

**TOWNSHIP OF LEBANON
HUNTERDON COUNTY, NEW JERSEY**

ORDINANCE NO. 2016-07

**ORDINANCE AUTHORIZING LEBANON TOWNSHIP VOLUNTEER FIRE
DEPARTMENT TO SEEK REIMBURSEMENT FOR COSTS INCURRED IN
PROVIDING CERTAIN EMERGENCY SERVICES FOR HAZARDOUS ABATEMENT
INCIDENTS**

WHEREAS, the Township of Lebanon Volunteer Fire Department (the “Department”) is an independent volunteer fire company that provides fire suppression and emergency services in and around the Township of Lebanon (the “Township”); and

WHEREAS, the cost of purchasing, repairing, and maintaining the equipment and supplies used by the Department in providing fire and emergency services continues to grow each year; and

WHEREAS, the Mayor and Committee of the Township of Lebanon (“Township Committee”) acknowledges the Department’s interest in securing additional funding sources so that it can continue to provide fire and emergency services for the benefit of the Township and persons traveling within the Township; and

WHEREAS, the Township Committee has been advised that fire insurance and auto insurance policies in New Jersey will directly compensate local fire Departments for response if a Schedule of Fees has been adopted by ordinance; and

WHEREAS, the Township Committee believes that an ordinance establishing a revenue recovery plan for the costs and expenses of certain environmental hazards would be in the best interests of the Township;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Committee of the Township of Lebanon, the County of Hunterdon, that Chapter 35 entitled “Fire Department” of the Code of the Township of Lebanon (“Code”) is hereby amended as follows:

SECTION 1. Chapter 35 of the Code entitled “Fire Department” is amended by adding sections 35-13 through and including 35-21, and deleting the existing sections, as follows:

§35-13 Definitions

As used in this chapter, the following terms shall have the meanings indicated:

COSTS

All costs incurred by the Township or Department, including but not limited to the following: actual labor costs of personnel, including workers' compensation benefits, fringe benefits and administrative overhead; cost of equipment operation; cost of materials; and the cost of any outside contract for labor and materials.

DEPARTMENT

The Lebanon Township Volunteer Fire Department

DISCHARGE

Any intentional or unintentional action or omission resulting in the releasing, spilling, leaking, pumping, pouring, emitting, emptying or dumping of any hazardous substance into the water, onto the land, or into the air.

HAZARDOUS ABATEMENT INCIDENT:

Any incident where there is a discharge of a hazardous substance or petroleum product.

HAZARDOUS SUBSTANCE

Any and all elements and compounds, including petroleum products, which are defined as such by the New Jersey Department of Environmental Protection or as are defined in the N.F.P.A. Guide of Hazardous Materials, or as are set forth in the list of hazardous substances adopted by the Federal Environmental Protection Agency, or as are defined on the list of toxic pollutants designated by Congress or the Environmental Protection Agency.

MATERIALS

All materials, including but not limited to firefighting foam, chemical extinguishing agents, absorbent material, sand recovery drums, and specialized protective equipment such as acid suits, acid gloves, goggles and protective clothing.

PERSON

Any public or private corporation, company, association, society, firm, partnership, joint stock company, individual, or other entity.

PETROLEUM PRODUCT

Oil or petroleum of any kind and in any form, including but not limited to oil, petroleum, gasoline, kerosene, fuel oil, oil sludge, oil refuse, oil mixed with other wastes, crude oils and

substantives or additives utilized in the refining or blending of crude, petroleum or petroleum stock.

§35-14 Authorization to Recover Costs and Expenses

The governing body of the Township of Lebanon authorizes the Department to recover the costs of fire-fighting materials used and expended; the costs of the use of the fire trucks, fire engines, rescue equipment, and tankers; the costs of personnel hours and hazardous situation abatement materials involved in any hazardous abatement incident.

§35-15 Schedule of Fees and Costs.

Below is a schedule of fees and costs to be charged and invoiced by the Department to any person or their insurance carrier for whom or for whose property such services were rendered and/or materials provided.

Type of Incident	Description	Fee
Vehicle Incidents	Any hazardous abatement incident involving a vehicle substantial enough to cause the Department to use tools and skill (or extinguishing agent) to bring the incident under control.	\$750 per vehicle
Hazardous Substance Discharge	Intentional or unintentional discharge of a hazardous substance as defined herein; which includes, but is not limited to, hazardous materials fires.	Actual costs incurred and an hourly rate (not in excess of \$50 per hour) for all personnel involved in the response.

§35-16 Parties Responsible for Reimbursement to the Department.

Reimbursement to the Department as hereinbefore indicated shall be made by:

- a. The owner or operator of the vehicle responsible for hazardous material fire or discharge of hazardous material;
- b. Any person who causes, by act or omission, or is otherwise responsible for, a discharge of any hazardous substance which is cleaned up or abated by the Department, including the owner of real or personal property from which a discharge of hazardous substance occurs, shall be liable for the payment of all costs incurred by the Department as a result of such clean up or abatement,

including but not limited to, all costs for services rendered by any recovery company, towing company or such other technical assistance called for by the Department to handle such incident;

c. The owner or person responsible for the vessel containing the hazardous material involved in such fire or discharge, whether stationary or in transit, and whether accidental or negligent;

d. The owner or person responsible for any property from which any discharge of hazardous material emanates, whether accidental or through negligence; and

e. The person responsible for the hazardous material fire, leak or spill, whether accidental or through negligence.

§35-17 Third-Party Billing Agent.

The Department is hereby authorized to bill and collect costs due to it under this chapter through a third party billing agent, provided that any such agreement with any professional agency engaged in the business of emergency response billing shall be subject to the approval of the Township Committee.

§35-18 Collection of Costs.

Said costs and fees as outlined above and as set forth on the schedule of fees and costs herein shall be recovered directly by the Department, or through a third-party professional agency engaged in the business of emergency response billing under a contract with the Department, by billing to the responsible party.

§35-19 Interest and Administration Fees.

In addition to the aforementioned fees and costs, the Department is hereby authorized to collect reasonable interest and administration fees for the collection of the fees and costs due and owing from the insurance companies or responsible parties for the services rendered and/or materials provided.

§35-20 Report to the Township Committee.

The Department shall provide a monthly report to the Township Committee detailing all billing and receipts under this chapter.

§35-21 Time Limit for Reimbursement.

Any person or entity responsible for any vehicle fire or discharge of hazardous materials shall reimburse the Department pursuant to the schedule of fees hereunder, or provide proof that they have submitted a claim to their insurance carrier for payment within 45 days after receipt of a statement from the Department outlining said costs and expenses. These provisions shall be subject to the following:

a. Persons receiving services from the Department shall cooperate with the Department or other billing personnel hired by the Department to secure full payment for services rendered from any necessary insurance carrier.

b. Due to anticipated time requirements for the preparation and processing of insurance claims, parties that have provided proof of a claim to their insurance carrier shall not be charged interest or be subject to penalties hereunder.

c. Responsible parties under this chapter shall ensure that the Department is authorized to receive any payments from an insurance carrier as required by this chapter.

d. The Department reserves the right to determine that a bill is uncollectable by reason of unavailability of insurance coverage and be written off.

SECTION 2. All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

SECTION 3. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION 4. Any ordinance inconsistent with the terms of this Ordinance is hereby repealed.

SECTION 5. This Ordinance shall take effect upon final passage and publication according to law.

Marc Laul, Mayor

ATTEST:

Karen J. Sandorse, RMC/CMC
Municipal Clerk

Date of Introduction and First Reading: _____

Date of Second Reading and Adoption: _____

I certify that the foregoing Ordinance is a true and accurate copy of an Ordinance adopted by the Lebanon Township Committee on _____, 2016.

Karen J. Sandorse, RMC/CMC
Lebanon Township Clerk