

**ORDINANCE NO: 95**

**PUBLIC SAFETY AND FIRE EMERGENCY RESPONSE**

**COST RECOVERY ORDINANCE**

**AN ORDINANCE TO PROTECT THE TOWNSHIP FROM EXTRAORDINARY EXPENSES RESULTING FROM THE UTILIZATION OF TOWNSHIP RESOURCES IN RESPONSE TO CERTAIN PUBLIC SAFETY OR FIRE EMERGENCY INCIDENTS**

**The Township Board of the Township of Davison Ordains:**

**Section 1 – Short Title**

This Ordinance shall be known and may be cited as the Public Safety and Fire Emergency Response Cost Recovery Ordinance.

**Section 2 – Purpose**

In order to protect the Township from extraordinary expenses resulting from the utilization of Township resources in response to certain public safety or fire emergency incidents, this ordinance authorizes the imposition of charges to recover reasonable and actual costs incurred by the Township in responding to such incidents.

**Section 3 – Definitions**

For the purpose of this Ordinance, the following terms or phrases shall be defined to mean:

- a. **Assessable Costs.** Those costs for services incurred by the Township in connection with a response to a public safety or fire emergency incident, including, but not limited to, the actual labor and material costs of the Township (including, without limitation, employee wages, fringe benefits, administrative overhead, costs of equipment, costs of equipment operation, cost of materials, costs of transportation, costs of material disposal and costs of contracted labor), whether or not the services are provided by the Township or by a third party on behalf of the Township; service charges and interest; and attorney’s fees, litigation costs, charges, fines or penalties to the Township imposed by any court or state or federal governmental entities, except that the Township shall not be fully reimbursed more than once for any expense incurred by the Township.
- b. **Cost Recovery Schedule.** The Township Board shall from time to time adopt resolutions that set forth a schedule of the costs incurred in responding to a public safety or fire emergency incident. It shall be presumed that the costs listed in this schedule are the true costs incurred by the Township in responding to a public safety or fire emergency incident.

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This schedule shall be available to the public from either the Township Clerk or the police department.

- c. **Emergency Assistance.** Emergency medical, public safety, police, fire and civil defense services.
- d. **Excessive Requests for Emergency Assistance.** Any request for emergency assistance made to a particular location or premises if such location or premises has requested emergency assistance more than three (3) times in the preceding thirty (30) days.
- e. **False Alarms.** Any request for emergency assistance made when the person making the request knows there is no actual need for emergency assistance. Such request may be in any form and includes a request by telephone or any other method, including the activation of any automated or manual device designed to request or summon emergency assistance. The determination that there was no actual need for emergency assistance shall be made by the most senior person responding to a false alarm. Any person or premises that cause more than four (4) requests per year for emergency services that are deemed false alarms shall be financially responsible pursuant to this ordinance.
- f. **Illegal Fire.** A fire set or determined to be set in violation of a federal, state or local law and shall include an arson fire and a fire set in violation of a “no-burning” ban, order, or ordinance. An illegal fire does not include an unintentional fire or a fire caused by an act of God, i.e., lightning storm.
- g. **Public Safety or Fire Emergency Incident.** One or more of the following: (i) excessive requests for emergency assistance, (ii) a false alarm, (iii) a hazardous material incident or emergency, (iv) an illegal fire, (v) bomb threats, (vi) threats of harm to oneself or others, or (vii) a structure demolition, (viii) utility line failure or damage, or (ix) any extraordinary event requiring emergency assistance.
- h. **Responsible Party.** A responsible party is an individual, firm, corporation, association, partnership, commercial entity, consortium, joint venture, government entity, or any legal entity that is responsible for a public safety or fire emergency incident or any owner, tenant, occupant, or party in control of real and personal property from which, onto which, or related to which there is a public safety or fire emergency incident and their heirs, estates, successors and assigns.

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- i. **Utility Line Failure or Damage.** The disabling of any transmission or service line, cable, conduit, pipeline, wire or the like used to provide, collect or transport electricity, natural gas, communication or electronic signals (including, but not limited to, telephone, computer, cable television and stereo signals or electronic impulses) if the owner or party responsible for the maintenance of such utility line does not respond within one (1) hour to a request to correct or repair such failure.

#### **Section 4 – Cost Recovery Authorization and Procedure**

- A. The Township may recover all assessable costs in connection with a public safety or fire emergency incident from any or all responsible parties jointly and severally.
- B. The Township Supervisor or designee shall determine the total assessable costs and shall, in consultation with other personnel involved in responding to a public safety or fire emergency incident determine whether to assess any, all or part of such costs against any of the responsible parties. In making such determination, the following may be considered:
- (1) The total assessable costs;
  - (2) The risk the public safety or fire emergency incident imposed on the Township, its residents and their property;
  - (3) Whether there was any injury or damage to person or property;
  - (4) Whether the public safety or fire emergency required evacuation;
  - (5) Whether the public safety or fire emergency incident required an unusual or extraordinary use of Township personnel and equipment; and
  - (6) Whether there was any damage to the environment.
- C. In order to determine the assessable costs against a party, the Township Supervisor or designee shall rely on reports of the actual expenses incurred from the Township personnel involved in responding to the incident and the amounts as set forth in the cost recovery schedule.
- D. The Township Supervisor or designee may allocate assessable costs among and between responsible parties, including allocating all or some of such costs jointly and severally against more than one responsible party regardless of whether a responsible party has other legal liability therefore or is legally at fault.
- E. If the Township Supervisor or designee determines not to assess all or a part of assessable costs against a responsible party, such determination shall not in any way limit or extinguish the liability of the responsible party to other parties.

**Section 5 – Billing and Collection of Assessable Costs**

After determining to assess assessable costs against a responsible party, the Township shall prepare and mail an itemized invoice to the responsible party at its last known address. The invoice shall demand full payment within thirty (30) days of billing. Any amounts due that remain unpaid thirty (30) days after the date of billing shall have imposed a late charge thereon that shall not exceed the maximum rate permitted by law until said account shall be paid in full.

If a responsible party shall appeal assessable costs, such costs, if upheld, in whole or in part, shall be due and payable thirty (30) days from the date of determination of the appeal and any late payment fees shall apply thereafter.

**Section 6 – No Admission of Liability**

The payment of expenses determined to be due and owing under this Ordinance does not constitute an admission of liability or negligence in any criminal action or any other action for damages.

**Section 7 – Severability**

Should any provision or part of this Ordinance be declared by any court of competent jurisdiction to be invalid or unenforceable, the same shall not affect the validity or enforceability of any other provision or part, which shall remain in full force and effect. Further, if there is any conflict between the provisions of this ordinance and the provisions of Part 201 of the Natural Resources and Environmental Protection Act [MCL 324.20101 et seq.] (NREPA), the provisions of the NREPA shall take precedence and the provisions of this ordinance in conflict therewith shall be deemed non-enforceable, but only to the extent to avoid said conflict.

**Section 8 – Effective Date**

This Ordinance shall become effective immediately upon publication.

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Kurt Soper, Supervisor

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Karen Miller, Clerk

**CLERK’S CERTIFICATION**

I, Karen Miller, being duly elected, qualified and acting Clerk of the Township of Davison, Genesee County, Michigan do certify that the foregoing ordinance was adopted on the 14<sup>th</sup> Day of November, 2005 at a regular meeting of the township board where a quorum was present and voting.

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Karen Miller, Clerk