



**TYRONE TOWNSHIP ORDINANCE TO ESTABLISH CHARGES FOR
TOWNSHIP EMERGENCY SERVICES RESPONDING TO A HAZARDOUS
MATERIALS EMERGENCY INCIDENT #40**

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.

**THE TOWNSHIP OF TYRONE, COUNTY OF LIVINGSTON, 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 the spill, release, or discharge of hazardous materials, or the improper handling or storage of hazardous materials, the Township Board authorizes the imposition of charges to recover from the responsible parties the reasonable and actual costs incurred by the Township, either directly or by the contracted services of any and all fire departments, police agencies, hazardous materials clean-up companies or agencies, in responding to calls for assistance in connection with a hazardous materials release.

Section 2: Definitions

- A. "Costs" and "Township Costs" mean any and all expenses incurred by any fire, police and public works departments and/or any other department or agency rendering services to the Township, whether direct or indirect, and shall include, but not be limited to, expenses attributable to the response, control, cleanup or abatement of any hazardous materials release including costs of machinery or equipment rental, operations and personnel, costs of materials utilized, fringe benefit costs, overhead costs, costs of meals for all personnel involved in the incident, costs of specialists, consultants, engineers, legal fees, medical expenses for exposures, injuries or illnesses resulting from the incident, costs of experts or other contract labor or services not in full-time employment of the Township, costs incurred by area fire departments requested through mutual agreements, water purchased from municipal water systems, and any other incidental costs incurred by the Township as a result of said incident.
- B. "Facility" means any area, road, place or property where a hazardous material has been released, deposited, stored or disposed of or otherwise comes to be located.



C. "Fire Department" means any fire department rendering service to Tyrone Township.

D. "Hazardous Materials" means any of the following:

1. Substances or materials in a quantity or form which, in the determination of the Fire Chief of the fire department responding to the release of hazardous materials or his or her authorized representative, pose an unacceptable risk or danger to the public health, safety, or welfare, to the environment, or property, and shall include, but not be limited to such substances as chemicals, explosives, radioactive materials, petroleum or petroleum products, gases, poisons, etiologic (biologic) agents, flammables and corrosives.
2. Hazardous substances as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Public Law 96-510, 94 Stat, 2767, as amended.
3. Hazardous substances as defined in Part 201 of the Act No. 451 of the Public Acts of 1994 of the State of Michigan, as amended.
4. Hazardous waste as defined in Part 111 of Act No. 451 of the Public Acts of 1994 of the State of Michigan, as amended.
5. Petroleum as described in Part 213 of the Act No. 451 of the Public Acts of 1994 of the State of Michigan, as amended.

E. "Responsible Party" means an individual, person, sole proprietorship, partnership, joint venture, trust, firm, joint stock company, corporation, limited liability company or any other legal entity that is involved in a release of a hazardous material, either actual or threatened, or is an owner, tenant, occupant or party in control of property or from which hazardous materials release.

F. "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, leaching, dumping or disposing of a hazardous substance into the environment, or the improper handling or storage thereof, or the abandonment or discharging of barrels, containers, or other receptacles containing a hazardous substance.



- G. "Threatened Release" means any circumstance that may reasonably be anticipated to cause a release.

Section 3: Charges Imposed Upon Responsible Party

Where the Tyrone Township's Fire Department or fire department with whom the Township has a contract for fire protection and emergency services, or any agency assisting the Fire Department, responds to a call for assistance in connection with a hazardous materials release, spill, or the improper handling or storage of any hazardous materials in the Township, any actual costs incurred as a result of the response shall be imposed upon and paid by the responsible parties.

The responsible parties shall be responsible and liable for the costs associated with the abatement, control, capture, removal and proper storage or disposal of such hazardous materials.

Responsible parties shall have the option to secure and hire a firm qualified to abate, control, capture, properly store, and dispose of these materials, or to request the Township to do so. Provided, however, that if, in the opinion of the Fire Chief of the fire department responding to the release of hazardous materials, immediate action is necessary to reduce the risk of danger of harm to persons, property, or the environment, the Fire Chief may direct that appropriate response activities be immediately undertaken.

Section 4. Recovery of Costs

Costs to be recovered under this Section shall be those costs as defined in Section 2 (A). All costs incurred for such activity shall be invoiced to and paid by the responsible party (parties). The remedy provided by this section shall be in addition to any other remedies provided by law.

If the responsible party (parties) fails to pay the Township for costs incurred within thirty (30) days of the date of the invoice sent by the Township to the responsible party, the Township may institute legal action to collect the costs due, including expenses, costs and reasonable attorneys fees incurred to collect those costs.

Section 5. Other Remedies

The Township may pursue any other remedy, or may institute any appropriate action of 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 6. 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 affect the validity or enforceability of the remainder of this ordinance.

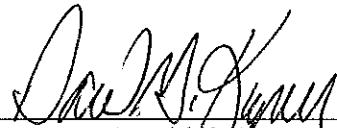
Section 7. Effective Date

This ordinance shall take effect immediately upon publication. All ordinance or parts of ordinances found to be in conflict are hereby repealed.

ROLL CALL VOTE: Hammond, yes; Van Leuven, yes; Hering, yes; Kuzner, yes;
Kurnik, yes; Price, yes; Schumacher, yes

CERTIFICATION OF THE CLERK

I, David G. Kuzner, do hereby swear this to be a true copy of the Truck Route Ordinance amendment as adopted by the Tyrone Township Board at a regular meeting held April 3, 2001, to which I add my sign and seal this Ninth Day of April, Two Thousand One.



David G. Kuzner
Tyrone Township Clerk

4/15/01