

**CHARTER TOWNSHIP OF AUGUSTA
WASHTENAW COUNTY, MICHIGAN
ORDINANCE No. 2020-02**

EMERGENCY SERVICES COST RECOVERY ORDINANCE

EFFECTIVE DATE: JUNE 15, 2020

AN ORDINANCE TO ESTABLISH COST RECOVERY CHARGES FOR FIRE DEPARTMENT AND OTHER EMERGENCY SERVICES BY AUTHORITY UNDER PA 246 OF 1945 TO PROTECT PUBLIC HEALTH, SAFETY AND WELFARE, AND UNDER PA 33 OF 1951, AS AMENDED, BEING MCL 41.801 ET. SEQ, AND TO PROVIDE METHODS FOR COLLECTING THOSE CHARGES.

THE CHARTER TOWNSHIP OF AUGUSTA, WASHTENAW COUNTY, MICHIGAN, HEREBY ORDAINS:

SECTION 1 SHORT TITLE

This Ordinance shall be known and may be cited as the Charter Township of Augusta "Emergency Service Cost Recovery Ordinance."

SECTION 2 PURPOSE

This Ordinance is adopted to provide for assessment and collection of a fee for certain emergency services in an amount equivalent to cost of the service provided.

SECTION 3 DEFINITIONS

The following terms, phrases, words, and their definitions shall have the meaning herein, unless the context clearly indicates a different meaning:

A. "*Hazardous Substance*" means one or more of the following:

- (1) "Hazardous substance" as defined in Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, MCL 324.20101(1).
- (2) "Hazardous waste" as defined in Part 111, Hazardous Waste Management, of the Natural Resources and Environmental Protection Act, MCL 324.11101 et seq.
- (3) "Liquid industrial by-product" as defined in MCL 324.12101(n).
- (4) "Petroleum" as defined in Part 213, Leaking Underground Storage Tanks, of the National Resources and Environmental Protection Act, MCL 324.21301a et seq.
- (5) A chemical or other material which is, or may become, injurious to the health, safety or welfare of the public or the environment.

B. “*Release*” includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing of a hazardous substance into the environment or the abandonment or discarding of barrels, containers and other closed receptacles containing a hazardous substance.

C. “*Alarm System*” An assembly of equipment and devices or a single device, arranged to signal the presence of a hazard requiring urgent attention and to which police and/or fire personnel are expected to respond.

D. “*False Alarm*” means the activation of an alarm system through mechanical failure, malfunction, improper installation or negligence of the owner or lessee of an alarm system or by his/her employee or agent. False Alarm does not include an alarm caused by a hurricane, tornado, earthquake or other violent condition beyond the control of the owner or lessee of an alarm system or his/her employee or agent.

E. “*Nonresident*” means a person or entity that does not reside or have a principle office or place of business within the Township, or that does not pay property taxes in the Township. The owners of properties in the Township that are exempt from property taxes are excluded from this definition and are considered residents for the purpose of this Ordinance.

F. “*Emergency Service Fee*” shall mean the cost incurred by the Township as a result of providing emergency police, fire, or ambulance and inhalator services to a person within the Township and includes, but is not limited to, the following:

- (1) Costs or expenses incurred by the Township Fire Department and other public officials or bodies, including: all actual out of pocket expenses incurred as a result of providing the emergency service; the cost of equipment, operations, and personnel; the cost of materials used in the incident; and other incidental costs and/or expenses incurred by the Township or other public and private agency providing emergency services.
- (2) Other costs and expenses incurred by the Township and other agencies assisting in the emergency response because of providing the emergency services including equipment, labor, consultants, legal and engineering costs, the replacement cost of extinguishing agents, and the cost of supplies used in the incident.
- (3) The costs incurred in accounting for the emergency services rendered including billing and collection costs, actual attorney fees incurred for collection of an emergency fee under this Ordinance, and dispatch costs.

G. “*Technical Rescue*” All services rendered to save life or property that employ the use of tools and skills that exceed those normally needed for firefighting, medical emergency, and rescue. Technical rescue includes but is not limited to:

- (1) Rope rescue.
- (2) Structural collapse search and rescue.
- (3) Confined space search and rescue.
- (4) Vehicle search and rescue.

- (5) Wilderness search and rescue.
- (6) Water search and rescue
- (7) Trench and excavation search and rescue.
- (8) Machinery search and rescue.
- (9) Cave search and rescue.
- (10) Mine and tunnel search and rescue.
- (11) Helicopter search and rescue.
- (12) Tower rescue.
- (13) Animal technical rescue.

H. “*Person*” means any individual, partnership, corporation, limited liability company, association, consortium, governmental entity, or any other legal entity.

I. “*Emergency Response or Service*” means a response by police, fire, ambulance, or other emergency responder to an emergency incident or call for assistance.

J. “*Responsible Person/Party*”

- (1) Hazardous Substances – Any person who owns, controls, causes and/or accepts for transport, storage, treatment or disposal of any hazardous material that is released into the environment.
- (2) Emergency Services – Any person that causes or is responsible for an emergency service response situation as described in Section 5.
- (3) False Alarms – Any person that owns, uses, leases, installs or directs the installation of an alarm system or owns, occupies, leases or controls a premises at which an alarm system is installed and operative.

SECTION 4 LIABILITY FOR HAZARDOUS SUBSTANCE RESPONSE

A. RESPONSIBILITY FOR RELEASE. Release of hazardous substances in the Township is prohibited. Any person who accidentally, negligently, or intentionally causes or is responsible for any release of a hazardous substance shall be responsible and liable for abatement, control, capture, removal and proper storage or disposal of such hazardous substance and for any and all costs associated therewith. It shall be the duty of any responsible person to immediately remove released hazardous substances and to complete a total cleanup of the area in a manner that ensures the hazardous substances are fully removed and the area is fully restored to the condition that existed prior to the release, or to a condition and standards established under the Natural Resources and Environmental Protection Act, PA 451 of 1994, as amended, or other applicable environmental law or regulation.

B. CHARGES IMPOSED UPON RESPONSIBLE PERSONS. If a responsible party does not or cannot properly remove and abate a hazardous substance release incident as required in this Ordinance, the Township Fire Department or designee of the Township shall perform or cause to be performed a cleanup of the environmental incident. The responsible party shall be financially

responsible for any and all costs and expenses related to the cleanup as provided for under PA 451 of 1994, as amended. Responsible persons are jointly and severally liable and shall be required to reimburse the Township for all costs incurred in responding to a release of hazardous substances, including, but not limited to:

- (1) Costs or expenses incurred by the Township Fire and Police Departments, public service departments, hazardous response teams and other public safety officials and/or any other departments or agencies contracted by the Township to supply services, including all actual expenses attributable to the response, control, and abatement of any hazardous substance release or threatened release. Such costs shall include the cost of equipment use and personnel, the cost of materials utilized, meals for all personnel involved in the incident, cost of any specialists, medical expenses related to exposure, injuries or illnesses caused from an incident, the cost of experts or other contract labor, costs incurred by other area fire, police or hazardous material response teams that assist the Township via mutual aid agreements, and any other incidental costs incurred by the Township as a result of the release.
- (2) Other expenses incurred by the Township or its agents in responding to a hazardous substance release, including but not limited to rental or purchase of machinery, equipment, labor, consultants, legal and engineering fees, medical and hospitalization costs and the replacement cost of disposable personal protective equipment, extinguishing agents, supplies and water purchased from municipal water systems.
- (3) Charges to the Township or its agencies imposed by any local, state or federal government entity because of the hazardous substance release.
- (4) Accounting costs incurred because of hazardous substance release, and related administrative and enforcement costs for billing, collection and attorney fees.

C. COLLECTION OF CHARGES IMPOSED. Subsequent to release of a hazardous substance, the Township Fire Chief or other designee of the Township shall prepare and cause to be delivered by first class or registered mail an invoice of the charges imposed under this Section to the responsible party or parties for payment. The responsible parties shall remit payment to the Township for charges set forth in the invoice within 30 days of the date of invoice or mailing date, whichever is later. Any amount remaining unpaid 30 days after the payment due date shall be referred for collection. The Township may pursue any legal remedy or may initiate any appropriate action or proceeding for collection as provided by law to collect charges imposed under this Section. The recovery of charges imposed under this Section is not exclusive and does not limit the liability of responsible parties under other local ordinances, state and federal laws, or any other rules or regulations that apply.

D. Right of APPEAL. A person or entity deemed to be a responsible party under this Section may appeal the determination as set forth in Section 7 of this Ordinance.

SECTION 5 LIABILITY FOR EMERGENCY RESPONSE SERVICE FEE

A. EMERGENCY SERVICES REQUIRING FEE ASSESSMENT. An emergency service fee as defined in this Ordinance shall be assessed against any person or persons who cause an

extraordinary emergency service to be provided. An extraordinary emergency service is considered to be provided under any of the following circumstances:

- (1) Medical first response, technical rescue, extrication, or other such emergency service provided for an accident or fire involving or related to any motor vehicle, trailer, aircraft, boat, snowmobile, watercraft, or other vehicle owned or operated by a responsible person who is a nonresident of the Township.
- (2) Fire Department or police response to any fire which could be set with a permit but for which a permit was not obtained.
- (3) Fire Department or police response to any fire which could be set with a permit, but which becomes uncontrolled regardless whether a permit was obtained.
- (4) Medical first response, technical rescue, extrication, or other emergency services provided to any nonresident of the Township within the public areas of the Township such as golf courses, rivers, parks, roads or highways.
- (5) Fire Department response to an illegal fire such as burning tires, arson or processed lumber or other fires contrary to law or the Township's ordinances.
- (6) Emergency Fire Department standby request by a law enforcement agency at a site where a methamphetamine or any other controlled substance as defined under Part 72 of PA 368 of 1968, as amended, and MCL 333.7104(2) is being illegally kept or produced.
- (7) Fire, police or other emergency response to an activity, event, or incident in violation of applicable laws, ordinances, or regulations, such as illegal use of fireworks, malicious destruction of property, or other illegal activity, event, or incident.
- (8) Technical rescue in cases where the responsible person is a resident of the Township, except that a Township resident shall only be responsible for emergency service fees which are attributable to services provided by agencies other than Township agencies.
- (9) After the first hour of a Fire Department response, an incident involving downed power lines until all Township personnel have concluded personnel related duties.

B. COLLECTION OF CHARGES. Whenever it is determined by the Fire Chief or other designee of the Township that a person is a responsible party under this Ordinance for an emergency service fee, an invoice for an emergency service fee shall be prepared and delivered by first class or registered mail to the responsible party or parties. The invoice shall be due and payable within 30 days of the date of invoice or mailing date, whichever is later. The Township may pursue any legal remedy or initiate any appropriate action or proceeding for collection as provided by law to collect charges imposed under this Section. Upon a finding by a court with jurisdiction that person is responsible for a charge under this Section, the responsible person shall also be required to reimburse the Township's collection costs, including the Township's reasonable attorney fees incurred for collection. When a particular emergency service is provided to more than one person or property, each responsible person benefited, and each responsible property owner benefited shall be jointly and severally liable for payment of the invoice in full for the emergency services rendered.

C. RIGHT OF APPEAL. A person or entity deemed to be a responsible party and assessed an emergency services fee under this Section may appeal the determination as set forth in Section 7 of this Ordinance.

SECTION 6 FALSE ALARMS

A. PURPOSE. The purpose of this Section is to defray the cost of responding to false alarms and to discourage the continuation of repeat false alarms. The Township Board shall by resolution establish a service charge to be imposed for a required police or fire response to a false alarm.

B. SERVICE CHARGE FOR FALSE ALARM. A responsible person shall pay the Township a service charge established under Subsection A when an alarm is activated that causes a police or fire response for any of the following circumstances:

- (1) There is no evidence of illegal entry or an attempt to gain entry;
- (2) There is no evidence of fire or hazardous fumes;
- (3) The alarm was activated due to a malfunction in the system;
- (4) The alarm was activated by mistake; or
- (5) The alarm was activated by a person working on the alarm system, and the Township Police and Fire Department were not previously notified.

C. COLLECTION OF CHARGES. Upon receipt of a documented report from police or fire personnel with sufficient information that a police or fire response occurred because of a false alarm under this Ordinance, the Township shall bill each responsible person for the amounts due in accordance with the established schedule of fees. The billing statement shall be delivered by first class mail to the responsible person(s). All amounts billed by the Township under this ordinance shall be due within 30 days after each billing. If the statement is not paid within 30 days, the Township may commence and prosecute collection procedures for any overdue amounts in accordance with law. Upon determination by a court with jurisdiction that any person is responsible for the false alarm fee under this ordinance, the responsible person shall also be required to reimburse the Township's collection costs, including the Township's reasonable attorney fees incurred for collection.

D. RIGHT OF APPEAL. A person or entity deemed to be a responsible party and assessed false alarm charge under this Section may appeal the determination as set forth in Section 7 of this Ordinance.

SECTION 7 APPEAL PROCESS

Any person determined to be responsible for a hazardous substance response, an emergency service fee or a false alarm charge under this Ordinance may appeal that determination and the fee assessed by filing a written statement of appeal setting forth the reasons for the appeal and why such fee should not be assessed. The appeal shall be filed with the Treasurer or Clerk within twenty-one (21) days of the invoice date. The appeal will stay payment of the fee

assessment until final determination by the Township Board. The request for appeal will be placed on the agenda of a regular or special Board meeting. The Township Board will consider the request and will make a final determination regarding the assessable costs in the case appealed. The Board will further determine the date that any or all accessible costs involved in the appeal will become due.

SECTION 8 SEVERABILITY

The provisions of this Ordinance are hereby declared to be severable and if any clause, sentence, word, section, or provision is declared void or unenforceable for any reason by a court with competent jurisdiction, it shall not affect any portion of the Ordinance except that part or portion affected by the court's decision.

SECTION 9 REPEALER

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

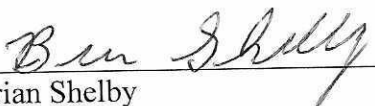
SECTION 10 SAVINGS CLAUSE

The repeal provided herein shall not abrogate or affect any offense or act committed or done, or any penalty or forfeiture incurred, or any pending fee, assessments, litigation or prosecution of any right established, occurring prior to the effective date hereof.

SECTION 11 ADOPTION AND EFFECTIVE DATE

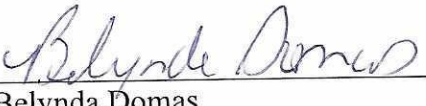
This Ordinance shall be published in the manner as required by law. Except as otherwise provide by law, this Ordinance shall be effective on the day after final publication.

This Ordinance was duly adopted by the Charter Township of Augusta Board at its regular meeting held on the 9th day of June 2020, and was ordered given publication in the manner required by law.



Brian Shelby
Charter Township of Augusta Supervisor

Dated: 6/10/2020, 2020



Belynda Domas
Charter Township of Augusta Clerk

Dated: 6/10, 2020

First Reading: **May 12, 2020**

First Publication: **May 31, 2020**

Adoption: **June 9, 2020**

Final Publication: **June 14, 2020**

Effective Date: **June 15, 2020**

CLERK'S CERTIFICATE


I, Belynda Domas, Clerk of the Charter Township of Augusta, Washtenaw County, Michigan, hereby certifies that the foregoing constitutes a true and complete copy of Augusta Charter Township Ordinance No. 2020-02, which was duly adopted by the Township Board of Augusta Charter Township at a Regular Meeting of said Board, held on June 9, 2020, after said Ordinance had previously been introduced at a Regular Meeting of the Board held May 12, 2020, and published in the form it was introduced in accordance with P.A. 359 of 1947, as amended.

I further certify that Member Domas moved for adoption of said Ordinance, and that Member Shelby supported said motion.

I further certify that the following Members voted for adoption of said Ordinance Burek, Chie, Domas, Howard, Ortiz Shelby, and that the following Members voted against adoption of said Ordinance None, and that the following Members were absent or abstained from voting on the adoption of said Ordinance Adams.

I further certify that after its passage the Ordinance was published on June 14, 2020, in accordance with P.A. 359 of 1947, as amended.

I further certify that said Ordinance has been recorded in the Ordinance Book of the Township and that such recording has been authenticated by the signatures of the Supervisor and the Clerk.



Belynda Domas
Charter Township of Augusta Clerk

Dated: 6/10, 2020