

ORDINANCE NO. 248 HAZARDOUS MATERIALS CLEAN-UP ORDINANCE

LARKIN TOWNSHIP ORDINANCE TO ESTABLISH CHARGES FOR TOWNSHIP EMERGENCY SERVICES RESPONDING TO A HAZARDOUS MATERIALS EMERGENCY INCIDENT.

An ordinance to establish charges and the collection of such charges for Larkin Township emergency services responding to an incident involving hazardous materials under Public Act 33 of 1951 of the State of Michigan, as amended (Compiled Law 41.801, et. seq.) and to provide methods for the collection of such charges.

Section 1: Purpose

In order to protect the Township of Larkin (the "Township") from incurring extraordinary expenses resulting from the utilization of Township resources to respond to an incident involving hazardous materials, the Township Board authorizes the imposition of charges to recover reasonable and actual costs incurred by the Township in responding to calls for assistance in connection with a hazardous materials release.

Section 2: Definitions

A. Hazardous Material. The term "hazardous material" shall mean any hazardous waste, hazardous substances or hazardous materials as defined in any federal, state, county or local statute, law, regulations, rules, ordinances or codes relating to environmental protection, including without limitation: the Clean Air Act; the Federal Water Pollution Control Act of 1972; the Resource, Conservation and Recovery Act of 1976; the Comprehensive Environmental Response, Compensation and Liability Act of 1980; the Federal Hazardous Materials Transportation Act; the Toxic Substance Control Act; the Michigan Water Pollution Control Act; the Michigan Solid Waste Disposal Act; the Michigan Environmental Response Act; and any amendments, regulations and guidelines related to those laws.

B. Incident. The term "incident" shall mean a response by the Larkin Township Fire Department, its personnel or any of its equipment arising from a call from any person, property owner, law enforcement agency, fire or emergency response unit of another governmental entity, emergency medical response unit (public or private) or as dispatched by the Larkin Township Fire Department itself involving a release or discharge of hazardous material.

C. Responsible Party. The term "responsible party" shall mean any individual, firm, corporation, association, partnership, commercial entity, joint venture, governmental entity or any other legal entity that is, in whole or in part, the cause of an actual or threatened release or discharge of hazardous material or is an owner, tenant occupant or party in control of property receiving any benefit, services or equipment provided by the Township in response to an incident. When the service rendered by the Township

Fire Department directly benefits more than one person, entity or property, each owner, tenant, occupant or party in control of each property so benefited shall be a responsible party.

D. Release or Discharge. The terms "release" and "discharge" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, leaching, seeping, dumping or disposing into the environment.

Section 3: Charges

Where the Township Fire Department responds to a call for assistance in connection with an incident, actual expenses and costs incurred by the Township responding to such a call shall be imposed upon responsible parties. Expenses and costs for purpose of this Ordinance and the imposition thereof upon the responsible party shall, include but not be limited to:

A. Three Hundred Fifty and 00/100 (\$350.00) Dollars, per hour, or fraction thereof, for each pumper required, in the opinion of the officer in command, to stand by at the incident. For each hour, or fraction thereof, that the pumps are activated, an additional One Hundred Fifty and 00/100 (\$150.00) Dollars shall be charged.

B. Three Hundred Fifty and 00/100 (\$350.00) Dollars, per hour, or fraction thereof, for each water tender required, in the opinion of the officer in command, to be utilized in responding to the incident.

C. Three Hundred Fifty and 00/100 (\$350.00) Dollars, per hour, or fraction thereof, for each additional Township owned Fire Department vehicle required, in the opinion of the officer in command, to be utilized in responding to the incident.

D. All personnel related costs incurred by the Township as a result of responding to the incident. Such costs may include, but are not limited to, wages, salaries and fringe benefits, insurance and fire run fees paid to firefighters. Such personnel-related charges shall commence after the first hour that the department has responded to the incident and shall continue until all Township personnel have concluded the incident responsibilities.

E. Other expenses incurred by the Township in responding to the incident, including but not limited to, rental or purchase of machinery, equipment, labor, consultants, legal and engineering fees, medical and hospitalization costs, and replacement costs related to disposable personal protective equipment, extinguishing or neutralizing agents, supplies, water purchased from municipal water systems and meals and refreshments for personnel while responding to the incident.

F. Charges to the Township imposed by local, state or federal government entities related to the incident.

G. Costs incurred in accounting for all incident related expenditures, including billing and collection.

Section 4: Billing and Payment

A. Following the conclusion of the incident, the Chief of the Township Fire Department shall submit a detailed listing of all known expenses to the Township Treasurer, who shall prepare and submit to the responsible parties an invoice for the chargeable expenses in accordance with this Ordinance. The treasurer's invoice shall be due in full from the responsible parties within 30 days of its submittal. Any additional expenses that become known to the Chief of the Township Fire Department following submittal of the initial invoice to the responsibly party shall be submitted in the same manner. All amounts remaining due after 30 days of submittal shall bear interest at the rate of seven (7%) per annum.

B. The expenses and costs invoiced by the Township Treasurer shall be the joint and several obligation of all responsible parties. The Treasurer shall set forth upon its invoice the names of all responsible parties who shall each receive a duplicate copy. No payment or partial payment of the invoiced expenses and costs shall relieve any responsible party from its joint and several obligation on any remaining balance.

Section 5: Collection Remedies

The Township may pursue any and all remedies available to it in the collection of past due sums, including, but not limited to institution of appropriate legal action in a court of competent jurisdiction and, where available, imposition of a lien or charge imposed upon the real or personal property benefited from the services. The recovery of costs and charges under this Ordinance does not limit the liability of the responsible parties under any other local ordinance, state or federal law, rule or regulation.

Section 6: Severability

Should any provision or part of this Ordinance be declared by any court of competent jurisdiction to be invalid or unenforceable, the same shall not affect the validity or enforceability of the balance of this ordinance which shall remain in full force and effect.

Section 7: Effective Date

This Ordinance shall take effect immediately upon its publication. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Adopted at a meeting of the Township Board, Charter Township of Larkin, Midland County, Michigan.

Ordinance No. 248, adopted August 15, 2006.