

**AN ORDINANCE PROVIDING FOR THE PAYMENT OF
EXTRAORDINARY EXPENSES AND SERVICES BY OR ON
BEHALF OF THE BOROUGH**

WHEREAS, the Borough Council has determined that the continuing increase of costs of providing adequate fire, law enforcement, traffic control, medical services and equipment, public works, and other public safety services, particularly in the event of an extraordinary occurrence, including but not limited to the threat of or actual release of hazardous materials or a major traffic accident seriously impairs the Borough's ability to provide all necessary services;

WHEREAS, in order to better protect the public health, safety and welfare, and to protect and preserve all public funds and tax dollars, the Borough hereby adopts a policy of payment of expenses incurred due to extraordinary occurrences, as defined herein; and

WHEREAS, the following provisions are authorized and it is further declared that all costs and fees related thereto are to be levied solely for the purpose of generating revenue to help defray the actual costs and charges of both public and private sector services during an extraordinary occurrence.

**NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE
BOROUGH COUNCIL AS FOLLOWS:**

SECTION 1: DEFINITIONS

1. "Extraordinary expenses" shall be those expenses and those related costs and fees that are incurred by the Borough, local, state or federal departments or agency, emergency services organization and from the private sector for actual costs or charges for labor, material, permits/inspections, and any other and all costs of any nature whatsoever arising from or associated with:
 - a) The use, removal and disposal of specialized extinguishing or abatement agent, chemical neutralizer or similar equipment or material that is employed to monitor, extinguish, contain, neutralize, contain, clean or remove any hazardous material that is or may be involved in a fire, or release into the air, ground or water or the potential threat of any release or fire and any and all activities associated with the implementation of a protective action (i.e. evacuation) to protect the public health, safety and welfare;
 - b) Any other costs associated with the use of labor, material, supplies, and/or equipment of any and all nature whatsoever as a result of a traffic accident or other incident which requires service, regardless of the existence of hazardous materials.

- c) "Extraordinary service" is a service performed by any Borough Department or employee, or any public or private sector organization, agency or company directly associated with mitigating the hazard or potential hazard or involved in providing services to implement a protective action. "Extraordinary services" include, but are not limited to, the abatement and disposition of hazardous materials, spills, releases, or the threat of spills or releases of hazardous materials, utility line breaks or leakage's, clean-up and removal of non-hazardous materials and other imminent or perceived or potential threats to the health, safety and welfare of the public that may be detailed or contemplated in Section 1 above.
- d) "Extraordinary occurrence(s)" includes, but are not limited to a traffic accident, a release of hazardous materials or any type of occurrence involving the utilization of police, fire, rescue personnel, ambulance, materials, equipment, and/or hazardous material equipment and/or personnel, and/or any event requiring the removal, extinguishments, clean-up of any hazardous material, fighting of a fire or a release into the air, ground or water of any potential pollution threat at any and all activities in response thereto necessary to protect the public, health safety and welfare.

SECTION 2: ADMINISTRATION

1. The Secretary of the Borough shall collect any and all fees and costs, as defined herein as follows:
 - a) "Fees and costs" include, but are not limited to, any and all engineering fees, permit fees, evaluation and re-evaluation costs or fees by personnel performing those evaluations, any and all labor, personnel, equipment, inventory, materials, supplies, and/or maintenance expenses incurred as a result of providing extraordinary services for extraordinary occurrences.
 - b) The Secretary shall keep a record of any and all such fees and costs and present an itemized statement of the same to the Borough Council for approval of the aforesaid fees and costs to be collected. Upon presentation of the amount, or supplemental amounts, the Borough Council shall pass a resolution authorizing the Secretary to collect the aforesaid fees and expenses. The Borough Council and/or Borough does not require to set forth in this Ordinance or elsewhere a specific cost or fee schedule and the approval of the Ordinance constitutes authorization for the Borough to collect all such fees and costs.
 - c) Within thirty (30) days of the date of the extraordinary or dangerous occurrence giving rise to the extraordinary service, the affected public agencies, departments or private companies shall submit within sixty (60) days of the Borough Secretary's receipt of the extraordinary expenses the Borough Secretary shall present the

initially determined amount of the extraordinary expenses to Borough Council for review and approval. Borough Council within forty-five (45) days of receipt of the aforesaid shall review and approve the amount to be collected, and by resolution authorize the Borough Secretary to submit bills for all extraordinary expenses, fees, charges, and other expenses incurred by the Borough to the owner of the property effected (rather personal or real property), and/or the authorized agent of the owner, and/or the manager of the property, and/or the insurance company insuring the property and/or the event which required the need for the extraordinary services with a demand that full remittance be made within thirty (30) days of receipt.

- d) Notwithstanding the foregoing, nothing contained herein or hereinabove shall limit the Borough from continuing to collect extraordinary expenses information after the initial determination. Should additional extraordinary expenses be determined to be due the same procedure set forth above shall be followed by the Borough Secretary in obtaining the approval from Borough Council to collect the additional extraordinary expenses.

SECTION 3: FINES/PENALTIES

1. Any party failing to pay the expenses within thirty (30) days shall, upon conviction in summary proceeding before a District Justice be sentenced to pay a fine of not less than \$100.00 or more than \$300.00, together with costs and in default thereof, undergo imprisonment in the County Prison for not more than thirty (30) days.
2. Imposition of the aforesaid fine and/or imprisonment shall not relieve any responsible party from civil liability to the Borough or the Borough pursuing any other legal remedies whether or not provided herein.

SECTION 4: LITIGATION

1. The Borough may enforce the provisions of this Ordinance by civil action in a Court of competent jurisdiction for the collection of any amounts due hereunder plus reasonable attorney's fees or for any other relief that may be appropriate.
2. The Borough's Solicitor is hereby authorized to take such action as may be necessary to enforce the provisions of this Ordinance.

SECTION 5: EMERGENCY SERVICES

1. Nothing in this Ordinance shall authorize any Borough bureau, department, or personnel or staff members to refuse or delay an emergency service to any person, firm, organization or corporation, that has not reimbursed the Borough for those municipal services that are

normally provided to the Borough for residents and others as a matter of the Borough's general operating procedure, and for which the levying of taxes, or the demand for reimbursement is normally made.

SECTION 6: SEVERABILITY

1. The provisions of this Ordinance shall be severable and if any of its provisions shall be held to be unconstitutional, if any of its provisions shall be held to be unconstitutional, illegal or otherwise invalid, that decision shall not affect the validity of any of the remaining provisions of this ordinance.

SECTION 7: REPEALER

1. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.

This is a sample ordinance. We suggest that it be modified, as appropriate, to fit the needs of your borough. We also suggest that all proposed ordinances be reviewed by your solicitor. Although these are samples of ordinances which have been adopted by other municipalities, the Association cannot assume responsibility for ensuring their legality. We are pleased to provide this service free of charge to our members. If we can be of further assistance, please do not hesitate to contact us: **PENNSYLVANIA STATE ASSOCIATION OF BOROUGHES**, 2941 North Front Street, Harrisburg, PA 17110. 717-236-9526.