

Part 165

165.000 - HAZARDOUS MATERIALS COST RECOVERY Ord. No. 342 Adopted: February 5, 1996

An Ordinance to establish charges for Township emergency services responding to an incident involving hazardous materials under P.A. 102 of 1990, as amended, (CL 41.806a); to define hazardous materials subject to such charges; and to provide for the collection of such charges.

THE COMSTOCK CHARTER TOWNSHIP BOARD, KALAMAZOO COUNTY, MICHIGAN
ORDAINS:

165.001 - Purpose.

Sec. I. The purpose of the within Ordinance is to provide for defraying a portion of expenses of the Township resulting from the Township responding with emergency equipment and personnel to a hazardous materials accident or incident involving the release or threatened release of hazardous materials into the environment which requires emergency attention to protect the health, safety and general welfare of the public.

165.002 - "Hazardous materials" defined.

Sec. II. For purposes of this Ordinance, "hazardous materials" means explosives, pyrotechnics, flammable gas, flammable compressed gas, non-flammable compressed gas, flammable liquid, combustible liquid, oxidizing material, poisonous gas, poisonous liquid, irritating material, liquefied petroleum gas, and other materials customarily considered dangerous to living beings or contaminating to the environment.

165.003 - "Release" defined.

Sec. III. For purposes of this Ordinance, "release" includes any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, leaching, dumping or disposing of hazardous materials into the environment.

165.004 - "Responsible party" defined.

Sec. IV. A "responsible party" is any individual, firm, corporation, association, partnership, commercial entity, consortium, joint venture, government entity or any other legal entity that causes a release of a hazardous material, or whose action threatens such release; or who is an owner, tenant, occupant or party in control of property onto which or from which hazardous materials are released or threatened to be released.

165.005 - Charges imposed upon a responsible party or parties.

Sec. V. Where the Township fire and/or police department responds to a release of hazardous materials or a threatened release of such materials, the responsible party or parties shall be liable to the Township for the following costs incident to such Township response:

- A. All personnel costs of all personnel attending on behalf of and with the authority of the Township including their current hourly rate, fringe benefits, and salary apportioned to the length of time in attendance, calculated commencing one hour after receipt of the signal to respond and continuing for each personnel until that personnel has concluded his or her incident related responsibilities.

- B. The equipment costs of all equipment attending as established by an itemized resolution of the Township Board setting forth the costs attributable to each piece of Township equipment which might be involved in such a response. This resolution may be amended from time to time to reflect changes in equipment, inflation factors, and accounting records of past occurrences.
- C. Other expenses incurred by the Township including, but not limited to, rental or purchase of additional machinery or equipment, retention of consultants, medical and hospitalization costs, replacement costs related to disposable personnel protective equipment required to be disposed of, extinguishing chemicals, supplies and water purchased from water systems, and meals and refreshments for emergency personnel while responding to the hazardous materials incident.
- D. Additional charges imposed by any other local, state or federal government entities, related to the incident.
- E. Administrative costs incurred in accounting for all expenditures and for billing and collection of such expenditures which shall not exceed 25 percent of the foregoing costs.

165.006 - Billing procedures.

Sec. VI. Following the conclusion of the hazardous materials incident, the fire chief shall submit a detailed listing of all known expenses to the Township treasurer, who shall prepare an invoice to the responsible party for payment. The treasurer's invoice shall demand full payment within forty-five (45) days of the receipt of the bill. Any additional expenses that become known to the Township fire chief following the transmittal of the bill to the responsible party shall be billed in the same manner on a subsequent bill to the responsible party. For any amounts due that remain unpaid after forty-five (45) days, the Township shall impose a late charge of one (1%) percent per month or fraction thereof.

165.007 - Non-exclusive charges.

Sec. VII. The foregoing rates and charges shall not be exclusive of other charges that may be made by the Township for the costs and expense of maintaining a fire and/or police department, but shall only be supplemental thereto. Charges may additionally be collected by the Township through general taxation after a vote of the electors approving the same, or by special assessments established under Michigan statutes pertinent thereto.

165.008 - Other remedies.

Sec. VIII. The Township may pursue any other remedy, or may institute any appropriate action or proceeding, in a court of competent jurisdiction to collect charges imposed under this Ordinance. The recovery of charges imposed under this Ordinance does not limit the further liability of responsible parties under local ordinance or state or federal law, rule or regulation.

165.009 - Severability.

Sec. IX. Should any provision or part of the within 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.

165.010 - Effective date and repeal of conflicting ordinances.

Sec. X. This Ordinance shall take effect upon its publication following its adoption by the Township Board. All ordinances or parts of ordinances in conflict herewith are hereby repealed.