

VILLAGE OF AUGUSTA, MICHIGAN**ORDINANCE NO. 170**

An Ordinance to Establish Charges and Authorize Cost Recovery for the Augusta-Ross Fire Department When Responding to a Hazardous Materials Incident

WHEREAS, it is in the public interest that the Augusta-Ross Fire Department be reimbursed for costs and expenses it incurs when responding to a hazardous materials incidents in the Village; and

WHEREAS, the Village desires to adopt an Ordinance providing for such cost reimbursement under its general powers of providing for the health, safety, and welfare and MCLA 41.806a; and

WHEREAS, the Village and Ross Township have created a joint fire department as permitted by state law and commonly referred to as the Augusta-Ross Fire Department (the "Fire Department").

NOW, THEREFORE, THE VILLAGE OF AUGUSTA, MICHIGAN, ORDAINS:

Section 1: Purpose

In order to protect the Fire Department from incurring extraordinary costs and expenses resulting from the utilization of Fire Department resources to respond to an incident involving hazardous materials, the Village Council, pursuant to law, including but not limited to MCLA 41.806a, authorizes the imposition of fees and charges to recover actual expenses and costs incurred by the Fire Department in responding to calls for assistance in the Village in connection with a hazardous materials release.

Section 2: Definitions**A. "Fire Chief"**

The term "Fire Chief" shall mean the Chief of the Augusta-Ross Fire Department.

B. "Hazardous Materials"

The term "Hazardous Materials" shall mean any of the following:

1) A chemical that is a combustible liquid, a flammable gas, explosive, flammable, an organic peroxide, an oxidizer, pyrophoric, unstable reactive or water reactive.

2) A chemical or other material which is or may become injurious to the public health, safety, or welfare or to the environment.

3) A hazardous substance as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Public Law 96-510, 94 STAT 2767 (CERCLA).

4) A hazardous waste as defined in the Hazardous Waste Management Act, Act No. 64 of the Public Acts of 1979, being MCLA 299.831 et seq.

5) Petroleum as defined in the Leaking Underground Storage Tank Act, Act No. 478 of the Public Acts of 1988, being MCLA 299.831 et seq.

C. "Release"

The term "Release" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, leaching, dumping or disposing of hazardous materials into the environment, or any improper handling or storage thereof.

D. "Responsible Party"

The term "Responsible Party" shall mean any individual, firm, corporation, association, partnership, commercial entity, consortium, joint venture, government entity or any other legal entity that causes, in whole or in part, by act or failure to act, 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 release.

Section 5: Charges Imposed Upon Responsible Party

Where the Fire Department responds to a call for assistance in the Village in connection with a hazardous materials release, actual costs incurred by the Fire Department responding to such a call shall be imposed upon responsible parties as a fee for service, including, but not limited to:

- A. All personnel-related costs incurred by the Fire Department as a result of responding to the 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 fire fighters; overtime pay and related fringe benefits costs for hourly employees, and fire run fees paid to on-call fire fighters. Such personnel-related charges shall commence immediately when the fire department has responded to the hazardous materials incident, and shall continue until all Fire Department personnel have concluded hazardous materials incident-related responsibilities.

- B. The loss, damage or use of Fire Department equipment in addition to the cost of rental or purchase of machinery or equipment. Charges expended for labor, consultants, legal and engineering, medical and hospitalization costs, and the replacement costs related to disposable personal protective equipment, extinguishing agents, supplies, water purchased from municipal water systems and meals and refreshments for personnel while responding to the hazardous materials incident.
- C. Charges to the Fire Department imposed by any local, state or federal government entities related to the hazardous materials incident.
- D. Costs incurred in accounting for all hazardous material incident-related expenditures, including billing and collection costs.

Section 6: Billing Procedures

Following the conclusion of the hazardous materials incident, the Fire Chief shall submit a detailed listing of all known expenses to the Village 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 Village 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. For any amounts due that remain unpaid after thirty (30) days, the Village shall impose a late charge of one percent (1%) per month, or fraction thereof.

Section 7: Other Remedies

The Village 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 liability of responsible parties under local Ordinance or state or federal law, rule or regulation.

Section 8: Subrogation

The Village may assign the claim or cause of action to any other person, municipality, insurance company or private entity incurring the costs, loss or expense on behalf of the Fire Department.

Section 9: 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 effect the validity or enforceability of the balance of this Ordinance which shall remain in full force and effect.

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SENT BY: MCPS KALAMAZOO

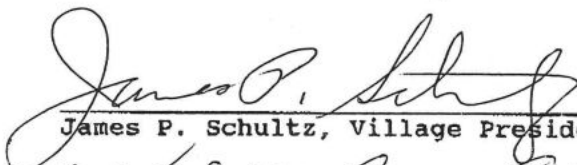
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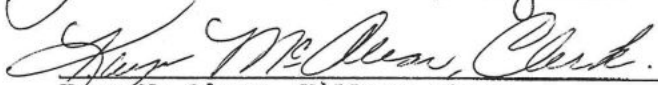
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Section 10: Effective Date

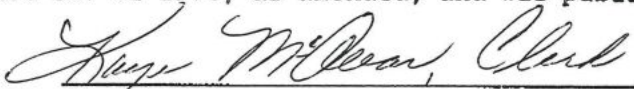
This Ordinance shall become effective on April 22, 1996.


James P. Schultz, Village President


Kaye Mc Alear, Village Clerk

CERTIFICATE

I hereby certify that the foregoing Ordinance was adopted by the Village of Augusta at a meeting held on 4-22, 1996, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, Public Act 267 of 1976, as amended, and was published as required by law.


Kaye Mc Alear, Village Clerk

4-22-96
Date