

ORDINANCE NO. 96-30-CM

**AN ORDINANCE ESTABLISHING A SYSTEM OF
REIMBURSEMENT FOR COSTS AND EXPENSES ASSOCIATED WITH
OPERATION OF TIPPECANOE COUNTY HAZARDOUS MATERIAL
RESPONSE TEAM:**

WHEREAS, the Board of Commissioners of Tippecanoe County created the Tippecanoe County Hazardous Response Team on the 20th day of May, 1996, pursuant to Resolution No. 96-07-CM; and

WHEREAS, the Tippecanoe County Hazardous Material Response Team will incur expenses in responding to incidents and in effectively and efficiently performing 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 Tippecanoe County; and

WHEREAS, the costs and expenses associated with the operation of the Tippecanoe County Hazardous Material Response Team could become burdensome on the taxpayers of Tippecanoe County; and

WHEREAS, it is the desire and intent of the Board of Commissioners of Tippecanoe County 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 costs and expenses associated with the operation of the Tippecanoe County Hazardous Materials Response Team.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of Tippecanoe County 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 representatives, agents, or assigns.
2. Responsible party shall mean the person liable for reimbursement for costs and expenses associated with operation of the Tippecanoe County Hazardous Materials 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 H. Irving Sax and contain the terms - dangerous, hazardous or toxic in the THR (Summary Toxicity 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 Tippecanoe County Hazardous Materials 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 substances or materials reasonably believed to be dangerous, hazardous, or toxic in such a fashion or manner so as to necessitate a response by the Tippecanoe County Hazardous Materials Response Team shall be liable to the County of Tippecanoe for reimbursement of the costs and expenses made necessary by such response of the Tippecanoe County Hazardous Materials Response Team pursuant to the provisions of this Ordinance.

The Coordinator of the Tippecanoe County Hazardous Materials Council 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 no later than thirty (30) days following any reimbursable responses of the Tippecanoe County Hazardous Materials Response Team.

The person responsible for reimbursing the County of Tippecanoe 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 Tippecanoe County Hazardous Materials Council.

Any person who fails to reimburse the County of Tippecanoe within the aforementioned thirty (30) days, shall be deemed to have violated this Ordinance and shall be subject 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 Tippecanoe.

If a person objects to the aforementioned billing by the Coordinator of the Tippecanoe County Hazardous Materials Council, the responsible party must file with the Tippecanoe County Board of Commissioners a written objection to the billed amount. Upon receipt of such written objection, the Tippecanoe County Board of Commissioners shall place the matter on the agenda of its next regularly scheduled meeting and shall allow the responsible party an opportunity to object to the billing. The Tippecanoe 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 Tippecanoe County Board of Commissioners, a petition requesting judicial review of the decision of the Tippecanoe County Board of Commissioners shall be filed with the Tippecanoe Circuit Court no later than thirty (30) days from the date of the decision of the Tippecanoe County Board of Commissioners. The Tippecanoe County Circuit Court Judge shall conduct a hearing on the petition as expeditiously as is consistent with the Court's calendar. The decision of the Tippecanoe Circuit Court Judge shall be final unless the responsible party or the Tippecanoe County Board of Commissioners appeal that decision pursuant to the appellate procedure for appeal of any civil matter.

ARTICLE III

Any time that the Tippecanoe County Hazardous Materials Response Team is called to the scene of an accident, the responsible party shall reimburse the County of Tippecanoe (at replacement cost) for any Hazardous Materials Response Team equipment or supplies which are damaged, lost, spent, destroyed, rendered irreparable, or "used up" in responding to or managing the incident; provided that any reimbursement under this paragraph shall be limited to equipment and supplies which are listed on the "Equipment and Supply Inventory List" of the Tippecanoe County Hazardous Materials Response Team which shall be kept on file at the offices of the Coordinator of the Tippecanoe County Hazardous Materials Council and made available for public inspection during normal business hours of the Tippecanoe County Hazardous Materials Council.

In addition to the reimbursement obligations contained in Paragraph 1 of Article III, the responsible party shall be billed by the Coordinator of the Tippecanoe County

Hazardous Materials Council at the rate of Seventy Doallars (\$70.00) per hour for each member of the Tippecanoe County Hazardous Materials Response Team who is active at the site.

ARTICLE IV

In the event that the Tippecanoe County Hazardous Materials Response Team responds to an incident outside of the boundaries of Tippecanoe County, the responsible party shall be billed the sum of Two Thousand Dollars (\$2,000.00) per incident response. This charge shall be in addition to any and all charges for which the responsible party may be held liable under Article III of this Ordinance. The provisions of Article II of this Ordinance shall also be applicable to this out-of-county assessment.

ARTICLE V

In the event that any portion of this Ordinance is declared invalid, unconstitutional, or otherwise null and void, the Tippecanoe County Board of Commissioners specifically intends that the remaining portions hereof shall continue to have full force, effect, and validity until or unless declared otherwise.

FIRST READING:

APPROVED AND ADOPTED on first reading this **28th day of May, 1996.**

VOTE:

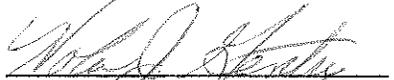
BOARD OF COMMISSIONERS OF THE
COUNTY OF TIPPECANOE, INDIANA

YES



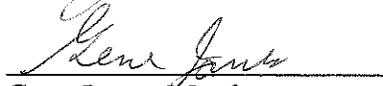
William D. Haan, President

YES

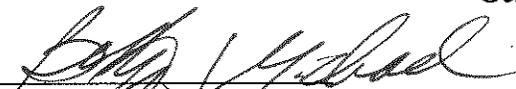


Nola J. Gentry, Vice President

YES



Gene Jones, Member

Attest: 

Betty J. Michael, Auditor

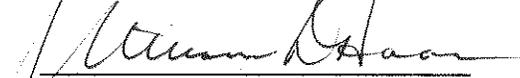
SECOND READING:

ADOPTED AND APPROVED on second and final reading this **3rd day of June, 1996.**

VOTE:

BOARD OF COMMISSIONERS OF THE
COUNTY OF TIPPECANOE, INDIANA

YES



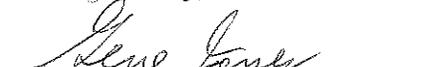
William D. Haan, President

YES

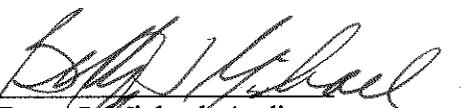


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