

VILLAGE OF LA GRANGE

ORDINANCE NO. 0-07-07

AN ORDINANCE AMENDING TITLE XIII
OF THE LA GRANGE CODE OF ORDINANCES
RELATING TO DISCHARGES OF HAZARDOUS MATERIAL

WHEREAS, the discharge of hazardous material, whether intentional or unintentional, anywhere in the Village of La Grange poses a threat to the orderly and proper maintenance of the Village and to the general public safety, health, and welfare; and

WHEREAS, the Village therefore has determined that it is necessary and in the best interests of the Village and its residents to hold any person or entity liable who causes hazardous material to be discharged for the cleanup and abatement of such discharge; and

WHEREAS, the President and Board of Trustees of the Village of La Grange have determined that it is appropriate and in the best interests of the Village to amend the La Grange Code of Ordinances to add provisions relating to the discharge of hazardous material as provided in this Ordinance;

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of La Grange, Cook County and State of Illinois, as follows:

Section 1. Recitals. The foregoing recitals are incorporated into this Ordinance as a finding of the President and Board of Trustees.

Section 2. Amendment of Title XIII of Code of Ordinances. Title XIII, titled "General Offenses," of the La Grange Code of Ordinances shall be, and it is hereby, amended by adding thereto a new Chapter 138, which new Chapter 138 shall hereafter be and read as follows:

CHAPTER 138: OFFENSES RELATED TO HAZARDOUS MATERIAL

Section

- 138.01 Definitions
- 138.02 Discharge of Hazardous Material Prohibited
- 138.03 Liability for Discharge of Hazardous Material
- 138.04 Defenses
- 138.05 Public Duty Immunity

§ 138.01 DEFINITIONS

For purposes of this Chapter, the following terms and phrases shall have the following meanings ascribed to them respectively.

(1) **COSTS INCURRED BY THE VILLAGE** means all costs and expenses of the Village incurred in connection with the cleanup or abatement of the discharge of hazardous material or the extinguishment of a fire involving hazardous material and shall include, but shall not be limited to, all of the following: actual labor costs of Village personnel involved in the cleanup or abatement of the discharge of hazardous material or the extinguishment of a fire involving hazardous material (including without limitation workers' compensation benefits, fringe benefits, and administration overhead), costs of equipment and the operation of the equipment, value of all damage to Village property and any other damages or losses incurred by the Village (as determined by the Village's Finance Director), costs of materials obtained directly by the Village, costs of any contract labor or materials, and costs of any medical treatments or expenses incurred by the Village or its employees and agents.

(2) **DISCHARGE** means to leak, seep, spill, emit, or release, or leakage, seepage, spill, escape, emission, or other release, whether intentional or unintentional.

(3) **HAZARDOUS MATERIAL** means any substance or material that, due to its quantity, form, concentration, location, or other characteristic, is determined by the Village Fire Chief or his authorized representative to pose an unreasonable and imminent risk to the life, health, or safety of persons or property or to the ecological balance of the environment, including but not limited to explosives, radioactive materials, petroleum or petroleum products or gases, poisons, etiologic (biological) agents, flammables, and corrosives, and any substance determined to be hazardous or toxic under any federal or State law, statute, or regulation, including without limitation any hazardous waste as defined in Subtitle C of the Resource Conservation and Recovery Act as amended or regulations promulgated pursuant thereto, or any hazardous substance as defined in the Comprehensive Environmental Response Compensation and Liability Act as amended or regulations promulgated pursuant thereto, and any substance that by law, regulation, or ordinance requires special handling in its collection, storage, treatment, or disposal.

§ 138.02 DISCHARGE OF HAZARDOUS MATERIAL

No person shall cause, threaten or allow the discharge of hazardous material into the environment unless such release is in accordance with an appropriate permit granted by the Illinois Environmental Protection Agency or other State or federal agency having primary jurisdiction over the discharge and such discharge is in such place and manner as will not create a present or potential hazard to human health, property, or the environment.

§ 138.03 LIABILITY FOR DISCHARGE OF HAZARDOUS MATERIAL

(A) Subject only to the defenses set forth in Section 138.04 of this Chapter, any person or entity who intentionally, negligently, or otherwise causes a discharge of hazardous material and any person or entity who owns or controls the hazardous material's container, vessel, or facility at the time of the discharge shall be jointly or severally liable to the Village for payment of all costs incurred by the Village as a result of the cleanup or abatement of any discharge of hazardous material or the extinguishment of any fire involving hazardous material by the Village, subject to a minimum charge of \$100.00; provided, however, that the costs incurred by the Village shall not include costs of fire suppression services that are normally or customarily provided by the Village, unless the fire involves hazardous material.

(B) The Village shall send an invoice of the costs incurred by the Village in connection with the discharge of hazardous material to the persons and entities determined by the Village to be responsible for such discharge.

(C) In addition, any person or entity who violates any provision of this Chapter 138 shall be fined not less than \$100.00 nor more than \$1,000.00 for each offense.

§ 138.04 DEFENSES

(A) There shall be no liability under Section 138.03 of this Chapter for a person or entity otherwise liable who can establish by a preponderance of the evidence that the discharge of hazardous material and the damages resulting therefrom were caused solely by an act of nature over which the person or entity had no control or by an act of war.

(B) There shall be no liability under this Chapter for any discharge permitted or authorized by State or federal law, but only to the extent that such discharge is made in accordance with applicable State and federal law, regulations, and permit requirements.

§ 138.05 PUBLIC DUTY IMMUNITY

The Village and its officers, agents, and employees shall not have any liability or responsibility for any claim, injury, or damage of any kind resulting from a discharge of hazardous material to which the Village or any of its officers, agents, or employees respond.

Section 3. Effective Date. This Ordinance shall be in full force and effect after its passage, approval, and publication in pamphlet form in the manner provided by law.

PASSED this 9TH day of APRIL 2007.

AYES: R. CREWICK, M. HORVATH, M. LANGAN, N. PANN, B. WOLF, L. ASPERGER

NAYS: 0

~~ABSTAIN:~~ ABSTAIN: T. LIVINGSTON

APPROVED this 9TH day of APRIL 2007.


Elizabeth M. Asperger, Village President

ATTEST:


Robert N. Milne, Village Clerk