

ORDINANCE NO 2026-

**AN ORDINANCE AMENDING ORDINANCES 25-12, 22-18 AND 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 3<sup>rd</sup> 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 20<sup>th</sup> 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 Marshal has provided an updated billing schedule for response to Hazardous Materials Emergencies (November 10, 2025 Notice 1, 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's necessary to amend Ordinance 98-03 to be consistent with the updated billing schedule from the Indiana State Fire Marshal 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 may 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. When the bill is sent out, information shall be noted in the bill or included with the mailing, email, or other notice on the right to appeal the bill under Section 8 and basic information on how to initiate the appeal process.
  - a. This Section does not confer any right to assistance from the EMA director or anyone else in pursuing the appeal.
  - b. This Section does not prohibit having assistance from an attorney and bestows no special rights upon counsel in the administrative appeal process if retained.
4. Sections 2 and 3 applies solely to whether to send a bill for services provided. Nothing in these sections shall be interpreted in any aspect to impede on the authority of the EMA director or other personal to address spills or provide other services, including but not limited to, as explicitly authorized or required by law.
5. 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.
6. 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.

7. 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.
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, or a rescue ambulance dispatched on a fire or hazardous material incident, Five hundred dollars (\$500.00) per response vehicle except command/control vehicle, which is two hundred dollars (\$200.00) per vehicle.
  - (b) For each hour or fraction thereof as on-scene assistance, four hundred dollars (\$400.00) per response unit and two hundred dollars (\$200.00) 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 \_\_\_\_ day of \_\_\_\_\_, 2026 and by the Cass County Council, this \_\_\_\_ day of \_\_\_\_\_, 2026.

CASS COUNTY BOARD OF COMMISSIONERS:

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Ruth Baker, President

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Mike Deitrich, Vice President

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Roger Spencer, Commissioner

CASS COUNTY COUNCIL:

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Derek Pullen, Vice President

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Dean Davenport

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Tracy Williamson

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John Wicker

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Shawn Shoemaker

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Cheryl Alcorn

Attest:

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Alicia Pifer, County Auditor