

ORDINANCE #2022-6

“AN ORDINANCE OF THE MAYOR AND TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER PITTSBORO, COUNTY OF SALEM, STATE OF NEW JERSEY TO ESTABLISH RECOVERY COSTS FOR HAZARDOUS SUBSTANCES INCIDENTS”

WHEREAS, the Mayor and Township of Upper Pittsgrove deem it in the best interest of the Township to create an ordinance to establish recovery costs for hazardous substances incidents; and

WHEREAS, it is in the best interest of the residents of the Township of Upper Pittsgrove for the Township Committee to adopt such an Ordinance.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Township Committee of the Township of Upper Pittsgrove, in the County of Salem and State of New Jersey, and it is hereby enacted and ordained by the authority of same as follows:

Section 1.

RECOVERY COSTS FOR HAZARDOUS SUBSTANCES INCIDENTS

1. Definitions.

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

CLEANUP AND REMOVAL COSTS

All costs associated with a discharge within the boundaries of the Township of Upper Pittsgrove, which shall include labor and material for the removal of hazardous substances or taking of reasonable measures to prevent or mitigate damages to the public health, safety or welfare of the residents of the Township of Upper Pittsgrove, including the lands, private and public, therein.

DISCHARGE

Any intentional or unintentional action, omission or accident resulting in the release, spill, leak, emission, dump or disposal of hazardous substances into the waters or upon lands within the Township of Upper Pittsgrove or outside the Township which may result in or causes damages to the waters or lands within the Township.

HAZARDOUS SUBSTANCE

All elements and compounds, including petroleum products as set forth within N.J.S.A. 58:10-23.11b, as amended and/or N.J.A.C. 7:1E-1.7, including all amendments and supplements, except that sewage and sewage sludge shall be considered “hazardous substances” for the purpose of this Chapter.

PERSON

Any individual, public or private corporation, companies, association, societies, firms, partnerships or joint-stock companies.

RESPONSIBLE PARTY

A person who is in any way responsible for discharge, including each owner and operator and any other person obligated by law to clean up and remove contaminants.

2.Notification.

Any person who is in any way responsible for a discharge of hazardous substance shall immediately notify the Department pursuant to N.J.A.C. 7:1E-5.3.

3.Assignment of liability.

- A. Any person who shall discharge hazardous substances within the Township of Upper Pittsgrove shall be strictly liable for all cleanup and removal costs incurred by the Township of Upper Pittsgrove or agencies and employees thereon.
- B. Whenever the Township seeks to recover costs pursuant to A. above, the Township shall send by certified and regular mail a demand letter to the responsible party or parties, which shall contain:
 - 1.The date and time of the discharge;
 - 2.The basis for liability;
 - 3.A detailed narrative description of the costs incurred by the Township, its employees, agents, contractors and authorized political subdivisions in responding to the discharge;
 - 4.A calculation sheet, including hours and personnel charged, salaries rates and any overhead rates;
 - 5.An explanation of the procedures to be followed to pay the costs demanded or to appeal the demand.
 - 6.Payment shall be remitted within 45 days of receipt of the demand letter.
- C. Upon receipt of a demand letter with assessment of cleanup and removal costs, the person assessed may, within 10 days of receipt of such assessment, make a written request for a hearing before the Township Committee exclusively upon the reasonableness of the amount assessed.
- D. Whenever the Township issues a demand letter to a responsible party and the responsible party fails to remit payment within 45 days as prescribed herein, the Township may bring an action in a court of competent jurisdiction to recover the costs incurred in the emergency response action, all reasonable litigation costs and interest on the outstanding amount due calculated from the 46th day following the receipt of the demand letter to the date judgment is rendered at the interest rate set forth in the Rules Governing the Courts of New Jersey.

4.Costs.

The Responsible Party for the discharge shall be liable for all reasonable attorney's fees and costs incurred in the collection of cleanup and removal costs.

Section 2.

Repealer.

All prior Ordinances or parts of Ordinances inconsistent with this Ordinance be and the same are hereby repealed to the extent of such inconsistencies.

Section 3.

Severability.

Should any section, clause, sentence, phrase or provision of this Ordinance be declared unconstitutional or invalid by a Court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance.

When effective.

This Ordinance shall take effect immediately upon final passage and publication in accordance with law.

Dated: December 13, 2022

Edward J. Meschi, Mayor

ATTEST: Linda R. Stephens, RMC

NOTICE is hereby given that the foregoing Ordinance was introduced and passed on first reading at a regular meeting of the Township Committee of the Township of Upper Pittsgrove in the County of Salem and State of New Jersey on the 13th day of December 2022 and will be considered for final passage after a public hearing to be held by said Township Committee at Township Hall, Pole Tavern, New Jersey on the 28th day of December, 2022 at 7:00P.M.

Linda R. Stephens, RMC
Township Clerk