

TOWNSHIP OF BIRCH RUN
ORDINANCE NO. 91-1

HAZARDOUS MATERIALS, INCIDENT COST, RECOVERY,
ORDINANCE FOR THE PURPOSE OF PROTECTING THE
INHABITANTS AND PROPERTY WITHIN THE TOWNSHIP OF
BIRCH RUN AS TO HAZARDOUS MATERIALS, AND THE
FINANCIAL AND OPERATIONAL COSTS IN CONNECTION
THEREWITH.

THE TOWNSHIP OF BIRCH RUN ORDAINS:

Section 1. PURPOSE: The Township of Birch Run finds that a significant potential exists for Fire Department responses to incidents involving the release or threatened release of hazardous materials. Such incidents create a great likelihood of personal injury and/or property damage. The control and abatement of such incidents places a significant financial and operational burden upon the Township's fire fighting and rescue services.

Section 2. DEFINITIONS: 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.

- a. "Emergency Response" means the providing, sending and/or utilizing of police, fire fighting, emergency medical and rescue services by the Township, or by a private industrial entity or corporation operating at the request or direction of the Township or State of Michigan, for an incident resulting in a hazardous materials release or threatened release.
- b. "Hazardous Materials" means explosives, pyrotechnics, flammable compressed gas, flammable liquid, combustible liquid, oxidizing material, poisonous gas, poisonous liquid, poisonous solid, irritating material, etiological material, radioactive material, corrosive material, or liquified petroleum gas.
- c. "Building" means any structure used or intended for supporting or sheltering any use or occupancy.
- d. "Premises" means any lot or parcel of land, exclusive of buildings, and includes a parking lot, tourist camp, trailer camp, airport, stockyard, junkyard, wharf, pier, public roadway, and any other place or enclosure, however owned, used or occupied.
- e. "Owner" means any person having a vested or contingent interest in the property, premises, container or vehicle involved in the hazardous materials 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.
- f. "Vehicle" means any mode which is used as an instrument of conveyance, including but not limited to motor vehicles, railroads, boats, aircraft, etc.
- g. "Expenses of an Emergency Response" means the direct and reasonable costs incurred by the Township of Birch Run, or

by a private person, corporation, or other assisting government agency, which is operating, at the request or direction of the Township, when making an emergency response to the hazardous materials incident, including the costs of providing police, fire fighting, rescue services, emergency medical services, containment, and abatement of all hazardous conditions at the scene of the incident. The costs further include all of the salaries and wages of Township personnel responding to the incident, salaries and wages of Township personnel engaged in the investigation, supervision and report preparation regarding said incident, all salaries and wages of personnel of assisting government agencies operating at the request or direction of the Township, and all costs connected with the administration of the incident relating to any prosecution of the person(s) responsible, including those relating to the production and appearance of witnesses at any court proceedings in relation thereto. Costs shall also include such items as disposable materials and supplies used during the response to said 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 said incident, special technical services and laboratory cost, and services and supplies purchased for any specific evacuation relating to said incident.

Section 3. LIABILITY FOR EXPENSE OF AN EMERGENCY RESPONSE:

- a. Person(s) Responsible: 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 in, on, or about said building, premises, property and/or vehicle shall be required to reimburse the Township for all expenses of an emergency response to said hazardous materials incident.
- b. Charge Against Person: The expense of an emergency response shall be a charge against the person liable for the expenses under this Ordinance. The charge constitutes a debt of that person and is collectible by the Township of Birch Run in the same manner as in the case of an obligation under contract, express or implied.
- c. Cost Recovery Schedule: The Township of Birch Run shall, by resolution, adopt a schedule of the costs included within the expense of an emergency response. This schedule shall be available at the office of the Township Clerk for inspection by the public at all times.
- d. Billing: The Township of Birch Run may, within ten (10) days of receiving itemized costs, or any part thereof, incurred for an emergency response, submit a bill for these costs by first class mail or personal service to the person liable for the expenses as enumerated under this Ordinance. The bill(s) shall require full payment within thirty (30) days from the date of mailing or service of said bill upon the responsible person.

- e. Failure to Pay; Procedure to Recover Costs: Any failure by the person described in this Ordinance as liable or responsible for expenses of an emergency response to pay said bill within thirty (30) days of mailing or service of the bill shall constitute a default on said bill. In case of default, the Township of Birch Run shall have the right and power to add all emergency response costs to the tax roll as to any such property involved in the hazardous materials' incident, and to levy and collect such costs in the same manner as provided for the levy and collection of real property taxes against said property or premises. The Township shall also have the right to bring action in a court of competent jurisdiction to collect said costs if the Township deems such action to be necessary.

Section 4. PUBLICATION: This Ordinance shall be given publication as required by law, and a complete copy of this Ordinance is available at all times at the Birch Run Township Center, 8411 Main Street, Birch Run, Michigan 48415.

Section 5. REPEAL OF CONFLICTING ORDINANCES: Any and all other Ordinances inconsistent with the provisions of this Ordinance and any changes adopted thereto are, to the extent of such inconsistency, hereby repealed.

Section 6. SEVERABILITY: If any Section, Subsection, Clause, Paragraph or Provision of this Ordinance shall be determined to be invalid by a court of competent jurisdiction, such adjudication shall only apply to said portion thereof adjudicated invalid, and the full remaining portions or parts of this Ordinance shall remain in full force and effect.

Section 7. SAVINGS CLAUSE: 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 the 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 impliedly 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 the commission of such offense.

Section 8. EFFECTIVE DATE: This Ordinance shall be published as provided by law, and shall become effective thirty (30) days from and after such publication.

This Ordinance adopted at a regular meeting of the Birch Run Township Board held on the 12 day of February, A.D., 1991.

Donald Earl White
 DONALD WHITE
 Birch Run Township Supervisor

Marcia Strong
 MARCIA STRONG
 Birch Run Township Clerk

	AYE	NAY	NOT VOTING
Donald White, Supervisor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marcia Strong, Clerk	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Maria Foerster, Treasurer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Thomas Totten, Trustee	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lawrence Russell, Trustee	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Joanne Strahm, Trustee	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Donald Voorheis, Trustee	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

I, MARCIA STRONG, Birch Run Township Clerk, do hereby certify that the foregoing is a true and/or certified copy of the Ordinance adopted by the Birch Run Township Board on the 12 day of February, 1991.

Marcia Strong
 MARCIA STRONG
 Birch Run Township Clerk

This Ordinance was published on the 25 day of February, 1991, in the Birch Run News.

Marcia Strong
 MARCIA STRONG
 Birch Run Township Clerk