

ORDINANCE NO. 54

An ordinance to establish charges for Oronoko Charter Township Emergency Services responding to an incident involving hazardous material under Public Act 102 of 1990 (compiled law 41.806a) and to provide methods for the collection of such charges.

THE CHARTER TOWNSHIP OF ORONOKO ORDAINS:

SECTION 1 Purpose: In order to protect Oronoko Charter Township from incurring expenses resulting from the utilization of Oronoko Charter Township joint resources to respond to an incident involving hazardous materials, the Oronoko Charter Township Board authorizes the imposition of fees to recover reasonable and actual costs, expenses, and losses incurred by Oronoko Charter Township in responding to calls for emergency services 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, intended or accidental.

SECTION 4 "Hazardous Materials Release" defined: Any hazardous material release, as defined herein, when so declared by the Berrien Springs/Oronoko Township Joint Fire Department Chief or his/her designee.

SECTION 5 "Responsible Party" defined: Any person, 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 are released.

SECTION 6 Charges, Expenses. and/or Losses Imposed upon Responsible Party: Where a fire or police department operated jointly by Oronoko Charter Township and the Village of Berrien Springs, Michigan, responds to a call for assistance in connection with a hazardous materials release, actual costs, expenses, and/or losses incurred by Oronoko Charter Township through its responsibility to the funding and operation of the joint fire and/or police department, in responding to such a call shall be imposed upon the responsible parties, including, but not limited to:

(a) Expenses incurred by Oronoko Charter Township in responding to the hazardous material incident, including but not limited to: rental or purchase of machinery and/or equipment; labor, consultants, legal and engineering fees and staff costs; replacement costs related to disposable personal protective equipment, extinguishing agents and supplies; water purchased from municipal water systems; all decontamination costs; loss of or damage to equipment due to contamination; and meals and refreshments for personnel while responding to the hazardous materials incident.

(b) Charges to Oronoko Charter Township imposed by any local, state, or federal government entities related to the hazardous material release incident.

(c) Costs incurred in accounting for all hazardous material incident-related expenditures, including billing and collection costs, any court expenses and/or reasonable attorney fees incurred in the collection or court enforcement of monies due hereunder, and any and all reasonable costs associated with said release and/or incident.

(d) Up to \$15.00 per hour for each private individual responding and assisting at each and any such release and/or incident at the request or direction of the Fire and/or Police Chief, for reimbursement of lost wages and/or salary where said individual is requested or directed to remain and assist at such release and/or incident for a period of time in excess of three (3) hours.

SECTION 7 Billing Procedures: Following the conclusion of the hazardous materials incident, the Fire and/or Police Chief shall submit a detailed listing of all known expenses to the Oronoko Township Treasurer, who shall prepare an invoice to the responsible party for payment. The treasurer's invoice shall demand full payment within thirty (30) days of receipt of the bill. Any additional expenses that become known to the Fire and/or Police 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 (30) days, the Oronoko Charter Township shall impose a late charge of one (1 %) percent per month, or fraction thereof.

SECTION 8 Other Remedies: Oronoko Charter 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 the liability of responsible parties under local ordinance or state or federal law, rule or regulation.

SECTION 9: This ordinance and its various parts, sections, and clauses are hereby declared severable. If any part, section, or clause is adjudged unconstitutional or otherwise legally invalid, it is hereby provided that the remainder of the ordinance shall not be affected thereby.

SECTION 10: All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 11: This ordinance shall become effective after adoption, and on the date of publication.

FIRST INTRODUCED IN WRITTEN FASHION BY Calderwood, AND FIRST PUBLISHED, PRIOR TO PASSAGE, IN THE *JOURNAL ERA* ON August 20, 1997.

RESOLUTION TO ADOPT THIS ORDINANCE PROPOSED BY Schinkel AND ORDINANCE ENACTED, BY ROII CALL VOTE, AS FOLLOWS:

AYES: Jasper, Calderwood, Kerlikowske, Cash, Ladd, Schinkel, Hildebrand.

NAYS: None

Dated: September 9, 1997

Ernest Hildebrand,
Oronoko Charter Township Supervisor

Attest:

Linda Cash,
Township Clerk

ORDINANCE NO. 54

I hereby certify that the above and foregoing ordinance was duly adopted by the Oronoko Charter Township Board and published in *The Journal Era*, a weekly newspaper published in Oronoko Charter Township, in the issue of said paper dated and published on the 17th day of September 1997.

Linda Cash.
Township Clerk