

## **ORDINANCE #1021**

### **AN ORDINANCE OF THE BOROUGH OF OCEANPORT, COUNTY OF MONMOUTH, STATE OF NEW JERSEY AMENDING CHAPTER 295 "PROPERTY MAINTENANCE" TO PROVIDE FOR THE REIMBURSEMENT OF COSTS RELATED TO HAZARDOUS MATERIAL CALLS**

**SECTION 1.** BE IT ORDAINED by the Mayor and Council of the Borough of Oceanport that the following amendments be made to Chapter 295 entitled Property Maintenance:

New Section: Hazardous Substances

#### **A. DEFINITIONS.**

As used in this subsection, the following terms shall have the meanings indicated:

**COMPENSATION** -- A calculation of reimbursement costs for items, plus any and all wages paid, plus an hourly rate for use of any and all equipment, plus any and all administrative costs.

**EMISSION** -- Spilling, leaking, flowing or running of substances into the environment, without regard to cause, and shall include causes that are man-made, natural, accidental, unavoidable or from any cause whatsoever.

**ENVIRONMENT** -- The air, ground and waters, in and adjoining, the Borough of Oceanport.

**EXPENDABLE ITEMS** -- Any items used to stop or contain any discharge involving any hazardous materials that cannot be used again or cannot be replenished without cost after that particular incident. These expendable items include, but are not limited to, fire-fighting foam, chemical extinguishing agents, absorbent and nonabsorbent materials, brooms, pads, pillows, rope, sand, recovery drums and any protective equipment and clothing, including but not restricted to chemical protective suits, chemical protective gloves, goggles and any other item owned or controlled by the Borough of Oceanport, its employees, agents, officers and/or officials.

**HAZARDOUS MATERIAL** -- Any material, solid, liquid or gas, listed as such under the National Fire Protection Association 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 the Congress of the EPA, pursuant to Section 307 of the Federal Water Pollution Control Act, and any hospital or medical waste, including but not limited to syringes, bandages and discarded pharmaceutical products or any substance on the New Jersey Hazardous Substance List.

#### **B. UNLAWFUL ACTS**

1. It shall be unlawful for any person to permit or be responsible for the emission of any substance into the environment of the Borough of Oceanport.
2. It shall be unlawful for any person to fail to pay compensation to the Borough of Oceanport within 30 days following his receipt of a bill for compensation pursuant to this chapter.

#### **C. COMPENSATION.**

Whenever the Borough of Oceanport through the offices of the Health Officer, Police Chief, Fire

Chief(s), Fire Prevention Bureau, Office of Emergency Management, Mayor and/or Administrator identifies an emission into the environment of the Borough of Oceanport of any substance in such a manner so that, in the professional opinion of the above, immediate cleanup and/or mitigation is required, the above shall order, which order may be verbal, the responsible person to take immediate action to abate the emission. Should the responsible person not be available, or for whatever reason not take action as in the professional opinion of the above agents of the Borough of Oceanport, then the agent of the Borough of Oceanport may, at his discretion, engage Borough of Oceanport Personnel and/or supplies and/or equipment and/or expendable items and/or contract in the name of the Borough of Oceanport qualified private entities to take action to immediately abate and/or clean up and/or mitigate the emission. The responsible person should then be billed by the Borough of Oceanport for all costs incurred in this action in response to the emission.

**D. COMPLIANCE.**

From and after the effective date of this chapter, any person, corporation, partnership or other legal entity shall be required to reimburse the Borough of Oceanport for any violation of the sections of this chapter.

**E. APPLICABILITY.**

This chapter shall apply to any hazardous spill that is the result of any traffic accident arising in the Borough of Oceanport or any hazardous spill arising from the discharge of hazardous materials from any automobile or equipment on the streets of the Borough of Oceanport or any public property or the air or waters contiguous to the Borough of Oceanport from any source.

**F. INVESTIGATION.**

In the event that the Oceanport Police Department or Fire Department or any Health Officer or Emergency management or Construction Code Official of the Borough of Oceanport is called out to abate a spill or shall be asked to investigate any traffic accident or is called upon to investigate any condition on the city streets or sees any of the conditions set forth in this chapter, the appropriate officer shall make an investigation of the scene to determine whether hazardous materials have been spilled onto the roadways of the Borough of Oceanport or other public or private property or water in the city or the air or waters contiguous to the Borough of Oceanport.

**G. VIOLATIONS AND PENALTIES.**

1. After an investigation, the appropriate officer as set forth in the preceding section shall be authorized to issue a summons to the owner and/or operator of any such vehicle or agent or responsible person of any instrumentality which discharges hazardous substances onto the streets or other public or private property or air or water in the Borough of Oceanport. Said summons will be returnable in the Municipal Court of the Borough of Oceanport and, upon conviction of any offense, the offender, owner and/or driver of said vehicle or agent or responsible person of the instrumentality of such discharge shall be subject to the following penalties.
2. For a conviction under this subsection, penalties shall be as follows:
  - (a) The Municipal Court shall impose a fine in an amount not to exceed \$1,200.
  - (b) The defendant shall be required, as an additional penalty of the Municipal Court, to repay to the Borough of Oceanport the cost of cleanup of the hazardous spill, which shall include the cost of the product necessary to be used on the roadway and/or streets of the Borough of Oceanport and for any cost of manpower and equipment used by the Public Works Department or Fire Department of the Borough of Oceanport or any agents, representatives, contractors or otherwise hired by the Borough of Oceanport to clean up said hazardous spill. The Borough of Oceanport is further authorized to apply to any appropriate judicial body, including

the Superior Court of New Jersey, for reimbursement for the full cost of cleanup of the hazardous spill that is incurred by the Borough of Oceanport. Such funds shall be returned to the line item used to purchase the materials used.

3. It shall be the responsibility of the Borough of Oceanport to present to the presiding Judge of the Municipal Court a list of the expenses incurred, limited to the cost of the product necessitated for the cleanup, any overtime as paid to any Borough employee and the cost of any equipment used by the Borough of Oceanport necessitated in said cleanup. The Borough of Oceanport is further authorized to present to the appropriate judicial body, including the Superior Court of New Jersey, whether by complaint or other application, a list of the expenses incurred, and take whatever steps necessary for application for reimbursement.

**SECTION 2.** All ordinances and resolutions or parts of ordinances and resolutions, inconsistent with this amending ordinance be and the same are hereby repealed.

**SECTION 3.** This amending ordinance shall become effective upon due passage and publication according to law.

**APPROVED ON FIRST READING**

DATED: February 20, 2020

JEANNE SMITH  
Clerk of the Borough of Oceanport

**ADOPTED ON SECOND READING**

DATED: March 19, 2020

JEANNE SMITH  
Clerk of the Borough of Oceanport

**APPROVAL BY THE MAYOR ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_.**

**JOHN F. COFFEY, II**  
**Mayor**