

CHARTER TOWNSHIP OF WEST BLOOMFIELD
COUNTY OF OAKLAND
STATE OF MICHIGAN

ORDINANCE NO. C-647-B

COST RECOVERY ORDINANCE AMENDMENT

An Ordinance to amend the Cost Recovery Ordinance codified in Chapter 2 of the West Bloomfield Charter Township Code to expand the definitions of emergency response, emergency response costs and responsible person and provide for conformity with State law requirements regarding cost recovery for environmental remediation.

THE CHARTER TOWNSHIP OF WEST BLOOMFIELD ORDAINS:

Section 1 of Ordinance

Sections 2-222 and 2-223 in Chapter 2, Article VI, Division 2, "Emergency Cost Recovery," of the West Bloomfield Charter Township Code are amended to read as follows:

Sec. 2-222. Purpose, intent and authority.

This ordinance is adopted for the purpose and with the intent of exercising the authority provided by Public Act No. 102 of 1990, as amended, MCL 41.806a., Public Act No. 345 of 1999, as amended, MCL 769.1f., and Public Act No. 451 of 1994, as amended, MCL 324.20101, et. seq. to provide for the payment, reimbursement and collection of fees for the police, fire, medical, rescue and other emergency services provided by the township in certain situations where the township board has determined that the cost of providing those services should be the full or partial responsibility of the persons and/or property that created or caused the need for or otherwise benefited from the services. The township board finds that while a portion of the substantial sums of the taxpayer provided money budgeted and expended for emergency services are properly considered a public expenditure to maintain a readiness to serve the taxpayers of the township and the public at large, the costs of providing emergency responses that benefit specific persons or that are necessitated by unlawful conduct should be recoverable as provided for in this division.

Sec. 2-223. Definitions.

When used in this division, the following terms shall have the meanings indicated:

(a) *Emergency response* means legally authorized or required police, fire, medical treatment or transportation, rescue, environmental cleanup or response, or other services or actions of or by those emergency service providers, including dispatch, that are provided by or at the direction or request of the township in one (1) or more of the following situations:

(1) When emergency equipment, personnel or services are provided to persons, motor vehicles or property in response to a request or report of the possible need for the emergency equipment, personnel or services.

- (2) When one (1) or more motor vehicles are in an accident involving personal injury.
- (3) In connection with a traffic stop or arrest, or involving a motor vehicle accident where one (1) or more drivers were operating a motor vehicle while impaired by, or under the influence of intoxicating liquor or a controlled substance or a combination of intoxicating liquor and a controlled substance or any other enumerated offense for which reimbursement expenses may be payable as provided in article VII of chapter 22 of the West Bloomfield Charter Township Code.
- (4) In connection with a violation of one (1) or more of the laws set forth in Section 1f.(1), of Public Act No. 345 of 1999, MCL 769.1f.(1), as amended now or in the future, which pursuant to MCL 42.23, is adopted by reference as an ordinance of the township.
- (5) In connection with a violation of a state or federal law, one (1) or more provisions of the West Bloomfield Charter Township Code, or the ordinances of a unit of government where the township fire department is authorized or required to provide service.
- (6) In connection with a violation of the Michigan Vehicle Code, or any uniform traffic code that is adopted as an ordinance of the township under chapter 22 of the West Bloomfield Charter Township Code, for the offense of operating a motor vehicle without a valid operator's license.
- (7) In connection with a utility emergency, including but not limited to downed power lines, gas pipeline breaks, or other mishaps occurring in connection with the activities of public or private utilities or their suppliers which necessitates an emergency response or monitoring by the Township's police, fire fighting and/or emergency medical/rescue services, or causes damage to public property.

(b) *Emergency response costs* means the actual costs incurred by the Township, and by any other governmental or intergovernmental entity providing services to the Township for or in connection with an emergency response, and includes but is not limited to:

- (1) The salaries and wages, including overtime pay, of township and other police, fire, emergency medical and other personnel involved in providing the emergency response for time spent in doing so and in the investigation, testing, analysis, supervision, report preparation, enforcement and prosecution of or for the incident that resulted in the emergency response.
- (2) The costs of preserving, collecting, testing and analyzing evidence in connection with the emergency response or incident that resulted in the emergency response, including determining bodily alcohol content and the presence and nature of controlled substances in the blood, breath or urine.
- (3) The costs of all material and equipment used, including the cost of medical supplies lost or expended, in providing the emergency response.
- (4) The costs of the repair or replacement of publicly-owned property (real and personal property), buildings, facilities and infrastructure (such as utilities, roads, sidewalks, safety

paths and other infrastructure and public improvements) damaged or destroyed in connection with or as a direct or indirect result of an emergency response situation.

(5) The costs of the investigation of an emergency response situation and fire fighting, emergency services, cleaning up, inspecting, testing, abating, mitigating, restoring and crowd control at the site of an emergency response.

(6) The costs for labor and services for which the Township had to contract in connection with or as a direct or indirect result of an emergency response situation.

(7) The cost by any other governmental or intergovernmental entity providing aid or services at the request or direction of the Township for an emergency response.

(8) All other costs incurred in the emergency response, including costs to inspect, secure, test, clean and restore the site of an emergency response to the pre-existing condition.

(c) *Responsible person* means any of the following:

(1) A person who receives emergency fire, medical or transportation or rescue service or other benefit from an emergency response identified in subsections 2-223(a)(1) or (2).

(2) A person that is convicted or found responsible for a violation of a law identified in subsections 2-223(a)(3), (4), (5) or (6).

(3) A person whose intentional or negligent actions or omissions created the need for the emergency response and from which the person or their property benefited.

(4) When the responsible person is a minor under the age of eighteen (18), the parents, guardians or other persons that are legally responsible for the care, custody, control or support of that minor.

(5) Any person owning, maintaining or operating a railroad for an emergency response involving the railroad.

(6) A public or private utility whose activities or facilities (including but not limited to, electric lines, telephone lines, cable lines and pipe lines) necessitated or were the subject of an emergency response.

Section 2 of Ordinance

Section 2-224 in Chapter 2, Article VI, Division 2, "Emergency Cost Recovery," of the West Bloomfield Charter Township Code is amended to add a new subsection (f) to read as follows:

Sec. 2-224. Liability for emergency response costs.

(a) through (e) [Unchanged]

(f) If an emergency response relates to or involves a hazardous materials incident, to the extent the Michigan Natural Resources and Environmental Protection Act (being MCL 324.20101, et seq.) or any other law preempts the cost recovery provisions of this Division, the liability for and recovery of costs of the emergency response shall be governed by the Michigan Natural Resources and Environmental Protection Act or such other law, and the township may pursue collection of such costs of the emergency response in a civil action, pursuant to said laws.

Section 3 of Ordinance

As provided in Section 2-226 of the Cost Recovery Ordinance hereby amended, the sanction for violation of this Ordinance is provided for in Chapter 1 of the West Bloomfield Charter Township Code, Section 1-10(a) of which specifies the maximum penalties as being a \$500.00 fine and/or 90 days imprisonment.

Section 4 of Ordinance

If one or more sections, provisions, phrases or words of this Ordinance are declared to be invalid by a Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance, which shall continue in full force and effect, and to this end, this Ordinance is declared to be severable.

Section 5 of Ordinance

All ordinances, parts of ordinances or sections of the West Bloomfield Charter Township Code in conflict with this Ordinance are repealed only to the extent necessary to give this Ordinance full force and effect. Such repeal shall not be construed to affect any lawsuit or proceeding pending in any Court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing under the repealed ordinance, which are saved and may be initiated, continued and consummated under the otherwise repealed ordinance.

Section 6 of Ordinance

This Ordinance shall take effect immediately upon publication.

CERTIFICATION

I hereby certify that this ordinance was adopted by Board of Trustees of the Charter Township of West Bloomfield at a meeting held on October 5, 2009.

CHARTER TOWNSHIP OF WEST BLOOMFIELD

By: Catherine Shaughnessy
Catherine Shaughnessy, Township Clerk

INTRODUCED: September 14, 2009
ADOPTED: October 5, 2009
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