

HAZARDOUS MATERIALS INCIDENT COST RECOVERY ORDINANCE

Ordinance No. 2009-02

SECTION 1 - PURPOSE.

This ordinance permits the Alcona Township Fire Department and other township departments to obtain reimbursement for expenses incurred in response to incidents involving the release or threatened release of hazardous materials.

SECTION 2 - DEFINITIONS.

Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this Ordinance its most reasonable application.

Emergency Response: Providing, sending and/or utilizing of fire fighting, emergency medical and rescue services by Alcona Township, or by a private industrial entity or corporation operating at the request or direction of the Township or State of Michigan, for an incident resulting in a hazardous materials release or threatened release.

Hazardous Material: Explosives, pyrotechnics, flammable compressed gas, flammable liquid, combustible liquid oxidizing material, poisonous gas, poisonous liquid, poisonous solid, irritating material, etiological material, radioactive material, corrosive material, liquefied petroleum gas, or any other hazardous material as defined in MCL 299.501.

Building: Any structure used or intended for supporting or sheltering any use or occupancy.

Premises: Any lot or parcel of land, exclusive of buildings, and including a parking lot, tourist camp, trailer camp, airport, stockyard, junk yard, wharf, pier, public roadway, and any other place or enclosure, however owned, used or occupied.

Owner: Any person having a vested or contingent interest in the property, premises, container, or vehicle involved in the hazardous materials incident, including but not limited to any duly authorized agent or attorney, purchaser, devisee, or fiduciary of said person having said vested or contingent interest.

Vehicle: Any mode used as an instrument of conveyance, including but not limited to motor vehicles, railroads, boats, aircraft, etc.

Expenses of an Emergency Response: The direct and reasonable costs incurred by Alcona Township, or by a private person, corporation, or other assisting government agency, which is operating at the request or direction of the Township, when making an emergency response to the hazardous materials incident, including the costs of providing fire fighting, rescue services, emergency medical services, containment, and abatement of all hazardous conditions at the scene of the incident. The costs further include all of the salaries and wages of Alcona Township personnel responding to the incident, as well as all of the salaries and wages of Alcona Township personnel engaged in the investigation, supervision and report preparation regarding said incident, at the request or direction of Alcona Township, and all costs connected with the administration of the incident relating to any prosecution of the appearance of witnesses at any court proceedings in relation thereto. Costs shall also include, but not be limited to, such items as disposable materials and supplies used during the

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response to said incident, the rental or leasing of equipment used for the specific response, replacement of equipment which is special technical services and laboratory cost, services and supplies purchased for any specific evacuation relating to said incident, and any other costs reasonably associated with emergency services clean up.

SECTION 3 - DUTY TO REMOVE AND CLEAN UP.

It shall be the duty of the owner, operator, occupant or other person responsible for the operation, maintenance and/or condition of any building, premises, property or vehicle regarding which an incident arises which involves the release or threatened release of hazardous materials on or about said building, premises, property and/or vehicle to immediately contain and control such hazardous material and undertake and complete a total cleanup of the area in such a manner as to insure that all leakage, spillage or other dissemination of hazardous material is fully removed and the area is fully restored to its condition prior to the placement, leakage, spillage, or other dissemination of such hazardous material.

SECTION 4 - FAILURE TO REMOVE AND CLEAN UP.

In the event the owner, operator, occupant, or other person responsible for the operation, maintenance and/or condition of any building, premises, property or vehicle regarding which an incident arises which involves the release or threatened release of hazardous material on or about said building, premises, property and/or vehicle, fails to remove in a timely manner, hazardous materials after an emergency response involving hazardous materials or comply completely with the above Section, Alcona Township shall have the right to enter onto said property and remove and conduct a clean up of all such hazardous materials either by governmental employees or by contractors and agents of said government. Prior to engaging in such clean up, Alcona Township shall make diligent efforts to notify the owner of its duty to abate said emergency. All costs associated with such containment, control, removal, and cleanup are in addition to the costs associated in the following Sections and are to be reimbursed in like manner.

SECTION 5 - LIABILITY FOR EXPENSE OF AN EMERGENCY RESPONSE.

- A. Person(s) Responsible: The owner, operator, occupant, or other person responsible for the operation, maintenance and/or condition of any building, premises, property or vehicle regarding which an incident arises which involves the release or threatened release of hazardous materials on or about said building, premises, property and/or vehicle shall be required to reimburse the Alcona Township for all expenses of an emergency response to said hazardous materials incident.
- B. Charge Against Person: The expense of an emergency response shall be a charge against the person or corporation liable for the expenses under this Ordinance. The charge constitutes a debt of that person or corporation and is collectible by Alcona Township in the same manner as in the case of an obligation under contract, express or implied.
- C.

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Cost Recovery Schedule: Alcona Township shall, by resolution, as soon as possible after an emergency response, adopt a schedule of the costs included within the expense of the emergency response. This schedule shall be available at the office of the Township Clerk for inspection by the public.

- D. Billing: Alcona Township may, within ten (10) days of receiving itemized costs, or any part thereof, incurred for an emergency response, submit a bill for these costs by first class mail or personal service to the person or corporation liable for the expenses as enumerated under this Ordinance. The bill(s) shall require full payment within thirty (30) days from the date of mailing or service of said bill upon the responsible person.
- E. Failure to Pay: Any failure by the person or corporation described in this Ordinance as liable or responsible for expenses of an emergency response to pay said bill within thirty (30) days of mailing or service of the bill shall constitute a default on said bill. In the case of default, Alcona Township shall have the right and power to add all emergency response costs to tax roll as 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. Alcona Township shall also have the right to bring action in a court of competent jurisdiction to collect said costs if the Township deems such action to be necessary.

SECTION 6 - SEVERABILITY.

If any Section, subsection, clause, paragraph or provision of this Ordinance shall be adjudged invalid by a court of competent jurisdiction, such adjudication shall only apply to the said portion thereof adjudicated invalid, and the full remaining portions or parts of this Ordinance shall remain in full force and effect.

SECTION 7 - PUBLICATION.

The Township Clerk shall publish this Ordinance in the manner required by law, including notice that a complete copy of this Ordinance is available at the office of the Clerk for inspection by the public.

SECTION 8 - EFFECTIVE DATE.

This Ordinance shall become effective one day after a published notice of approval by the Alcona Township Board of Trustees.

This Ordinance passed by unanimous vote of the Alcona Township Board at the regular meeting on October 13, 2009.

ADOPTED: October 13, 2009

(signed) Dawn LaLonde, Alcona Township Clerk

Date of publication of notice: October 21, 2009

Effective Date: October 22, 2009