

TOWNSHIP OF WEISENBERG

ORDINANCE NO. 13-3

AN ORDINANCE AUTHORIZING THE WEISENBERG VOLUNTEER FIRE DEPARTMENT HEREAFTER RESPONDING TO ACCIDENTS OR INCIDENTS TO ESTABLISH A SCHEDULE OF FEES TO REIMBURSE THE DEPARTMENT FOR COSTS AND EXPENSES INCURRED IN RESPONDING TO ACCIDENTS AND INCIDENTS SUBJECT TO APPROVAL BY THE BOARD OF SUPERVISORS; TO REVISE AND UPDATE THE SCHEDULES OF FEES ; TO COLLECT INCIDENT FEES FROM PERSONS WHO ARE OR MAY BE FINANCIALLY RESPONSIBLE OR LEGALLY LIABLE FOR SUCH ACCIDENTS AND INCIDENTS; AUTHORIZING AND ESTABLISHING PROCEDURES FOR THE WAIVER OF SUCH FEES IN CERTAIN CIRCUMSTANCES; AND A GENERAL REPEALER, SEVERABILITY PROVISION AND EFFECTIVE DATE.

WHEREAS, the Township of Weisenberg is a municipal corporation and Township of the Second Class, duly organized and lawfully existing under the Second Class Township Code (53 P.S. Section 65100 et seq.) as amended, located in Lehigh County (hereinafter sometimes referred to as "Township"); and

WHEREAS, Weisenberg Township has designated the Weisenberg Volunteer Fire Department as the approved and designated fire company to serve the Township, (the "Fire Company"); and

WHEREAS, from time to time the Fire Company is requested to respond to certain accidents and incidents occurring in the Township, or to assist other fire companies in other jurisdictions; and

WHEREAS, in the course of responding to those accidents or incidents, the Fire Company incurs considerable and significant costs and expenses in relation to the following, including, but not limited to: wear and tear on equipment; the use of special

equipment; fees from contractors, clean-up crews, third party companies, neighboring emergency service providers assisting with accidents and incidents; consumption of supplies such as, but not limited to, fuel, absorbent material, foam, etc.; and efforts and manpower of the many dedicated Fire Company personnel and fire police; and

WHEREAS, the Board of Supervisors believes that all of those persons who benefit from the availability and preparedness of the Fire Company may and should be expected, justified, and obligated to compensate the Fire Company and/or the Township for the reasonable costs and expenses incurred by the Fire Company and the Township; and

WHEREAS, the Board of Supervisors of Weisenberg Township now desires to establish and institute the policy of requiring the Fire Company to attempt to obtain such compensation and reimbursement from the persons involved in accidents and incidents, where feasible or cost-effective.

NOW THEREFORE, be it and it is hereby ORDAINED by the Board of Supervisors of Weisenberg Township that;

1. ESTABLISHMENT OF INCIDENT FEE SCHEDULE:

A. A fee schedule is attached, made a part hereof and marked as Exhibit "A." If any item or resource is not specifically listed on the fee schedule, then a receipt from the vendor, contractor and/or other third party service provider will be provided along with the bill. Special equipment used directly by the Fire Company or Township shall be billed out per the current FEMA Schedule of Equipment Rates. Bills for vendors, contractors and/or other third party service providers will be paid at cost plus any interest, administrative fees, late fees and/or any additional costs and fees associated with same. See Exhibit "A."

B. The schedule may be expressed in terms of hours, gallons, or any other convenient or regularly used unit of measurement.

C. The schedule shall be based upon and reflect either the actual experienced or likely projected costs and expenses as incurred by the Fire Company for such operations and responses to accidents and incidents, as best as the Fire Company is able to compute and establish those amounts.

D. The schedule may include a "minimum" fee for any one or more classes or items, and may also include a percentage "add-on" for overhead and handling.

E. All such schedules shall specifically include a general item in the following, or substantially similar language: "All costs of collection of these fees, including court costs and reasonable attorneys and witness fees and expenses, will be additional if further collection actions are necessary because of delinquent payment."

2. REVIEW, REVISION AND APPROVAL BY THE SUPERVISORS: All such proposed incident fee schedules shall be subject to review and approval by the Board of Supervisors, which may in its discretion add to, alter, amend, change, or revise any item or class of fees. Unless otherwise specified or acted upon by the Board of Supervisors, the current FEMA Schedule of Equipment Rates shall govern. The proposed incident fee schedule, as it may be amended, shall become effective five (5) days after approval by the Board of Supervisors by a duly authorized resolution.

3. UPDATES AND AMENDMENTS TO SCHEDULES: Thereafter, the incident fee schedules may be updated and amended in like manner from time to time, upon either a written request by the Board of Supervisors, or receipt of a written submission from the Fire Company.

4. COLLECTION REQUIRED:

A. For all accidents or incidents to which the Fire Company responds, including both those within Weisenberg Township, and those which occur on or outside of the several boundary roads of the Township to which the Fire Company responds pursuant to a "mutual aid" agreement or otherwise, the officers of the Fire Company are hereby authorized, empowered, and directed to collect fees for the response to those accidents and incidents by the Fire Company, in accordance with the currently approved incident fee schedule, from either any person or persons who are involved in such accident or incident, or any insurance company or other person who is or may be financially responsible or legally liable therefor.

B. Costs, expenses and fees authorized pursuant to this Ordinance shall be charged, collected and recovered by the Fire Company, the Fire Police, the Emergency Medical Service Provider, the Township and/or their appointed designee or agent.

5. WAIVER AND DISCHARGE:

A. The officers of the Fire Company, the Fire Police, the Emergency Medical Service Provider and the Township are also hereby authorized, empowered, and directed to compromise, settle, waive, modify, reduce, and discharge such incident fees, when, in their opinion, such action is justifiable or reasonable under the circumstances, which may include but are not limited to cases where or when:

- i. The likely cost of collection will exceed the amounts of the incident fees;
- ii. Liability or responsibility for the incident' fees is not clear;
- iii. When the actual costs or the amounts of the fees are minimal; or
- iv. Upon other good cause shown.

B. Failure of the Fire Company, the Fire Police, the Emergency Medical Service Provider and/or the Township to exercise, or any delay in the Township exercising, any right or remedy provided under this Ordinance or by law shall not constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict any future exercise of that or any other right or remedy under this Ordinance.

6. ANNUAL REPORT: A report of the amounts and collections of all such incident fees shall be included within the annual report which is required to be made to the Township Supervisors for each completed fiscal year of the Township by the Fire Company, including any waivers or reductions as aforesaid.

7. GENERAL REPEALER: All ordinances conflicting or inconsistent with the provisions of this Ordinance are hereby repealed.

8. SEVERABILITY: The provisions of this Ordinance shall be severable, and if any provision hereof shall be declared unconstitutional, illegal or invalid, such decision shall not affect the validity of any of the remaining provisions of this Ordinance. It is hereby declared as a legislative intent of the Township that this Ordinance would have been amended as if such unconstitutional, illegal or invalid provision or provisions had not been included herein.

9. EFFECTIVE DATE: The provisions of this Ordinance shall become effective on the fifth (5th) day following enactment.

DULY ORDAINED, and enacted this 10th day of June, 2013, by the Board of Supervisors of Weisenberg Township, in lawful session, duly assembled.

ATTEST:

TOWNSHIP OF WEISENBERG
BOARD OF SUPERVISORS

Donald P. Breininger

Robert R. Miller

Linda Lopez

Thomas W. ...

It is hereby certified that the Ordinance set forth above was duly adopted at a meeting of the Board of Supervisors on

Donald P. Breininger

Donald P. Breininger, Secretary