

Agenda Item # 32

DISTRIBUTION
County Board
County Administrator (2)
Sheriff

STATE OF ILLINOIS)
) SS
COUNTY OF LAKE)

COUNTY BOARD, LAKE COUNTY, ILLINOIS
ADJOURNED REGULAR SEPTEMBER, A.D., 2005 SESSION
March 14, A.D., 2006

MADAM CHAIRMAN AND MEMBERS OF THE COUNTY BOARD:

Your Law and Judicial Committee and Financial and Administrative Committee jointly present herewith an Hazardous Materials Release Ordinance, that sets forth a method to allow Lake County to recover cost associated with the clean up of hazardous material spills; and requests its adoption.

Respectfully submitted,

<u><i>Audrey Nuyon</i></u>	Aye	Nay
Chairman	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u><i>Josephine...</i></u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Vice-Chairman	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u><i>Carol Calabrese</i></u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u><i>Sandy Cole</i></u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u><i>Susan...</i></u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u><i>Steph E. Cook</i></u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Law and Judicial Committee

<u><i>[Signature]</i></u>	Aye	Nay
Chairman	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u><i>[Signature]</i></u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Vice-Chairman	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u><i>[Signature]</i></u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u><i>Robert...</i></u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u><i>Carol Calabrese</i></u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u><i>Steph E. Cook</i></u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Financial & Administrative Committee

ORDINANCE

WHEREAS, the County of Lake has expended significant funds in response and recovery efforts related to hazardous materials releases and spills; and

WHEREAS, the County of Lake establishes policies and procedures to ensure its compliance with the relevant State and Federal laws concerning hazardous materials; and

WHEREAS, the County of Lake has established within the Emergency Operations Plan procedures and responsibilities to contain and remove hazardous materials released into the environment; and

WHEREAS, the County of Lake holds the releaser as liable for all expenses incurred in protecting the public and environment as a result of a hazardous materials release; and

WHEREAS, the Finance and Administrative Committee of the County Board and the Law and Judicial Committee of the County Board have reviewed the proposed Hazardous Materials Release, Cost Recovery Ordinance and recommended that the County Board adopt said policy.

NOW, THEREFORE, BE IT ORDAINED, by this County Board of Lake County, Illinois, that the Hazardous Materials Release, Cost Recovery Ordinance, as attached hereto and made part of this ordinance, is hereby adopted; and

DATED, at WAUKEGAN, LAKE COUNTY, ILLINOIS, on this 14th day of March, A.D., 2006.

County of Lake

ORDINANCE

HAZARDOUS MATERIALS RELEASE COST RECOVERY ORDINANCE

ORDINANCE OF LAKE COUNTY, ILLINOIS

WHEREAS, the cost of providing emergency services to isolate and mitigate the effects of the release of hazardous materials within the boundaries of the County of Lake (the "County") has increased in recent years; and

WHEREAS, the County must respond to mitigate the effects of the release of hazardous materials on the health, safety, and welfare of County residents and property and on the ecological balance of the environment; and

WHEREAS, to obtain sufficient funds to provide emergency services to mitigate the effects of the release of hazardous materials, it is necessary to require those entities using such emergency services to reimburse the County for the cost of such services; and

WHEREAS, the County Board of the County of Lake has determined that it is in the best interest of the County and its residents to provide regulations regarding the release of hazardous materials and to require reimbursement for emergency services involving hazardous materials;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY BOARD OF THE COUNTY OF LAKE, ILLINOIS, AS FOLLOWS:

SECTION ONE: Recitals. The foregoing recitals are incorporated herein as if fully set forth.

SECTION TWO: Definitions. The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

A. **Costs incurred by the County** means all costs and expenses of the County incurred in connection with the clean up or abatement of the release of hazardous materials and shall include, but shall not be limited to, the following: actual labor costs of the County personnel involved in the isolation, clean up or abatement of the release (including workmen's compensation benefits, fringe benefits and administrative

overhead); cost of equipment operation, damage and loss to materials and equipment as determined by the County; cost of materials and rental equipment or county equipment used or consumed by the County or any of its agencies or departments; repairs to equipment or cleanup thereof, necessitated by equipment use in response to a release; and cost of any labor, materials, and equipment provided by the Lake County HAZ MAT Team; other departments providing labor, materials, or services by virtue of any mutual aid agreement or independent contractors.

B. **Release** means to dump, leak, seep, spill, emit or discharge, or leakage, seepage, spill, emission, or other discharge or to create a substantial threat of release requiring emergency response.

C. **Hazardous material** means any substance or material in a quantity and form determined by the United States Department of Transportation to be capable of posing an unreasonable risk to health and safety or property when transported in commerce or any other substance determined to be hazardous or toxic under the laws of the United States or of the State of Illinois.

D. **Responsible party** means a person who:

(1) owns or has custody of hazardous material that is involved in an incident requiring emergency action by an emergency response agency; or

(2) owns or has custody of bulk or non-bulk packaging or a transport vehicle that contains hazardous material that is involved in an incident requiring emergency action by an emergency response agency; or

(3) who causes or substantially contributed to the cause of the incident.

SECTION THREE: Release prohibited. It shall be unlawful for any person, corporation, partnership, unincorporated association, or any unit of federal, state, or local government or any other entity to release any hazardous material into the environment, whether intentionally or unintentionally, except by permit.

SECTION FOUR: Clean up or abatement of hazardous material release; liability for costs.

(a) **Clean Up.** The County or supporting fire departments are authorized to take such action as determined to be reasonably required to contain, neutralize, and clean up or abate the effects of any hazardous material released upon or into any

property, facilities, or the atmosphere within the County where such release creates a hazard or an apparent hazard to any individual, property, or the environment. The County may be assisted in such activities by the Lake County HAZ MAT Team, any other municipal or fire protection district fire department, any party to a mutual aid agreement, or independent contractors, as necessary to protect against or eliminate such hazard or apparent hazard.

(b) **Liability.** Any responsible party shall be jointly and severably liable to the County for the payment of all costs incurred by the County as a result of such clean up or abatement by the County, Lake County HAZ MAT Team, other fire departments, or independent contractors.

(c) **Fire Suppression Services.** The authority to recover costs under this section shall not include actual fire suppression services that are normally or customarily provided by the fire department, unless the fire involves hazardous materials, or other services normally or customarily provided by other municipal fire departments.

(d) **Remedies.** The remedies provided by this article shall be in addition to any other remedies provided by law.

SECTION FIVE. Billing responsible parties; payment to the County.

(a) **Billing responsible parties.** The County shall, within ninety (90) days of completion of the clean up or abatement of any hazardous material release, send an invoice for the costs incurred by the County in connection with such discharge to the person or persons determined by the County to be responsible parties pursuant to Section Four (b) of this ordinance.

(b) **Payment.** The responsible party shall submit payment for the invoice to the County within thirty (30) days of receipt of the County's invoice.

SECTION SIX. Effective date. This ordinance shall be in full force and effect from and after its passage and approval.