means any person having a vested or contingent interest in the property, premises, container or vehicle involved in a hazardous materials incident, including but not limited to any duly authorized agent or attorney, purchaser, devise, or fiduciary of said person having said vested or contingent interest.

“Vehicle” means any mode of transportation which is used as an instrument or conveyance including but not limited to motor vehicles, railroads, boats, aircraft, etc.

“Expenses of an Emergency Rescue” means the direct and reasonable costs incurred by the Township of Tuscola, or by a private person, corporation, or other assisting government agency, which is operating at the request or direction of the Township of Tuscola when making any emergency response to a hazardous material incident, including the cost of providing police, fire fighting, rescue services, emergency medical services, containment, and abatement of all hazardous conditions at the scene of the incident. The costs further include all of the salaries and wages of Township of Tuscola personnel responding to the incident, salaries and wages of Township of Tuscola personnel engaged in the investigation, supervision and report preparation regarding said incident, all salaries and wages of personnel of assisting government agencies operating at the request or direction of the Township of Tuscola, and all costs connected with the administration of the incident relating to any prosecution of the person responsible, including those relating to the production and appearance of witnesses at any court proceedings in relation thereto. Costs shall also include such items as disposable materials and supplies used during the response to said incident, the rental or leasing of equipment 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 laboratory costs, and services and supplies; purchased for any specific evacuation relating to said incident.

Section 3: LIABILITY FOR EXPENSE OF AN EMERGENCY RESPONSE

- 3.1 Person(s) Responsible: The owner, operator, occupant or other person responsible for the operation, maintenance and/or condition of any building, premises, property or vehicle wherein incident arises which involves the release or threatened release of hazardous materials on or about said building, premises, property and/or vehicle shall be required to reimburse the Township of Tuscola for all expenses of any emergency response to said hazardous materials incident.
- 3.2 Charge Against Person: The expense of an emergency response shall be a charge against the person liable for the expenses under this Ordinance. The charge constitutes a debt of that person and is collectible by the Township of Tuscola in the same manner as in the case of an obligation under contract, expressed or implied.
- 3.3 Cost Recovery Schedule: The Township of Tuscola shall, by resolution, adopt a schedule of the costs included within the expense of an emergency response. This schedule shall be available at the offices of the Township Clerk for inspection by the public at all times.
- 3.4 Billing: The Township of Tuscola may, within ten (10) days of receiving itemized costs, or any part thereof, incurred for an emergency response, submit a bill for these costs by first class mail or personal services to the person liable for the expenses as enumerated under this Ordinance. The bill(s) shall require full payment within thirty (30) days from the date of mailing or personal service of said bill upon the responsible person.
- 3.5 Fail To Pay: Procedure to Recover Costs: Any failure by the person described in this Ordinance as liable or responsible for the expenses of an emergency response to pay said bill within thirty (30) days of mailing or service of the bill shall constitute a default on said bill. In case of default, the Township of Tuscola shall have the right and power to

add all emergency response costs to the tax roll as to any property involved in the hazardous materials incident, and to levy and collect such costs in the same manner as provided for the levy and collection of real property taxes against said property or premises. The Township of Tuscola shall also have the right to bring action in a court of competent jurisdiction to collect said costs if the Township of Tuscola deems such action to be necessary.

Section 4: NOTICE TO BE PUBLISHED

The Township Clerk shall publish this Ordinance in the manner required by law, including notice of the fact that a complete copy of this Ordinance is available at the office of the Clerk for inspection by the public at all times.

Section 5: CONFLICTING ORDINANCES REPEALED

Any and all other Ordinances inconsistent with the provisions of this Ordinance and any changes adopted thereto are, to the extent of such inconsistency, hereby repealed.

Section 6: SEVERABILITY

If any section, Subsection, Clause, Paragraph or Provision of this Ordinance shall be adjudged invalid by a court of competent jurisdiction, such adjudication shall only apply to the said portion thereof adjudicated invalid, and the full remaining portions or parts of this Ordinance shall remain in full force and effect.

Section 7: SAVINGS CLAUSE

All procedures pending and all rights and liabilities existing, acquired or incurred at the time this Ordinance takes effect are hereby saved, and such proceedings may be consummated under and according to the ordinance in farce at the time such proceedings are or were commenced.

This Ordinance shall not be construed to alter, affect, or abate any pending prosecution of proceeding or prevent prosecution or proceeding hereafter instituted under any ordinance specifically or impliedly repealed by this Ordinance and changes thereto for any liabilities incurred or offenses committed before the effective date of this Ordinance and all proceedings pending at the effective date of this Ordinance and all proceedings or prosecutions instituted after the effective date of this Ordinance for any liabilities incurred or offenses committed before the effective date of this Ordinance may be continued or instituted under and in accordance with the provisions of any Ordinance in force at the time of the liability incurred or commission of such offense.

Section 8: WHEN EFFECTIVE

This Ordinance shall be in effect thirty (30) days after publication of this Ordinance in the Tuscola County Advertiser.

ADOPTED:

YEAS: T. Green, G. Peterson, H. Hohman, S. Olson, M. Blasius

NAYS: None

ABSTAINED: None

STATE OF MICHIGAN)
(SS
COUNTY OF TUSCOLA)

I, the undersigned, do hereby certify that the foregoing is a true and complete copy of the proceedings adopted at a regular meeting of the Township of Tuscola Board, held on the 14th day of October 1996, the original of which is on file in my office.

Mary Lou Blasius
TOWNSHIP CLERK