

Date Enacted:
07/01/1991

TOWNSHIP OF RAY
MACOMB COUNTY, MICHIGAN
ORDINANCE NO. 57
HAZARDOUS MATERIAL ABATEMENT ORDINANCE

TITLE

AN ORDINANCE securing the public health, safety and general welfare of the residents and property owners of Ray Township, by providing for the clean-up and abatement of the effects of unlawful discharges of hazardous material(s) upon or onto property within the Township, prescribing a penalty for the violation thereof and repealing all ordinances and/or resolutions in conflict therewith.

THE TOWNSHIP BOARD OF THE TOWNSHIP OF RAY, COUNTY OF MACOMB,
MICHIGAN, ORDAINS:

SECTION 1. TITLE

This Ordinance shall be known and cited as the "Ray Township Hazardous Material Abatement Ordinance."

SECTION 2. PURPOSE

The purpose of this Ordinance is to protect the public safety and welfare of property and persons in the Township of Ray from unlawful discharges of hazardous materials.

SECTION 3. ENABLING AUTHORITY

This Ordinance is adopted in accordance with and pursuant to the provisions of Act 246, Public Acts of-1945, as amended.

SECTION 4. DEFINITIONS

As used in this Ordinance, the terms:

A. "Hazardous Material(s)" shall mean any material(s) classified as hazardous by any federal regulation or legislation, any state legislation or regulation, or any township ordinance, including, but not limited to, the following:

(1) Any substance listed in the list of toxic pollutants found in 40 Code of Federal Regulations, Section 401.15, as amended.

(2) Any compressed gas, explosive, flammable liquid, flammable solid, oxidizer, poison, or radioactive material. As used in this section, the following terms shall have the following meanings:

(i) "CFRII shall mean the Code of Federal Regulations. The numbers immediately preceding and immediately following the initials CFR shall refer to the volumes, divisions and sections used to

identify parts of the Code of Federal Regulations.

(ii) "Compressed gas" shall mean any substance regulated as a compressed gas by the United States Department of Transportation, by regulations found in 49 CFR S 173.300.

(iii) "Explosive" shall mean any substance regulated as a class A or class B explosive by the United States Department of Transportation by regulations found in 49 CFR SS 173.53 and 173.88.

(iv) "Flammable liquid" shall mean any substance regulated as flammable liquid by the United States Department of Transportation by regulations found in 49 CFR S 173.115.

(v) "Flammable solid" shall mean any substance designated by the United States Environmental Protection Agency (EPA) pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Section 102 (CERCLA), found at 42 USC 5 9602.

(6) Any hazardous waste having the characteristics identified under or listed pursuant to Section 3001 of the Solid Waste Disposal Act (commonly known as the Resource Conservation and Recovery Act (RCRA)), found at 42 USC S 6921.

(7) Any toxic pollutant listed pursuant to Section 307(a) of the Federal Water Pollution Control Act, found at 33 USC S 1317(a).

(8) Any hazardous air pollutant listed pursuant to Section 112 of the Clean Air Act, found at 42 USC S 7412.

(9) Any imminently hazardous chemical substance or mixture with respect to which the Administrator of the United States Environmental Protection Agency has taken action pursuant to Section 7 of the Toxic Substances Control Act, found at 15 USC S 2606. This term includes petroleum, including crude oil or any fraction of crude oil which is not otherwise specifically listed or designated as a hazardous substance under this Ordinance, and also includes, if stored, natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas). Hazardous materials shall include radioactive materials and isotopes, and explosives.

B. "Discharge" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into or upon the environment, which causes danger or harm to the public health or to the environment, including, but not limited to, the release of any hazardous material as defined in this Ordinance.

C. "Threatened Discharge" shall mean any imminent or impending event potentially causing but not resulting in a discharge, but causing the Township to undertake an emergency

action.

D. "Emergency Action" shall mean all of the activities conducted by the Township in order to prevent or mitigate injury to human health or to the environment from a discharge or threatened discharge of any hazardous material(s) into or upon the environment.

E. "Person" shall include an individual, partnership, joint venture, trust, firm, joint stock company, corporation including a government corporation, association, local unit of government, commission, state, political subdivision of the state, an interstate body, federal government, a political subdivision of the federal government or any other legal entity.

F. "Recoverable Expenses" shall include, but not be limited to, those expenses incurred by the Township that are reasonable, necessary and allocable to the emergency action. Recoverable expenses shall not include normal expenditures that are incurred in the course of providing what are traditionally Township services and responsibilities, such as routine fire fighting. Expenses allowable for recovery shall include, but are not limited to, the following:

- a. Disposable materials and supplies acquired, consumed and expended specifically for the purpose of the emergency action.
- b. Compensation of employees for the time and efforts devoted specifically to the emergency action.
- c. Rental or leasing of equipment used specifically for the emergency action (such as protective equipment or clothing, scientific and technical equipment).
- d. Replacement costs for equipment owned by the Township that is contaminated beyond reuse or repair, if the equipment was a total loss and the loss occurred during the emergency action (such as self-contained breathing apparatus irreparably contaminated during the response).
- e. Decontamination of equipment contaminated during the response.
- f. Special technical services specifically required for the response (such as costs associated with the time and efforts of technical experts or specialists not otherwise provided for by the Township).
- g. Other special services specifically required for the emergency action.
- h. Laboratory costs of analyzing samples taken during the emergency action.
- i. Costs of cleanup, storage, or disposal of the released material.
- j. Costs associated with the services, supplies and equipment procured for a specific evacuation.
- k. Medical expenses incurred as a result of response activities.

1. Legal expenses that may be incurred as a result of the emergency action, including efforts to recover expenses pursuant to this Ordinance.

SECTION 5. RESPONSIBILITY FOR DISCHARGES OF HAZARDOUS MATERIALS

Any and all persons causing or contributing to a discharge or threatened discharge of hazardous material(s) which results in an emergency action by the Township shall be responsible to the Township for the recoverable expenses resulting from such action. Such responsibility shall be an addition to any and all penalties and/or remedies provided law. Liability imposed under this Ordinance shall be strict and without regard to fault.

SECTION 6. RECOVERABLE EXPENSES

Discharge of hazardous material(s) shall be provided in accordance with this Section

6.1 Itemization of Recoverable Expenses Township personnel and departments involved in an emergency action shall keep an itemized record of recoverable expenses resulting from an emergency action. Promptly after completion of an emergency action, the appropriate Township department shall certify those expenses to the Township Clerk.

6.2 Submission

The Township shall submitted a written itemized bill for the total expenses incurred by the Township for the emergency action to the responsible person(s) and a written notice that unless the amounts are paid in full within thirty (30) days after the date of mailing the claim and notice, the Township will institute the appropriate legal proceeding to recover such amounts.

SECTION 7. PROHIBITED CONDUCT

It shall be unlawful for any person(s) to cause or contribute to a discharge or threatened discharge of hazardous material (s) which results in an emergency action by the Township

SECTION 8. VIOLATION; PENALTY

In addition to the civil remedies provided in this Ordinance, any person who violates the provisions of this ordinance shall, upon conviction thereof, be subject to a penalty not to exceed Five Hundred (500) Dollars or imprisonment in the Macomb County jail for a period not to exceed ninety (90) days, or both such fine and imprisonment.

SECTION 9. REPEAL OF CONFLICTING PROVISIONS

All resolutions, ordinances or parts thereof in conflict with the provisions of this Ordinance are to the extent of such conflict hereby repealed.

SECTION 10. SEVERABILITY

If any section, paragraph, clause or provision of this Ordinance is for any reason held to be invalid or unconstitutional, the invalidity or unconstitutionality of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION 11. PUBLICATION

A true copy of this Ordinance or a summary thereof shall be published in the Armada Times, . a newspaper of general circulation in the Township of Ray, within thirty (30) days after its adoption

SECTION 12. EFFECTIVE DATE

This Ordinance shall take effect thirty (30) days from and after publication of a true copy or summary thereof as provided in Section 11.