

**TOWNSHIP OF KOCHVILLE
COUNTY OF SAGINAW
STATE OF MICHIGAN**

ORDINANCE NO. 09-04

AN ORDINANCE OF THE TOWNSHIP OF KOCHVILLE, SAGINAW COUNTY MICHIGAN TO AUTHORIZE THE RECOVERY OF EMERGENCY RESPONSE SERVICES; AND TO PROVIDE FOR THE ADMINISTRATIVE ASSESSMENT AND COLLECTION OF FEES AND COSTS INCURRED IN CONNECTION WITH EMERGENCY POLICE AND FIRE SERVICES

The Township of Kochville, Saginaw County Michigan Hereby Ordains as Follows:

ARTICLE I. TITLE

This Ordinance shall be known as the Kochville Township Emergency Services Cost Reimbursement Ordinance.

ARTICLE II. AUTHORITY, FINDINGS, PURPOSE AND DEFINITIONS

- 2.1 Authority - Pursuant to Section 41.806a of the Michigan Compiled Laws, the Township of Kochville ("Township") has the authority to establish by ordinance for the assessment and collection of fees for emergency services as defined in Section 41.806a. The Township is further authorized to recover costs of environmental response activities pursuant to the Michigan Natural Resources and Environmental Protection Act, and specifically Part 201 thereof, MCL 3214.20101 et. seq.
- 2.2 Findings – The duties of fire departments require specialized fire, safety, emergency, rescue, environmental and hazardous material equipment, materials, supplies and specialized training in order to provide for the safety of the public. The response to emergency situations which involve and/or are caused by, nonresident persons, places a financial burden on the Township and its fire department. Ad valorem real property taxes and special assessments are insufficient to provide for the ever increasing cost for emergency services. The Township of Kochville has previously authorized the collection of charges for emergency service responses under Ordinance numbers 02-01 and 01-06.
- 2.3 Purpose – The purpose of this Ordinance is to authorize the Township to seek reimbursement for the reasonable costs of Emergency Response Services, either directly or through a third party provider, and to recover the costs of such services.

- 2.4 Definitions - The following words, terms and phrases, when used in this Ordinance shall have the meanings ascribed to them except where the context clearly indicates a different meaning:

Building means any structure used or intended for supporting or sheltering any use or occupancy.

Emergency response means the providing, sending and/or utilizing of police, firefighting, emergency medical, and rescue services by the Township, or by a private individual or corporation operating at the request or direction of the township or state to an incident resulting in a hazardous material release or threatened release.

Emergency response shall also include the responses by the Township Fire Department to the following incidents:

- a. A non-resident of the Township who receives, requires or otherwise necessitates or causes the use of fire department personnel and/or equipment of the department for any provided service; and
- b. Any person who receives, requires or necessitates or causes the use of fire department personnel and/or equipment for responding to power lines damage or disruption.

Emergency response services shall include all services and equipment which are used by the Township in responding to an emergency response.

Hazardous material means explosives, pyrotechnics, flammable gas, flammable compressed gas, nonflammable compressed gas, flammable liquid, combustible liquid, oxidizing material, poisonous gas, poisonous liquid, poisonous solid, irritating material, etiological material, radioactive material, corrosive material, or liquefied petroleum gas.

Premises means any lot or parcel of land, exclusive of buildings, and includes a parking lot, tourist camp, trailer camp, airport, stockyard, junkyard, wharf, pier, public roadway, and any other place or enclosure, however owned, used or occupied.

Responsible Party shall mean any individual, firm, corporation, association, partnership, commercial entity, group, consortium, joint venture, government entity or any other legal entity which is: (1) responsible for a release of a hazardous material, either actual or threatened; (2) is an owner, tenant, occupant or party in control of property onto which or from which hazardous materials release; or (3) receives, requires, or otherwise necessitates or causes the use of Emergency Response Services.

ARTICLE III. RECOVERY OF COSTS

- 3.1 The Township, through its fire department, shall be entitled to recover the costs of Emergency Response Services from a Responsible Party as provided herein. These costs shall include, but are not limited to the following:

Use of emergency fire and/or rescue (including, but not limited to, vehicle accidents) personnel hours, tools, equipment, materials and vehicles; hazardous material and/or environmental response personnel hours, tools, equipment, materials and vehicles; the above described services which are contracted by the Township through a third party; and reasonable interest on any amount due from the date of the response until fully paid. Additionally, the Township, through its fire departments is hereby authorized to assess a reasonable flat-rate fee for any false alarm responses or fire drill responses for which the fire department did not receive at least forty-eight (48) hours prior notice.

- 3.1.1 Nothing in this Ordinance shall be interpreted as limiting any amount which the Township is authorized to recover under any applicable law of the State of Michigan or ordinance of this Township.

- 3.2 **Method of Billing** – The costs authorized to be billed under this Ordinance to a Responsible Party shall be recovered directly by the Township, through its fire department, or through a third party billing service as an authorized agent of the Township for the collection of said costs.
- 3.3 **Determination of Costs** – The reimbursement rates for the recoverable costs as provided in this Ordinance shall be established by the Township. If a third party service is used for the recovery of costs, said third party shall recommend the rates of reimbursement to the Township which shall in all respects comply with the establishment of fees for nonresidents under Michigan law.

- 3.4 Service Charge - If the Township utilizes the services of a third party billing service, said third party billing service shall be authorized to charge a reasonable service charge to the Responsible Party in addition to the costs which are recovered on behalf of the Township. The service charge shall be established by the third party billing service subject to approval of the Township.
- 3.5 Payment of Recovered Funds - The funds recovered under this Ordinance shall be remitted directly to the Township and accounted for exclusively for the support of the Township fire department service.
- 3.6 Collection Costs – In the event that collection costs and/or attorney's fees are incurred by the Township or third party billing service as a result of the efforts required to obtain full reimbursement for the costs billed for under this Ordinance to a Responsible Party, said collection costs and/or attorney's fees may be recovered by the Township or third party billing service from the Responsible Party and/or any applicable insurance company/carrier of the Responsible Party for the costs billed for under this Ordinance.
- 3.7 Lien -The Township shall have a lien against the premises at which Emergency Response Services were provided within the Township. Whenever any such charge against a parcel of property shall be delinquent for six (6) months, the Township official in charge of the collection thereof shall certify to the tax-assessing officer of the Township the facts of such delinquency. The charge shall be entered upon the next tax roll as a lien against their premises and shall be collected and enforced in the same manner as general Township taxes are collected and the lien is enforced.

ARTICLE IV. MISCELLANEOUS

- 4.1 Repeal - All ordinances, or parts of ordinances, in conflict with this Ordinance including Ordinance Nos. 02-01 and 01-06 are hereby repealed.
- 4.2 Severability - The provisions of this Ordinance are hereby declared to be severable and if any part is declared invalid for any reason by a court of competent jurisdiction it shall not affect the remainder of the Ordinance which shall continue in full force and effect.
- 4.3 Effective Date - This Ordinance shall take effect 30 days following publication as required by law following adoption by the Township Board.

This Ordinance is hereby declared to have been adopted by Kochville Township Board, County of Saginaw, State of Michigan, at a regular meeting held on the 15th day of December, 2009, and ordered to be given publication in the manner prescribed by law.

This Ordinance upon adoption is ordered to be given publication as required by law.

Motion by Treasurer Yanca seconded by Supervisor Loiacano to adopt Ordinance # 09-04.

Vote:

Roll Call Vote:

<u>Yes</u>	Trustee Ferrell
<u>Yes</u>	Trustee Hahn
<u>Yes</u>	Treasurer Yanca
<u>Yes</u>	Clerk Hill
<u>Yes</u>	Supervisor Loiacano

The foregoing Ordinance was duly adopted at a regular meeting of the Kochville Township Board held on the 15th day of December, 2009.



Supervisor of Kochville Township



Clerk of Kochville Township

I, Sheila Hill, Clerk of Kochville Township, do hereby certify that the above is a true and exact copy of the Ordinance heretofore passed by the Township Board for Kochville Township, Saginaw County, Michigan voted.

This Ordinance was given publication in the Township Times on the 29th day of December, 2009.



Clerk of Kochville Township

Effective Date: January 29, 2010