

TOWNSHIP OF CHIKAMING
BERRIEN COUNTY, MICHIGAN

ORDINANCE NO. 86
Adopted: April 10, 1997

AN ORDINANCE TO ESTABLISH CHARGES FOR TOWNSHIP EMERGENCY SERVICES RESPONDING TO AN INCIDENT INVOLVING HAZARDOUS MATERIALS UNDER PUBLIC ACT 102 OF THE PUBLIC ACTS OF 1990 AND TO PROVIDE METHODS FOR THE COLLECTION OF SUCH CHARGES

THE TOWNSHIP OF CHIKAMING, BERRIEN COUNTY, MICHIGAN ORDAINS:

Section 1., Purpose. In order to protect 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., "Hazardous Materials" Defined. For purposes of this ordinance, "hazardous materials" include, but are not limited to, a chemical that is a combustible liquid, a flammable gas, explosive, flammable, an organic peroxide, an oxidizer, pyrophoric, unstable reactive or water reactive.

Section 3., "Release" Defined. Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, leaching, dumping or disposing into the environment.

Section 4., "Responsible Party" Defined. Any individual, firm, corporation, association, partnership, commercial entity, consortium, joint venture, government entity, or any other legal entity that is responsible for a release of a hazardous material, either actual or threatened, or is an owner, tenant, occupant or party in control of property onto which or from which hazardous materials release.

Section 5., Charges Imposed Upon Responsible Party. Where a Township department responds to a call for assistance in connection with a hazardous materials release, actual costs incurred by the Township responding to such a call shall be imposed upon responsible parties, including, but not limited to:

A. Where Township emergency equipment responds to a call for assistance:

1. A charge for each hour, or fraction thereof, for each pumper required, in the opinion of the officer in command, to stand by at the hazardous materials incident. For each hour, or fraction thereof, that the pumps are activated, an additional sum shall be charged.

2. A charge for each hour, or fraction thereof, for each water tender required, in the opinion of the officer in command, to be utilized in responding to the hazardous materials incident.

3. A charge for each 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 hazardous materials incident.

4. A charge for each hour, or fraction thereof, for each police department patrol vehicle required, in the opinion of the officer in command, to be utilized in responding to the hazardous materials incident.

5. A charge for each hour, or fraction thereof, the ambulance is required, in the opinion of the officer in command, to be utilized in responding to the hazardous materials incident.

6. The hourly rates for each of the above specified activities shall be set annually by resolution of the Township Board.

B. All personnel-related costs incurred by the Township as a result of responding to the hazardous materials incident. Such costs may include, but are not limited to, wages, salaries and fringe benefits and insurance of full-time and part-time fire fighters, police officers and ambulance personnel; overtime pay and related fringe benefit costs for hourly employees, and fire run fees paid to on-call fire fighters. Such personnel-related charges shall commence after the first hour that the fire department, police department or ambulance personnel has responded to the hazardous materials incident, and shall continue until all Township personnel have concluded hazardous materials incident-related responsibilities.

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

D. Charges to the Township imposed by any local, state or federal government entities related to the hazardous materials incident.

E. Costs incurred in accounting for all hazardous material incident-related expenditures, including billing and collection costs.

Section 6., Billing Procedures. Following the conclusion of the hazardous materials incident, the public safety department heads shall submit a detailed listing of all known expenses to the Township clerk, who shall prepare an invoice to the responsible party for payment. The invoice shall demand full payment within thirty (30) days of receipt of the bill. Any additional expenses that become known to the Township public safety department heads 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 thirty (30) days, the Township shall impose a late charge of one percent (1%) per month, or fraction thereof.

Section 7., Other Remedies. 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 liability of responsible parties under local ordinance or state or federal law, rule or regulation.

Section 8., Severability. 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 effect the validity or enforceability of the balance of this ordinance which shall remain in full force and effect.

Section 9., Effective Date. This ordinance was adopted by the Chikaming Township Board at a regular meeting held in the Township Hall on the 10th day of April, 1997, shall take effect the 15 day of April, 1997, being the day following the date of publication. All ordinances or parts of ordinances in conflict are hereby repealed.

Jeanne S. Dudeck
 Jeanne S. Dudeck, Clerk
 Township of Chikaming

Attest:

Harold J. Gilmore
 Harold J. Gilmore, Supervisor
 Township of Chikaming

CERTIFICATION

I do hereby certify that the foregoing constitutes a true and complete copy of Ordinance No.86, duly adopted by the Township Board of the Township of Chikaming, Berrien County, Michigan, at a regular meeting held on the 10th day of April, 1997. I further certify that zimmerman moved the adoption of said ordinance and Gilmore supported said motion. The names and the members of the Township Board and their vote on the foregoing ordinance were as follows:

| MEMBERS | AYES | NAYS | ABSTAIN | ABSENT |
|-----------|----------|-------|---------|----------|
| Zimmerman | <u>X</u> | _____ | _____ | _____ |
| Gibson | _____ | _____ | _____ | <u>X</u> |
| Simmons | <u>X</u> | _____ | _____ | _____ |
| Dudeck | <u>X</u> | _____ | _____ | _____ |
| Gilmore | <u>X</u> | _____ | _____ | _____ |

I further certify that the aforesaid ordinance was recorded in the Ordinance Book for the Township of Chikaming on the 11 day of April, 1997, and such recording has been authenticated by the signatures of the Supervisor and Township Clerk. I further certify that the foregoing ordinance was published in full in the Southcounty Gazette & Shopper, a newspaper circulated in the Township of Chikaming, Berrien County, Michigan, on the 14 day of April, 1997.

Dated: April 11, 1997

Jeanne S. Dudeck
 Jeanne S. Dudeck, Clerk
 Township of Chikaming