

ORDINANCE NO 22-18

AN ORDINANCE AMENDING ORDINANCE 98-03 UPDATING THE SYSTEM OF REIMBURSEMENT FOR COSTS AND EXPENSES ASSOCIATED WITH OPERATIONS OF THE CASS COUNTY EMERGENCY RESPONSE TEAM

WHEREAS, The Board of Commissioners of Cass County created the Cass County Emergency Response Team on the 3rd day of June, 1996, pursuant to Resolution No. 96-06; and

WHEREAS, The Cass County Council established a system of reimbursement for costs and expenses associated with operations of the Cass County Emergency Response Team on the 20th day of February, 1998, pursuant to Resolution No. 98-03; and

WHEREAS, Costs and expenses associated with the operation of the Cass County Emergency Response Team could continue to be burdensome on the taxpayers of Cass County; and

WHEREAS, it is the desire and intent of the Cass County Council and Commissioners to continue to provide 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 Cass County Emergency Response Team; and

WHEREAS, The Cass County Emergency Management Agency is recognized as a Fire Department for purpose of Hazardous Materials Response, with a Fire Department ID Number of 09014, and,

WHEREAS, The Indiana State Fire Marshall has provided an updated billing schedule for response to Hazardous Materials Emergencies (January 1, 2016 Notice 3), and,

WHEREAS, IC 36-8-12.2-11, regarding Penalties for nonpayment, has been revised by PL33-2001, Section 3, and,

WHEREAS, the Cass County Council and Commissioners deem and it necessary to amend Ordinance 98-03 to be consistent with the updated billing schedule from the Indiana State Fire Marshall and amendments and revisions to IC 36-8-12.2-11

NOW, THEREFORE, BE IT RESOLVED AND ORDAINED by the Cass County Council as follows;

ARTICLE I

1. "Person" shall mean individual, partnership, co-operative, Limited Liability Company, firm, company, corporation, association, trust, estate, government entity, or any other legal entity or their representatives, agents, or assignees.

2. "Responsible party" shall mean the person liable for reimbursement for costs and expenses associated with the operation of the Cass County Emergency Response Team.
3. Substances considered as dangerous, hazardous, or toxic are those which:
 - a. Meet the definition of a Hazardous Substance as provided in 49 CFR 171.8
 - b. Meet the definition of a Hazardous Material, as provided in 49 CFR 171.8
4. "Response" shall mean any and all instances when one or more members of the Cass County Emergency 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

1. 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 Cass County Emergency Response Team shall be liable to the County of Cass for reimbursement of the costs and expenses made necessary by such response of the Cass County Emergency Response Team pursuant to the provisions of this ordinance.
2. The Director of the Cass County Emergency Management Agency 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 reimbursement response of the Cass County Emergency Response Team.
3. The person responsible for reimbursing the County of Cass under the provisions of this ordinance shall tender payment in satisfaction of the aforementioned billing no later than sixty (60) days following receipt of the billing prepared and issued by the Director of Cass County Emergency Management Agency.
4. Any person who fails to reimburse the County of Cass within the aforementioned sixty (60) days, shall be deemed to have violated this Ordinance and shall be subject to a penalty equivalent to ten (10%) percent of the total billed amount that remains unpaid on the due date and shall be responsible for attorney fees incurred to pursue a claim for reimbursement.
5. If a person objects to the aforementioned billing by the Director of the Cass County Emergency Management Agency, the responsible party must file with the Cass County Emergency Management Advisory Council a written objection to the billed amount within thirty days of the date of billing.
 - a. Upon receipt of such objection, the Cass County Emergency Management Advisory Council 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.
 - b. The Cass County Emergency Management Advisory Council shall then receive and review the objection and the business for such objection, deliberate and issue a written opinion concerning the appropriateness of the billed amount.

- c. If the responsible party objects to the decision of the Cass County Emergency Management Advisory Council, a petition requesting judicial review shall be filed with the Cass County Circuit Court no later than thirty (30) days from the date of the decision of the Cass County Emergency Management Advisory Council.
- d. The decision of the Cass County Circuit Court Judge shall be final unless the responsible party or the Cass County Emergency Management Advisory Council appeal that decision to the appellate procedure for appeal of any civil matter pursuant to the administrative review process.

ARTICLE III

1. Any time the Cass County Emergency Response Team is called to the scene of an accident, the responsible party shall reimburse the County of Cass (at replacement cost) for any Emergency 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 Cass County Emergency Response Team which shall be kept on file at the office of the Director of the Cass County Emergency Management Agency and made available for public inspection during normal business hours of the Cass County Emergency Management Agency.
2. In addition to the reimbursement obligations contained in Paragraph I of Article III, the responsible party shall be billed by the Director of the Cass County Emergency Management for the initial response with a hazardous materials response unit or a rescue ambulance unit dispatched to a hazardous materials incident at the rates set forth below:
 - (a) For initial response with a fire engine, a fire truck, or a fire apparatus, including a hazardous material response unit, or a fire rescue unit dispatched on a fire or hazardous material incident, two hundred fifty dollars (\$250.00) per response vehicle except command/control vehicle, which is one hundred dollars (\$100.00) per vehicle.
 - (b) For each hour or fraction thereof as on-scene assistance, one hundred fifty dollars (\$150.00) per response unit and fifty dollars (\$50.00) per command/control vehicle.
 - (c) For expendable materials such as absorption materials, emulsifiers, or other agents used in cleanup operations, the actual replacement cost of those materials.
 - (d) For collection of debris, chemicals, fuel, or contaminated materials resulting from a spill, the actual cost of removal and disposal at an authorized location.

In addition to all the foregoing amounts, the responsible party shall pay the costs of collection, including attorney fees, if suit is necessary to collect such amounts.

ARTICLE IV

In the event that the Cass County Emergency Response Team responds to an incident outside of the boundaries of Cass County, the Cass County Emergency

Response Team and Cass County Emergency Management Agency shall not be held liable for anything that goes wrong in providing such aid (including liability, workman's compensation, property damage, loss, bodily injuries and/or death). The party requesting aid shall take full responsibility for the Cass County Emergency Response Team.

ARTICLE V

By signing the Mutual Aid Agreement, the requesting party accepts these terms. The provisions of Article II of this Ordinance shall also be applicable to this out-of-county assessment.

ARTICLE VI


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

ARTICLE VII

It is the intent of the Cass County Commissioners and the Cass County Council that the purpose of the ordinance is to amend and update its current ordinance to be consistent with current Indiana law, specifically, IC § 36-8-12.2-1 et seq.

THIS ORDINANCE HAVING BEEN APPROVED AND ADOPTED by the Cass County Commissioners, Cass County, Indiana, this 21st day of November, 2022 and by the Cass County Council, this 9th day of December, 2022.


CASS COUNTY BOARD OF COMMISSIONERS:



Ryan Browning, President



Ruth Baker, Vice President




Michael W. Stajduhar

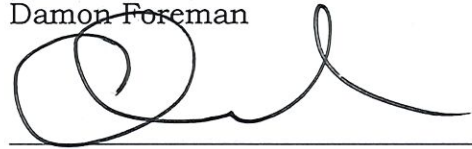
CASS COUNTY COUNCIL:



Brian Reed



Damon Foreman



David Redweik



Tracy Williamson



Dean Davenport

absent
Bruce Ide



Shawn Shoemaker

Attest:



Cheryl Alcorn, County Auditor