

ORDINANCE NO. 2020-37
INTRODUCED BY: Mayor Bodnar

**AN ORDINANCE AMENDING MAYFIELD VILLAGE CODIFIED ORDINANCE
CHAPTER 749 RECOVERY COSTS FOR EMERGENCY ACTIONS**

WHEREAS, Mayfield Village adopted Chapter 749 of the Codified Ordinances in 1989 to provide for compensation to the Municipality for costs for emergency actions with territorial jurisdiction or responsibility of the Municipality; and

WHEREAS, certain provisions of Section 749.02 adopt definitions contained in the Ohio Revised Code; and

WHEREAS, the Ohio Revised Code has modified and amended its provisions regarding definitions of terms; and

WHEREAS, the Mayfield Village Council deems it in the best interest and for the health, safety and welfare of Mayfield Village and its residents to amend Section 749.02 of the Codified Ordinances to render Chapter provisions consistent with the Ohio Revised Code as set forth below.

NOW, THEREFORE, BE IT ORDAINED by the Council of Mayfield Village, Cuyahoga County, State of Ohio that:

SECTION 1. Chapter 749, Section 749.02 of the Village's Codified Ordinances is amended to read as fully set forth in Exhibit "A" attached hereto and incorporated herein by reference.

SECTION 2. That any sections of the Codified Ordinances in conflict herewith are hereby and herein repealed and amended accordingly. All other provisions of the Village Codified Ordinances not inconsistent herewith shall remain in full force and effect.

SECTION 3. The Clerk of Council is authorized and directed to forward a certified copy of this Ordinance to the Codifier of Mayfield Village.

SECTION 4. The Council finds and determines that all formal actions of this Council relating to the adoption of this Ordinance have been taken at open meetings of this Council and that deliberations of this Council and of its committees, resulting in such formal action, took place

in meeting open to the public, in compliance with all statutory requirements including the requirements of Section 121.22 of the Ohio Revised Code.

SECTION 5. This Ordinance shall take effect after adoption and at the earliest time allowed by law.

STEPHEN SCHUTT
Council President

First Reading: _____, 2020

Second Reading: _____, 2020

Third Reading: _____, 2020

PASSED: _____, 2020

BRENDA T. BODNAR, Mayor

APPROVED AS TO FORM:

ANTHONY J. COYNE, ESQ.,
Director of Law

ATTEST: _____
MARY E. BETSA, MMC
Clerk of Council

EXHIBIT A

749.01 PURPOSE AND SCOPE.

The purpose of this chapter is to provide for compensation to the Municipality 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 Municipality, and which spills, releases or discharges require emergency action to protect the public health or safety or the environment. (Ord. 89-33. Passed 10-16-89.)

749.02 DEFINITIONS.

As used in this chapter:

(a) "Common carrier by motor vehicle" means the same as in Ohio R.C. 4923.01 (C) "Motor Carrier" or other Revised Code definition as appropriate.

(b) "For-hire motor carrier" means a person engaged in the business of transporting persons or property by motor vehicle for compensation, except when engaged in any of the following in intrastate commerce: means the same as in Ohio R.C. 4923.01 (B) as appropriate.

(c) "Costs" includes, but is not limited to, all direct and incidental costs, including personnel costs, incurred by or on behalf of the Municipality 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 Municipality in the event of an unauthorized spill, release or discharge, and who submits a written invoice to the Municipality setting forth its costs incurred in responding to the incident.

(d) "Material" means the same as in Ohio R.C. 3745.13, and any regulations promulgated or matters decided thereunder, as appropriate.

(e) "Motor vehicle" means 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 Ohio R.C. 4923.02.

(g) "Railroad" means the same as in Ohio R.C. 4907.02.

(h) "Unauthorized spill, release or discharge" means the same as in Ohio R.C. Chapter 3745, any regulations promulgated or matters decided thereunder, and includes, but is not 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 Ohio R.C. Chapter 1509, 3704, 3734 or 6111 and rules adopted thereunder, or the terms and conditions of a current and valid permit or license.

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(Ord. 89-33. Passed 10-16-89.)