

Part 190

190.000

**FIRE PROTECTION SERVICES; FEES**

**Ord. No. 32**

**Adopted: January 7, 1991**

An Ordinance, pursuant to PA 1951, No. 33 as amended by PA 1990, No. 102 (CL 41.108 et seq) to provide a basis for, and collection of, fees for fire protection services performed within the Township; to provide for the modification of such fees by resolution of the Township Board; and, to provide an effective date hereof.

THE TOWNSHIP OF VEVAY ORDAINS:

190.001

**Establishment of fees.**

Sec. 1. That all owners of premises receiving fire protection services within the Township of Vevay shall remit to the Township the actual cost thereof. Said funds to be used to defray the cost of operating and housing equipment, labor and/or contracting for fire protection by the Township.

190.002

**Calculation of fees.**

Sec. 2. The Township Clerk shall for each referenced service, calculate the cost thereof by determining direct labor, fuel and equipment costs and/or contract rates paid by the Township to any other provider of such service and shall charge same to the owner of premises as provided in Section 1 [190.001].

190.003

**Modification of fees and charges.**

Sec. 3. Fees and charges specified in Section 1 [190.001] of this Ordinance may be modified and amended from time to time by resolution of the Township Board.

190.004

**Effective date.**

Sec. 4. This Ordinance and the fees established herein shall become effective immediately upon its adoption and publication as required by law.



VEVAY TOWNSHIP  
INGHAM COUNTY, MICHIGAN

ORDINANCE NO. 32.01

PREAMBLE

ADOPTED:

October 5, 2009

190.000

An ordinance "to amend ordinance no. 32, the same being an ordinance pursuant to pa 1951, no. 33, as amended, by pa 1990, no. 102 (mcl 41,108 et seq) to provide a basis for and collection of fees for fire protection services performed within the township; to provide for modification of such fees by resolution of the township board; and to provide an effective date hereof"; to amend section 1 thereof to provide a definition of "fire protection services"; and to provide an effective date hereof.

THE TOWNSHIP OF VEVAY, INGHAM COUNTY, MICHIGAN, HEREBY ORDAINS:

190.001

Sec. 1. **AMENDMENT OF SECTION 1, "ESTABLISHMENT OF FEES."**

Section 1 "Establishment of Fees," shall be and is hereby amended to read as follows:

Sec. 1. That all owners of premises receiving fire protection services within the Township of Vevay shall remit to the Township the actual cost thereof, Said funds to be used to defray the cost of operating and housing equipment, labor and/or contracting for fire protection by the Township. "Fire protection services" within the context of this Ordinance shall include all responses of fire service providers on behalf of the Township, including responses to prevent fires, explosions and the spread of fire from one place to another, and the response of emergency personnel in connection therewith.

190.002

Sec. 2. **SAVINGS CLAUSE.**

All other provisions of Ordinance No. 32 not amended by this Ordinance shall remain in full force and effect.

190.003

Sec. 3. **EFFECTIVE DATE.**

This Ordinance shall become effective immediately upon its adoption and publication as provided by law.



**VEVAY TOWNSHIP  
INGHAM COUNTY,  
MICHIGAN**  
**ORDINANCE NO 32.02**  
**PREAMBLE**  
**ADOPTED May 3, 2010**

190.000

An ordinance "to amend ordinance no. 32 the same being an ordinance pursuant to pa 1951, no. 33, as amended, by pa 1990, no. 102 (mcl 41.8068) to provide a basis for and collection of fees for fire protection services performed within the township; to provide for modification of such fees by resolution of the township board; and to provide an effective date hereof"; to amend section 1 thereof to provide a definition of "fire protection services"; and to provide an effective date hereof.

THE TOWNSHIP OF VEVAY, INGHAM COUNTY MICHIGAN, HEREBY ORDAINS:

190.001

**Sec. 1. AMENDMENT OF SECTION 1, "ESTABLISHMENT OF FEES.**

Section 1, "Establishment of Fees," shall be and is hereby amended to read as follows:

Sec. 1. That all owners of real and personal property receiving fire protection services pertaining to said property within the Township of Vevay shall remit to the Township the actual cost thereof. Said funds to be used to defray the cost of operating and housing equipment, labor and/or contracting for fire protection by the Township. "Fire protection services" within the context of this Ordinance shall include all responses of fire service providers on behalf of the Township, including responses to prevent fires, explosions and the spread of fire from one place to another, gas leaks, and the response of emergency personnel in connection therewith.

190.002

**Sec. 2. SAVINGS CLAUSE.**

All other provisions of Ordinance No. 32 not amended by this Ordinance shall remain in full force and effect.

190.003

**Sec.3. EFFECTIVE DATE.**

This Ordinance shall become effective immediately upon its adoption and publication as provided by law.



191.000

**FIRE PREVENTION CODE**

**Ord. No. 52**

**Adopted: October 2, 2000**

An ordinance to adopt the BOCA® (Building Officials & Code Administrators International, Inc.) National Fire Prevention Code of 1999, 11<sup>th</sup> Edition, and to amend certain provisions thereof and to add additional sections relating to types of outdoor burning; to provide penalties for violation hereof; to provide for establishment of fees for permits and inspections and other fire services; to adopt a saving clause and to repeal ordinances in conflict herewith; to provide a severability provision; and to provide an effective date hereof.

THE TOWNSHIP OF VEVAY, INGHAM COUNTY, MICHIGAN, ORDAINS:

**191.001 Adoption of National Fire Code.**

Sec. 1. The BOCA® National Fire Prevention Code of 1999 (11th Edition) hereinafter the "Fire Prevention Code" pursuant to PA 1989 No. 81 (MCL 41.805) shall be and is hereby adopted by reference as the Fire Prevention Code of Vevay Township, Ingham County, Michigan, which Code has as its purpose:

The establishment of minimum standards and regulations governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises.

**191.002 Enforcement of Fire Prevention Code.**

Sec. 2. The Code Enforcement Official of the Vevay Township Fire Prevention Code shall be the Fire Chief of the City of Mason and/or such other Code Enforcement Officials as said Fire Chief may assign or appoint from time to time.

**191.003 Copies of fire prevention code available for inspection and distribution.**

Sec. 3. The Township Clerk shall maintain at least three copies of the Fire Prevention Code at the Township Offices for inspection and for distribution to members of the public upon payment of a fee therefore as said fee shall be established from time to time.

**191.004 Amendment To Section F-403 "Open Burning."**

Sec. 4. Section F-403 shall be and is hereby amended to read as follows:

*F.403.1. General.* A person shall not cause or allow open burning unless approved in accordance with this code.

*F-403.2. Definitions:* The following words and terms shall, for the purposes of this section and as stated in this code, have the meanings shown herein.

*Bonfire:* An outdoor fire utilized for ceremonial purposes.

*Cooking Fire:* An outdoor fire utilized to cook food for human consumption.

*Open Burning.* The burning of any materials wherein products of combustion are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber. For the purpose of this definition, a chamber shall be regarded as enclosed, when, during the time combustion occurs, only apertures, ducts, stacks, flues or chimneys necessary to provide combustion air and permit the escape of exhaust gas are open.

*Recreational Fire:* The burning of charcoal or seasoned fire wood in an outdoor location where the fuel being burned is contained within a device inspected and approved by the Code Enforcement Official or his designee. This definition includes, but is not limited to, an outdoor fire place, ceramic or metal heating device, but does not include cooking fires, barbecue grills or barbecue pits.

*F-403.3. Allowable Burning.* Open burning shall be allowed without prior notification to the Code Enforcement Official for purposes of highway safety fires, smudge pots and fires relating to similar occupational needs.

*F-403.4. Approval Required.* Open burning shall be allowed after obtaining approval from the Code Enforcement Official for recognized silvicultural or range or wildlife management practices, prevention or control of disease or pests, providing heat for outworkers, and a bonfire.

*F-403.4.1. Application:* Applications for open burning shall be submitted in writing at least ten (10) days before the fire is set and shall be in such form and contain such information as required by the Code Enforcement Official. Such applications shall contain, as a minimum, information regarding the purpose of the proposed burning, the nature and quantities of material to be burned, the date when such burning will take place, the location of the burning site and the on-site fire-extinguishing equipment to be provided.

*F-403.4.2. Authorization:* Open burning shall be permitted with prior notification to the Code Enforcement Official upon receipt of written permission from the jurisdictional Environmental Protection Agency (EPA) authority, provided that any conditions specified in the permission are followed for:

1. Disposal of hazardous or toxic material where the EPA determines that there is no practical alternative method of disposal;
2. Instruction in methods of fire fighting or for research in control of fires, in emergency or other extraordinary circumstances for any purpose determined to be necessary by the EPA;



3. Disposal of landscape waste, except residential and agricultural waste; or
4. Recognized agricultural or horticultural management purposes to maintain or increase the quantity or quality of agricultural or horticultural production.

Where the jurisdictional EPA written permission is not applicable, the Code Enforcement Official shall give written permission, provided that approved fire safety requirements and emissions standards will be met.

*F-403.4.3. Open Burning Prohibited.* The Code Enforcement Official shall prohibit open burning that will be offensive or objectionable due to smoke or odor emissions when atmospheric conditions or local circumstances make such fires hazardous.

*F-403.5. Location:* The location for any open burning shall not be less than fifty (50) feet (15,240 mm) from any structure, and provisions shall be made to prevent the fire from spreading to within 50 feet (15,240 mm) of any structure. Fires in approved containers shall be permitted, provided that such fires are not less than fifteen (15) feet (4,572 mm) from any structure.

*F-403.6. Materials:* Open burning shall not be utilized for waste disposal purposes, shall be of the minimum size for the intended purpose, and the fuel shall be chosen to minimize the generation and emission of air contaminants.

*F-403.7. Attendance:* Any open burning shall be constantly attended until the fire is extinguished. At least one (1) portable fire extinguisher with a minimum 4-A rating, two (2) portable fire extinguishers with a minimum 2-A rating each, or other approved on-site fire extinguishing equipment, such as dirt, sand, water barrel, garden hose or water truck, shall be available for immediate utilization.

*F-403.8. Bonfire Size and Duration:* A bonfire shall not be more than five (5) feet (1,524 mm) by 5 feet (1,524 mm) in dimension and shall not burn longer than three (3) hours. The maximum size and duration of a bonfire shall not be increased by the Code Enforcement Official unless it is determined that fire safety requirements of the situation and the desirable duration of burn warrant the increase.

*F-403.8.1. Material.* Fuel for a bonfire shall consist only of seasoned dry firewood and shall be ignited with a small quantity of paper. The fire shall not be utilized for waste disposal purposes, and the fuel shall be chosen to minimize the generation of air contaminants.

*F-403.8.2. Permit.* All permits shall be requested by and issued to the owner of the land upon which the bonfire is to be kindled.

*F-403.9. Annual Recreational Burning Permit Required.* An annual permit shall be required in order to kindle or maintain a recreational fire. The Code Enforcement Official will, upon issuance of the permit, inspect the device

annually; provided, however, that re-inspection shall not be required of said device originally inspected upon issuance of the permit as long as the device remains unchanged. The permit will be issued in accordance with the Fire Prevention Code and an appropriate fee may be established and modified from time to time by Resolution of the Township Board of Trustees.

*F-403.10. Recreational Fire Location:* Recreational fires shall not be located within twenty-five (25) feet of a structure or combustible material unless contained within an approved device. Conditions which could cause a fire to spread to within 25 feet of a structure shall be eliminated prior to ignition. Recreational fires shall not exceed thirty-six (36) inches in diameter, and flame height shall not exceed twenty-four (24) inches. Only charcoal or seasoned firewood may be used to maintain the fire. Brush, leaves, rubbish, construction or demolition materials or garbage may not be burned at any time. Due to density of habitants to open area, recreational fires shall not be permitted on any property zoned multiple family residential.

*F-403.11. Time Restricted.* A recreational fire must be extinguished by 12:00 midnight, unless specifically approved by the Code Enforcement Official or his/her agent. There will be no recreational fires permitted between the hours of 12:00 midnight and 7:00 a.m. unless specifically approved by the Code Enforcement Official or his/her agent.

*F-403.12. Fire Extinguishing Equipment and Attendance:* Buckets, shovels, garden hoses or a fire extinguisher with a minimum 4-A rating shall be readily available for use at the recreational fire. Recreational fires shall be constantly attended by a person knowledgeable in the use of fire extinguishing equipment required by this Ordinance. An attendant shall supervise a recreational fire until such time as the fire has been extinguished.

*F-403.13. Discontinuance:* The Code Enforcement Official or his/her agent may withhold or cancel any permit issued where, in the opinion of said official or designee, the igniting of a fire may create a hazard or nuisance to persons or property, and the Code Enforcement Official or his/her designee may extinguish or order the extinguishment of any fire that is causing a nuisance to persons, or any fire started without a permit to do so. The foregoing notwithstanding, the Code Enforcement Official or designee may enumerate restrictions and conditions on the utilization of such permit on the permit at the time of its issuance and, in addition, if weather conditions warrant or if wind velocity rises to ten miles per hour or above, all recreational burning shall be prohibited.

#### **191.005 Penalties.**

##### **Sec. 5.**

1. Any person, partnership, firm, association or corporation who shall violate, neglect or refuse to comply with any of the provisions of this Ordinance shall, upon violation of this Ordinance, be guilty of a misdemeanor, unless

such violation is designated as a civil infraction. For all violations not designated as civil infractions, penalties may be imposed up to 90 days incarceration in the Ingham County Jail and/or fines not exceeding \$500.00.

2. Penalties may be imposed for violations designated as civil infractions by a fine not to exceed \$500.00 plus court costs, which costs may include all expenses, direct or indirect, which the Township has incurred in connection with the infraction. The Court or magistrate may also impose any and all other remedies applicable to municipal civil infractions provided for under State law. Each day of such violation, whether designated a civil infraction or misdemeanor, shall constitute a separate offense.

All fines and charges levied hereunder, including charges levied in the issuance of a permit, may be amended by Resolution of the Vevay Township Board or by amendatory Ordinance.

**191.006 Fees; permits, inspection and other fire prevention services.**

Sec. 6. Fees for permits, inspection and other fire prevention services shall be as established from time to time by Resolution of the Vevay Township Board.

**191.007 Savings clause.**

Sec. 7. All proceedings pending and all rights and liabilities existing or incurred at the time this amendatory Ordinance takes effect are saved and may be consummated according to the law in force when they are commenced. This amendatory Ordinance shall not be construed to affect any prosecution pending or initiated before the effective date of this amendatory Ordinance or initiated after the effective date of this amendatory Ordinance for an offense committed before that effective date.

**191.008 Severability.**

Sec. 8. If any section, paragraph, clause, phrase, or part of this Ordinance is held invalid by any court of competent jurisdiction, or by any agency, department, or commission empowered by statute for such purposes, such decision shall not affect the validity of the remaining provisions of this Ordinance, and the application of those provisions to any person or circumstances shall not be affected thereby.

**191.009 Effective date.**

Sec. 9. This Ordinance shall become effective 30 days from and after its passage.



192.000

**DANGEROUS BUILDINGS**

**Ord. No. 63**

**Adopted: May 9, 2005**

An Ordinance to define and prohibit dangerous buildings; to provide for notice, the appointment of a hearing officer and hearing; to provide for review by the Township Board; to provide for appeal to circuit court; to provide penalties and remedies; and to provide an effective date hereof.

THE TOWNSHIP OF VEVAY, INGHAM COUNTY, MICHIGAN, ORDAINS:

192.001 **Title.**

Sec. 1. This Ordinance shall be known as the "Vevay Township Dangerous Buildings Ordinance."

192.002 **Prohibition of dangerous buildings.**

Sec. 2. It is unlawful for any owner or agent thereof to keep or maintain in Vevay Township any dwelling or part thereof which is a dangerous building.

192.003 **"Dangerous building" defined.**

Sec. 3. As used in this Ordinance, "dangerous building" means a building or structure in Vevay Township that has one or more of the following defects or is in one or more of the following conditions:

- (1) A door, aisle, passageway, stairway, or other means of exit does not conform to the approved fire code of the township.
- (2) A portion of the building or structure is damaged by fire, wind, flood, deterioration, neglect, abandonment, vandalism, or other cause so that the structural strength or stability of the building or structure is appreciably less than it was before the damage and does not meet the minimum requirements of this Ordinance or the building code of the township.
- (3) A part of the building or structure is likely to fall, become detached or dislodged, or collapse and injure persons or damage property.
- (4) A portion of the building or structure has settled to an extent that walls or other structural portions of the building or structure have materially less resistance to wind than is required in the case of new construction by this Act or the Building Code of the Township.
- (5) The building or structure, or a part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for other

reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fall or give way.

- (6) The building, structure, or a part of the building or structure is manifestly unsafe for the purpose for which it is used.
- (7) The building or structure is damaged by fire, wind, or flood, is dilapidated or deteriorated and becomes an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants, criminals, or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful or immoral act.
- (8) A building or structure used or intended to be used for dwelling purposes, including the adjoining grounds, because of dilapidation, decay, damage, faulty construction or arrangement, or for other reason, is unsanitary or unfit for human habitation, is in a condition that the health officer determines is likely to cause sickness or disease, or is likely to injure the health, safety, or general welfare of people living in the dwelling.
- (9) A building or structure is vacant, dilapidated, and open at door or window, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers.
- (10) A building or structure remains unoccupied for a period of 180 consecutive days or longer, and is not listed as being available for sale, lease, or rent with a real estate broker licensed under article 25 of the occupational code, 1980 PA 299, MCL 339.2401 to 339.2518. For purposes of this subdivision, "building or structure" includes, but is not limited to, a commercial building or structure. This subdivision does not apply to either of the following:
  - (i) A building or structure if the owner or agent does both of the following:
    - (a) Notifies a local law enforcement agency whose jurisdiction includes Vevay Township that the building or structure will remain unoccupied for a period of 180 consecutive days. The notice shall be given to the local law enforcement agency by the owner or agent not more than 30 days after the building or structure becomes unoccupied.
    - (b) Maintains the exterior of the building or structure and adjoining grounds in accordance with this Ordinance or the building code of the Township.
  - (ii) A secondary dwelling of the owner that is regularly unoccupied for a period of 180 days or longer each year, if the owner notifies a local law enforcement agency whose jurisdiction includes Vevay Township that the dwelling will remain unoccupied for a period of 180 consecutive days or more each year. An owner who has given the notice prescribed by this subparagraph shall notify the law enforcement agency not more than 30 days after the dwelling no longer qualifies for this exception. As used in this subparagraph, "secondary dwelling" means a dwelling,

including, but not limited to, a vacation home, hunting cabin, or summer home, that is occupied by the owner or a member of the owner's family during part of a year.

**192.004 Notice; content; hearing officer; service.**

Sec. 4.

- (1) Notwithstanding any other provision of this Act, if a building or structure is found to be a dangerous building, the Township shall issue a notice that the building or structure is a dangerous building.
- (2) The notice shall be served on each owner of or party in interest in the building or structure in whose name the property appears on the last local tax assessment records.
- (3) The notice shall specify the time and place of a hearing to determine whether the building or structure is a dangerous building. The person to whom the notice is directed shall have the opportunity to show cause at the hearing why the hearing officer should not order the building or structure to be demolished, otherwise made safe, or properly maintained.
- (4) The hearing officer shall be appointed by the Township Supervisor to serve at his or her pleasure. The hearing officer shall be a person who has expertise in housing matters including, but not limited to, an engineer, architect, building contractor, building inspector, or member of a community housing organization, but may not be an employee of the Township.
- (5) The notice shall be in writing and shall be served upon the person to whom the notice is directed either personally or by certified mail, return receipt requested, addressed to the owner or party in interest at the address shown on the tax records. If a notice is served on a person by certified mail, a copy of the notice shall also be posted upon a conspicuous part of the building or structure. The notice shall be served upon the owner or party in interest at least ten days before the date of the hearing included in the notice. The Township shall also file a copy of the notice that the building or structure is a dangerous building with the hearing officer.

**192.005 Hearing; testimony; determination to close proceedings or order building or structure demolished, made safe, or properly maintained; failure to appear or noncompliance with order; hearing; enforcement; reimbursement and notice of cost; lien; remedies.**

Sec. 5.

- (1) At a hearing prescribed by Section 4 [192.004] of this Ordinance, the hearing officer shall take testimony of the Township, the owner of the property, and any interested party. Not more than five days after completion of the

hearing, the hearing officer shall render a decision either closing the proceedings or ordering the building or structure demolished, otherwise made safe, or properly maintained.

- (2) If the hearing officer determines that the building or structure should be demolished, otherwise made safe, or properly maintained, the hearing officer shall enter an order that specifies what action the owner, agent, or lessee shall take and set a date by which the owner, agent, or lessee shall comply with the order. If the building is a dangerous building under Section 2(10) [192.002(10)] of this Ordinance, the order may require the owner or agent to maintain the exterior of the building and adjoining grounds owned by the owner of the building including, but not limited to, the maintenance of lawns, trees, and shrubs.
- (3) If the owner, agent, or lessee fails to appear or neglects or refuses to comply with the order issued under subsection (2) of this section, the hearing officer shall file a report of the findings and a copy of the order with the Township not more than five days after the date for compliance set in the order and request that necessary action be taken to enforce the order. A copy of the findings and order of the hearing officer shall be served on the owner, agent, or lessee.
- (4) The Township Board shall set a date not less than thirty (30) days after the hearing, for a hearing to review the findings and order of the hearing officer. The Township Board shall give notice to the owner, agent, or lessee of the time and place of the hearing. At the review hearing, the owner, agent, or lessee shall be given the opportunity to show cause why the order should not be enforced. The Township Board shall approve, disapprove, or modify the order. If the Township Board approves or modifies the order, it shall take all necessary action to enforce the order. If the order is approved or modified, the owner, agent, or lessee shall comply with the order within 60 days after the date of the hearing under this subsection. For an order of demolition, if the Township Board determines that the building or structure has been substantially destroyed by fire, wind, flood, deterioration, neglect, abandonment, vandalism, or other cause, and the cost of repair of the building or structure will be greater than the state equalized value of the building or structure, the owner, agent, or lessee shall comply with the order of demolition within 21 days after the date of the hearing under this subsection. If the estimated cost of repair exceeds the state equalized value of the building or structure to be repaired, a rebuttable presumption that the building or structure requires immediate demolition exists.
- (5) The cost of demolition includes, but is not limited to, fees paid to hearing officers, costs of title searches or commitments used to determine the parties in interest, recording fees for notices and liens filed with the county register of deeds, demolition and dumping charges, court reporter attendance fees, and costs of the collection of the charges authorized under this Ordinance.



The cost of the demolition, of making the building safe, or of maintaining the exterior of the building or structure or grounds adjoining the building or structure incurred by the Township to bring the property into conformance with this Act shall be reimbursed to the Township by the owner or party in interest in whose name the property appears.

- (6) The owner or party in interest in whose name the property appears upon the last local tax assessment records shall be notified by the assessor of the amount of the cost of the demolition, of making the building safe, or of maintaining the exterior of the building or structure or grounds adjoining the building or structure by first class mail at the address shown on the records. If the owner or party in interest fails to pay the cost within 30 days after mailing by the assessor of the notice of the amount of the cost, Township shall have a lien for the cost incurred by the Township to bring the property into conformance with this Act. The lien shall not take effect until notice of the lien has been filed or recorded as provided by law. A lien provided for in this subsection does not have priority over previously filed or recorded liens and encumbrances. The lien for the cost shall be collected and treated in the same manner as provided for property tax liens under the General Property Tax Act, 1893 PA 206, MCL 211.1 to 211.157.
- (7) In addition to other remedies under this Act, the Township may bring an action against the owner of the building or structure for the full cost of the demolition, of making the building safe, or of maintaining the exterior of the building or structure or grounds adjoining the building or structure. The Township shall have a lien on the property for the amount of a judgment obtained under this subsection. The lien provided for in this subsection shall not take effect until notice of the lien is filed or recorded as provided by law. The lien does not have priority over prior filed or recorded liens and encumbrances.

**192.006 Enforcement of judgment against assets; lien; priority.**

Sec. 6.

- (1) A judgment in an action brought pursuant to Section 5(7) [192.005(7)] of this Ordinance may be enforced against assets of the owner other than the building or structure.
- (2) The Township shall have a lien for the amount of a judgment obtained pursuant to Section 5(7) [192.005(7)] of this Ordinance against the owner's interest in all real property located in this state that is owned in whole or in part by the owner of the building or structure against whom the judgment is obtained. A lien provided for in this section does not take effect until notice of the lien is filed or recorded as provided by law, and the lien does not have priority over prior filed or recorded liens and encumbrances.

**192.007 Noncompliance with order as misdemeanor; penalties.**

Sec. 7. A person who fails or refuses to comply with an order approved or modified by the Township Board under Section 5 [192.005] of this Ordinance within the time prescribed by that section is guilty of a misdemeanor, punishable by imprisonment for not more than 120 days, or a fine of not more than \$1,000.00, or both.

**192.008 Appeal to circuit court.**

Sec. 8. An owner aggrieved by a final decision or order of the Township Board may appeal the decision or order to the circuit court by filing a petition for an order of superintending control within 20 days from the date of the decision.

**192.009 Severability.**

Sec. 9. If any section, paragraph, clause, phrase, or part of this Ordinance is held invalid by any court of competent jurisdiction, or by any agency, department, or commission empowered by statute for such purposes, such decision shall not affect the validity of the remaining provisions of this Ordinance, and the application of those provisions to any person or circumstances shall not be affected thereby.

**192.010 Repealer.**

Sec. 10. All Ordinances and portions of Ordinances inconsistent with this Ordinance are hereby repealed.

**192.011 Effective date.**

Sec. 11. This Ordinance shall become effective immediately after its adoption publication as required by law.

Part 193

193.000

**HAZARDOUS SUBSTANCES COST RECOVERY**

**Ord. No. 64**

**Adopted July 5, 2005**

An Ordinance to provide for recovery of costs and expenses from a responsible party in connection with response activity by Township personnel and equipment to a release of hazardous substances; to define terms; to establish fees in connection with said service; to provide a method of collection and cost recovery; and to provide an effective date hereof.

THE TOWNSHIP OF VEVAY, INGHAM COUNTY, MICHIGAN, ORDAINS:

**193.001 Purpose.**

Sec. 1. The Township of Vevay has determined that procedures and methods for recovery of costs associated with emergency response to the release or threatened release of hazardous substances are necessary to fairly allocate costs in connection with such activities, and that establishing the appropriate amount to be charged for such services, and a liability for costs associated with a response to hazardous substance release, is necessary to the health, safety and welfare of the Township and its population.

**193.002 Definitions.**

Sec. 2. 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 its most reasonable application:

- (1) "Building" means any structure used or intended for supporting or sheltering any use or occupancy.
- (2) The meaning of the terms "response activity," "cost of response activity," "owner," "operator," "hazardous substance," and "facility" shall be as defined by the Natural Resources and Environmental Protection Act (NREPA), as amended.

**193.003 Hazardous substance incident policy.**

Sec. 3.

- (1) In the event that Township employees are dispatched to a hazardous substance incident, the Township employee in charge shall notify the responsible parties, including appropriate State and Federal agencies, as soon as possible. Township personnel shall make efforts to limit the Township's actions to those necessary to address dangers from fire or the imminent threat of fire or the imminent threat from any hazardous substance, and the necessary evacuation of affected persons.

- (2) Except for procedures necessitated by fire or the imminent threat of fire or other danger (including hazardous environmental impact) resulting from a hazardous substance incident, Township officials are not authorized to incur any obligations, financial or otherwise, to the Township in regard to the mitigation of impacts resulting from a hazardous substance incident.
- (3) All Township personnel shall take appropriate steps for a hazardous substance response activity that conforms to their level of training and, as appropriate, the supplies and equipment available to them in accordance with established protocols and procedures.

**193.004 Response activity costs.**

Sec. 4.

- (1) Except as otherwise provided by the NREPA, as amended, the following persons are liable under this Ordinance for the cost of response activity:
  - (a) The owner or operator of a facility if the owner or operator is responsible for an activity causing a release or threat of release,
  - (b) A person who by contract, agreement, or otherwise arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of a hazardous substance owned or possessed by the person, by any other person, at a facility owned or operated by another person and containing the hazardous substance.
  - (c) A person who accepts or accepted any hazardous substance for transport to a facility selected by that person.
  - (d) The estate or trust of a person described in subdivisions (a) to (c).
- (2) Notwithstanding subsection (1), the following persons are not liable unless the person is responsible for an activity causing a release at the facility:
  - (a) A person who owns or occupies residential real property if hazardous substance use at the property is consistent with residential use.
  - (b) A person who acquires a facility as a result of the death of the prior owner or operator of the facility, whether by inheritance, devise, or transfer from an inter vivos or testamentary trust.
  - (c) A person who did not know and had no reason to know that the property was a facility.
  - (d) A utility performing normal construction, maintenance, and repair activities in the normal course of its utility service business. This subsection does not apply to property owned by the utility.
  - (e) A lessee who uses property for retail, office, or commercial purpose.
- (3) Notwithstanding subsection (1), a person who owns or operates a facility in which the release or threat of release was caused solely by one or more of the following is not liable under this Ordinance:
  - (a) An act of God.
  - (b) An act of war.

- (c) An act or omission of a third party other than an employee or agent of the person or a person in a contractual relationship existing either directly or indirectly with a person who is liable under this Ordinance.
- (4) Except as otherwise provided in this section, a person who is a response activity contractor for any release or threatened release is not liable to any person for injuries, costs, damages, expenses, or other liability, including, but not limited to, claims for indemnification or contribution and claims by third parties for death, personal injuries, illness, or loss of or damages to property or economic loss that result from the release or threatened release. This subsection does not apply if a release or threatened release is caused by conduct of the response activity contractor that is negligent, grossly negligent, or that constitutes intentional misconduct.

**193.005 Billing procedures and remedies.**

## Sec. 5.

- (1) At the conclusion of a hazardous substance threatened release or release-related response activity, the Township Supervisor shall submit a detailed listing of all known expenses to the Township Treasurer, who shall prepare an invoice to the responsible party for payment. The Treasurer's invoice shall demand full payment within 30 days of receipt of the bill. Any additional expenses that become known to the Township following transmittal of the bill shall be billed in the same manner to the responsible party. For any amounts due that remain unpaid after 30 days, the Township shall impose a late charge of one percent per month, or a fraction thereof.
- (2) Failure To Pay; Procedure To Recover Costs and Remedies. Upon failure by the person described in this Ordinance as liable or responsible for the cost of response activity to pay said bill within 30 days of mailing or service of the bill, the Township may institute any appropriate action or proceedings in any court of competent jurisdiction to collect charges imposed pursuant to this Ordinance and as otherwise provided by law. Recovery of charges imposed under this Ordinance shall not limit the liability of responsible parties under local Ordinance or state or federal law, rule or regulation. The responsible party may remit payment for all such charges without admitting liability for any other purpose.

**193.006 Non-exclusive remedy.**

Sec. 6. The remedies provided in 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.

**193.007 Severability.**

Sec. 7. If any section, subsection, clause or paragraph or provision of this Ordinance is adjudged invalid by a court of competent jurisdiction, such adjudi-

cation shall only apply to the portion of this Ordinance actually adjudicated invalid, and the remaining portions or parts of this Ordinance shall remain in full force and effect.

**193.008 Savings clause.**

Sec. 8. All proceedings 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 this Ordinance in force at the time such proceedings are or were commenced. This Ordinance shall not be construed to alter, affect, or abate any pending prosecution or proceeding or prevent prosecution or proceeding hereafter instituted under any Ordinance specifically or implied repealed by this Ordinance and any 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.

**193.009 Effective date.**

Sec. 9. This Ordinance shall become effective immediately after its adoption publication as required by law.

Parts 194—219

**(Reserved)**

