

AN ORDINANCE ENACTING NEW CHAPTER 726 OF THE CODIFIED ORDINANCES OF THE VILLAGE OF RICHFIELD FOR RECOVERY OF COSTS OF EMERGENCY ACTIONS

WHEREAS, the State of Ohio recently enacted Section 3745.13 of the Ohio Revised Code which provides a mechanism for municipal corporations to recover costs incurred in dealing with unauthorized spills, releases or discharges of material into or upon the environment.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Richfield, State of Ohio:

SECTION 1: That new Chapter 726 of the Codified Ordinances is hereby enacted to read as follows:

"CHAPTER 726
RECOVERY OF COSTS OF EMERGENCY ACTIONS

726.01 PURPOSE AND SCOPE.

The purpose of this chapter is to provide for compensation to the Village for costs incurred in investigating, mitigating, minimizing, removing or abating unauthorized spills, releases or discharges of materials into or upon the environment within the territorial jurisdiction or responsibility of the Village of Richfield, and which spills, releases or discharges require emergency action to protect the public health or safety or the environment.

726.02 DEFINITIONS

As used in this chapter:

(a) "Common Carrier by Motor Vehicle" has the same meaning as in Division (E) of Section 4919.75 or Division (A) of Section 4912.02 of the Revised Code, as appropriate.

(b) "Contract Carrier by Motor Vehicle" has the same meaning as in Division (F) of Section 4919.75 or Division (A) of Section 4923.02 of the Revised Code, as appropriate.

(c) "Costs" shall include, but not be limited to, all direct and incidental costs, including personnel costs, incurred by or on behalf of the Village in connection with the investigation, mitigation, minimization, removal or abatement of an unauthorized spill, release or discharge, in the following respects:

- (1) operating any vehicle, apparatus or equipment used in connection with any such incident;
- (2) sanitizing, cleaning and/or repairing any vehicle, apparatus, equipment or apparel used in connection with any such incident;
- (3) testing any spilled, released or discharged material, or any vehicle, apparatus, equipment or apparel used in connection with any such incident;
- (4) storing any spilled, released or discharged material;
- (5) disposing of any spilled, released or discharged material, or any vehicle, apparatus, equipment, apparel or goods rendered unusable as a result of any such incident;
- (6) replacing any vehicle, apparatus, equipment, apparel or goods lost or rendered unusable as a result of any such incident; and
- (7) any costs incurred by any private party or governmental body, or subdivision thereof, whose assistance is requested by the Village in the event of an unauthorized spill, release or discharge, and who submits a written invoice to the Village setting forth its costs incurred in responding to the incident.

(d) "Material" has the same meaning as in Section 3745.13 of the Revised Code, and any regulations promulgated or matters decided thereunder, as appropriate.

(e) "Motor Vehicle" means any automobile, truck, tractor, trailer, semi-trailer, motorbus, or any other self-propelled vehicle not operated or driven on fixed tracks.

(f) "Private Motor Carrier" has the same meaning as in Section 4923.02 of the Revised Code.

(g) "Railroad" has the same meaning as in Section 4907.02 of the Revised Code.

(h) "Unauthorized spill, release or discharge" has the same meaning as in Chapter 3745 of the Revised Code, any regulations promulgated or matters decided thereunder, and shall include, but not be limited to, any spilling, leaking, pumping, pouring, emitting, emptying, discharging, releasing, injecting, escaping, leaching, dumping or disposing of any material, into or upon the environment, which may endanger the public health or safety or the environment. The term does not include any spill, release or discharge that is in compliance with Chapter 1509, 3704, 3734 or 6111 of the Ohio Revised Code and rules adopted thereunder, or the terms and conditions of a current and valid permit or license.

726.03 LIABILITY.

(a) Any person or corporation responsible for causing or allowing an unauthorized spill, release or discharge of material into or upon the environment is liable to the Village for disaster services rendered, and all incidental and related costs. The costs shall be paid by the person or entity responsible for causing or allowing the unauthorized spill, release or discharge of materials into or upon the environment that requires emergency action to protect the public health or safety or the environment.

(b) If an unauthorized spill, release or discharge occurs from a motor vehicle or train being operated by, or on behalf of, a common carrier by motor vehicle, contract carrier by motor vehicle, private motor carrier, or railroad, a claim or civil action shall be submitted to or brought against, as appropriate, and the costs of the emergency action shall be recovered from, the motor carrier or railroad regardless of whether the motor carrier or railroad was responsible for causing or allowing the unauthorized spill, release or discharge to occur.

(c) Costs recoverable under this Chapter shall accrue commencing with the first notification to the Village of an incident involving, or which may involve, or subsequently proves to involve an unauthorized spill, release or discharge.

726.04 SERVICES OF OTHER GOVERNMENTAL BODIES OR PARTIES.

(a) The Fire Chief, or his designated officers or firemen, shall have the authority to request the assistance of any other governmental body, or agency or division thereof, in the event of any unauthorized spill, release or discharge at a location within the territorial jurisdiction or responsibility of the Village.

(b) The Fire Chief, or his designated officers or firemen, shall have the authority to request the assistance of any expert, consultant or contractor in the event of any unauthorized spill, release or discharge at a location within the territorial jurisdiction or responsibility of the Village.

726.05 PROCEDURE.

(a) The Fire Chief, or his designated representative, shall keep a record of the Village's costs for investigating, mitigating, minimizing, removing or abating the unauthorized spill, release or discharge, including any incidental costs. A Schedule of Charges used to determine such costs shall be kept on file in the Fire Department and made available for inspection by the public during normal working hours. The Schedule shall be revised, as necessary, to reflect increases and decreases in the value of the items listed.

(b) Not less than 30 days before bringing civil action for the recovery of costs pursuant to this Section and O.R.C. §3745.13, the Law Director shall submit to the responsible party a written itemized claim for the total certified costs incurred by the Village and a written notice that, unless the amount is paid to the Village within 30 days after the date of mailing of the claim and notice, the Law Director shall bring a civil action for that amount."

SECTION 2: This Ordinance shall take effect and be in force from and after the earliest date provided by law.

Passed: February 20, 1990

Robert W. Hub
President of Council

[Signature]
Mayor

Dated: 2 / 20 / 90

ATTEST:

Peggy Malone
Clerk of Council