

Ordinance #17 –Hazardous Material Clean Up Costs

Butman Township, Gladwin County, Michigan

An ordinance to establish responsibility for clean-up costs incurred by the Township of Butman relating to hazardous material spills, leaks or discharges of any kind or nature.

The Township of Butman shall ordain as follows:

SECTION I – Definitions

- a. "Township" shall mean Township of Butman.
- b. "Costs" or "Township Costs" are defined as actual financial expenses incurred by the Fire, DPW and / or any Law Enforcement, EMS or Public Safety Departments that the Township may establish and / or any other departments of the Township or any other agency's within the Township and / or etc. which shall include, but not be limited to all actual out-of-pocket expenses attributable to the response, control, or abatement of any hazardous materials incident including costs of equipment operations and personnel, costs of materials utilized, other expenses incurred including but not limited to, rental or purchase of machinery, equipment, labor, consultants, legal and engineering fees, replacement costs related to disposable personal protective equipment, extinguishing agents, supplies, and water purchased or replacement of any contaminated or damaged equipment as a result of the incident, meals for all personnel involved in the incident, costs of specialists, medical expenses and hospitalization costs for exposures, injuries or illness resulting from an incident, any long-term and / or permanent medical expenses and hospitalization cost and lost income due to exposures, injuries or illnesses resulting from an incident. Experts or other contract labor not in the full-time employment of the Township, costs incurred by area Fire Departments requested through mutual aid agreements with the Township, and any other incidental costs incurred by the Township as a result of said incident. The above Departments may publish fee schedules from time to time that may serve as guidelines for calculating expenses.
- c. "Extra Territorial Jurisdiction (ETJ)" shall mean any and all areas outside of the boundaries of the Township wherein the Township, by virtue of contracts with other townships, cities, fire departments, other federal, state, or local agencies, allows any department of the Township to enter into said territories for any areas required by said contract or agreements.
- d. "Facility" shall mean any area, place, or property where a hazardous material has been released, deposited, stored, disposed of, or otherwise comes to be located.
- e. "Fire Department" shall mean the Township of Butman Fire Departments.
- f. "Fire Chief" shall mean the Chief of the Township of Butman Fire Department.
- g. "Hazardous materials" shall be defined as any substances or materials in a quantity or form which, in the determination of the Fire Chief, Department of Public Safety Director or his authorized representative, poses an unreasonable and imminent risk to the life, health or safety of and shall include, but not be limited to, such substances as explosives, radioactive materials, petroleum or petroleum products or gases, poisons, etiologic (biologic) agents, combustible

liquid, flammable gas, an organic peroxide, an oxidizer, pyrophoric, unstable reactive water reactive, chemical, flammables and corrosives.

- h. "Person" shall mean an individual, sole proprietorship, partnership, joint venture, trust, firm, joint stock company, corporation, limited liability corporation, or any other legal entity.
- i. "Law Enforcement" shall mean any Law Enforcement units inside Butman Township that the Township may establish.
- j. "Public Services" shall mean any Butman Township Department of Public Services that the Township may establish.
- k. "Responsible Party" shall mean a responsible party is any individual, firm, corporation, association, partnership, commercial entity, consortium, joint venture, government entity, or any other legal entity that is responsible for a release of hazardous material, either actual or threatened. Also, an owner, tenant, occupant of party in control or property onto which or from which hazardous materials released is a responsible party and / or the following persons who, by their actions, cause a release or threatened release of hazardous materials from a facility that causes the incurrence of Township costs:
 - 1. The owner or operator of a facility;
 - 2. The owner or operator of the facility since the time of disposal of hazardous materials;
 - 3. The owner or operator of the facility since the time of disposal of a hazardous material not included in Section I (K) (1 and 2).
 - 4. A person that by contract, agreement, or otherwise arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment of a hazardous material owned or possessed by the person, by any other person, at the facility owned or operated by another person and containing the hazardous material;
 - 5. A person that accepts or accepted any hazardous material for transport to the facility selected by that person.
- l. "Release" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, leaching, dumping or disposing into the environment resulting from an intentional, accidental, or negligent act.

SECTION II

Any person who accidentally, negligently, or intentionally causes or is responsible for a release or spill of hazardous material (s) affecting property within the Township or its Extra Territorial Jurisdiction (ETJ) is a responsible party under this Chapter and shall be responsible for the abatement, control, capture and proper disposal of such hazardous material shall be in addition to any other remedies provided by law. Such responsible party will have the option to secure and hire a firm qualified to abate, control, capture and dispose of these substances or request Township forces to handle the spill. Township Departments may proceed beyond containment provided it is specifically requested by the responsible party and that Township personnel are available from normal duties. Township cost will be computed as outlined in Section I (b) and Section III.

SECTION III

Costs to be recovered under this Ordinance shall be those costs as defined in Section I (b) above, but shall not include actual fire suppression, rescue, medical services, and other costs which are normally or usually provided by the Fire, Law Enforcement and other Township departments and which would be otherwise unrelated to a particular hazardous materials incident.

SECTION IV

For purposes of this Ordinance, recovery costs under this Section incurred by the Fire Department and /or any other Departments shall be placed in the general fund of the Township. All departments should include in their annual budget funds for training, supplies and equipment used for hazardous materials incidents.

SECTION V

“Billing Procedures” following the conclusion of the hazardous materials incident, the Township Treasurer shall prepare an invoice to the responsible party for payment. The responsible parties shall reimburse the Township for the costs and expenses within thirty (30) days of mailing of the invoice. Any additional expenses that become known to the Township Treasurer following the transmittal of the bill to the responsible party shall be billed in the same manner on a subsequent bill to the responsible party. For any amounts due that remain unpaid after thirty (30) days, the Township shall impose a late charge of one percent (1%) per month, or fraction thereof.

SECTION VI

“Other Remedies” the Township may pursue any other remedy, or may institute any appropriate action or proceeding, in a court of competent jurisdiction to collect charges imposed under this Ordinance. The recovery of charges imposed under this Ordinance does not limit liability of responsible parties under local ordinance or state or federal law, rule or regulation.

SECTION VII

“Severability” should any provision or part of the within Ordinance be declared by any court of competent jurisdiction to be invalid or unenforceable, the same shall not affect the validity or enforceability of the remainder of this Ordinance.

SECTION VIII

“Effective Date” this Ordinance shall take effect immediately upon publication. All ordinances or parts of ordinances that are inconsistent or in conflict are hereby repealed.

Adopted by the Butman Township Board this 10th day of February, 2000. Wolski, yes; Joyce, yes; Fornwall, yes; Kyle, absent; Faber, absent.

John Wolski

Don Joyce

Butman Township Supervisor

Butman Township Clerk

I, Don Joyce as Clerk for the Township of Butman, Gladwin County, Michigan, hereby certify that the same was published in the Gladwin County Record on the 1st day of May, 2000.

Don Joyce

Butman Township Clerk