

## DEXTER TOWNSHIP ORDINANCE NUMBER 26

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### HAZARDOUS WASTE MATERIAL

ADOPTED: MARCH 18, 1997

EFFECTIVE: APRIL 17, 1997

AN ORDINANCE PURSUANT TO THE AUTHORITY OF PUBLIC ACT 102 OF 1990 (MCL 41.806A) AND THE MICHIGAN PUBLIC HEALTH CODE (MCL 333.1101 ET SEQ.) FOR THE REGULATION AND CLEANUP OF ENVIRONMENTAL ACCIDENTS FROM LEAKING, SPILLING, RELEASE OR OTHERWISE ALLOWING HAZARDOUS SUBSTANCES WHICH MAY POLLUTE OR IMPAIR THE ENVIRONMENT OR HEALTH TO ESCAPE CONTAINMENT, TO IMPOSE RESPONSIBILITY FOR CLEANUP AND RESTORATION UPON THE PERSONS ALLOWING OR CAUSING SUCH RELEASE, TO PROVIDE FOR CLEANUP AND RESTORATION AND THE IMPOSITION OF THE COSTS OF RESPONSIBLE PARTIES AND COLLECTION OF CHARGES.

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THE TOWNSHIP OF DEXTER ORDAINS:

### SECTION I

1. STATUTORY AUTHORITY. Recognizing that the sanitary and safe disposal of hazardous substances is fundamental to individual, public and community health, recognizing that hazardous substances can pollute and impair the environment, and recognizing that accidental releases of hazardous substances should be cleaned up by the party responsible for the release and insofar as possible to prevent the creation of nuisances and conditions menacing the public health, this ordinance for the cleanup of the release of hazardous substances is hereby established pursuant to the Michigan Public Health Code, (MCLA 333.1101 et seq.), and specifically sections 2433, 2435, 2441, 2444, 2446, 2451, 2455, 2461, and 2465, of said Code and the collection of the costs and charges incurred pursuant to Public Act 102 of 1990 (MCL 41.806a).

### SECTION II

1. DEFINITIONS.

“Emergency situations”: Refers to an incident of release of hazardous substances into the environment which is deemed by the Public Health Officer or his/her designee to require an immediate response by Township representatives.

“Environment”: Refers to any land, surface waters, ground water, subsurface, strata, air, fish, wildlife, plant life or biota, within Dexter Township.

“Hazardous substances” or “Hazardous Materials” shall include the Following:

- A. A chemical or other material which is or may become injurious to the public health, safety or welfare or to the environment, including but not limited to a combustible liquid, a flammable gas, explosive, flammable, an organic peroxide, an oxidizer, pyrophoric, unstable reactive or water reactive.

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- B. “Hazardous waste” as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Public Law 96-510, 94 Stat, 2767.
- C. “Hazardous waste” as defined by the Hazardous Waste Management Act, Act No. 64 of the Public Acts of 1988, being Sections 299.51-299.551 of the Michigan Compiled Laws.
- D. “Petroleum” as defined in the Leaking Underground Storage Tank Act, Act No. 478 of the Public Acts of 1988, being Sections 299.831-299.850 of the Michigan Compiled Laws.

“Person”: Means an individual, sole proprietorship, partnership, association, corporation, or other legal entity.

“Public Health Officer”: Refers to the County of Washtenaw Public Health Officer or his/her duly authorized agent, the Washtenaw County Sheriff, the State Police, the Dexter Township Supervisor, the Chief of the Fire Department servicing Dexter Township pursuant to any contract for fire protection and/or emergency medical services, the Township Ordinance Enforcement Officer, or any other duly authorized public officer responding to a Release.

“Responsible Party”: Means any individual, firm, corporation, association, partnership, commercial entity, consortium, joint venture, governmental entity or any other legal entity that is responsible for a release of a hazardous material, either actual or threatened, or is an owner, tenant, occupant or party in control of property onto which or from which hazardous materials release.

### **SECTION III**

1. **RELEASE ON OR IN LANDS, STRUCTURES, BUILDINGS, SURFACE OR UNDERGROUND WATERS IN DEXTER TOWNSHIP.** It shall be the responsibility of any person who causes or allows a release of hazardous substance on or in lands, buildings, structures, or the surface or underground waters, in Dexter Township to immediately remove such hazardous substance and to cleanup and restore the area of the spillage to its pre-release condition. Upon learning of an incident, the Public Health Officer shall have the right to immediately inspect the area to determine the extent of the damage, whether the responsible party or parties possess the necessary equipment and personnel to cleanup the affected area, and whether the incident poses a threat of immediate harm to nearby residents, plant or animal life or the environment. If the Public Health Officer determines that the responsible party or parties are unable to safely and effectively cleanup and/or abate the affected area, the Public Health Officer may undertake the cleanup and/or abatement of such spill, or contract for such a cleanup and/or abatement through public and private agencies and companies, and the actual cost of such action shall be the sole responsibility of such party or parties causing or allowing the release. If the Public Health Officer determines that the materials pose an emergency, appropriate local, state, county or federal emergency personnel may be called upon to assist in the removal of the hazardous substances to protect the health, safety and welfare of the public. All costs,

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fees and expenses incurred by the Township in connection with such action shall be assessed against the responsible party or parties.

### **SECTION IV**

1. **TRANSPORTATION RELEASES.** Transportation of hazardous substances which may pollute or impair the environment or health through the Township of Dexter shall be liable for the full amount and cost of any harm or damages which may result from the release of such hazardous substances. The person(s) responsible for such release of hazardous substances shall be required to remove the hazardous substances and return the affected area to its pre-release condition. Upon learning of a transportation accident involving the release of hazardous substances, the Public Health Officer, in his or her sole discretion may determine the owner(s) or operators(s) of the vehicle involved in the accident are unable to safely and effectively cleanup and/or abate the affected area. In that event, the Public Health Officer, or his/her agents, may undertake the cleanup and/or abatement of such spill or contract for such a cleanup and/or abatement through public or private agencies or companies, and the actual cost of such action shall be the sole responsibility of the party or parties causing or allowing the release. In the case of an emergency, appropriate local, state, county, or federal emergency personnel may be called upon to assist in the removal of the hazardous materials to protect the health, safety and welfare of the public. All costs, fees and expenses incurred by the Township in connection with such action shall be assessed against the responsible party or parties.

### **SECTION V**

1. **REMEDIES AND PENALTIES.**
  - A. The Public Health Officer shall have the authority to issue citations for any violations of this Ordinance. Any person who fails to comply with any provisions of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine not exceeding the sum of FIVE HUNDRED and no/100 DOLLARS (\$500.00), or by imprisonment in the Washtenaw County Jail for not more than ninety (90) days, or both.
  - B. In addition, any person who shall fail to comply with any provisions of this Ordinance or the order of the Public Health Officer to cleanup or abate a release shall be liable for civil infraction fine of not more than ONE THOUSAND and no/100 DOLLARS (\$1,000.00) for each violation or day that violation continues.
  - C. Notwithstanding the existence or pursuit of any other remedy, the Public Health Officer may maintain an action in the name of Dexter Township in a Court of competent jurisdiction for any injunction or other appropriate process against any party to restrain or prevent violations of this Ordinance.
  - D. Notwithstanding the existence of any other remedy listed in this Ordinance, the party responsible for an incident requiring cleanup under this Ordinance shall remain fully liable for the actual costs undertaken by the Public Health Officer and his/her designees and agents in cleaning up the incident. The costs incurred by the Public Health Officer shall include, but are not limited to, actual labor costs of personnel, including workers compensation benefits, fringe benefits,

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administrative overhead, costs of equipment operation, costs of contracted services and materials, and costs of disposal. If the responsible party or parties fails to reimburse the Public Health Officer, the Township of Dexter, the County of Washtenaw, the respective fire departments and other agencies who respond to an incident requiring cleanup, the Public Health Officer shall have the right to enforce payment of such cleanup costs, as well as all other remedies listed in this Ordinance, in any court of competent jurisdiction.

- E. The Dexter Township Board is hereby authorized pursuant to the special assessment statutes of the State of Michigan to special assessment statutes of the state of Michigan to specifically assess the real property of the responsible party or parties from which the hazardous substances were released. Dexter Township hereby declares that such cleanup costs and their assessment against said real property of responsible parties is a public purpose and a special benefit is derived and created for said real properties and they shall be specifically assessed accordingly, in accordance with the statutes made and provided for such case.
- F. The Dexter Township Board is hereby authorized to adopt, by resolution, from time to time, a schedule of charges for response to release to recover the Township's costs, in addition to civil infraction fines, misdemeanor fines, or other remedies. Charges for services shall be made to the owners of the personal or real property to which the services are rendered per incident. The charges shall include the Township's costs, current expenses and the accrued fund charges, of services, plus the costs of administering the Ordinance. Where more than one property or person is involved or where there are more than one person who owns an individual property, all owners of properties benefited by such services shall be jointly and severally liable for the charges. The Township Board is hereby granted the right to increase or decrease charges and to establish just and reasonable rates. The Township Clerk shall deliver or cause to be delivered statements to the persons and owners liable. Delivery may be done by regular mail to the last known address of the persons or owners liable and a statement shall be conclusively presumed delivered as of the date it is deposited into the United States mail addressed to such persons and owners. The Clerk is authorized to divide the statement among the persons or owners in equal prorata shares or some other fashion, or to submit a statement as a single joint, several undivided liability to all persons and owners involved, in the discretion of the Clerk. All of the forgoing charges shall be due and payable from the date of delivery of the statement for the service rendered and in default of any payment shall be collectible through proceedings in the 14<sup>th</sup> District Court or any other Court of competent jurisdiction as a matured debt including the actual attorney fees and costs of collection. All statements are due sixty (60) days from delivery. After 60 days, unpaid statements shall bear interest at 12% per annum until paid.

### **SECTION VI**

1. **SEVERABILITY**. Should any section or provision of this Ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

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### **SECTION VII**

1. **STATE OF MICHIGAN ENVIRONMENTAL RESPONSE ACT AND OTHER APPLICABLE STATE AND/OR FEDERAL LAW.** Whenever possible, this Ordinance shall be read in harmony with the Michigan Environmental Response Act, MCLA 299.601 and any other state and/or federal law which may apply. If in the event any part of this Ordinance conflicts with the Michigan Environmental Response Act, or any other applicable state and/or federal law, the provisions of the applicable state and/or federal law shall govern.

### **SECTION VIII**

1. **REPEAL OF ANY PRIOR TOWNSHIP ORDINANCES OR PARTS IN CONFLICT HEREWITH.** All prior Township ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent necessary to give this Ordinance full force and effect.

### **SECTION IX**

1. **PROCEDURE FOR HEARING AND APPROVAL AND EFFECTIVE DATE.** This Ordinance shall be published in the manner required by law, and shall become effective 4-17-97, 1997. The public hearing required by Section 2442 of the Public Health Code of 1978 was held on the 18<sup>th</sup> day of March, 1997 and due notice of said public hearing was given and proof thereof has been filed in the record of the Township Ordinance together with this Ordinance.

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Township Clerk