

ORDINANCE 267

AN ORDINANCE ESTABLISHING PROCEDURES AND REQUIRING REIMBURSEMENT AND COLLECTION OF COSTS, EXPENSES AND DAMAGES INCURRED IN DISPOSING OF HAZARDOUS MATERIAL, AND POLICING SPILL INCIDENTS

BE IT ORDAINED by the Village of Loch Arbour, as follows;

Section I: Enactment

This Ordinance is enacted pursuant to N.J.S.A. 40:41-1 et seq., The Home Rule Act, which directs municipalities to act to provide for the health, welfare and safety of its citizens.

Section II: Definitions

1. **Hazardous Materials.** "Hazardous materials" is any material, solid liquid or gas, listed as such under the N.F.P.A. Guide of Hazardous Materials, the Department of Transportation Guide book, the list of Hazardous substances adopted by the Federal Environmental Protection Agency (EPA), pursuant to Section 311 of the Federal Water Pollution Control Act Amendment of 1972, as amended by the Clean Water Act of 1977 (33 U.S.C. 1251, et seq.), and the list of toxic pollutants designated by Congress or the EPA, pursuant to Section 307 of the Federal Water Pollution Control Act, any hospital or medical waste, including but not limited to, syringes, bandages and discarded pharmaceutical products, and any material warranting removal or cleanup in the opinion of the Village of Loch Arbour Emergency Management Coordinator.
2. **Vehicle.** A "vehicle" is any motorized equipment, registered or unregistered, including, but not limited to, a passenger car, motorcycle, truck, tractor trailer, construction equipment, farm machinery, watercraft, aircraft and trains.
3. **Vessel.** A "vessel" is any container, drum, box cylinder or tank used to hold or contain or carry or store any hazardous materials, whether or not said container was manufactured for the containment of hazardous materials.
4. **Discharge.** A "discharge" is any intentional or unintentional action or omission resulting in the releasing, spilling, leaking, pumping, pouring, emitting, emptying or dumping of hazardous substances into any waters which flow within the jurisdiction of the Village or any land within the jurisdiction of the Village.
5. **Expendable Items.** Any item used to extinguish or prevent any hazardous material fire, or stop or contain any leak, release or spill involving any hazardous material, which cannot be reused or cannot be replenished without cost after that particular incident. These expendable items include, but are not limited to, fire fighting foam, chemical agents, absorbent materials, sand recovery drums and any protective equipment and clothing to include, but not restricted to, chemical protective suits, chemical protective gloves goggles and any other item owned or controlled by the Village of Loch Arbour.
6. **Village.** The "Village" shall include the Village of Loch Arbour's employees, agents, officers, officials and supporting units as directed by the Office of Emergency Management.

7. Collecting Agency. The "Collecting Agency" hereunder shall be the Village of Loch Arbour.

Section III: Purpose

This Ordinance provides for the reimbursement for, or the replacement of, any and all equipment utilized by the Village of Loch Arbour, for costs expended, without regard to ownership, for the purpose of mitigating, controlling or containing any incident in which a hazardous material is involved in a fire, leak, release or spill, or where the potential thereof exists, or for the prevention of same.

This Ordinance also provides for the reimbursement for the expenses incurred by the village of Loch Arbour, for the wages (regular or overtime) paid to its employees, agents or servants as a result of an incident involving a hazardous material, fire, leak, release or spill of a hazardous material and for the costs of medical and hospital treatment for injuries incurred by agents, servants or employees of the Village of Loch Arbour.

This Ordinance also provides for a penalty for the violation of the Ordinance for either committing a spill or for failure to report the same.

Section

IV: Hazardous Substances, Discharge, Prohibition

1. The discharge of hazardous substance is prohibited. This section shall not apply to discharge of hazardous substances pursuant to and in compliance with the conditions of a Federal or State permit.
2. Any person who may be subject to liability for a discharge, or becomes aware of a discharge which occurred prior to or after the effective date of this Ordinance shall immediately notify the Village of Loch Arbour, Office of Emergency Management at 531-4740.
3. Whenever any hazardous substance is discharged, the Village may in their discretion act to remove or arrange for the removal of such discharge.
4. Any person who has discharged a hazardous substance, or who has failed to report a discharge or who in any way responsible for any hazardous substance which has been or shall be removed by the Village, shall be strictly liable, jointly and severally, without regard to fault, for all cleanup and removal costs and shall be liable for the wages (regular and overtime) paid and the costs of medical and hospital treatment for injuries incurred by the agents, servants and employees of the Village.

Section V: Parties Responsible

Reimbursement to the Village for expendable items used shall be made by the owner or operator of the vehicle responsible for the hazardous material fire, leak or spill of hazardous material; the owner or person responsible for the vessel containing the hazardous material involved in such fire, leak or spill on public or private property, whether stationary or in transit and whether accidental or through negligence; the owner or person responsible for any property from which any leak or spill of hazardous material emanates, whether accidental or through negligence and the person responsible for the hazardous material fire, leak or spill of hazardous material on public or private property, whether accidental or through negligence.

Section VI: Reimbursement for services of Recovery Company, Towing Company or Technical Assistance

Any person causing hazardous material fire, leak, spill or release involving a hazardous material must provide reimbursement for services rendered by any recovery company, towing company or any other technical assistance called for by the Village to handle such incident. In the event of a vehicle having been responsible for an incident, such vehicle shall be impounded until such time as it has been deemed safe to proceed by the responsible official in conjunction and cooperation with the Village of Loch Arbour, and until such time as arrangements have been made to reimburse the Village and the towing company for their expenditures under the terms of this Ordinance.

Section VII: Period for Payment

The person or entity responsible for any fire, leak or spill of hazardous materials shall reimburse the Village the full price of expendable items and costs used to extinguish such fire, or to stop or contain such leak, or to control such spill, within forty-five (45) days after receipt of a bill therefore. The collecting agency shall utilize its best efforts to collect costs hereunder and shall reimburse its agents or the local units of amounts collected. In the event that the collecting agency is not able to collect said costs or only a portion thereof, the collecting agency shall not be responsible to its agents or the local units for the full amount of same.

Section VIII: Penalties

The person or entity responsible for any fire, leak or spill of hazardous material who fails to reimburse the Village within the time required, shall be subject to a fine of not less than Fifty (\$50.00) Dollars or more than Five Hundred (\$500.00) Dollars per day, or by imprisonment for a period of not more than six (6) months, or both. The person or entity responsible for committing a spill, or who fails to report same, will be liable for the same penalties as aforesaid stated.