

# **HAZARDOUS EMERGENCY COST-RECOVERY ORDINANCE**

## **THE JURISDICTION OF SHERMAN TOWNSHIP, NEWAYGO COUNTY, MICHIGAN, ORDAINS:**

### **Section 1: Intent and Purpose**

The purpose of this article is to enable the jurisdiction to require financial reimbursement from those responsible for allowing hazardous materials or substances to escape containment, which causes an emergency response on the part of the jurisdiction's agents, officers, and/or employees under Public Act 102 of 1990 (MCL 41.806a).

A significant potential exists for the occurrence of hazardous material and hazardous substance emergencies requiring the response of law enforcement, fire department, emergency medical services, and emergency management resources. Such incidents can create a serious threat of personal injury, property damage, and environmental contamination. The control and abatement of such emergencies place a financial and operational burden upon local government. To protect the jurisdiction from incurring extraordinary expenses resulting from the use of municipal resources to respond to an incident involving hazardous materials or other like incidents, this Ordinance authorizes the imposition of charges to recover reasonable and actual costs incurred by the jurisdiction (including those incurred by emergency responders serving the jurisdiction) in responding to calls for assistance.

### **Section 2: Definitions**

Unless specifically defined below, words or phrases used in this article shall be interpreted to give them the meaning they have in common usage and to give this article its most reasonable application.

- A. Building** shall mean any structure used or intended for supporting or sheltering any use or occupancy.
- B. Designated Official** shall mean any employee, contractor, agency, individual, person, or entity that provides emergency response services to the jurisdiction, which may include, but is not limited to, the Fire Chief or their designee of the White Cloud Area Fire-Rescue or successor department.
- C. Emergency Response** shall mean providing, sending and/or utilizing of law enforcement, firefighting, emergency medical services, and emergency management resources by the jurisdiction for an incident resulting in a hazardous materials release, threatened release, or release / threatened release of hazardous substances.
- D. Expenses of an Emergency Response** shall mean the direct and reasonable costs incurred by the jurisdiction, other assisting municipalities, corporations and individuals operating at the request or direction of the jurisdiction, when making an emergency response to a hazardous materials incident. Costs shall include but not be limited to providing law enforcement, firefighting, emergency medical services, emergency management, containment and abatement of all hazardous conditions at the scene of the incident. Costs shall also include

but not be limited to such items as disposable materials and supplies used during the response to a hazardous material incident; the rental or leasing of equipment used for the specific response; replacement of equipment which is contaminated beyond reuse or repair during the response to a hazardous material incident; special consulting or technical services and laboratory costs; services and supplies purchased for any specific evacuation relating to a hazardous material incident; and any other costs reasonably associated with containment and cleanup. The expenses of an emergency response shall also include reasonable attorney fees and any cost incurred in collecting for those charges, costs and fees authorized by this Ordinance.

- E. **Hazardous Materials** means any substance, material, or matter that requires remediation, containment, removal, or any other action by emergency services personnel due to its adverse impact or threat of an adverse impact on the environment or human health and safety within the jurisdiction. The meaning of “Hazardous Materials” shall be liberally construed but shall exclude hazardous substances as provided in Part 201 of the Natural Resources and Environmental Protection Act, Act 451 of 1994, as amended, MCL 324.20101 et seq., (“Part 201”).
- F. **Hazardous Substances** shall mean all items defined as hazardous substances in Part 201.
- G. **Jurisdiction** shall mean the municipal governmental jurisdiction (city, village, or township) where a local government has been granted specific powers by the state to administer local affairs and enforce laws. This includes the jurisdiction’s board, employees, and agents, including applicable emergency responders such as the White Cloud Area Fire-Rescue.
- H. **Owner** shall mean any person having a vested or contingent interest in the property, premises, container, or vehicle involved in a hazardous materials or substances incident, including but not limited to, any duly authorized agent or attorney, purchaser, devisee, or fiduciary of said person having said vested or contingent interest.
- I. **Release** shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, leaching, dumping or disposing into the environment.
- J. **Responsible Party** shall mean the owner, operator, occupant or other person responsible for the operation, maintenance and/or condition of any building, premises, property or vehicle from which an incident arises involving the release or threatened release of a hazardous material or substance.
- K. **Vehicle** shall mean any mode of transportation used as an instrument of conveyance, including but not limited to motor vehicles, railroads, boats, aircraft, etc.

### **Section 3: Duty and/or Failure to Remove and Clean Up**

**A. Duty to Remove** shall be the duty of the owner, operator, occupant or other person responsible for the operation, maintenance and/or condition of any building, premises, property, or vehicle regarding which an incident arises which involves the release or threatened release of hazardous materials or hazardous substances on or about said building, premises, property and/or vehicle to immediately contain and control such hazardous materials and hazardous substances and undertake and complete a total cleanup of the area in such a manner as to ensure that all leakage, spillage or other dissemination of hazardous material and/or substances is fully removed and the area is fully restored to its condition prior to the placement, leakage, spillage

or other dissemination of such hazardous materials or substances. The agency in charge of the response to an incident in a jurisdiction shall determine when restoration must occur.

**B. Failure to Remove and/or Clean Up** In the event the owner, operator, occupant or other person responsible for the operation, maintenance and/or condition of any building, premises, property or vehicle regarding which an incident arises which involves the release or threatened release of hazardous materials or substances on or about said building, premises, property and/or vehicle fails to remove, in a timely manner, hazardous materials or substances after an emergency response involving hazardous materials / substances or comply completely with the above subsection, the jurisdiction shall have the right to enter onto said property and remove and conduct a cleanup of all such hazardous materials and substances either by governmental employees or by contractors and agents of said government. Prior to engaging in such clean up, the jurisdiction shall attempt to notify the owner of its duty to abate the hazardous conditions; however, if in the sole discretion of the jurisdiction, failure to remove, remediate, mitigate, or clean-up hazardous materials or substances will cause an imminent harm to the public health, safety, and welfare, including private property, the jurisdiction is authorized to provide for the remediation activities referenced above before notifying the owner. All costs associated with such containment, control, removal and clean-up are in addition to the costs associated in the following sections and are to be reimbursed in like manner.

#### **Section 4: Liability for Expense of Emergency Response**

The responsible party and owner shall be jointly and severally liable for reimbursement of the jurisdiction for all expenses of the emergency response caused by an incident related to the release or threatened release of hazardous materials.

#### **Section 5: Charges Imposed Upon the Responsible Party and/or Owner**

Where emergency responders respond to a call for assistance in connection with a hazardous materials release in a jurisdiction, actual costs incurred by the jurisdiction, including those incurred by contracted or servicing entities, responding to such a call shall be imposed upon the responsible party and owner, of which they shall be jointly and severally liable for such costs. These costs may include but are not limited to:

- A.** Fees as set by the White Cloud Area Fire-Rescue Board. Such fee schedules shall be made publicly available.
- B.** All personnel related costs incurred by the jurisdiction because of responding to the hazardous materials incident (including a release or threatened release), which includes personnel costs of agencies responding on behalf of the jurisdiction (e.g., contracted or serving emergency responders). Such costs may include, but are not limited to, wages, salaries, fringe benefits and insurance for full-time and part-time fire or rescue personnel, overtime pay and related fringe benefit costs for hourly employees, and fire run fees paid to on call personnel. Such personnel related charges shall commence after the first hour that the emergency responders have responded to the hazardous materials incident and shall continue until all personnel have concluded hazardous materials incident related responsibilities.

- C. Other expenses incurred by the jurisdiction in responding to the hazardous materials incident, including but not limited to, rental or purchase of machinery, equipment, labor consultants, legal and engineering fees, medical and hospitalizations costs, and the replacement costs related to disposable personal protective equipment, extinguishing agents, supplies, water purchased from municipal water systems and meals and refreshments for personnel while responding to the hazardous materials incident.
- D. Charges to the jurisdiction imposed by any local, state, and federal government entities related to the hazardous materials incident.
- E. Cost incurred in accounting for all hazardous material incident related expenditures, including billing and collections costs.

### **Section 6: Billing Procedures**

- A. The jurisdiction, including through agencies that service the jurisdiction such as the White Cloud Area Fire-Rescue, may recover from any or all responsible parties and owners all assessable costs in connection with such emergency or incident under this ordinance.
- B. The jurisdiction, through the Designated Official shall determine the total assessable costs and shall determine whether to assess any, all, or part of such costs against any of the responsible parties or owners.
- C. The Designated Official shall prepare a detailed listing of all known expenses. These expenses shall be included on an invoice to the responsible party and owner for payment. The invoice should demand full payment within thirty (30) days of receipt of the bill.
- D. Any additional expenses that become known to the Designated Official after an initial transmittal of expenses shall be billed in the same manner on a subsequent bill to the responsible party and owner.
- E. For any amounts due that remain unpaid after thirty (30) days, the jurisdiction may impose a late charge of one percent (1%) per month or fraction thereof.

### **Section 7: Administrative Remedy - Appeal of Costs**

Shall an owner or responsible party receiving an itemized charge of expenses contest the amount owed, they shall within 30 days of service of the fees, submit a written appeal to the jurisdiction and White Cloud Area Fire-Rescue that is sent by mail to the address listed on the itemized invoice. A written appeal shall indicate reasons why any imposed fees are not reasonably proportionate to the direct and indirect service of providing an emergency response, among any other reasons for the objection to the fee. Should a written appeal be received, the jurisdiction shall hold a public hearing on the appeal and determine to uphold the costs imposed, modify the costs imposed, or remove the appealing entity from responsibility for the costs. The public hearing shall hear comment from the appealing party. The public hearing of the jurisdiction may be held (and any decision made determined by) by the legislative body of the jurisdiction or be heard by the governing body of the White Cloud Area Fire-Rescue. Any modified or approved costs imposed are due and payable 14 days after the public hearing; and if not paid, will be treated as unpaid required costs under this Ordinance.

### **Section 8: Failure to Pay; Procedure to Require Cost**

Any failure by the person, entity, or corporation described in this Ordinance as liable or responsible for expenses of an emergency response to pay a bill within 30 days of mailing or service of the bill shall constitute a default on the bill—unless an appeal on a bill is pending. In the case of default, the jurisdiction shall have the right and power to add all emergency response costs to the tax roll and to levy and collect such costs in the same manner as provided for the levy and collection of real property taxes against real property. The jurisdiction shall also have the right to bring action in a court of competent jurisdiction to collect emergency response costs if the jurisdiction deems such action to be necessary. The recovery of charges imposed under this ordinance does not limit liability of responsible parties under applicable local, state, or federal laws and regulations.

### **Section 9: Exemptions**

The following property and services rendered by the Fire Department shall be exempt from the fees:

- A. Cases of undue hardship, to be determined by the jurisdiction's governing council / elected board.
- B. Fire involving the jurisdiction's buildings and grounds.
- C. Services performed under a mutual aid contract if approved by the Chief of the White Cloud Area Fire-Rescue or applicable agency.
- D. Incidents solely involving hazardous substances under Part 201 and addressed under this Ordinance.

### **Section 10: Part 201 Civil Action**

Should a person, corporation, or other legal entity within a jurisdiction release or threaten to release any hazardous substance into the jurisdiction without authorization under applicable federal, state, or local law, a jurisdiction may pursue legal action under Section 20135 of Part 201 or otherwise authorized by law. The jurisdiction may request all remedies authorized by Part 201 to remedy a release or threat of release of hazardous substances within the jurisdiction. Furthermore, a jurisdiction may assign or add as a party to a civil action applicable emergency response agencies including the White Cloud Area Fire-Rescue.

The above provision shall not remove a jurisdiction's ability to bill for costs incurred related to clean-up, remediation, emergency response, or other services provided for the release and/or threatened release of hazardous materials on a call that also involved service for hazardous substances (of which such costs shall be pursued under the Part 201 process above or following Michigan law).

Should an owner or responsible party dispute invoiced expenses based on being hazardous substances versus hazardous materials, they must utilize the administrative appeal process above.

### **Section 11: Non-Exclusive Fees**

The fees authorized by this Ordinance are not exclusive of any other charges, special assessments, and taxes that a jurisdiction may charge to recover the costs and expenses of providing emergency services personnel; rather, the fees set hereunder are supplemental thereto. Additional costs may be recovered by a jurisdiction through general taxation or special assessments as provided by law.

**Section 12: Severability**

Should any provision or part of the within Ordinance be declared by any court of competent jurisdiction to be invalid or unenforceable, that shall not affect the validity or enforceability of the balance of this ordinance which shall remain in full force and effect.

**Section 13: Effective Date:**

This ordinance shall take effect on June 2, 2026.

All ordinances or parts of ordinances in conflict herewith are hereby repealed

Dated this 1st day of June, 2026

**HAZARDOUS EMERGENCY COST-RECOVERY ORDINANCE**

**ORDINANCE NO. 53**  
**NOTICE OF ADOPTION**

Please take notice that on June 1, 2026, Sherman Township adopted Ordinance No. 53, which allows Sherman Township to recoup costs associated with releases of hazardous substances and hazardous materials. Copies of the Ordinance may be obtained from Jamie Kukal, Clerk, at 2168 S Wisner Ave, Fremont, MI 49412.

The Ordinance has the following sections and catch lines: Section 1: Intent and Purpose; Section 2: Definitions; Section 3: Duty and/or Failure to Remove and Clean Up; Section 4: Liability for Expense of Emergency Response; Section 5: Charges Imposed Upon the Responsible Party and/or Owner; Section 6: Billing Procedures; Section 7: Administrative Remedy - Appeal of Costs; Section 8: Failure to Pay; Procedure to Require Cost; Section 9: Exemptions; Section 10: Part 201 Civil Action; Section 11: Non-Exclusive Fees; Section 12: Severability; and Section 13: Effective Date

Sherman Township  
Clerk Jamie Kukal  
2168 S Wisner Ave, Fremont, MI 49412  
231-924-7164

Publication Date: June 10, 2026