

**WILSON TOWNSHIP
HAZARDOUS SPILLS EXPENSE RECOVERY ORDINANCE**

Ordinance No. 1 of 2010

AN ORDINANCE PURSUANT TO PUBLIC ACT 33 OF 1951, AS AMENDED, (MCL 41.801 *ET. SEQ.*) TO ESTABLISH CHARGES FOR TOWNSHIP EMERGENCY SERVICES RESPONDING TO AN INCIDENT INVOLVING HAZARDOUS MATERIALS AND TO PROVIDE METHODS FOR THE COLLECTION OF SUCH CHARGES

THE TOWNSHIP OF WILSON, CHARLEVOIX COUNTY ORDAINS:

Section 1. Purpose.

In order to protect Wilson Township from expenses resulting from the utilization of resources in response to hazardous material spills, this Ordinance authorizes the imposition of charges to recover actual costs incurred by the Township, either directly or through any fire protection agreements with other municipalities, in responding to such incidents.

Section 2. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Costs means and shall include, but is not limited to, those costs for services incurred by the Township in connection with a response to hazardous/toxic material spills, either directly or through any fire protection agreements with other municipalities.

Hazardous material means and shall include, but is not limited to, any material that poses a substantial present or potential hazard to human life, health, safety or the environment, including hazardous materials as defined by section 2 of the Hazardous Substances Act (MCL 286.452).

Release means and shall include, but is not limited to, any unpermitted spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of a hazardous substance into the environment, or the abandonment or discarding of barrels, containers, and other closed receptacles containing a hazardous substance.

Responsible party means and shall include, but is not limited to, any individual, firm, corporation, association, partnership, commercial entity, or any other legal entity that is responsible for a release of hazardous materials, either actual or threatened.

Township means Wilson Township.

Section 3. Duty to remove.

It shall be the duty of the responsible party to immediately remove hazardous materials and complete a total cleanup of the area of the release to insure that the hazardous materials are fully removed and the area is fully restored to prerelease condition.

Section 4. Failure to remove.

In the event that the responsible party fails to immediately comply with Section 3 of this Ordinance, the Township employees, agents, or contractors of the Township, may enter the property where the release occurred and conduct a cleanup.

Section. 5. Liability for costs.

(a) Any responsible party who fails to comply with Section 3 of this Ordinance shall be jointly and severally liable to the Township for any costs incurred cleaning up the hazardous materials and returning the affected property to prerelease condition. All costs shall be paid within 60 days of demand by the Township.

(b) The Township shall have a lien for all unpaid costs incurred by the Township and may enforce such lien in the manner prescribed by the general laws of the state providing for the enforcement of tax liens.

(c) In the event that said costs are not paid, the Township may take whatever collection steps may be deemed appropriate.

Section 6. Procedure for assessing costs.

(a) The township fire chief or the fire chief of a municipality with whom the Township has a fire protection agreement shall determine the total assessable costs and shall provide the township treasurer with an itemized invoice. The township treasurer shall then mail said invoice to the responsible party at its last known address.

(b) The responsible party may appeal the Township's determination of costs by requesting in writing within seven business days of the date of the invoice, a modification of costs. The township supervisor shall then meet with the aggrieved party within ten business days of receipt of the request for modification. If after the meeting with the township supervisor a modification is not awarded, the responsible party may appeal to the township board by filing a written request setting out the reason it feels it is entitled to a modification. Any reason for modification not set forth in the request to appear will be deemed waived. The responsible party will be entitled to appear at the next regularly scheduled meeting. The township board shall determine within thirty days whether to confirm, modify, or void the payment of assessable costs.

Section 7. Effect of appeal.

During the pendency of the appeal, the time to pay the incurred costs is tolled; however, the interest will continue to accrue at one percent per month.

Section 8. Civil Suit.

The Township may bring a civil action for payment of the recoverable expenses against any and all persons liable under this Ordinance. All costs of such suit, including actual reasonable attorney fees, shall also be a recoverable cost within the same civil action.

Section 9. Conflict with State or Federal Law.

Nothing in this Ordinance shall be construed to conflict with state or federal laws requiring persons causing or responsible for the release or threatened release of hazardous material from engaging in remediation activities or paying the cost thereof, or both.

Section 10. Nonexclusive Remedy.

The remedies provided by this Ordinance shall be in addition to any other remedies available in equity or at law and such penalties as provided by law or ordinance.

Section 11. Effective Date.

This Ordinance shall become effective on the day following its publication in a newspaper of general circulation within the Township.

Todd Sorenson, Supervisor
Marilyn L. Beebe, Clerk
Wilson Township, Charlevoix County

Ordinance No. 1 o 2010 was adopted on the 14th day of July, 2010, by the Wilson Township Board as follows:

Motion by: Louie Fall
Seconded by: Jeff Argetsinger
Yeas: Louie Fall, Jeff Argetsinger, Todd Sorenson, Marilyn Beebe
Nays: None
Absent: Kerri Reinhardt

Marilyn L. Beebe, Clerk