

TOWNSHIP OF MUSSEY  
ST. CLAIR COUNTY, MICHIGAN

ORDINANCE NO. 6

AN ORDINANCE TO REGULATE THE DISPOSAL, TREATMENT AND/OR STORAGE OF HAZARDOUS WASTES.

THE TOWNSHIP OF MUSSEY ORDAINS:

Section 1 - SHORT TITLE

This Ordinance shall be known and may be cited and referred to as the "MUSSEY TOWNSHIP HAZARDOUS WASTES ORDINANCE".

Section 2 - PURPOSE

The purpose of this Ordinance is to provide for the use of lands for the safe disposal, treatment, and/or storage of hazardous wastes within the Township of Mussey. In recognition of the fact that the promotion of the public health, safety and general welfare of the residents of Mussey Township and the preservation of the Township resources and the prevention of nuisances and hazards require reasonable control of these operations, it is deemed necessary that said operations be regulated and that standards be established wherein procedures permitting said operations are established, operating requirements are set forth, the administration of such standards are provided for, and penalties are provided.

Section 3 - DEFINITIONS

- A. BOARD: means the Mussey Township Board.
- B. BOARD OF APPEALS: means the Mussey Township Zoning Board of Appeals.
- C. CELL: means an area of hazardous wastes, segregated by "compatible waste types", and completely enveloped by cover material.
- D. COMPATIBLE WASTE TYPES: means waste which, when in contact with each other, do not pose a threat to human health or the environment greater than existed when they were separate.
- E. DISPOSAL FACILITY: means a site or location at which hazardous waste is intentionally placed into or on any land or water and at which hazardous waste will remain after closure.

F. DISPOSAL: means the discharge, deposit, injection, dumping, spilling, leaking, or placing of a hazardous waste into or on land or water in a manner that the hazardous waste or a constituent of the hazardous waste may enter the environment, or be emitted into the air, or discharged into the ground or surface water.

G. FLOOD PLAIN: means that area of land adjoining a river or stream which will be inundated by a 100-year flood.

H. GROUND WATER: means any water found under the surface of the earth.

I. HAZARDOUS WASTE: means wastes or a combination of waste and other discarded material including solid, liquid, semi-solid, or contained gaseous material which because of its quality, quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or increase in serious irreversible illness, or pose a substantial present or potential hazard to human health or the environment if improperly treated, stored, transported, disposed of, or otherwise managed. Hazardous waste also includes all material defined by rule promulgated pursuant to Act No. 64 of the Public Acts of 1979, as amended.

J. LEACHATE: means fluid that has percolated through hazardous waste and which contains contaminants consisting of dissolved or suspended materials, chemicals and microbial waste products from the hazardous waste.

K. LANDFILL: means a disposal facility or part of a facility where hazardous waste is placed in or on land and which is not a land treatment facility, a surface impoundment, or an injection well.

L. LIFT: means a layer of cells which raise the ground elevation to an approximately common level.

M. PERSON: means any individual, partnership, corporation, association, institution, cooperative enterprise, municipality, the State commission, political subdivision of the State, federal agency, any interstate body, or other duly established legal entity.

N. SITE: means a parcel or unit land.

O. STORAGE: means the containment of hazardous waste, either on a temporary basis or for a period of years, in a manner so as not to constitute disposal of the the hazardous waste.

P. SURFACE WATERS: means water occurring generally on the surface of the earth.

Q. TREATMENT: means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste, or so as to render the waste nonhazardous or less hazardous, safer to transport, store, or dispose of, amenable to recovery, amenable to storage, or reduced in volume.

R. WATERCOURSE: means any natural or artificial channel or depression in the surface of the earth that provides a course for water flowing either continuously or intermittently.

S. WETLAND: means land which is characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation or aquatic life and which is commonly referred to as a "bog", "swamp" or "marsh".

#### Section 4 - RULES AND REGULATIONS ADOPTED

It is hereby adopted, by reference, the rules and regulations of the various agencies of the State of Michigan promulgated pursuant to statutes applicable to environmental concerns. The rules and regulations specifically adopted are as follows:

A. Promulgated pursuant to Act No. 64 of the Public Acts of 1979 and published in the Quarterly Supplement No. 6 of August 15, 1981 to the Michigan Administrative Code of 1979, being rules 299.6101 through 299.7305 inclusive.

B. Promulgated pursuant to Act No. 641 of the Public Acts of 1978 published in the Supplement to the Michigan Administrative Code of 1979 being rules 299.401 et seq.

C. Promulgated pursuant to Act. No. 245 of the Public Acts of 1929 and published in the Michigan Administrative Code of 1979, being rules 323.1001 through 323.2160 inclusive of the Water Resources Commission.

D. Promulgated pursuant to Act No. 348 of the Public Acts of 1965 and published in the Michigan Administrative Code of 1979, being rules 336.11 through 336.147 inclusive of the Air Pollution Control Commission.

E. Promulgated pursuant to Act No. 127 of the Public Acts of 1970.

F. The General Rules of the Michigan Water Resources Commission, Part 22 Groundwater Quality, which became effective August 29, 1980.

Section 5 - PERMITS, PROCEDURE, GRANTING AND REVOCATION OF PERMITS

A. ADMINISTRATION: The Township Board shall grant permits and do all other acts authorized herein.

B. ENFORCEMENT:

1. Agency. This Ordinance shall be enforced by the Township Board and/or any agent appointed by the Township Board.

2. Inspections. By accepting a permit issued under this Ordinance, the Owner and/or operator of any operation shall be presumed to have consented to regular and routine inspections of the property. Said consent shall be authority to go on to any property under Permit for purposes of any inspection. Upon prima facie violation of this Ordinance, the Township Board may revoke said Permit pursuant to its police powers and consistent with the Administrative Procedures Act, and either party may request and be granted thereafter a Public Hearing on said Permit revocation.

C. PERMIT

1. Requirement Established. From and after the effective date of this Ordinance, no person shall operate a hazardous waste facility in Mussey Township except in accordance with a Permit issued by the Township Board, pursuant to the authority of this Ordinance.

2. Issuance Procedure.

a. Full name and addresses of all parties of interest in said premises setting forth their legal interest. Proof of said legal interest shall be provided;

b. A detailed and full legal description of the premises wherein the operations are proposed shall be provided;

c. Topographical survey map at a scale of one (1) inch equals one hundred (100) feet, showing existing and proposed grades on a two (2) foot contour interval. Said grades shall be prepared and sealed by a Civil Engineer or Land Surveyor, registered as such by the State of Michigan.

d. A statement and calculations by a Registered Civil Engineer or Land Surveyor as to the cubic yards of the fill material to be deposited and a detailed statement and engineering plan as to how the filling is to be accomplished;

e. Detailed engineering plan which identifies all types of materials to be deposited for fill, an indication of specific places on the property where the fill is to be placed, a detailed statement as to the methods of operation, the type of machinery or equipment to be used, and the estimated period of time that such operations shall cover;

f. Statement of similar operations carried on by the applicant, including location by municipality;

g. The type and daily number of vehicles to be used in the proposed operations;

h. Identification of access roads, on-site roads, a drainage plan that identifies grades for proper drainage and any special draining devices, if necessary, fencing, any structures on site existing or proposed, existing and proposed utilities, and an explanation of any on-site testing or other reliable survey data, including, but not limited to, soil surveys, water tables and identification and evaluation of subsurface characteristics;

i. Presentation of an Impact Statement which includes an evaluation of the social and ecological environment in and around the site. The following items must be addressed as well as any other characteristics unique to the site or area;

(1) Impact on the natural environment

(a) Inventory and describe the existing vegetation and wildlife found on the site. To what extent will they be permanently impaired or eliminated as a result of the proposed operations?

(b) Will the proposed operations alter the existing drainage patterns of the area surrounding the site?

(c) What effect will the operations have on the quantity and quality of groundwater in the area? What steps will be taken to protect wells on adjacent property?

(d) How will the proposed operations affect air quality in the surrounding area?

(e) What noise levels will result from the proposed operations, and what steps will be taken to limit noise?

(f) What natural features, such as unique topography, mature trees, natural streams, marshlands, swamps and the like, will be destroyed by the proposed operations?

(g) How will the proposed operations affect soil stability in the area?

(h) Are there potential historic or archeologic characteristics that may be destroyed?

(i) Identify flood plains and the 100-year flood elevation.

(2) Impact on the social environment

(a) How will the proposed operation affect the physical and cultural attractiveness of the surrounding area?

(b) What impact will the proposal have on landmarks and aesthetic views in the area?

(c) Will the proposed operations create a nuisance for residents in the area?

(d) What impact will the proposal have on neighborhood character and privacy in the area?

(e) How will the operation affect property values and the quality of housing in the adjoining areas?

(3) Economic impact

(a) Will the proposal increase employment in the Township or the County?

(b) How does the petitioner's past performance indicate financial stability and ensure completion of the proposed project?

(c) Will the proposed operations impair the economic growth of any existing land uses?

(d) Will the proposed operations impair the usefulness of adjoining properties?

(4) Public service impact

(a) What additional public services, such as police and fire protection, will be required as a result of the proposal?

(b) What impact will the proposal have on local tax revenues?

(c) Will the proposal significantly increase traffic congestion in the area?

(d) What effect will the truck traffic have on road conditions over the proposed haul route?

(e) Will the proposed haul route impact any other municipalities other than Mussey Township?

The above information is to be provided in sufficient detail to allow the Township to systematically and thoroughly evaluate the potential impact of the proposed operations on the surrounding area and the community as a whole.

j. Statements, Design Plans, and Attachments

(1) A sworn statement and site plan which specifies in detail the proposed use of the land after closure. The final grades presented shall be consistent with the purposes for the property after completion of operations.

(2) Application Attachments. Applications for a Permit to operate a hazardous waste facility shall contain or be accompanied by the following information:

(a) Design plans prepared by a Civil Engineer and a Chemical Engineer and bearing the signature and seal as professional engineers registered in the State of Michigan.

(b) Background data, including the following:

1. Present and estimated service area, particularly areas outside the State of Michigan.

2. Estimated daily quantities to be disposed, handled, treated, or transported, by type.

3. Anticipated weight and volume of all non-hazardous wastes to be disposed of.

4. Inventory control plan showing proposed location of various types of hazardous wastes, separated for future re-cycling.

(c) Maps, in the number prescribed by the Township, drawn to the scale of one inch equals one hundred (100) feet or larger and with two (2) foot

contour intervals. Maps shall include as a minimum the following information:

1. Property boundaries and boundaries of areas to be filled. Also show boundaries of all contiguous properties and names of owners.
2. Access and location.
3. Proposed traffic patterns.
4. Location of fencing.
5. Location of weighing facilities.
6. Location of existing and proposed utilities.
7. Indication of use of adjoining land and buildings.
8. Borrow and soil storage areas for cover materials.
9. Location of public and private water supplies, wells, springs, swamps or other bodies of water within one-half (1/2) of a mile of the proposed disposal facility site property lines.
10. Location of gas and oil wells.
11. Location of high-tension power line rights-of-way.
12. Location of fuel transmission pipeline rights-of-way.
13. Location of mining operations within one-half of one mile of property lines of the proposed disposal facility.

(d) Design Plans

1. A plan of operations shall be prepared which can be easily interpreted and submitted to the Township. Said plan shall be specific as to areas to be filled, schedule of filling, site preparations, source and types of materials to be used as cover.



2. The plan should include details relative to:
- a. Compaction of solid wastes;
  - b. Application of daily cover material;
  - c. Elevation and grade of final cover;
  - d. Linear construction;
  - e. Leachate collection treatment and recirculation or disposal;
  - f. Management of ground water;
  - g. Management of surface water;
  - h. Erosion control;
  - i. Revegetation procedures to be used;
  - j. Typical cross-sections of lifts, dimensions and elevations of the base lifts;
  - k. Grades required for proper drainage of lifts;
  - l. Decomposition gas control measures;
  - m. Location, grades, erosion control measures, and maximum height of cover material stockpiles;
  - n. Site security measures proposed, including personnel, methods of surveillance, type of perimeter alarm system proposed, and the like;
  - o. Evacuation Plan;
  - p. Medical Emergency Plan;
  - q. Fire Emergency Plan;
  - r. Restoration Plan for Landfills;
  - s. Post Operational Surveillance Plan;
  - t. Emergency Plan to contain spills or leachate on site;

(e) Hydrogeologic Investigation and Report - a hydrogeologic report and monitoring program which is in compliance with the current standards of the State of Michigan and its agencies shall be provided.

D. SUPPLEMENTAL INFORMATION. Such other information and material as the Township Board shall require.

E. FEES AND/OR COSTS. An applicant for a Permit shall deposit such fees and/or costs as are required by Resolution of the Township Board.

F. BASIS FOR ISSUANCE. The Township Board shall authorize the issuance of the Permit only if it finds that the granting of said Permit will:

1. Not be injurious to the public health, safety and welfare of the Township and its residents;
2. There has been compliance with all the requirements and standards of this Ordinance, and the other applicable Codes and Ordinances of the Township;
3. The proposed operation will not create a hazard, annoyance, or inconvenience to the owners or occupants of nearby property;
4. Will not significantly change the character of the neighborhood or reduce the value of nearby property;
5. And will not create an obstacle to the implementation of the Master Plan of the Township.

G. DURATION, EXPIRATION AND RENEWAL. After approval of the facility by the Township Board, the Board shall issue a Permit for a period of up to one (1) year, expiring on August 31 of each year, and renewable annually for a year or less by the Township Board without further Public Hearing.

H. CONDITIONS

1. Necessity. The Township may attach such conditions to the granting of the Permit under this Section which it may find necessary to insure that the intent and purpose of the Ordinance is in all respects observed.
2. Violation. Any violation of a condition(s) included in the Permit shall be construed as a violation of this Ordinance and shall give rise to the penalties provided in this Ordinance and shall be grounds for revoking the Permit.

## I. REVOCATION

1. Notice of Violation. The Township Board shall notify the owner and operator of any violation of the Permit and/or this Ordinance.

2. Failure to Abate Violation. Upon failure of the owner and/or operator to abate said violation within twenty-four (24) hours of delivery of said notice, said operation site may be summarily closed, and the Permit therefore suspended or revoked, and the Township Board shall resort to the bond for restoration.

3. Hearing Request. Any owner and/or operator aggrieved of any notice sent pursuant to this sub-section, may request a Hearing before the Township Board, if the request is in writing and delivered to the Township. The request shall set forth why the operation site should not be summarily closed, the Permit suspended or revoked, and resort had to the bond.

4. Action Pending Hearing. In any case, if the Township Board determines the operation of the hazardous waste facility would be detrimental to the health and/or safety of persons and/or property, the Board may summarily, and without twenty-four (24) hours notice, suspend or revoke the Permit but shall grant a Hearing upon request as provided herein.

5. Hearing. If a request for a Hearing is received, the Township Board shall hold a hearing within seven (7) days and may, after the Hearing, continue the suspension or revocation of the Permit, or take such other action as appears appropriate under the circumstances.

J. DESIGN PLAN CHANGES. The permittee shall submit a written request to the Township Board for approval of changes to the original plans, specifications, reports and methods of operation submitted with a Permit application. No such change shall be initiated until the written approval of the Township Board has been obtained.

## Section 6 - PERFORMANCE BOND AND INSURANCE REQUIREMENTS

### A. PERFORMANCE BOND

1. Requirement Established. The applicant shall post a performance bond in the form of cash, a bank letter of credit or, at the discretion of the Township Board, a surety bond or some other security satisfactory to the Board, naming the Township of Mussey as the Beneficiary thereof, in an amount determined by the Board to be reasonably necessary to insure compliance hereunder.

2. Conditions of Bond.

a. Guarantee Compliance. Bonds shall guarantee compliance with this Ordinance, the Permit requirements and conditions, and that the operation will be carried out according to the approved plans and specifications.

b. Forfeiture of Bond. Upon failure of timely compliance with the requirements of the bond guarantees, the Township may use the bond proceeds to the extent necessary to accomplish such requirements.

B. NON-COMPLIANCE ENFORCEMENT. The filing of an application will be deemed to grant a license to the Township and its agents to go upon a property under Permit to use the bond proceeds for the purposes of the bond, where there has been non-compliance.

C. ESTABLISHING AMOUNT

1. Consideration. In fixing the amount of such bond, the Township Board shall take into account:

a. The size and scope of the proposed operation;

b. Current prevailing cost of rehabilitating the premises upon default of the operator;

c. Such other conditions and factors as might be relevant in determining the sum reasonable in light of all facts and circumstances surrounding each application;

2. Minimum Amount. In no case will the sum of the performance bond be less than Ten Thousand Dollars (\$10,000.00) for each acre or fraction thereof of land to be covered by the Permit.

D. NOTICE OF LAPSE. The Township shall be notified by the bonding company at least ten (10) days prior to discontinuance, alteration, or any lapse in the effectiveness of the bond.

E. REDUCTION OF BOND. For each acre restored and reclaimed in accordance herewith, or otherwise, said bond may be reduced pro-rata as determined by the Township Board.

F. ENVIRONMENTAL IMPAIRMENT/GENERAL LIABILITY INSURANCE

1. Requirement Established. The applicant shall secure and file with the Township Clerk certifications of proof of insurance, insuring the Applicant, his employees and/or agents or representatives, and the Township for general comprehensive liability in an amount of at least One Million Dollars (\$1,000,000.00) per person and Five Million Dollars (\$5,000,000.00) per occurrence. Said insurance policy shall include coverage for environmental impairment.

2. Notice of Discontinuance. The certifications or renewals thereof shall provide that the Township shall be notified in writing ten (10) days prior to discontinuance or alteration of any such insurance coverage for any reason.

#### Section 7 - PERFORMANCE STANDARDS

No hazardous waste facility is permitted within the Township unless said operations are in compliance with the current standards of the State of Michigan and its agencies and shall comply with the following:

A. SOUND. The pressure levels of sounds shall not exceed the following decibel levels when adjacent to the following types of uses:

Sound Level	Adjacent Use	Where Measured
40 dBA	Open Space/Recreation	Common Property Line
40 dBA	Residential	Common Property Line
40 dBA	Agriculture	Common Property Line
60 dBA	Commercial	Common Property Line
75 dBA	Industrial & Other	Common Property Line

The sound levels shall be measured using a weighted decibel measurement (referenced to 20 micropascals) and with a type of audio output meter approved by the U.S. Bureau of Standards. Objectionable noise due to intermittance, beat, frequency, or shrillness, shall be muffled so as not to become a nuisance to adjacent uses.

B. VIBRATIONS. All machinery shall be so mounted and operated as to prevent transmission of ground vibration exceeding a displacement of 0.003 of one inch measured at any property line of its source.

C. ODORS. The emission of noxious, odorous matter in such quantities as to be readily detectable at any point along lot lines, when diluted in the ratio of one volume of odorous air to four or more volumes of clean air, or as to produce a public nuisance or hazard beyond lot lines, is prohibited.

D. GASES. The escape of or emission of any gas so as to be injurious destructive or explosive shall be unlawful and may be summarily caused to be abated.

E. GLARE OR HEAT. Any operation producing intense glare or heat shall be performed within an enclosure so as to completely obscure and shield such operation from direct view from any point along the lot line, except during the period of construction of the facilities to be used and occupied.

F. LIGHT. Exterior lighting shall be so installed that the surface of the source of light shall not be visible from any bedroom window, and shall be so arranged as far as practical to reflect light away from any residential use, and in no case shall more than one foot candle power of light cross a lot line five (5) feet above the ground in a residential district.

G. SMOKE, DUST, DIRT AND FLY ASH. It shall be unlawful to discharge into the atmosphere from any single source of emission whatsoever any air contaminants for a period or periods aggregating more than four (4) minutes in any one-half (1/2) hour which are:

1. As dark or darker in shade as that designated as No. 2 on the Ringelmann Chart as published by United States Bureau of Mines. However, the Umbrascope reading of smoke densities may be used when correlated with the Ringelmann Chart.

2. Of such opacity as to obscure an observer's view to a degree equal to or greater than the smoke described in "1." above, except when the emission consists only of water vapor. The quantity of gas-borne or air-borne solids shall not exceed 0.20 grains per cubic foot of the carrying medium at a temperature of five hundred (500) degrees Fahrenheit.

H. DRIFTED AND BLOWN MATERIAL. The drifting or air-borne transmission beyond the property line of dust, particles of debris from any open stockpile, working areas or unplanted areas, shall be unlawful and may be summarily caused to be abated.

I. ROADS. Roads on landfill and soil excavation sites shall be designed and constructed so that traffic will flow smoothly and will not be interrupted by inclement weather. All roads to the site shall be paved which are used by vehicles and/or equipment traveling to or from the site, and all roads on site, shall not be used unless they are properly treated with a substance that would be appropriate for the surface, and frequent enough so that they are dust free whenever used by vehicles and/or equipment. Roads on site shall mean roads designated on approved plans, and such other areas used by vehicles and/or equipment for travel on a regular basis.

J. MUD, DIRT, CLAY ETC., ON PUBLIC ROADS. The owner and/or Permit holder of any site where there is soil removal and/or any filling, shall take whatever steps are necessary to avoid any motor vehicle carrying or tracking onto any public right-of-way from the site, any mud, dirt, clay, refuse, etc. If mud, dirt, clay, refuse, etc., is carried or tracked onto a public right-of-way, and it does, or might constitute a nuisance or hazard to public safety, the owner and/or Permit holder shall clean the right-of-way after the end of any working day. If notified during a working day by the Township of a condition

which requires cleaning, the matter shall be taken care of within one (1) hour. If a nuisance or hazardous condition is left after a working day, or not cleaned up within the one (1) hour after receiving a request from the Township, the Township may issue a Citation for the violation of this Section due to the allowance of said condition to remain on the highway, and/or clean the right-of-way, and charge the owner and/or Permit holder with the cost thereof, which may be collected in any court having general jurisdiction.

K. HOURS OF OPERATION. Operations shall be limited to daylight hours only, between 7:00 a.m. to 7:00 p.m. unless otherwise specified by the Board. In emergency situations this time period may be modified by the Township Board provided such emergency order shall not be effective for more than 72 hours.

L. DRAINAGE. Natural drainage shall not be blocked or diverted in such a manner as to cause the natural water flow to back up onto adjacent property, or to flow in a different course upon leaving the property upon which the blocking or diversion occurs, unless an application is made and a Permit is issued by the Building Department pursuant to plans which provide for a drainage flow which will not be detrimental to surrounding properties.

M. FLOOD PLAIN, WATERCOURSE AND WETLANDS. There shall be no excavation, soil removal, filling or depositing of hazardous waste materials in any flood plain, watercourse and/or wetlands.

N. RADIOACTIVE MATERIALS. The disposal of radioactive materials shall be prohibited in the Township of Mussey.

O. SOIL EROSION. If a Soil Erosion Permit is required by Act 347 of the Public Acts of 1974 of the State of Michigan, as amended, no operation shall take place until a permit has been obtained. There shall be compliance at all times with the requirement of the Soil Erosion Permit.

P. WATER POLLUTION CONTROL. Hazardous waste facilities shall be so designed and operated that conditions of unlawful pollution will not be created and injury to ground and surface waters avoided which would interfere with legitimate water use in the area of the site. To avoid such hazards, the following precautions shall be taken:

1. All usable aquifers underlying the hazardous waste facility one-quarter (1/4) mile of the site shall be delineated.
2. Wells for monitoring usable aquifers, as required by the State of Michigan, shall be installed around the perimeter of the hazardous waste facility site.

3. Ground water elevation shall be determined below the entire hazardous waste facility site and the dominant direction(s) of ground water movement toward and away from the site shall be mapped. A minimum of one (1) ground water elevation and quality monitoring well shall be drilled in each dominant direction of ground water movement, down-gradient of hazardous waste placement. One (1) monitoring well shall be installed upgradient of hazardous waste placement. Ground water monitoring well screens shall be set so that the top of the screen is five (5) feet below the yearly low ground water table elevation in unconfined aquifers.

4. Quarterly inspections in testing for purity of surrounding area wells, if requested by the Mussey Township homeowners, shall be done by a laboratory selected by Mussey Township and at the operator's expense. If a well is contaminated after a hazardous waste facility begins operation, the operator shall, (within ten (10) days of written notice by the laboratory sent to the owner of the well, the Mussey Township Clerk, and the landfill operator), initiate whatever measures are necessary to keep the well in question in the equivalent amount of pure and usable water within thirty (30) days, including replacing the well owner's water supply, if no other method of purifying the water supply is feasible.

#### Section 8 - REQUIREMENTS FOR HAZARDOUS WASTE FACILITIES

A. GENERAL. Hazardous waste facilities, consistent with the provisions of this Ordinance, may be permitted in Mussey Township so as to provide an engineered method of disposal, treatment, and/or handling of hazardous wastes without creating environmental hazards. Planning, design, and operation of hazardous waste facilities shall be based on empirically derived data and state-of-the-art technology. Secondary containment, leachate collection and treatment systems, and failure detection systems shall be incorporated into the design and operation of hazardous waste facilities.

B. LOCATIONS. Hazardous waste facilities shall be prohibited in any district other than the I-2 Heavy Industrial District.

C. SETBACKS. No hazardous waste facility shall be operated within one thousand five hundred (1,500) feet of any adjacent residentially zoned district or existing single family dwelling, unless otherwise approved by the Township Board. Active disposal, treatment, storage, and/or handling areas shall be set back at least five hundred (500) feet from all property lines.



D. SECURITY FENCES. All hazardous waste facilities shall be completely surrounded by a minimum eight (8) foot high, chain link fence or other non-climbable fence, complete with a least three strands of barbed wire at the top and locked security gates.

E. PERIMETER ALARM. A perimeter alarm system shall be installed capable of alerting the operator and his security personnel to any unauthorized entry to the site, at any point along the perimeter.

F. 24-HOUR SURVEILLANCE. The operator shall maintain 24-hour surveillance of the hazardous waste facility by trained, security personnel.

G. SUPERVISION. Unloading of hazardous wastes shall be continuously supervised and access to the site shall be limited to daylight hours when a supervisor is on duty.

H. INVENTORY. A complete inventory shall be maintained of wastes disposed of on-site. In order to facilitate future re-cycling, wastes shall be separated and disposed of by compatible type. A complete copy of the wastes disposed of since the last inventory shall be provided to the Township every six (6) months within 10 days of June 30th and December 31st each year.

I. TYPES OF WASTES. Prior to the issuance of a Permit, the applicant shall file with the Township Board, a schedule listing those items which are to be processed for disposal at the facility. The schedule of items to be processed or disposed of or stored at the facility may not be added to, or altered, without prior notification to the Township Board.

J. TRANSPORTATION ROUTES. The Applicant shall file with the Township Board for approval the proposed route to be used by vehicles as they proceed in and through the Township. The proposed route shall be the shortest route over major thoroughfares as may be possible and shall not be on gravel or unpaved roads.

K. SCHEDULE OF OPERATIONS. The applicant shall file with the Township Board for approval a proposed schedule of operations indicating times during which deliveries shall be accepted and removals conducted, facilities shall be operated, and other on site mobile equipment operated. The schedule of operations shall not cause unreasonable safety hazards, traffic disruptions or disruptions or disturbance of the peace in the Township.

L. PORTABLE CONTAINER STORAGE. The storage of drums or other portable containers shall be limited to a building designed for this storage that provides for proper control of fugitive vapors and secondary containment of releasable liquids. The floor of said building shall be of concrete or equivalent material.

M. STORAGE PRIOR TO DISPOSAL. Storage of hazardous waste prior to disposal shall be confined to above ground permanent tanks with a total tank capacity not to exceed the twenty (20) day operating capacity of the facility. Storage of trailers, tankers, or similar equipment not currently licensed for such storage is prohibited. Storage of hazardous waste in underground tanks is prohibited.

N. STORAGE OF RESIDUES. Storage of residue from operation of the facility shall be limited to 120 cubic yards which shall be completely covered by suitable material so as prohibit it from blowing, drifting, or otherwise moving from its point of storage.

O. SOLID WASTES DISPOSAL PRECLUDED. Solid wastes, as defined and regulated by Act 641 of 1978, as amended, shall not be placed within a hazardous waste disposal facility in Mussey Township unless such action conforms to the St, Clair County Solid Waste Management Plan and received prior approval from the Mussey Township Board.

#### Section 9 - REPORTS, RECORDS, AND EMERGENCY NOTIFICATION

A. RECORDS. The permittee shall maintain written records of all hazardous wastes accepted by the facility. Said records shall detail the type, weight, volume and source of each waste as well as the shipping manifest and any processing or treatment of the waste which occurred at the facility before disposal.

B. EMERGENCY NOTIFICATION. The Township shall be notified in the case of any spill or release of hazardous waste or similar emergency on-site within twenty-four (24) hours of the occurrence. If any person is injured and required a doctor's care as a result of such emergency, the Township shall be notified within twelve (12) hours. If a death occurs, the Township shall be notified immediately. The first notice of any emergency shall be given to the Township Supervisor. If the Township Supervisor cannot be contacted, the second notice shall be given to a private security company, to be named by the Township Board.

#### Section 10 - INSPECTION AND ENFORCEMENT

Any Registered Professional Engineer and/or Professional Hydrogeologist, appointed by the Township Board as an Ordinance inspection/enforcement officer, shall have the right of reasonable access to the site of any hazardous waste facility located within Mussey Township for the purpose of inspecting such facilities for compliance with this Ordinance, any other applicable Township ordinances, the rules, regulations, permits and licenses of any applicable state law. During the course of

the inspection, the inspection/enforcement officer shall have the authority to conduct any tests and to examine the records of receiving, treatment, storage and disposal of wastes maintained by the operator.

Upon completion of any inspection which reveals violations of the Permit, the rules and regulations of the State of Michigan or an applicable state law, the inspection officer shall notify the appropriate enforcement agencies of the Township of Mussey, the County of St. Clair or the State of Michigan, or the federal government, of the existence of such violation and request of said agencies the institution of appropriate enforcement action. A copy of such notification shall be provided to the owner or operator of the hazardous waste facility. If the inspection reveals a violation of a Township ordinance, a county ordinance, or any state law which provides the right of action to the Township for enforcement, the enforcement agency of the Township shall take such enforcement measures as provided by the ordinance being violated.

Section 11 - FEES FOR CLEAN-UP, EMERGENCY EQUIPMENT AND TRAINING OF EMERGENCY PERSONNEL

A. TIPPING FEE SCHEDULE. The following schedule of fees shall be paid by the operator based on the source of the waste disposed of at the facility:

1. \$10.00/ton for wastes generated within the State of Michigan.
2. \$12.50/ton for wastes generated outside the State of Michigan but within the United States.
3. \$15.00/ton for wastes generated outside the United States.

B. PURPOSES FOR COLLECTION OF TIPPING FEES. The tipping fees shall be used for the purpose of equipment, training, and training up-date of local emergency personnel, including but not limited to, police, fire and EMS. It shall all also be used to establish a fund for clean-up in the event of an emergency on-site, and for correction of any effects on individual water supplies, and the like, for the restoration and re-use of the site after closure, and for any other purposes stated in the following Section 11, E.

C. PARTIAL RETURN OF FEES TO OPERATOR. For the purpose of rewarding all responsible operators of hazardous waste facilities, the clean-up fund from tipping fees shall not exceed \$5,000,000.00 from any individual facility. Once the fund reaches this limit for an individual facility, all interest earned shall be returned to the operator until final closure occurs.

D. COLLECTION OF TIPPING FEES. The tipping fees shall be submitted by the operator within 10 days of June 30th and December 31st of each year at the time of submission of the Inventory, as required by Section 8, H of this Ordinance.

E. EXPENDITURE OF TIPPING FEES. The expenditure of tipping fees shall be made by authority of the Township Board. The Township Board may use said fees for any of the following purposes:

1. Purchase of emergency service vehicles and equipment necessary to protect the health, safety and welfare of the residents of the Township of Mussey in the event of an emergency situation at a hazardous waste facility.
2. Training and training up-date of emergency service personnel, such as, but not limited to, fire, police and emergency medical service (EMS).
3. Establishment of a clean-up fund for hazardous waste accidents on or off-site.
4. Correction of any demonstrated affects on individual water supply wells.
5. Restoration and re-use of any hazardous waste disposal site after closure.
6. To take or promote whatever actions may be deemed necessary or appropriate to protect the environment of the area surrounding the hazardous waste facility from any existing, imminent, potential or possible detriment, impairment or pollution.
7. For the monitoring, inspecting and testing of soil, waste, air, or water samples, or the assessment of incoming waste materials.
8. To compensate property owners whose dwellings are adjacent to the hazardous waste disposal facility, and who sell, during the effective term of this Ordinance, their dwellings which were constructed prior to the permitting of a facility pursuant to this Ordinance, but only if the seller establishes by a preponderance of evidence that the existence and operation of the hazardous waste facility diminished the price of said dwelling from that which it would have brought but for the existence or operation of the hazardous waste facility. The amount of the distribution shall not exceed the difference between the actual selling price of said dwelling in a good faith, arms length transaction, and the price it would have brought but for for the existence of the facility, and shall be reduced by an amount equal to any increase in value of said dwelling

resulting from any improvements financed by previous distribution of tipping fees.

#### SECTION 12 - VIOLATIONS AND PENALTIES

A. Any person violating any of the provisions of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not more than Five Hundred Dollars (\$500) plus costs of prosecution or imprisonment in the County Jail for a period of not to exceed ninety (90) days, or both such fine and imprisonment at the discretion of the Court, together with the costs of said prosecution.

B. In addition to such fine and/or imprisonment, the Township Board may notify the owner and/or operator of any violation of the Permit and/or this Ordinance, and upon failure of the owner and/or operator to abate said violation within twenty-four (24) hours after delivery of said notice, said operation site may be closed and the Permit therefore suspended or revoked, and resort had to the the bond for restoration.

C. Any owner and/or operator aggrieved by any notice sent pursuant to this Section, may file a written request for a Hearing before the Township Board. The request should set forth why the operation site should not be summarily closed, the Permit suspended or revoked, and resort had to the bond. The Township Board may summarily close the site and suspend or revoke the Permit pending a Hearing, if it is determined the health and safety of persons and/or property requires it.

#### Section 13 - REPEAL AND SAVINGS CLAUSE

All Ordinances and parts of Ordinances inconsistent with the provisions of the Ordinance are hereby repealed. The repeal of the above Ordinances and/or any amendments adopted to this Ordinance shall not affect or impair any act done, offense committed or right accruing, accrued or acquired, or liability, penalty, forfeiture, or punishment incurred prior to the time enforced, prosecuted or inflicted.

The Ordinance and the various parts, sections and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph, section of clause is adjudged unconstitutional or invalid, it is hereby provided the remainder of the Ordinance shall not be affected thereby.

#### Section 15 - EFFECTIVE DATE

This Ordinance shall become effective thirty (30) days after publication of a Notice of Adoption.

CERTIFICATION OF ADOPTION OF MUSSEY TOWNSHIP HAZARDOUS WASTES ORDINANCE.

I hereby certify that at the regular Mussey Township Board meeting held on 9/9/87, it was moved by RINKE and supported by KILLINGBECK, that the above and foregoing Ordinance to be known as the Mussey Township Hazardous Wastes Ordinance shall be adopted and a Notice of Adoption ordered published in the Tri-City Times:

AYES: 5

NAYS: 0

ABSENT: 0

Julia Hofert, Clerk  
Julia Hofert  
Mussey Township Clerk

I hereby further certify that the foregoing is a true and complete copy of the Hazardous Wastes Ordinance adopted by the Township Board of the Township of Mussey, St. Clair County, Michigan, at a regular meeting held on 9/9/87, and that said meeting was held pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan 1976, and that the Minutes of said meeting were kept and will be or have been made available as required by said Act.

Julia Hofert, Clerk  
Julia Hofert  
Mussey Township Clerk