

TOWNSHIP OF BANGOR
VAN BUREN COUNTY, MICHIGAN

Ordinance Number 17

AN ORDINANCE TO ESTABLISH CHARGES FOR THE TOWNSHIP OF BANGOR AND THE JOINT ABB FIRE BOARD, COMMONLY KNOWN AS THE BANGOR COMMUNITY FIRE DEPARTMENT, EMERGENCY SERVICES RESPONDING TO HAZARDOUS MATERIALS RELEASE PURSUANT TO ACT 102 OF THE PUBLIC ACTS OF 1990

THE TOWNSHIP OF BANGOR ORDAINS:

TITLE

This ordinance shall be known as the HAZARDOUS MATERIALS RELEASE ORDINANCE.

PURPOSE

In order to reimburse the Township of Bangor and the ABB Joint Fire Board for expenses resulting from the utilization of the Fire Board's resources in responding to a release involving hazardous materials, the Township of Bangor authorizes the imposition of charges to recover reasonable and actual costs incurred by the Fire Board in responding to calls for assistance in connection with a hazardous materials release.

DEFINITIONS

The following terms or phrases shall be defined to mean:

- a. Hazardous substance or materials: For the purpose of this Ordinance, hazardous substances and/or materials include, but are not necessarily limited to, a chemical that is a combustible liquid, a flammable gas, an explosive, a flammable or organic peroxide, an oxidizer, a pyrophoric, an unstable reactive or water reactive substance, petroleum and/or petroleum by-products, a flammable solid, a poisonous or infectious material, a radioactive material, a corrosive, or any other material that may be defined as hazardous by the U.S. Department of Transportation or by the laws of the State of Michigan.
- b. Release: A release shall be any spilling, leaking, pumping, pouring, emitting, emptying, discharging, ejecting, dumping, or disposing of a substance or material into the environment.
- c. Responsible party: A responsible party is any individual, firm corporation, association, partnership, commercial entity, consortium, joint venture, government entity, or any legal entity that is responsible for a release of a hazardous material, either actual or threatened, or as an owner, tenant, occupant, or party in control of

the property, onto which or from which hazardous material is released or the owner, possessor, or party in control of the hazardous substance immediately prior to the said release.

- d. Fire Board: Means the joint fire administrative board established by the Townships of Arlington and Bangor and the City of Bangor for the purpose of operating and administering the Fire Department pursuant to the Urban Cooperation Act, Public Act 7 of the Public Acts of 1967 Extra Session, as amended.
- e. Fire Department: Means the Fire Department created by the establishment of the joint Fire Board known as the ABB Joint Fire Board and commonly referred to as the Fire District, the Fire Board, and the Bangor Community Fire Department. Such Fire Department was established in 1999 by the Townships of Arlington and Bangor and the City of Bangor under the provisions of the Urban Cooperation Act, Public Act 7 of the Public Acts of 1967 Extra Session, as amended.
- f. Fire Chief: Means the chief operational and administrative officer of the Fire Department, or in his/her absence, the senior fire officer in charge of the scene of a hazardous materials release.

CHARGES IMPOSED UPON RESPONSIBLE PARTY

When the Fire Department responds to a call for assistance in connection with a hazardous materials release, actual costs incurred by it in responding to and mitigating such release shall be imposed upon the responsible party, including, but not limited to:

- a. A fee at the prevailing rate for the Fire Department apparatus required, in the opinion of the officer in command to respond and be present and/or to stand by at the scene of a hazardous materials release. For each hour or fraction thereof that the apparatus is used or is required at the site by the officer in command, an additional hourly or fraction of an hourly sum shall be charged.
- b. All personnel related costs incurred by the Fire Department as a result of responding to and mitigating a hazardous materials release. Such costs may include, but are not limited to, wages, salaries, fringe benefits, insurance, and other costs which may be a part of the Fire District's allowed usual and customary costs established for full-time, part-time, and paid-on-call firefighters and other personnel whether incurred at regular or overtime rates. Such personnel related charges shall commence at the time the Fire Department is dispatched to the hazardous materials release and shall continue until all personnel have concluded hazardous materials release related responsibilities.
- c. Other expenses incurred by the Fire Department in responding to and mitigating a hazardous materials release, including, but not limited to, rental or purchase of machinery, equipment, labor, consultants, legal and engineering fees, and

replacement costs related to disposable personal protection equipment, extinguishing agents, supplies, water purchased from municipal water systems, charges for emergency response teams of other governmental agencies, meals, refreshments for personnel working the scene of a hazardous materials release, and all like and similar release costs arising from said response and mitigation.

- d. Any and all charges to the Fire Department imposed by any local, state, or federal entities related to the hazardous materials release.
- e. The cost of repair or replacement of any apparatus, equipment, protective clothing, or materials damaged, destroyed, or consumed as a result of the response and mitigation activities.
- f. Costs incurred in accounting for all hazardous materials release related expenditures, to include billing and collections costs, to include actual attorney fees incurred and all related costs associated with collection of said expenditures, including court costs, witness fees, and expert fees incurred in support thereof.

COSTS DETERMINATION

The foregoing described costs shall be determined in accordance with a policy established by the Fire Board. Where applicable, the costs shall be the actual expense to the Fire Department. With respect to apparatus use charges, the Fire Board shall establish a use charge for each separate piece of apparatus. Said use charges shall, from time to time, be updated by further action of the Fire Board. In the event of a hazardous materials release, the most current prevailing apparatus charge schedule shall be applied.

BILLING PROCEDURE

Following conclusion of a hazardous materials release, if special Hazmat actions were required or a spill of greater than 55 gallons occurred, then the Fire Chief shall submit a detailed listing of all known expenses to the Fire Board Treasurer. The Fire Board Treasurer shall prepare an invoice to the responsible party for payment. The Treasurer's invoice shall demand full payment within thirty (30) days of billing. Any additional expense that becomes known to the 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. Any amounts due that remain unpaid thirty (30) days after the date of billing shall have imposed a late charge thereon at the maximum rate permitted by law until said account shall be paid in full.

OTHER REMEDIES

In addition to the foregoing, the Fire Board and/or the Townships of Arlington and Bangor and the City of Bangor may individually or jointly pursue any other remedy or may institute an appropriate action or proceeding in a court of competent jurisdiction to collect the

charges imposed under this Ordinance. The charges imposed under this Ordinance do not limit the liability of the responsible party or parties under any other local ordinance, or state or federal law, rule, or regulation that may include, but not be limited to, the cleanup of contaminated sites resulting from any hazardous materials release.

SEVERABILITY

Should any provision or part of this 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 balance of this Ordinance, which shall remain in full force and effect.

EFFECTIVE DATE

This Ordinance shall become effective thirty (30) days after its adoption and publication.

RECORD OF ADOPTION

This ordinance was voted upon at a regular meeting of the Bangor Township Board of Trustees on May 8th, 2001.

AYES: Five(5) Kuehnle, Karr, Poland, Hessey, Houdek

NAYS: _____

PRESENTED: _____

ADOPTED: May 8th, 2001

DATE PUBLISHED: June 17th 2001 NEWSPAPER: South Haven Tribune

EFFECTIVE DATE: July 17th 2001

CERTIFICATION

I, Linda Poland, the duly elected Clerk of the Township of Bangor, do hereby certify that the above is a true and exact copy of an ordinance passed by the Township of Bangor Board of Trustees, on May 8th, 2001, the original of which is on file at the Bangor Township Hall.

Linda Poland
Clerk