

## ORDINANCE #83-2

AN ORDINANCE PROHIBITING THE POLLUTION OF THE SURFACE AND GROUND WATERS WITHIN THE COUNTY OF OCEAN AND FURTHER PROHIBITING THE DISCHARGE OF HAZARDOUS SUBSTANCES INTO THE SURFACE OR GROUND WATER WITHIN THE COUNTY OF OCEAN.

WHEREAS, the public health and welfare has been threatened in the County of Ocean because of the introduction of pollution and hazardous substances on the ground and into the surface and ground water of the County; and

WHEREAS, injury has been caused to the streams and underground water supply of the County of Ocean by said pollution and hazardous substances and will continue to be caused to said streams and underground water supply unless abated;

and

WHEREAS, other remedies such as enforcement through existing statutes and State or Federal agencies are insufficient because of the limited scope of the remedy offered or the great delay in obtaining enforcement of relief; and

WHEREAS, the Ocean County Board of Health is empowered to pass ordinances to protect the public water supply and prevent the pollution of the ground and surface waters of Ocean County and to prevent the use of or to close any well, the water of which is polluted or detrimental to the public health; and

WHEREAS, the Ocean County Board of Health is further empowered to enforce the making of returns or reports to the

Ocean County Health Department on the part of any person charged with such duty under any law and to take cognizance of any failure to make such returns and reports and deal with the same in an effective manner; and

WHEREAS, the Ocean County Board of Health is further empowered to prohibit any nuisances, offensive matter, foul or noxious odors, gasses or vapors which are injurious to the health of the inhabitants of the County of Ocean and order the abatement of such action.

NOW, THEREFORE, BE IT ORDAINED by the Ocean County Board of Health, State of New Jersey as follows:

SECTION 1.       Short Title.       This Ordinance shall be known as the Ocean County Board of Health Pollution Control and Hazardous Substances Ordinance.

SECTION 2.       Definitions.       For the purpose of this Ordinance, the following words and phrases when used herein shall be defined as follows:

A.       The term "person" shall mean and include any person, firm, partnership, corporation or association.

B.       The phrase "water pollution" shall mean the presence in or upon the surface or ground waters of the County of Ocean of one or more contaminants, including any form of solid or liquid waste of any composition whatsoever, in such quantities and duration as are, or tend to be, injurious to the human health or welfare, animal or plant life, or property, or would unreasonably interfere with the enjoyment of life or property within any portion of the County of Ocean.

C. The phrase "Hazardous substances" shall mean such elements and compounds including, but not limited to petroleum products, which are defined as such by the New Jersey Department of Environmental Protection, which shall include the list of Hazardous substances adopted by the Federal Environmental Protection Agency pursuant to Section 311 of the Federal Water Pollution Control Act Amendments of 1977, 33 U.S.C. 1251 et seq., and the list of toxic pollutants designated by Congress or the EPA pursuant to Section 307 of said Act.

D. The term "discharge" shall mean any intentional or unintentional action or omission resulting in the relasing, spilling, leaking, pumping, pouring, emitting, emptying or dumping of hazardous substances into the ground or surface waters of the County of Ocean or onto lands from which it might flow or drain into said waters, excepting discharges pursuant to and in compliance with the conditions of a valid Federal or State permit.

SECTION 3. Prohibition against Polluting.

A. No person shall pollute or permit to be polluted any stream of water or well, the water of which is used for domestic purposes, or any well, spring, stream, lake or any body of water in such manner as to cause or threaten injury to any of the inhabitants of the County of Ocean, either in health, comfort or property, or to cause or threaten degradation of water quality resulting in damage to the aquatic community or wildlife in and adjacent to the affected body of water.

B. All persons shall maintain their premises, storage and other facilities so as to prevent water pollution

from gaining access to any stream of water or well, the water of which is used for domestic purposes, or any well, spring, stream, lake or any body of water whether designated as ground or surface water in such manner as to cause or threaten injury to any of the inhabitants of this County, either in health, comfort or property, or to cause or threaten degradation of water quality resulting in damage to the aquatic community or wildlife in and adjacent to the affected water body.

SECTION 4.        Discharge of Hazardous Substances Prohibited.        Allowing a discharge of a hazardous substance into the ground or surface waters of the County of Ocean or to remain upon the ground so that it could enter into the surface or ground water of the County of Ocean is prohibited.

SECTION 5.        All Discharges of Hazardous Substances to be Reported.        Any discharge of a hazardous substance shall be reported by the owner, operator or person in charge of any facility or vehicle from which the discharge occurs to the Ocean County Health Department immediately upon its occurrence, by telephone. Within twenty-four (24) hours of the telephone report, the owner, operator or person in charge shall submit to the Ocean County Health Department a written report setting forth the time, place, date, persons present, with addresses and details of the discharge of the hazardous substance. These reports shall set forth the amount of the discharge, a thorough description of the hazardous substance, the proposed method of abatement and the estimated cost of the removal of the hazardous substance. A report of all steps being taken to clean up the discharge shall be filed every seventy-two (72) hours

thereafter until the Ocean County Health Department determines that the discharge has been correctly abated. The requirement for follow up reports may be waived in writing, by the Ocean County Health Department.

SECTION 6. Access to Facility and Records.

The owner, operator or person in charge of the facility or vehicle wherein or from which a discharge of a hazardous substance occurs shall provide access to the area and records involving the discharge and the substance discharged to the agents and employees of the Ocean County Health Department for the purpose of taking samples, photographs, photocopies of documents and statements from witnesses as to the discharge or substance discharge.

SECTION 7. Discharge is to be Removed or

Contained. The owner, operator or person in charge of the facility or vehicle from which the discharge of hazardous substances occurs shall take all steps necessary to stop the discharge and remove or contain the hazardous substance so that under no circumstances can it reach the public water supply or pollute the surface or ground waters of the County of Ocean.

SECTION 8. Right of Inspection.

A. For the purpose of enforcement of this Ordinance, the Ocean County Health Department, its employees and agents may inspect business, agricultural, commercial, industrial, and/or landfill sites and shall be permitted to enter upon such public and private property and examine, test and take samples of any and all substances which may affect ground or surface water, including but not limited to

water, solid materials, soil, spills, subsurface disposal systems underground and above ground storage tanks, and discharges of any nature into the air, ground or otherwise.

B. For the purpose of enforcement of this Ordinance, the Ocean County Health Department, its agents and employees may require that information be provided to the Department by the owner or occupant of a business, agricultural, commercial, industrial, landfill or other site regarding chemicals used, produced and/or disposed of at said site including but not limited to:

(1) All information made available to the State of New Jersey Department of Environmental Protection or the United States Environmental Protection Agency;

(2) Quantity;

(3) Trade name;

(4) Generic name;

(5) Method of storage;

(6) Method of disposal;

(7) Any other persons or parties involved in disposal;

(8) On-site treatment facilities for waste products.

In the event the information requested is a trade secret, or samples made by the Ocean County Health Department are trade secrets, such information shall be restricted and revealed only to those parties whose knowledge of such information is necessary for the enforcement of this Ordinance.

#### SECTION 9. Registration.

A. Every owner or occupant of a business, agricultural, commercial, industrial, landfill or other site

storing hazardous materials in quantities totaling more than fifty-five (55) gallons liquid volume or twenty-five (25) pounds dry weight shall register with the Ocean County Health Department the types, quantities, location and method of storage and disposal of said hazardous substances. However, the registration requirement of this sub-section shall not apply to any site used exclusively for residential purposes. The registration statement required by this provision shall be initially submitted to the Ocean County Health Department within ninety (90) days after the effective date of this Ordinance and annually thereafter within thirty (30) days of January 1 of each calendar year.

B. In addition to submitting the registration statement required by Subsection A of this Section, the owner or occupant of a business, agricultural, commercial, industrial, landfill or other site for which a registration statement is required under Subsection A above shall maintain on the premises an inventory, reconciled on a monthly basis of the purchase, use, sale and disposal of all hazardous substances. The purpose of this account is to detect any product loss and to provide an ongoing record of all quantities of hazardous materials within the County of Ocean over the registration threshold.

SECTION 10. Procedure for Search Warrant.

If the owner of the premises refuses to permit entry to the Ocean County Health Department, its agents or employees for the purposes set forth in this Ordinance, the Department may apply to the municipal court judge of the municipality within which the premises are located for a search warrant.

The application shall be based upon an affidavit setting forth that the entry, examination, test or sample is for the purposes set forth in this Ordinance, and that conditions and circumstances provide a reasonable basis for believing that such entry, examination, test or sample may enable the Ocean County Health Department or any other governmental agency to protect the public water supply or prevent the pollution of the ground waters or surface waters of the County of Ocean. If the judge is satisfied as to the matter set forth in the affidavit, he shall authorize the issuance of a search warrant permitting access to the premises for those purposes set forth in this Ordinance.

SECTION 11. Power to Close Well.

A. In the event it is determined by the Ocean County Health Department that the water in any well is polluted or detrimental to the public health, it is herewith empowered to prevent the use of or close said well.

B. All water testing laboratories shall report to the Ocean County Health Department, within three (3) working days, all testing results of public and private water supplies, including wells, located in Ocean County that:

(1) Reveal the existence of priority pollutants as designated by the United States Environmental Protection Agency; and

(2) Exceed the current maximum contaminant level of the national interim primary drinking water standards of the Safe Drinking Water Act (P.L. 93-523, 40 FR 11990, 1975). In the event that a substance constitutes a priority pollutant under Subsection 1 above as



well as a contaminant under Subsection 2 above, the testing results shall be reported to the Ocean County Health Department only if they see they exceed the current maximum contaminant level set forth in Subsection 2 above.

SECTION 12. Order to Cease and Desist, Abatement and Injunctive Relief. In the event it is determined by the Ocean County Health Department that any person is doing or permitting any act which is polluting the surface or ground waters of the County of Ocean in such a manner as to cause or threaten injury to any of the inhabitants of the County of Ocean, either in health, comfort or property, or to cause or threaten degradation of the water quality of the ground or surface waters of the County of Ocean resulting in damage to the aquatic community or wildlife in and adjacent to the affected waters, the Ocean County Health Department may order such person or persons to cease and desist from the continuance of such act or the continuance of permitting such act. In addition, the Ocean County Health Department may order such person or the owner of the subject premises to abate the said pollutant within such time as the Ocean County Health Department may specify. In addition to any other remedies, the Ocean County Health Department may institute an action in the Superior Court for injunctive relief.

SECTION 13. Non-Limiting Provision. Nothing contained herein shall be deemed to limit the Ocean County Health Department from exercising any other right or power granted by the Federal, State or local government to effectuate the purpose of this Ordinance or to protect the

health of the community.

SECTION 14. Severability. In the event that any section, sentence or clause of this Ordinance shall be deemed unconstitutional or invalid by a court of competent jurisdiction, such declaration shall not in any manner prejudice the enforcement of the remaining sections.

SECTION 15. Violations and Penalties.

A. In addition to any other liability or penalty imposed by law, any person violating any provision of this Ordinance shall, upon conviction thereof, be subject to a penalty of not less than One hundred (\$100.00) dollars nor more than Five hundred (\$500.00) dollars for each offense.

B. Each and every day in which a violation of any of the provisions of this Ordinance exists shall constitute a separate violation.


SECTION 16. Inconsistent Ordinances Repealed.

All Ordinances or parts of Ordinances which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 17. Effective Date. This Ordinance shall take effect upon final adoption and publication in accordance with the provisions of N.J.S.A. 26:3-69 and N.J.S.A. 26:3A2-27.

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing Ordinance was duly introduced and passed on first reading at a regular meeting of the Ocean County Board of Health, State of New Jersey held on the 16th day of February, 1983. Further notice is given that said Ordinance will be considered for final passage and adoption at a regular meeting of said Ocean County Board of Health to be held at the Ocean County Health Department, Sunset Avenue, Toms River, New Jersey at 8 o'clock p.m. on the 16th day of March, 1983, at which time and place any person interested therein will be given an opportunity to be heard.

  
Robert Singer, Secretary  
Ocean County Board of Health

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PUBLIC NOTICE is hereby given that the ordinance entitled as above was finally passed and adopted at a regular meeting of the Board of Health of Ocean County held on March 16, 1983.

I certify the foregoing to be a true copy of an Ordinance adopted by the Ocean County Board of Health on the

16th day of March, 1983

  
Secretary

