

RAY TOWNSHIP  
MACOMB COUNTY, MICHIGAN

ORDINANCE NO. 80

COST RECOVERY ORDINANCE

TITLE

AN ORDINANCE to regulate and prohibit the discharge or threatened discharge of hazardous materials which result in the necessity of an emergency response by the Township of Ray, to provide for the reimbursement of recoverable expenses to Ray Township as the result of costs incurred by the Township in connection with the discharge or threatened discharge of hazardous materials, to provide for the recovery of costs incurred by Ray Township for emergency responses relating to utility line failures, motor vehicle accidents, vehicle fires and incidents involving individuals operating a motor vehicle while under the influence of alcoholic beverages and/or controlled substances, and to repeal any and all Ordinances and/or Regulations in conflict therewith.

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

SECTION 1 - AN ENABLING AUTHORITY

This Ordinance shall be known and cited as the "Ray Township Cost Recovery Ordinance. This Ordinance is adopted pursuant to and in accordance with MCL 41.806a.

SECTION 2. DEFINITIONS

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

*Costs of Emergency Response* shall mean the actual costs incurred by the Township and by any other governmental entity providing services at the request or direction of the

Township's Fire Department as the result of an emergency response. Such costs shall include:

- (a) All labor costs for Township personnel including wages, salaries, fringe benefits and reimbursable expenses;
- (b) All costs for materials, supplies, resources and equipment utilized or damaged in connection with an emergency response;
- (c) All costs for repair or replacement of Township-owned equipment, property, facilities and infrastructure damaged or destroyed in connection with an emergency response;
- (d) All costs incurred for clean-up, inspections, testing, abatement, mitigation and/or restoration at the site of an emergency response;
- (e) All costs for investigation, enforcement and prosecution in connection with the emergency response;
- (f) All costs for the decontamination of equipment contaminated during an emergency response; and
- (g) All legal expenses incurred in connection with an emergency response including costs incurred in the collection of costs of an emergency response.

*Emergency Response* shall mean:

- (a) The dispatch and/or utilization of fire and rescue services or other emergency services by the Township or any other governmental or intergovernmental entity providing such services at the request or direction of the Township's Fire Department in response to a call for assistance from any person, property owner, governmental agency, emergency service provider, or other entity relating to a discharge or threatened discharge of any hazardous materials;
- (b) The dispatching of or the response by personnel of the Fire Department of the Township in relation to an accident involving a motor vehicle where one or more of the persons operating an involved motor vehicle are under the influence of intoxicating liquor or a controlled substance or a combination of the two, or were operating an involved motor vehicle while their ability to operate such vehicle was visibly impaired by the use of intoxicating liquor and/or a controlled substance;
- (c) The dispatch and/or utilization of fire and rescue services relating to the failure of or disabling of operation of a cable, conduit, wire, pipeline or other transmission device used to transport electricity, natural gas, communication or electronic signals when the party responsible for maintaining such utility lines fails to undertake repairs within a reasonable time, not to exceed one

hour from the time the party responsible received notice of the utility line failure, or when the party responsible fails to complete repair of the failing or disabling line within a reasonable amount of time; and

- (d) The dispatch and/or utilization of fire and rescue services or other emergency services by the Township or any other governmental or intergovernmental entity providing such service at the request or direction of the Township's Fire Department in response to a motor vehicle accident or vehicle fire.

*Hazardous Material* means any material(s) classified as hazardous by any federal regulation or legislation, state legislation or regulation, or any Township Ordinance including, but not limited to, the following:

- (a) Any substance listed in the list of toxic pollutants in 40 CFR §401.15, as amended.
- (b) Any compressed gas, explosive, flammable liquid, flammable solid, oxidizer, poison, or radioactive material. As used in this Ordinance, the following terms shall have the following meanings:
  - (i) *CFR* means 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* means any substance regulated as a compressed gas by the United States Department of Transportation.
  - (iii) *Explosive* means any substance regulated as a Class A or Class B explosive by the United States Department of Transportation.
  - (iv) *Flammable Liquid* means any substance regulated as a flammable liquid by the United States Department of Transportation.
  - (v) *Flammable Solid* means any substance regulated as a flammable solid by the United States Department of Transportation.
  - (vi) *Oxidizer* means any substance regulated as an oxidizer by the United States Department of Transportation.
  - (vii) *Poison* means a liquid or gas that is life-threatening when mixed with air in small amounts, and shall also include all those substances regulated as poison Class A by the United States Department of Transportation.
  - (viii) *Radioactive Material* means any substance required by the United States Department of Transportation to have type A packaging or other

special protection or closed transport vehicles.

- (c) Any explosive, pyrotechnics, flammable gas, flammable compressed gas, non-flammable compressed gas, flammable liquid, oxidizing material, any flammable material, poisonous gas, poisonous liquid, irritating material, gas under such pressure that an explosion hazard exists, radioactive material, corrosive material or liquified petroleum gas.
- (d) Any substance designated as a pollutant or hazardous substance pursuant to the Federal Water Pollution Control Act.
- (e) Any element, compound, mixture, solution or hazardous substance designated by the United States Environmental Protection Agency pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended.
- (f) Any hazardous waste having the characteristics identified under or listed pursuant to the United States Solid Waste Disposal Act, as amended.
- (g) Any pollutant listed pursuant to the Federal Water Pollution Control Act, as amended.
- (h) Any hazardous air pollutant listed pursuant to the Federal Clean Air Act, as amended.

*Responsible Person* shall mean any individual, firm, corporation, association, partnership, commercial entity, joint venture, or other entity that creates the need for an emergency response, or who owns, operates, maintains, occupies, or controls any building, premises, or property in a manner that causes an emergency response to arise.

### **SECTION 3. RESPONSIBILITY FOR EMERGENCY RESPONSE**

All persons causing or contributing to an emergency response by the Township shall be responsible to the Township for the costs of the emergency response resulting from such action. Such responsibility shall be in addition to all penalties and/or remedies provided by law.

### **SECTION 4. RECOVERY OF EXPENSES**

- (a) The reimbursement of costs associated with an emergency response by the Township shall be provided in accordance with this Ordinance.
- (b) Township personnel involved in an emergency response shall retain itemized records of recoverable expenses resulting from an emergency response. Promptly after completion of an emergency response, appropriate Township personnel shall certify those expenses to the Township Clerk.
- (c) The Township shall submit a written itemized claim for the total expenses incurred by the Township for the emergency response to the responsible party and/or the party's insurance carrier and a written notice that unless the amounts are paid in full within thirty (30) days after the dates of mailing the claim and notice, the Township will institute appropriate legal proceedings to recover such amounts. The collection of the recoverable expenses shall be performed by the Township or a third party designee.
- (d) The Township or its third party designee shall initially invoice the responsible party's insurance carrier for reimbursement of costs associated with an emergency response by the Township. In the event a nonresident responsible party does not have insurance or adequate insurance to cover the costs of the Township's emergency response, the Township shall pursue all available legal remedies against the responsible party.

#### **SECTION 5. SEVERABILITY**

If any section, paragraph, clause or provision of this Ordinance is 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 6. PUBLICATION**

This Ordinance, or a summary thereof, shall be published in full in a newspaper of general circulation in the Township of Ray within thirty (30) days after its adoption.

#### **SECTION 7. EFFECTIVE DATE**

This Ordinance shall take effect thirty (30) days from and after publication of a true copy or summary thereof in a newspaper circulating within the Township of Ray.

CERTIFICATE OF TOWNSHIP CLERK

I hereby certify that the foregoing constitutes a true and complete copy of an Ordinance Amendment duly adopted by the Township Board of Ray, Macomb County, Michigan, at a meeting held on the 21st day of February, 2023.

I hereby further certify that the following Township Board members were present at the meeting: Joseph Jarzyna, Lori Lascoe, Betsy Bart, Betty Grader and Douglas Stier and the following Township Board Members were absent: None.

I further certify that Member Stier moved for the adoption of the Ordinance Amendment and that motion was supported by Member Lascoe.

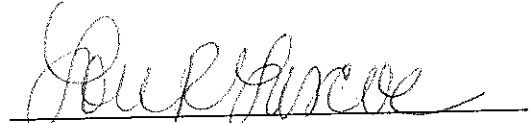
I further certify that the following Ray Township Board Members voted for the adoption of the Ordinance Amendment: Stier, Lascoe, Bart, Grader and Jarzyna and that the following Ray Township Board members voted against adoption of the Ordinance Amendment: none.



Lori R. Lascoe,  
Ray Township Clerk

CERTIFICATE OF PUBLICATION

I, Lori Lascoe, the Township Clerk of the Township of Ray do hereby certify that on March 1, 2023, the foregoing Ordinance Amendment or a Notice of Ordinance Adoption was published in The Record, a newspaper of general circulation in the Township of Ray.

A handwritten signature in cursive script, appearing to read "Lori R. Lascoe", written over a horizontal line.

Lori R. Lascoe,  
Ray Township Clerk

TOWNSHIP OF RAY  
MACOMB COUNTY, MICHIGAN

ORDINANCE NO. 80

SUMMARY OF COST RECOVERY ORDINANCE

Please take notice that on February 21, 2023, the Township of Ray adopted Ordinance No. 80, being the Ray Township Cost Recovery Ordinance regulating and prohibiting the discharge or threatened discharge of hazardous materials which result in the necessity of an emergency response by the Township of Ray, providing for the reimbursement of recoverable expenses as the result of costs incurred by the Township in connection with the discharge or threatened discharge of hazardous materials, emergency responses relating to utility line failures, motor vehicle accidents, vehicle fires and incidents involving individuals operating a motor vehicle while under the influence of alcoholic beverages and/or controlled substances and repealing any and all Ordinances and/or regulations in conflict therewith. A true copy of the Ordinance is on file with the Township Clerk and may be examined or a copy purchased during regular business hours.



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Lori R. Lascoe,  
Ray Township Clerk

Published:3-1-23



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Lori R. Lascoe,  
Ray Township Clerk

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