

LYON TOWNSHIP
ROSCOMMON COUNTY, MICHIGAN

ORDINANCE NUMBER 38

ADOPTED: June 12, 1996

HAZARDOUS MATERIALS EMERGENCY INCIDENT

An ordinance to establish charges for township emergency services responding to an incident involving hazardous materials under Public Act 102 of 1990 (compiled law 41 .806a) and to provide methods for the collection of such charges.

PURPOSE AND INTENT

In order to protect the township incurring extraordinary expenses resulting from the utilization of township resources to respond to an incident involving hazardous materials. The Lyon 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.

TOWNSHIP OF LYON
ROSCOMMON COUNTY, MICHIGAN

ORDAINS:

SECTION 1

TITLE

This ordinance shall be known and cited as Lyon Township Hazardous Materials Emergency Incident

SECTION 2

DEFINITIONS

Hazardous materials means explosives, pyrotechnics, flammable compressed gas, flammable liquid, combustible liquid, oxidizing material, poisonous gas, poisonous liquid, poisonous solid, irritating material, ethnological material, radioactive material, corrosive material, or liquefied petroleum gas.

Release means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing which causes damage or harm to person (s), property, natural resources, the public health or the environment.

Responsible party means 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 3

REGULATIONS

Where the township fire 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. \$200.00 per hour, or fraction thereof, for each pumper required, in the opinion of the officer in command, to stand by at the hazardous materials incidents. For each hour, or fraction thereof, that the pumps are activated, an additional sum of \$200.00 per hour shall be charged.
- B. \$200.00 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 hazardous materials incident.
- C. \$200.00 per hour or fraction thereof, for each additional township owned for department vehicle required, in the opinion of the officer in command, to be utilized in responding to the hazardous materials incident.
- D. All personnel-related costs incurred by the Township as a result of responding to the hazardous materials incidents. Such costs may include, but are not limited to: wages, salaries and fringe benefits and insurance for full-time and part-time firefighters; overtime pay related fringe benefit costs for hourly employees, and fire run fees paid to on call firefighters. Such personnel-related charges shall commence after the first hour that the fire department has responded to the hazardous materials incident, and shall continue until all township personnel have concluded hazardous materials incident related responsibilities.
- E. 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, or consultants, legal and engineering fees, medical and hospitalization costs, and the replacement costs related to disposable personal protective equipment, gear and equipment, extinguishing agents, supplies, water purchased from municipal water systems and meals and refreshments for personnel while responding to the hazardous materials incident.
- F. Charges to the township imposed by any local, state, or federal government entities related to the hazardous materials incident.
- G. Costs incurred in accounting for all hazardous material incident-related expenditures, including billing and collection costs.

Billing Procedures:

Following the conclusion of the hazardous materials incident, the fire chief 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 clerk's invoice shall demand full payment within thirty (30) days of 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 thirty (30) days, the township shall impose a late charge of two (2%) per month, or fraction thereof.

Other Remedies:

The township may purpose any purpose any other remedy, or may institute any appropriate action or proceedings, in a court of competent jurisdiction to collect charges imposed under this ordinance. The township shall have the right and power to add all emergency response costs to the tax roll of such property involved in the hazardous materials incident 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 or premises. The recovery of charges imposed under this ordinance does not limit liability of responsible parties under local

ordinances or state or federal law, rule or regulation. The payment expenses incurred by the township under this ordinance shall not constitute an admission of guilt or responsibility under any other ordinance, law, rule or regulation.

SECTION 4

VIOLATIONS AND PENALTIES

Any person who violates any of the provisions of this ordinance shall be deemed to be responsible for a Municipal Civil Infraction as defined by Michigan statute, punishable by a civil fine determined in accordance with the schedule:

	<u>Minimum Fine</u>
1 st offense within a 3-year period*	\$ 50.00
2 nd offense within a 3-year period*	\$125.00
3 rd offense within a 3-year period*	\$250.00
4 th or subsequent offense in a three-year period*	\$400.00

*Determined on the basis of the date of commission of the offense(s).

Additionally, the violator shall pay costs which may include all expenses, direct and indirect, to which Lyon Township has been put in connection with the Municipal Civic Infraction.

In addition, any violation of this ordinance is hereby declared to be a public nuisance per se which may be abated in Circuit Court in lieu of or in addition to other civil infractions.

Each day that a violation exists shall constitute a separate offense for enforcement purposes.

SECTION 5

SEVERABILITY

The provisions of this ordinance area hereby declared to be severable and if any clause, sentence, word, section or provision is declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect any other portion of this ordinance.

SECTION 6

REPEAL

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 7

EFFECTIVE DATE

This ordinance shall take effect 30-days after publication as required by law.