

Hartford Township, Van Buren County, Michigan
Ordinance Number 27
Hazardous Materials Incident Ordinance

An ordinance to establish charges for Hartford Fire Department Emergency Services responding to a Hazardous Materials Emergency Incident in accordance with Act 207 of the Public Acts of 1941, as amended under Act 102 of the Public Acts of 1990; and to provide methods for the collection of the charges therefore:

The Township of Hartford ordains:

Short Title: This ordinance may be referenced as the Hazardous Materials Incident Ordinance.

Section 1. Purpose. In order to protect the Township of Hartford from incurring extraordinary expenses resulting from the utilization of its fire department's resources to respond to an incident involving hazardous materials;

The Township of Hartford authorizes the imposition of charges to recover reasonable and actual costs incurred by it in responding to calls for assistance in connection with a hazardous materials release.

Section 2. 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 limited to, a chemical that is combustible liquid, a flammable gas, an explosive, a flammable and 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, leaching, 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 other 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 said release.
- d. **Fire Board:** Means the Joint Fire Administrative Board established by the Township of Hartford and the City of Hartford for the purpose of operating and administrating the Hartford Fire Department in accordance with Public Act 207 of the Public Acts of 1941, as amended.
- e. **Fire Department:** Means the Hartford Fire Department established by the Township of Hartford and City of Hartford under the Joint Fire Administrative Board and recognized as an organized fire department by the State of Michigan under the provisions of Public Act 207 of the public acts of 1941 as amended.
- f. **Fire Chief:** Means the chief operational and administrative officer of the Fire Department or in his absence the senior fire officer in charge at the scene of a hazardous materials incident.

Section 3. 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 incident shall be imposed upon the responsible party, including but not limited to:

- a. A fee at the prevailing rate for each 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 incident. 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 sum shall be charges.
- b. All personnel related costs incurred by the Fire Department as a result of responding to and mitigating a hazardous materials incident. 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 and related fringe benefit costs for hourly employees and fire run fees paid to on-call firefighters. Such personnel related charges shall commence at the time the Fire Department is dispatched to the hazardous materials incident and shall continue until all personnel have concluded hazardous material incident related responsibilities.

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- c. Other expenses incurred by the Fire Department in responding to and mitigating a hazardous materials incident, 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 of emergency response teams of other governmental agencies, meals, refreshments for personnel working at the scene of a hazardous materials incident and all like and similar incidental 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 incident.
- 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 material incident 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.

Section 4. Costs Determination. The foregoing described costs shall be determined in accordance with a standardized 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, by resolution, establish a use charge for each separate piece of apparatus. Said use charges shall from time to time be established by further resolution of the Fire Board. In the event of a hazardous materials release, the most current prevailing apparatus charge schedule shall be applied.

Section 5. Billing Procedure. Following the conclusion of a hazardous materials incident, 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 receipt. Any additional expenses which become 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, there shall be imposed a late charge thereon at the maximum rate permitted by law until said account shall be paid in full.

Section 6. Other Remedies. In addition to the foregoing, the Fire Board and/or the Township of Hartford and/or City of Hartford may 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 recovery charges imposed under this Ordinance does not limit the liability of the responsible party or parties under any other local ordinance, or state or federal law, rule or regulation which may include, but not be limited to, the cleanup of contaminated sites resulting from any hazardous materials release.

Section 7. Severability. Should any provision or part of this Ordinance be declared by any court or 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.

Section 8. Effective Date. This Ordinance shall take effect thirty (30) days after its adoption and publication in accordance with statute.

*Adopted by the Township Board of Hartford Township, Van Buren County, Michigan, September 11, 1997.
Effective date October 11, 1997.*