

LOCAL LAW NO. 4-2019
A LOCAL LAW REPEALING CHAPTER 90 OF THE
VILLAGE CODE ENTITLED "EMERGENCY RESPONSE ACTIONS"

BE IT ENACTED, by the Board of Trustees of the Incorporated Village of Garden City, in the County of Nassau, as follows:

Section 1. Legislative Intent.

In light of recent case law, Chapter 90 of the Village Code, entitled Emergency Response Actions, shall be and is hereby repealed.

Section 2.

Chapter 90 of the Village Code is hereby amended to solely read as follows:

§90-1 through §90-5 [Reserved].

~~§90-1. Definitions.~~

~~As used in this chapter, the following terms shall have the meanings indicated:~~

~~EMERGENCY RESPONSE ACTION~~

~~All of the activities conducted by the Village and/or the Village Fire Department to clean up, remove, prevent, contain or mitigate a discharge of oil, gasoline or other hazardous materials or a response to an electric or natural gas emergency on a public street or public right-of-way or in a utility easement.~~

~~EXPENDABLE ITEMS~~

~~Any materials, equipment or supplies used in an emergency response action which cannot be reused or cannot be replenished without cost after a particular emergency response action as defined in this chapter. These include but are not restricted to chemical extinguishing agents, absorbent material, sand, recovery drums and specialized protective equipment, to include but not be restricted to acid suits, acid gloves, goggles and protective clothing.~~

~~HAZARDOUS MATERIALS~~

~~Any material solid, liquid or gas listed as such under the National Fire Protection Association Guide to Hazardous Materials or the Department of Transportation Emergency Guidebook.~~

~~VEHICLE~~

~~Any motorized equipment, registered or unregistered, including but not limited to passenger cars, motorcycles, trucks, tractor-trailers, construction equipment and farm machinery.~~

~~VESSEL~~

~~Any container, drum, box cylinder or can used to hold or contain or carry or store any hazardous~~

material.

~~§90-2. Reimbursement for services; responsibility.~~

~~Reimbursement to the Village for any expendable items used in any emergency response action, as defined in § 90-1 of this chapter, shall be made, after receipt of a bill from the Village for such items, by the following responsible party/parties within 45 days:~~

~~A. The owner or operator of any vehicle which is involved in a leak or spill of oil, gasoline or other hazardous material, whether stationary or in transit, whether accidental or through negligence.~~

~~B. The owner or person responsible for any vessel containing hazardous materials involved in any leak or spill, whether stationary or in transit, whether accidental or through negligence.~~

~~C. The owner or person responsible for any property from which any leak or spill of hazardous material emanates, whether accidental or through negligence.~~

~~D. Any person or entity responsible for any leak or spill of oil, gasoline or other hazardous material, whether accidental or through negligence.~~

~~E. Any person or entity responsible for any property which is the subject of an emergency response action involving an electric or natural gas emergency, whether accidental or through negligence.~~

~~§90-3. Fees.~~

~~In addition to any reimbursements for expendable items, the Village may charge the responsible party/parties, as set forth in § 90-2 of this chapter, fees for services rendered or other technical assistance provided by the Village in response to any emergency response action as defined in this chapter. Fees for such services shall be as set from time to time by resolution of the Village Board of Trustees.~~

~~§90-4. Civil penalty upon failure to pay reimbursements or fees.~~

~~Any party/parties responsible for services as set forth in this chapter who fails to reimburse the Village or pay the fees as set forth in this chapter, within the time set forth in this chapter, shall be subject to a civil penalty, including the actual costs involved in any incident, plus 50% administrative fees for collection.~~

~~§90-5. Conflict with other provisions.~~

~~Nothing in this chapter shall be construed to conflict with any state or federal laws requiring persons causing or responsible for any release or threatened release of hazardous material to engage in remediation activities or pay the costs thereof, or both.~~

Section 3. Severability.

If any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or

invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 4. Effective Date.

This local law shall take effect immediately upon filing with the Secretary of State.

Thereupon the above Local Law was submitted for final passage and the vote thereon was as follows:

AYES: 7

NOES: 0

The resolution was declared adopted.