

**TOWNSHIP OF LAPEER**

**COST RECOVERY ORDINANCE**

**ORDINANCE NO. 4**

An ordinance to require reimbursement to the Township for responses to certain incidents necessitating fire protection and other services.

**THE TOWNSHIP OF LAPEER ORDAINS:**

**Section 1. REIMBURSEMENT REQUIRED.**

The Township shall be entitled to receive reimbursement from:

- A. Those responsible for owning or controlling property affected by, the leaking, spilling, releasing or allowing certain hazardous substances or materials to escape containment, or for damaged and/or downed power lines, electric service lines, gas mains, gas service conduits, water mains, sanitary sewer mains, storm sewer mains, occupancy leads, telephone lines, cable television lines, traffic signals or signs; thereby requiring the Township and/or its agents, to provide emergency containment, cleaning and/or disposal of hazardous substances or materials, or for the securing and prudent monitoring of the site of an accident or natural disaster, including those involving public or private utilities.
- B. Those responsible for owning or controlling property affected by or involved in an emergency incident including bomb threats, vehicle fires, illegal fires, extrication from vehicles involved in accidents, or accident-related cleanup for which the Township or its agents have provided emergency response services.

**Section 2. DEFINITIONS.**

For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

- A. Accident, including Natural Disaster. An unforeseen or unexpected happening or occurrence which of itself causes great harm or damage, or which creates the potential for great harm or damage to individuals and/or property, and which requires immediate and prudent securing and monitoring by the Township, and/or agents of the Township, to reduce the potential for such damage, but not including emergency incidents.
- B. Bomb Threat. Bomb threat means the verbal or written threat of a bomb or other explosive device which if discharged as threatened would:
  - (1) Violate a federal, state or local law, or
  - (2) Cause property damage and/or personal injury or death.

- C. Dangerous or Hazardous Substances or Materials. Any substance (including gases or vapors) which, if spilled, leaked, or otherwise released from its container, is dangerous or harmful to the environment or human or animal life, health or safety, or otherwise constitutes a danger, threat or nuisance to the public health, safety or welfare. Hazardous materials shall include, but not be limited to, such substances as chemicals and gases, explosives, radioactive materials, petroleum or petroleum-based products, poisons, biologic agents, flammable combustibles, hazardous wastes, or corrosives. The Fire Chief or the Chief's designee, shall have reasonable discretion to determine whether any particular substance constitutes a hazardous material.
- D. Emergency Incident. Emergency incident means a bomb threat, vehicle fire, an illegal fire, extrication from vehicles involved in accidents, and accident-related clean up.
- E. Emergency Response. The providing of fire rescue services by the Township at an emergency incident, an incident involving release of a dangerous or hazardous substance or material, or an accident or a natural disaster.
- F. Expense of Emergency Response.
1. The expense for an emergency incident shall be according to a fee schedule adopted by the Lapeer Township Board.
  2. For all other emergency responses, the direct costs incurred by the Township in making an appropriate emergency response to an accident or incident, including the costs of providing firefighting and rescue services or the services of other agents of the Township, at the scene of an incident or accident. Related administrative costs, accruing after the occurrence of such incident or accident are also included. Such costs and expenses shall include the wages, worker's compensation benefits, and fringe benefits of the personnel responding to the incident or accident and the costs of equipment and materials used.
- G. Illegal Fire. Illegal fire means a fire set or determined to have been set in violation of a federal, state or local law and shall include an arson fire, a fire set in violation of a "no burning" ban or order, and/or a fire set without a required permit.
- H. Responsible Party. Responsible party means any individual, firm, corporation, association, commercial entity, consortium, joint venture, government entity, or any other legal entity responsible for an emergency incident or any owner, tenant, occupant, or party in control of real and/or personal property from which, onto which, or related to which there is a public safety or fire emergency incident and their heirs, estates, successors and assigns.

**Section 3. DUTIES TO REMOVE AND CLEAN UP.**

It shall be the duty of any person, firm, corporation, public or private utility, or any other entity directly or indirectly causing, contributing to or allowing the leakage, spillage or any other release of dangerous or hazardous substances or materials, or owning or controlling property affected thereby or requiring the securing and monitoring of sites or locations of accidents and/or natural disasters, including downed power lines and electric service lines, ruptured gas mains, gas service conduits, water mains, occupancy leads, telephone lines, or cable television lines, to immediately secure, monitor, and clean up the area or location in such manner that the area or location involved is fully restored to the condition existing prior to such occurrence. The Township shall have no duty to contain, clean up or dispose of any release of hazardous substances or materials, or other materials, but in emergency situations the Fire Chief or his designees shall have the authority to take whatever action is reasonably necessary to protect the health, safety, and welfare of the general public, including securing and monitoring sites of accidents or providing for or arranging for the containment, removal or clean up of any hazardous substances or materials. The Township shall have the authority to inspect the site to ensure that cleanup has been fully completed.

**Section 4. FAILURE TO COMPLY/LIABILITY.**

Any person or entity failing to comply with Section 3, and/or when a non-emergency incident, emergency response is provided by the Township, shall be liable to the Township and shall reimburse the Township for all costs and expenses, including the costs incurred by the Township or any agents the Township engages, for the complete abatement, cleanup, restoration and/or securing of the affected area.

**Section 5. SUBMITTAL OF BILL.**

The Township shall, within a reasonable period of time after receiving itemized costs incurred for an emergency response, submit a bill for the same by first-class mail or personal delivery to any responsible parties liable for these expenses. The bill shall require full payment within thirty (30) days from the date of billing.

**Section 6. ENFORCEMENT.**

If any person or entity fails to reimburse the Township as above provided, the Township shall have the right to bring an action to the appropriate court to collect such costs. If such person or entity is the owner of real property affected or partially affected by the release of hazardous materials, or requiring emergency securement or monitoring, the Township shall have the right to add any and all costs of clean up, restoration and/or of any emergency response, to the tax roll of such property and to levy and collect such costs in the same manner as provided for the levy and collection of real property taxes against said property.

Section 7. **REPEAL OF PRIOR ORDINANCE**

The former Lapeer Township Hazardous Materials Ordinance, adopted on March 25, 1991, is hereby repealed.

Section 8. **VALIDITY**

That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Township of Lapeer hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 9. **ENACTMENT AND EFFECTIVE DATE**

This ordinance adopted by the Township Board of the Township of Lapeer, Lapeer County, Michigan at a meeting duly called and held on the 13th day of July 2009 and was published in the LAView newspaper on the 16th day of July 2009. This ordinance shall take effect upon publication.

CERTIFICATION

*The undersigned Supervisor and Clerk of the Township of Lapeer hereby certifies that this Ordinance was adopted by the Township Board at a meeting duly held on the 13th day of July 2009 and was published in the LAView on the 16th day of July 2009. This Ordinance became effective upon the date of publication.*

  
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Scott Jarvis, Supervisor

  
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Dawn M. Walker, Clerk