

BIG CREEK TOWNSHIP ORDINANCE NO. 6

Adopted by Township Board of Big Creek, Oscoda County, Michigan on the 19th day of February 1979.

HANDLING AND/OR DISPOSAL OF TOXIC OR HAZARDOUS SUBSTANCES WITHIN BIG CREEK TOWNSHIP

Be it ordained by the Big Creek Township Board, Oscoda County, Michigan that this ordinance be and is hereby adopted as follows:

SECTION 1. UNLAWFUL ACTS.

It shall be unlawful to engage in or carry on any business or activity which involves the hauling (except over public highways) or disposing of any toxic or hazardous substance within the Township of Big Creek, unless such activity, business or disposal facility has been approved and authorized pursuant to a permit issued under this ordinance.

SECTION 2 TOWNSHIP CONCERNS.

It is determined that the utilization or disposal of toxic and hazardous substances is an activity which, if conducted on certain lands within the Township or in certain ways, will result in pollution, impairment and/or destruction of natural resources thereby creating hazards to the public health, safety and general welfare of the people of the Township of Big Creek and nuisances of both a private and public nature. It is further determined that licensing and regulation of these activities is therefore required to protect natural resources and the public health, safety, and general welfare, of the people of the Township of Big Creek, Oscoda County, Michigan.

SECTION 3 DEFINITIONS.

A. "Disposal Facility" means any waste disposal facility, incinerator, sanitary landfill, pit excavation, or any other facility used for disposal of toxic or hazardous substances except facilities for disposal of human wastes approved by the County Health Department.

B. "Disposal Area" means any area of land upon which a disposal facility is located or proposed for location within the Township.

C. "Applicant" means any individual, firm, corporation, or political subdivision of the State, including any governmental authority created by Statute, or other person, that proposes to develop a disposal facility within the Township.

D. "Toxic or Hazardous Waste" means any material, liquid, solid or other matter such as P.B.B. which is harmful or dangerous to human health, or to birds, fish, wildlife, trees or other plants including, but not by way of limitation, any chemical, substance or material listed in the Michigan Critical Material Register published by the Michigan Department of Natural Resources, or determined to be toxic, harmful or hazardous by the Environmental Protection Agency, pursuant to Public Law 94-469.

E. "Person" means an individual, co-partnership, association, corporation, or other legal entity, or any political subdivision of the State, including any State or local governmental agency.

SECTION 4. APPLICATION FOR PERMIT.

Application for a permit shall be made in writing to the Big Creek Township Board and shall contain the following:

A. Names, addresses and telephone number of applicant, engineer, attorney, scientist, contractor or other person engaged in the preparation of the application.

B. Legal description of the premises for which the permit is sought.

C. A description including, if applicable, the chemical analysis of said toxic or hazardous substance involved in the application, whether it is liquified, solid or mixed, whether it has been treated and, if so, how and where. Also describe any treatment or processing to be done on permit premises.

D. The estimated volume of toxic or hazardous substance to be hauled, utilized, or disposed of.

E. Statement of the measures to be taken to control noise, vibration, dust, odors, erosion, leaching, or other forms of pollution.

F. A description of the measures which applicant proposes to take to assure public safety, the exclusion of children from the premises, and the lateral support of surrounding lands and structure.

G. A description of any public facilities or services required, if such services exist, and if not, how applicant proposes these services be provided and financed.

H. Applicant shall provide a diagram or map of the premises and surrounding area which shall include the following information:

- (1) A topographic map of the area
- (2) Description of natural and improved drainage surface and features
- (3) Location of all wells within one mile of the application site
- (4) Location of all dwellings within one mile of the application site.
- (5) Proposed access to the application site
- (6) Soil characteristics of the application site
- (7) Proposed buffers or features to control drainage from the area where toxic or hazardous substances are to be disposed of
- (8) Proposed ground water monitoring points
- (9) Proposed delivery, storage, and transfer location, if within the application site

I. Applicant shall provide an environmental impact statement describing the environmental consequences of the proposed activity both during the operating and after, and setting forth any limitation or restrictions on the proposed operations that are necessary to protect the environment.

J. When requested, applicant will provide a description of the surface and subsurface geological characteristics of the premises, including identification of bedrock and rock outcrops, detailed soil analysis and ground water table,

the location of existing or desired test wells.

SECTION 5 PROCESSING OF APPLICATIONS:

All applications shall be filed with the Township Clerk of Big Creek Township. The Township Board shall determine the necessity of employing independent professional impact study. If necessary, he shall also determine the costs of such services of such advisors, and the total of said costs shall be reported to the applicant, who shall pay said amount to the Township before the application shall receive any consideration. If, during the course of processing the application, it appears that additional expenditures shall be required, the same shall be reported to the applicant and same shall be paid to the Township forthwith.

Big Creek Township Planning Commission or any other Township agency deemed necessary shall contact the County Planning Commission and any applicable Zoning Commission for advise with respect to the impact of the grant of a permit upon existing planning for land use and/or zoning and future development of the area under consideration.

SECTION 6 PUBLIC HEARING :

Prior to the granting of any permit hereunder, the Big Creek Township Board shall conduct a public hearing, the notice of the date, time, place and purpose published in a newspaper of general circulation in the Township at least Fourteen (14) days prior to said hearing.

SECTION 7 STANDARDS FOR DECISION.

In determining whether or not to grant the license applied for, the Township Board shall consider the application, the reports of its professional advisors, the report of the Township Planning Commission or other agency and the evidence presented at the public hearing. It shall also consider the determination of the people of the State of Michigan in the Constitution of 1963, Article IV, Section 52, that the conservation and development of the natural resources of the State are of paramount public concern in the interests of the health, safety and general welfare of the people. It shall grant a license only if it first determines that the pro-

posed activities will not pollute, impair or destroy significant natural resources, create hazards to the public health or safety, or result in public or private nuisance that is reasonably predictable.

SECTION 8 SPECIAL CONDITIONS, BONDS AND INSURANCE:

The Big Creek Township Board may attach any special conditions, restrictions, requirements, or limitations to any license which it regards as reasonably necessary to protect the public health, safety and general welfare, prevent pollution, impairment or destruction of natural resources and avoid the creation of public or private nuisances. The Big Creek Township Board may also set such terms and conditions for bond or liability insurance protection as may seem reasonably necessary and appropriate.

SECTION 9 REGULATION OF LICENSED OPERATIONS.

The Big Creek Township Board shall obtain the services of qualified technicians and professionals to monitor the operations of the licensee at such intervals as they may consider necessary and to report to the Big Creek Township Board whether the operations are being conducted in accordance with the terms of the license and the provisions of this Ordinance and whether or not the operations are resulting in any nuisance or any hazard to the public health, safety or general welfare, or are causing pollution, impairment or destruction of natural resources.

SECTION 10. PAYMENT OF COST OF REGULATION - EFFECT OF FAILURE TO PAY:

Upon receiving bills for the services and expenses of the persons designated to monitor the operations of any licensee, the Big Creek Township Board shall forward them to the licensee by first class mail. The licensee shall pay them within Ten (10) days of mailing by the Big Creek Township Board. Whenever any such bill has not been paid within the time specified above, the license shall be automatically be suspended until payment is made.

SECTION 11 SUSPENSION OF LICENSE:

The Big Creek Township Board may suspend any license upon finding that the

licensee has violated any provision of this Ordinance or any term or condition of the license. The Big Creek Township Board may suspend any license without notice upon determining that such suspension is necessary to prevent immediate danger to health, life or property. Except as provided in the preceding sentence and in Section 10 hereof, a license shall be suspended only after the following proceedings: The licensee shall be served with a written notice of the intention of the Big Creek Township Board to suspend the license, which notice shall specify the alleged facts and reasons which form the basis for the proposed suspension, and shall specify the date, time and place when the Big Creek Township Board shall meet to consider the proposed suspension. Such notice shall be served by mailing by first class mail addressed to licensee at his address as shown on the application or at such other address as licensee may from time to time furnish the Big Creek Township Board in writing. At the time, place and date specified, which shall be at least Ten (10) days after service of the notice, the Big Creek Township Board shall hear and consider evidence regarding the matters mentioned in the notice and shall afford the licensee an opportunity to be heard and to present evidence. The license shall not be suspended unless the Big Creek Township Board determines the existence of grounds for suspension as set forth above. Any suspended license shall be reinstated by the Big Creek Township Board upon finding that the reasons and grounds for suspension no longer exist.

SECTION 12. EXCEPTIONS:

Except as hereinafter expressly set forth, nothing contained herein shall be deemed to require a permit for the construction of any disposal site or facility prior to the effective date of this Ordinance. Operators of any disposal site or facility shall apply for and obtain a permit to continue operation under this Ordinance within Ninety (90) days of the effective date of such Ordinance.

SECTION 13. FEES:

The fees for obtaining any permit in addition to those expenses previously set forth shall be established by the Big Creek Township Board and approved by the

Big Creek Township Board.

SECTION 14. VIOLATION AND PENALTIES:

Violation of this Ordinance shall be punished by imprisonment in the county jail for not more than Ninety (90) days or by a fine of not more than One Hundred Dollars, (\$100.00), or by both such fine and imprisonment. Each and every day on which a violation continues shall constitute a distinct and separately punishable violation. Any violation of any State or Federal law or regulation arising out of or in the course of any business or activity regulated by this Ordinance shall also constitute a violation of this Ordinance.

SECTION 15. SEVERABILITY:

If any action, sub-section, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not effect the validity of the remaining portion hereof.

SECTION 16. EFFECTIVE DATE:

This Ordinance shall take effect on the 31st day after publication following adoption as required by law.

By Authority of Township Board.

Kathleen Mitchell
Township Clerk
Big Creek Township