

COUNTY OF MUSKEGON ORDINANCE

AN ORDINANCE TO REQUIRE REIMBURSEMENT FOR CLEANUP
OF CERTAIN DANGEROUS OR HAZARDOUS MATERIALS

THE COUNTY OF MUSKEGON ORDAINS:

SECTION 1. PURPOSE.

The purpose of this Ordinance is to enable the County of Muskegon to require reimbursement from those responsible for the leaking, spilling, or otherwise allowing certain dangerous or hazardous substances or materials to escape containment, thereby resulting in the incurring of costs by the County in responding to same.

SECTION 2. DEFINITIONS.

(a) Dangerous or Hazardous Substance or Material. For purposes of this ordinance, a dangerous or hazardous substance or material is defined as any substance or material which, in the judgment of a responding fire, police, health, or other governmental agent, is or may be dangerous or harmful to the environment or human or animal life, health or safety, or is obnoxious by reason of odor as a result of a release or a threatened release in the environment.

(b) “Responsible Party” Defined. For purposes of this ordinance, responsible party shall include any person or entity who is, at the time of the County Response, as hereinafter defined, was responsible for, or in possession of, or in a position of control of a dangerous or hazardous substance, or any vehicle, container, or property used for the transport, conveyance, holding or storage of same and furthermore, including any person or entity in control of property onto which or from which the dangerous or hazardous substance matter is or may be released. For purposes of this ordinance, the term “entity” shall mean firm, corporation, partnership, commercial entity, consortium, joint venture, government entity or any other legal entity.

(c) Reimbursable Costs and Expenses. For purposes of this ordinance, costs and expenses to be reimbursed or paid to the County include those costs and expenses incurred by the County as a result of a responding to a release or threatened release of a dangerous or hazardous substance or material. Included within such costs and expenses, by way of illustration but not by way of limitation, shall be those customary and usual costs and expenses incurred by County in providing for any response by its Hazardous Materials Team “HAZMAT” to the release or threatened release occurrence. Such “HAZMAT” costs shall include a response “team activation charge” of \$500, as well as such other reasonable and customary charges or expenses for deployment of equipment and volunteer, and/or compensated personnel as well as the activation for replacement costs of any expendable equipment or material used as determined by the Emergency Services Director together

with customary and usual administration charges and including any and all other incremental costs associated with response, as determined by the Emergency Services director. Charges may from time to time be amended or modified pursuant to Board budgetary approval.

SECTION 3. REIMBURSEMENT OF COUNTY COSTS AND EXPENSES.

A responsible party shall reimburse the County for the reimbursable costs and expenses incurred by the County in responding to a request by a governmental agent for HAZMAT assistance in abating a release or threatened release of a dangerous or hazardous substance or material. Such costs and expense shall be remitted by the County within 60 days of mailing date of invoice; unpaid costs and expenses shall bear interest at the rate of 1% per month on any unpaid balance.

SECTION 4. ENFORCEMENT.

The Emergency Services Director, as authorized representative, shall be empowered hereunder to bill for reimbursement as herein provided for and, on behalf of the County, to pursue any and all legal action, including the filing of a complaint, to effect payment as herein provided for.

SECTION 5. LOCAL GOVERNMENT FUNCTIONS.

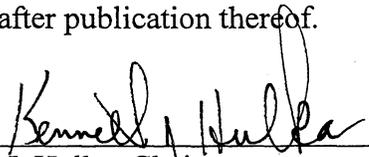
Nothing in this ordinance shall be construed, nor have the effect of limiting, or prohibiting any local unit of government from imposing and exacting charges for reimbursement upon a responsible party in order to recover costs incurred by said local unit. Furthermore, in the event any city, township, or village within the County of Muskegon shall pursuant to ordinance, or resolution by its governing body, resolve that hazardous material responses shall not be provided by the County to their local unit, then, and in such event, this ordinance shall be deemed to be of no force and effect in said city, township, or village.

SECTION 6. EFFECT UPON FEDERAL OR STATE LAW.

Nothing herein shall be construed nor have the effect of limiting any lawful enablement provided to any governmental agency by virtue of existing federal or state law, rule, or regulation and nothing herein shall be construed, nor have the effect of limiting County ability to pursue remedies, including reimbursements, as may be provided for under any such federal or state law, rule, or regulation.

SECTION 7. EFFECTIVE DATE.

This Ordinance shall take effect the tenth day after publication thereof.

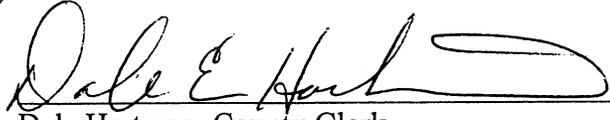


Kenneth J. Hulka, Chairman
Muskegon County Board of Commission

This is to certify that this Ordinance was adopted at a meeting of the Muskegon County Board of Commission held on December 22, 1998, and published as of the date set forth below.

Publication date Feb. 3, 1999.

Effective date Feb 4, 1999.


Dale Hartman, County Clerk

I HEREBY CERTIFY this to be a true and correct copy of the original on file with the office of COUNTY CLERK.
This Certified Copy VALID Only When SEAL and RED SIGNATURE Are Affixed.

MUSKEGON COUNTY CLERK