

CHARTER TOWNSHIP OF MONITOR
COUNTY OF BAY, MICHIGAN

ORDINANCE 58

AN ORDINANCE TO ESTABLISH A BASIS FOR REIMBURSEMENT OF CHARGES, COSTS AND FEES INCURRED BY THE CHARTER TOWNSHIP OF MONITOR FOR PROVIDING CERTAIN EMERGENCY RESPONSE SERVICES AND TO PROVIDE FOR THE COLLECTION OF SUCH CHARGES, COSTS AND FEES; TO ESTABLISH EXEMPTIONS FROM LIABILITY INCLUDING EXEMPTIONS TO RESIDENTS OF MONITOR TOWNSHIP; TO ESTABLISH A PROCESS FOR APPEAL OF THE IMPOSITION OF SUCH COSTS, AND TO CREATE AND AUTHORIZE THE BASIS FOR IMPOSITION OF LIENS AGAINST REAL PROPERTY OF RECIPIENTS OF EMERGENCY RESPONSE SERVICES WITHIN THE CHARTER TOWNSHIP OF MONITOR; AND REPEALING ORDINANCE 49, AS AMENDED.

THE CHARTER TOWNSHIP OF MONITOR ORDAINS:

SECTION I
TITLE

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

SECTION II
PURPOSE

Pursuant to authority granted by Michigan law, including MCLA 41.806(a), this ordinance is adopted for the purpose of providing reimbursement to the Township for cost and expense of certain emergency responses within the Charter Township of Monitor.

SECTION III
DEFINITIONS

- A. "Township" shall mean the Charter Township of Monitor, Bay County, Michigan, its board of trustees supervisor and officers.
- B. "Emergency Response" shall mean providing, sending or utilizing fire fighting, emergency medical and rescue services or related services and personnel by the Township, or by any other municipality, corporation or individual operating at the request or direction of the Township to an incident which threatens the public health, safety, welfare or property within the Township including:
 - (1) Traffic accidents, vehicle fires and medical assistance responses, subject, however, to the exemption provided for Monitor Township residents found at Section V, D. below.

- (2) Second and all subsequent responses to any premises within the Township required by unauthorized open burning incidents or by violation of the Township's Burning Ordinance, as it may be amended.
 - (3) (a) The individual(s) responsible for any intentional false alarm causing a response by the Monitor Township Fire Department.
 - (b) Third and all subsequent responses to any one building within any twelve (12) month period required by any type of alarm caused by mechanical failure.
 - (4) Releases or threatened releases of hazardous or toxic materials.
 - (5) Downed overhead power, electrical, transmission, telephone or cable lines owned by non-governmental entities.
- C. "Hazardous Material" shall mean any material that poses an unreasonable risk to the health and safety of the public, environment or emergency personnel, if not properly controlled during handling, storage, manufacture, processing, packaging, use, disposal or transportation and shall include but not be limited to: explosives, pyrotechnics, flammable gas, flammable compressed gas, nonflammable compressed gas, flammable liquid, combustible liquid, oxidizing material, poisonous gases, poisonous liquid, poisonous solid, irritating material, etiological material, radioactive material, corrosive material or liquefied petroleum gas.
- D. "Building" shall mean any structure used or intended for supporting or sheltering any use or occupancy.
- E. "Premises" shall mean any lot or parcel of land, exclusive of building within the Township.
- F. "Owner" shall mean the record titleholder, or their purchaser by contract, or a person or corporation having vested or contingent interest in the premises, container, building or vehicle in question.
- G. "Expenses of an Emergency Response" shall mean all costs incurred by the Township and individuals operating at the request or direction of the Township as a result of responding to an enumerated incident. These costs shall include reasonable charges for the use of the fire equipment and vehicles, fire fighting and containment materials used at the scene of the incident, the salaries and wages including fringe benefits of the Township personnel responding to, investigating, and preparing reports concerning the incident and reasonably related costs. These

costs shall also include charges for any disposable supplies and materials used during the incident, the rental or leasing of any special equipment, the replacement cost of any Township supplies and equipment damaged, lost or destroyed as result of the incident, reimbursement for any special consulting and technical service, laboratory cost and any cost associated with the preparation for or actual evaluation of the area surrounding the incident. The expense of any emergency response shall also include reasonable attorney fees and any cost incurred in collecting those charges, costs and fees authorized by this ordinance.

- H. "Resident" shall mean any person having legal residency within the Charter Township of Monitor. Residency may be established by voter registration or similar public record maintained by the Township or by the County of Bay, State of Michigan or any agency or department of the United States Federal Government.

The term Resident shall also include any individual, firm, partnership or corporation owning real property within the Charter Township of Monitor subject to the ad valorem public safety millage.

SECTION IV
LIABILITY FOR EXPENSES OF AN EMERGENCY RESPONSE

- A. Responsibilities Defined: Unless specifically exempted from liability, the property owner, occupant or operator of real or personal property are all individually liable to the Township for the expense of an emergency response. The property owner remains liable for reimbursing the Township for any cost incurred in response to an incident involving his/her/its property even though the owner has, by agreement, imposed on an occupant or operator the duty to guard against, insure against or indemnify from any of the charges, costs or fees encompassed by this Ordinance.
- B. When a particular response by the Fire Department directly benefits more than one person or property, the owner of each property so benefited and each person so benefited where property protection is not involved, shall be jointly and severally liable for the payment of the full fee or such service hereinbefore outlined. The apportionment of costs among and between recipients of emergency services, interpretation, and application of this subsection is hereby delegated to the Township Fire Chief subject only to the appeal procedures set forth in Section VI.

SECTION V
EXEMPTIONS FROM LIABILITY

The following properties and services shall be exempt from the reimbursement of charges:

- A. Fires caused by railroad trains which are the specific statutory responsibility of a railroad company to the extent state statues exempt them from liability;
- B. Fires involving Township property;
- C. Fire services performed outside the jurisdiction of the Township under a mutual aid contract; except those services related to releases of hazardous or toxic materials performed outside of the Monitor Township boundaries shall not be exempt from the reimbursement of charges.
- D. Traffic accidents, vehicle fires and medical assistance responses where the individual(s) receiving the benefit of the response is a resident of the Township of Monitor on the date of the response.
- E. All municipal entities specifically including: incorporated cities, townships, villages, counties, including the County of Bay and the State of Michigan are hereby exempt from all cost recovery charges.

SECTION VI
APPEAL

Any party aggrieved by a charge or an apportionment of charges authorized in this ordinance may appeal the charge or its apportionment as follows:

- A. Within the time period for which a bill is payable the party shall file a written request with the Township Clerk setting forth specific reasons alleging why the charge is improper.
- B. The Clerk shall notify the aggrieved party, in writing, of the time, place and date the Township Board will hold a hearing on the appeal.
- C. The Township Board may grant relief on appeal if is finds:
 - (1) The service provided was given as the result of false information or false alarm not caused by the party to whom service was provided.
 - (2) The charges assessed do not comply with the Township schedule of charges or that the apportionment of said charges is in some fashion inappropriate.
 - (3) The individual assessed is responsible for paying the Township wide ad valorem public service millage.

- (4) For other good cause with sufficient proof to satisfy the Township Board.
- D. The Township Board may extend the time for payment for a reasonable period of time but not to exceed one (1) year.

SECTION VII
COST RECOVERY SCHEDULE OF CHARGES

The Monitor Township Board of Trustees shall, by Resolution, adopt and periodically amend, a schedule of fees and costs included within the expenses of an emergency response. The schedule shall include consideration of the actual cost of Township emergency and fire department equipment as well as consideration of the effective hourly wage schedule for fire and emergency personnel. This schedule shall be available to the public from the Township Clerk's Office.

SECTION VIII
PAYMENT AND COLLECTION

- A. The Township shall cause a written bill to the property owner, occupant and operator for the expenses of the relevant emergency response to be issued as soon as practical after the incident. The bill shall be due and payable within thirty (30) days from the date of mailing.
- B. Upon the failure of the owner, occupant or operator to reimburse the Township for the expenses of the emergency response, a lien may be placed upon the relevant property for the amount of said expenses, which lien may be collected in the same fashion and manner as real property taxes are collected within the Township.
- C. Notwithstanding the foregoing, the Township shall be empowered to maintain proceedings in any court of competent jurisdiction to collect the expenses of an emergency response, as a matured debt of the Township.

SECTION IX
SEVERABILITY CLAUSE

The phrases, sentences, sections and provisions of this ordinance are severable and a judicial finding that any portion hereof is unconstitutional or otherwise unenforceable, shall not detract from or affect the enforceability of the remainder of this ordinance.

SECTION X
CONFLICTING PROVISIONS REPEALED

Ordinance 49, 49A, and 49D and all other Township ordinances or parts of ordinances conflicting with any of this ordinance are, to the extent of such conflict, hereby repealed.

SECTION XI
EFFECTIVE DATE

This ordinance shall take effect thirty (30) days after publication thereof in a newspaper circulating within the Township.

Adopted at a regularly scheduled meeting of the Charter Township of Monitor Board of Trustees held at the Monitor Township Hall on the 13th day of July, 2009, present and voting.

Ayes: Pike, Kochany, Malkin, Miller

Nays: Brandt, Kowalski, Arnold

Abstentions: None

Absent: None

CERTIFICATION OF TOWNSHIP CLERK

I, CINDY L. KOWALSKI, Clerk, Charter Township of Monitor, do hereby certify that the foregoing is a true and correct copy of an Ordinance adopted at a regularly scheduled meeting of the Township held on the 13th day of July, 2009, at the Monitor Township Hall, Bay County, Michigan, and that all persons whose names appearing thereon as voting for or against said ordinance were, at that time duly elected and serving members of the Township Board.

CINDY L. KOWALSKI
Monitor Township Clerk

THE CHARTER TOWNSHIP OF MONITOR

Date of 1st Reading:
June 22, 2009

BY: GARY A. BRANDT
Its: Supervisor

Date of 2nd Reading:
July 13, 2009

Publication Date:
July 16, 2009

BY: CINDY L. KOWALSKI
Its: Clerk

Effective Date:
August 15, 2009