

ORDINANCE 2019-05

**ORDINANCE OF THE TOWNSHIP OF FRANKLIN,
COUNTY OF HUNTERDON, STATE OF NEW JERSEY,
CREATING CHAPTER 210 “HAZARDOUS MATERIALS
CLEAN-UP.”**

WHEREAS, the Fire Department provides fire suppression and emergency services in and around the Township of Franklin; and

WHEREAS, the costs incurred for the maintenance of equipment used by the Fire Department grows each year; and

WHEREAS, it is the desire of the Township Committee to create an Ordinance to allow a recovery plan for the costs and expenses incurred to remediate hazards; and

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Franklin, County of Hunterdon, State of New Jersey, as follows:

SECTION 1. The Code of the Township is hereby amended to add Chapter 220 entitled “Hazardous Materials Clean-up” which reads as follows:

Chapter 220 Hazardous Materials Clean-up.

§ 220-1. Definitions.

Costs. All costs incurred by Franklin Township Fire District No. 1 or the Quakertown Fire Company, Inc., including but not limited to the following: actual labor costs of personnel, workers’ compensation benefits, medical costs, cost of equipment operation, cost of materials, cost to replace expendable items, cost of any and all environmental sampling and/or testing required to ensure a hazard-free environment (soil, water and air), including the testing of equipment that may have been exposed to hazardous conditions as a result of responding to the incident or any services rendered by any recovery company, towing company, storage yard or facility or other technical assistance called for by the Fire District or Fire Company or other agencies to handle such incidents.

Expendable Items. Any items used to extinguish any fire and/or stop or control or maintain any leak or spill involving any hazardous material which cannot be replenished without cost after that particular fire, leak or spill, including, but not limited to, fire-fighting foam, chemical extinguishing agents, absorbent material, sand, recovery drums or containers, and specialized protective equipment, including, but not limited to, acid suits, acid gloves, goggles and protective clothing.

Hazardous Substance. Any material – solid, liquid or gas as a hazardous substance or material, including but not limited to, such substances and materials listed under the National Fire Protection Association (NFPA) Guide of Hazardous Materials, the Department of Transportation (DOT) Guide Book and the list of hazardous substances and Toxic Pollutants designated by the

Federal Environmental Protection Agency (US-EPA) and the New Jersey department of Environmental Protection (NJDEP).

Vehicle. Any motorized equipment, registered or unregistered, including, but not limited to, a passenger car, motorcycle, truck, tractor trailer, trailer, construction equipment, farm machinery, watercraft, all-terrain vehicle (ATV), aircraft, and trains.

Vessel. Any container, drum, box, cylinder, bottle or tank used to hold, contain, carry or store any hazardous materials.

§ 220-2. Authorization to Recover Costs.

The governing body of the Township of Franklin authorizes the Franklin Township Fire District No. 1 and/or the Quakertown Fire Company, Inc. to recover the costs as defined in Section 220-1 related to any hazardous abatement incident.

§ 220-3. Parties Responsible for Reimbursement.

Reimbursement to the Franklin Township Fire District No. 1 and/or the Quakertown Fire Company, Inc. shall be made by:

- A. The owner or operator of the vehicle responsible for the hazardous condition;
- B. Any person responsible for the discharge of any hazardous substance which is abated;
- C. The owner or person responsible for the vessel containing the hazardous material causing the hazardous condition on public or private property, whether stationary or in transit, whether accidental, through negligence of the owner or person or through the negligence of another party;
- D. The owner or person responsible for the property from which the hazardous condition emanated;

§ 220-4. Third-Party Billing Agent.

The Franklin Township Fire District No. 1 and/or the Quakertown Fire Company, Inc. is hereby authorized to bill and collect costs due to it under this Chapter through a third-party billing agent, provided such agreement with the third-party billing agent is subject to the approval of the Township Committee.

§ 220-5. Collection of Costs.

Said costs and fees as outlined above shall be recovered directly by the Franklin Township Fire District No. 1 and/or the Quakertown Fire Company, Inc., or through a third-party billing agent, by billing to the responsible party.

§ 220-6. Interest and Administration Fees.

In addition to the aforementioned fees and costs, the Franklin Township Fire District No. 1 and the Quakertown Fire Company, Inc. is hereby authorized to collect reasonable interest and

administration fees for the collection of the fees and costs due and owing from insurance companies or responsible parties for the services rendered and/or materials provided.

§ 220-7. Report to the Township Committee.

The Franklin Township Fire District No. 1 and the Quakertown Fire Company, Inc. shall provide a monthly report to the Township Committee detailing all billing and receipts under this Chapter.

§ 220-8. Time Limit for Reimbursement.

Any person or entity responsible for any hazardous condition abatement incident shall reimburse the Franklin Township Fire District No. 1 and/or the Quakertown Fire Company, Inc. for the actual cost of any reimbursable items used to extinguish such a fire, stop or contain a leak or control and clean-up a spill within 45 days after receipt of an invoice for such items and services from the Franklin Township Fire District No. 1 and/or the Quakertown Fire Company, Inc. These provisions shall be subject to the following:

- A. Persons receiving services from the Franklin Township Fire District No. 1 and/or the Quakertown Fire Company, Inc. shall cooperate with the Franklin Township Fire District No. 1 and/or the Quakertown Fire Company, Inc., or other billing personnel hired by the Department, to secure full payment for services rendered.
- B. Due to anticipated time requirements for the preparation and processing of insurance claims, parties that have provided proof of a claim to their insurance carrier shall not be charged interest or subject to the penalties hereunder.
- C. Responsible parties under this chapter shall ensure that the Franklin Township Fire District No. 1 and/or the Quakertown Fire Company, Inc. is authorized to receive any payments from any insurance carrier as required this chapter.
- D. The Franklin Township Fire District No. 1 and/or the Quakertown Fire Company, Inc. reserves the right to determine that a bill, uncollectable by reason of unavailability of insurance coverage, can be written off.

§ 220-9. Violations and Penalties.

Any person violating any provision of this article and responsible for any hazardous condition within the service area of the Department who fails to reimburse the Franklin Township Fire District No. 1 and/or the Quakertown Fire Company, Inc. as provided herein, or submit a claim to the appropriate insurance carrier within the time required, shall be subject to a penalty and/or fine for each violation in accordance with Code of the Township of Franklin.

SECTION 2. All ordinances or parts of ordinances which are consistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistencies only.

SECTION 3. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.

SECTION 4. This Ordinance shall take effect after final passage and publication in accordance with the law.

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing Ordinance was introduced to pass on the first reading meeting of the Township Committee of the Township of Franklin held on May 23, 2019 and ordered published in accordance with the law. Said Ordinance will be considered for final reading and adoption at a regular meeting of the Township Committee to be held on June 27, 2019, at 7:30 p.m. or as soon thereafter as the Township Committee may hear this Ordinance at the Municipal Building, 202 Sidney Road, Pittstown, New Jersey at which time all persons interested may appear for or against the passage of said Ordinance.

Adopted: 06/27/2019



Christine Burke, Municipal Clerk
Township of Franklin

