

AN ORDINANCE ESTABLISHING A SYSTEM OF REIMBURSEMENT FOR COST AND EXPENSES ASSOCIATED WITH OPERATION OF LA PORTE COUNTY HAZARDOUS MATERIAL RESPONSE TEAM

WHEREAS, the La Porte County Hazardous Material Response Team has effectively responded to numerous incident since its inception and has effectively and efficiently performed its mission and responsibilities in guarding against the potential for catastrophic personal injury and property damage resulting from an incident involving the use, storage, handling, transportation, or disposal of dangerous, hazardous, or toxic materials and substances in La Porte county, and;

WHEREAS, the costs and expenses associated with the operation of the La Porte County Hazardous Material Response Team have become increasingly burdensome on the taxpayers of La Porte County, and;

WHEREAS, it is the desire and intent of the La Porte County Board of Commissioners to establish a reimbursement and fee system whereby the entities and individuals involved in the use, storage, handling, transportation, or disposal of dangerous, hazardous, or toxic materials and substances pay the cost and expenses associated with the operation of the La Porte County Hazardous Material Response Team.

NOW, THEREFORE, BE IT ORDAINED by the La Porte County Board of Commissioners as follows:

ARTICLE I

1. Person shall mean individual, partnership, co-operative, firm, company, corporation, association, trust, estate, government entity, or any other legal entity or their legal representative, agent, or assigns.
2. Responsible party shall mean the person liable for reimbursement for costs and expenses associated with operation of the La Porte County Hazardous Material Response Team.

3. Substances considered as dangerous, hazardous, or toxic are those which are:
  - a. Listed in the latest edition of the U.S. department of Transportation " Guidebook for Hazardous Material Incidents," or
  - b. Listed in the latest edition "Dangerous Properties of Industrial Materials" by n. Irving Sax and contain the terms - dangerous, hazardous or toxic in the THR (Summary Toxicity Statement), the disaster Hazard Statement, the Fire Hazard Statement, the Explosion Hazard Statement, or the Acute Toxicity Statement, or
  - c. Listed in the latest edition of the "Condensed Chemical Dictionary" by Gessner G. Hauley and the words dangerous, hazardous, or toxic are used in the "Hazard" explanation used to categorize the substance.
4. Response shall mean any and all instances when one or more members of the La Porte County Hazardous Material Response Team are called out to the scene of an incident involving the presence or suspected presence of dangerous, hazardous, or toxic substances.

## ARTICLE II

Any person that uses, stores, handles, transports, or disposes of any dangerous, hazardous, or toxic substances or materials or any substance or material reasonably believed to be dangerous, hazardous, or toxic in such a fashion or manner so as to necessitate a response by the La Porte County Hazardous Material Response Team shall be liable to the County of La Porte for reimbursement of the costs and expenses made necessary by such response of the La Porte County Hazardous Material Response Team pursuant to the provisions of this Ordinance.

The La Porte County Emergency Planning Committee Coordinator shall prepare a billing pursuant to this Ordinance and shall submit such billing to the party responsible for paying the costs and expenses identified in this Ordinance on later than thirty (30) days following any reimbursable responses of the La Porte County Hazardous Material Response Team.

The person responsible for reimbursing the County of La Porte under the provisions of this Ordinance shall tender payment in satisfaction of the aforementioned billing no later than thirty (30) days following receipt of the billing prepared and issued by the Coordinator of the La Porte County Emergency Planning Committee.

Any person who fails to reimburse the County of La Porte within the aforementioned thirty (30) days, shall be deemed to have violated this Ordinance and shall be subjected to a penalty equivalent to five percent (5%) of the total billed amount for every day that the responsible party fails to tender reimbursement to the County of La Porte.

If a person objects to the aforementioned billing by the La Porte County Emergency Planning Committee's Coordinator, the responsible party must file with the La Porte County Board of County Commissioners a written objection to the billed amount. Upon receipt of such written objection, the La Porte County Board of Commissioners shall place the matter on the agenda of its next regular scheduled meeting and shall allow the responsible party an opportunity to object to the billing. The La Porte County Board of Commissioners shall then deliberate and issue a written opinion concerning the appropriateness of the billed amount. If the responsible party objects to the decision of the La Porte County Board of Commissioners, a petition requesting judicial review of the decision of the La Porte County Board of Commissioners shall be filed with the La Porte County Circuit Court no later than thirty (30) days from the date of the decision of the La Porte County Board of Commissioners. The La Porte Circuit Court Judge shall conduct a hearing on the petition as expeditiously as is consistent with the Court's calendar. The decision of the La Porte County Circuit Court Judge shall be final unless the responsible party appeals said decision pursuant to the appeal procedure for any civil matter.

### ARTICLE III

Anytime that the La Porte County Hazardous Material Response Team is called to the scene of an incident, the responsible party shall reimburse the County of La Porte (at replacement cost) for any Hazardous Material Response Team equipment or supplies which are damaged, lost, spent,

destroyed, rendered irreparable, or "used up" in responding to or managing the incident. Provided, any reimbursement under this paragraph shall be limited to equipment and supplies which are listed on the "Equipment and Supply Inventory List" of the La Porte County Hazardous Material Response Team which shall be kept on file at the Office of the La Porte County Emergency Planning Committee and made available for public inspection during normal business hours of this office.

In addition to the reimbursement obligations contained in paragraph 1 of Article III, the responsible party shall be billed by the La Porte County Emergency Planning Committee Office at the rate of Thirty Dollars (\$30) per man/hour (or fraction thereof) for any Level B personal protection equipment response as such protection level responses are identified and described in the "Occupational Safety and Health Guidance Manual for Hazardous Waste Site Activities" as published by the U.S. Department of Health and Human Services, Public Health Service, Center for Disease Control, and the National Institute for Occupational Health and Safety. For purpose of this paragraph, the Thirty Dollar (\$30) per man/hour charge shall be calculated only on the basis of those Hazardous Material Response Team members utilizing Level B Personal Protection Equipment, and only for that period of time during which the aforementioned protection equipment is actually utilized.

In addition to the reimbursement obligations contained in paragraph 1 of Article III, the responsible party shall be billed by the La Porte County Emergency Planning Committee office at the rate of Forty-Five Dollars (\$45) per man/hour (or fraction thereof) for any Level A Personal Protective Equipment response as such protection level responses are identified and described in the "Occupational Safety and health Guidance Manual for Hazardous Waste Site Activities" as published by the U.S. Department of Health and Human Services, Public Health Service, Center for Disease Control, and the National Institute for Occupational Health and Safety. For purpose of this paragraph, the Forty-Five (\$45) per man/hour charge shall be calculated only on the basis of those Hazardous Material Response Team members utilizing Level A Personal Protective Equipment and only for that period of time during which the aforementioned protective equipment is actually utilized.

If the La Porte County Hazardous Material Response Team utilizes "outside contractors" or equipment and material other than that which is listed on the aforementioned Equipment and Supply Inventory List, the responsible party shall be billed the actual costs incurred in connection with such outside contractors (including clean-up contractors) or the actual costs of such additional equipment or supplies.

ARTICLE IV

In the event that any portion of this ordinance is declared invalid, unconstitutional, or otherwise null and void, the La Porte County Commissioners specifically intend that the remaining portions thereof shall continue to have full force, effect, and validity until or unless declared otherwise.

BE IT FURTHER ORDAINED by the La Porte County Board of Commissioners that this Ordinance shall have full force and effect from and after its passage and publication as required by law.

This Ordinance having been approved and adopted by the La Porte County Board of Commissioners this 22<sup>nd</sup> day of January, 1990.

LA PORTE COUNTY BOARD OF COMMISSIONERS

Michael T. Quinn  
Micheal T. Quinn, President

Norman E. Pahs  
Norman E. Pahs

Merle Bannwart  
Merle Bannwart

ATTEST:

Betty J. Shail  
Betty J. Shail, County Auditor

Please publish two (2) times in the Michigan City News-Dispatch and LaPorte Herald-Argus on Monday, January 29, 1990 and Monday, February 5, 1990.