

ORDINANCE NO 49

INDIANFIELDS TOWNSHIP FIRE COST RECOVERY ORDINANCE

At a regular meeting of the Township Board of Indianfields Township, Tuscola County, Michigan, held at the Indianfields Township Hall on September 3 2015, at 8:00 a.m., Township Board Member Osborn moved to introduce the following Ordinance, which motion was supported by Township Board Member Campbell:

An Ordinance to establish cost recovery charges and exemptions for fire department services and other emergency services under Public Act 33 of 1951, as amended, MCL 41.801 et seq., and to provide methods for collecting those charges.

THE TOWNSHIP OF INDIANFIELDS, TUSCOLA COUNTY, MICHIGAN, ORDAINS:

Section 1: Statement of Purpose: This Ordinance is adopted to enable Indianfields Township ("the Township") to bill for and collect "cost recovery charges," as defined herein, from those receiving direct benefits from fire department services and other emergency services provided by the Township.

The Township is authorized by Public Act 246 of 1945, as amended, MCL 41.181 et seq., to adopt ordinances regulating the public health, safety, and general welfare of persons and property, and to provide for penalties for violating ordinances such as this Ordinance; the Township is also authorized by Public Act 33 of 1951, as amended, MCL 41.801 et seq., to establish and collect charges for providing fire protection services within the Township.

Section 2: Definitions: As used in this Ordinance:

- A. "Bomb threat" means the verbal or written threat of a bomb or other explosive device which, if discharged as threatened, would violate a federal, state, or local law.
- B. "Township" means Indianfields Township and all of its departments, specifically including its fire department.
- C. "Cost Recovery Charges" " include all charges incurred by the Township to provide fire, emergency and other incident response services to persons and properties within the Township, including without limitation the fire, emergency and other incident response services enumerated in Section 3 of this Ordinance.
- D. "Demolition of a structure" means the tearing down of a structure damaged by fire that must, as determined by the Indianfields Township Board, be promptly demolished following the fire to protect public safety.

- E. Receiving a “direct benefit” means causing, requesting, or being involved in an accident or incident within the Township limits that causes a response by the Township (i.e. a fire run) to provide fire or other emergency services.
- F. “Downed power line or other non-HAZMAT public utility hazard response” means the disabling of any transmission, distribution, 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), water or sanitary or storm sewage if the owner or party responsible for the maintenance of such utility line does not respond within one hour to a request to repair or correct such failure.
- G. “Excessive requests for emergency assistance” means any request for emergency assistance made to a particular location if emergency assistance has been requested to such location more than eight times in the preceding thirty days.
- H. “False Alarm” means any automated or manual device that requests or summons emergency assistance whether such device is activated intentionally or otherwise, in the absence of an actual need for emergency assistance. The determination that there was no actual need for emergency assistance shall be made by the Indianfields Township Board. A false alarm shall not be deemed to have occurred if: (i) it was caused by an act of God, i.e. a lightning storm; or (ii) it originates from a motor vehicle or building alarm system and it has not occurred more frequently than three times within a calendar month or four times within a calendar year.
- I. “Motor Vehicle” means any self-propelled or towed vehicle designed or used on the public streets, roads, and highways to transport passengers or property which is required to be registered for use upon such public streets, roads, and highways. For the purposes of this Ordinance, all trailers and appurtenances attached to any motor vehicle are deemed to be a motor vehicle.
- J. “Responsible person” means an individual, firm, corporation, association, partnership, entity, consortium or joint venture, public or private, that receives a direct benefit to such responsible person(s) or to their property from any fire, emergency or other incident response services for which the Township incurs costs, and the heirs, estates, successors and assigns of such responsible person(s), subject to any limitations expressly stated in Section 6 (Exemptions) and Section 8 (Multiple Responsible Persons) of this Ordinance.
- K. “Threats of harm to oneself or others” means any verbal or written threat of physical harm to oneself or another’s property that, if carried out, would be a violation of federal, state, or local law.

Section 3: Cost Recovery Charges.

Subject to Section 6 of this Ordinance (Exemptions), the following is a non-exhaustive list of provide fire, emergency and other incident response services that, when provided by the Township within the Township limits, are billable and collectible as “cost recovery charges.” “Cost recovery charges” shall be an amount established by the Township Board by resolution.

- A. Responding to a multi or single motor vehicle and/or pedestrian accident, or other incident involving motor vehicle(s) and/or pedestrian(s).
- B. Responding to a grass, rubbish, motor vehicle, aircraft, train, tree or forest, house, multiple-family building, hotel, motel, or other commercial establishment fire.
- C. Responding to a downed power line or other non-HAZMAT public utility hazard response.
- D. Responding to a false alarm.
- E. Responding to excessive requests for emergency assistance.
- F. Responding to a bomb threat.
- G. Responding to a threat to harm oneself or others.
- H. Demolition of a structure.
- I. Responding to a hazardous substances release or incident to the extent permitted under the Natural Resources and Environmental Protection Act, as amended, MCL 324.20101 *et seq.*
- J. Other emergency rescue service(s).
- K. Other services not specifically listed that are determined by the Indianfields Township Board to be fire protection or other emergency services.

Section 4: Time for Payment of Cost Recovery Charges: The cost recovery charges under this Ordinance are due and payable by the responsible person(s) within 30 days from the date on the Township’s invoice mailed to the responsible person(s) at his/her/its last known address. If payment is not made within 30 days from the date on the Township’s invoice mailed to the responsible person(s) at his/her/its last known address, such cost recovery charges are collectible through proceedings in district court or in any court of competent jurisdiction as a matured debt.

Section 5: Collection of Charges: The Township may proceed in district court, or any other court of competent jurisdiction, by suit to collect any cost recovery charges remaining unpaid from a responsible person(s), after the time limit for payment provided in Sec. 4 of this Ordinance (Time for Payment of Cost Recovery Charges) and shall have any and all other

remedies provided by and subject to law for the collection of such charges. After the time limit for payment provided in Sec. 4 of this Ordinance (Time for Payment of Cost Recovery Charges), unpaid cost recovery charges constitute a lien upon the real property of the responsible person(s) in the Township from which, upon which, or related to which the cost recovery charges were incurred. Such lien shall be the same character and effect as a lien for Township real property taxes, and shall include accrued interest and penalties. The Township Treasurer shall, prior to March 1 of each year, certify to the Township Assessor the fact that such cost recovery charges are delinquent and unpaid. The Township Assessor shall then enter the delinquent amount on the next general ad valorem tax roll as a charge against the affected property, and the lien thereon shall be enforced in the same manner as provided and allowed by law for delinquent and unpaid real property taxes.

Section 6: Exemptions: The following properties and services are exempt from cost recovery charges under this Ordinance:

- A. Fire, emergency and other incident response services involving Township-owned buildings, grounds, and/or property.
- B. Fire, emergency and other incident response services provided outside the Township, unless the Township incurs costs for any fire, emergency or other incident response services provided outside the Township. The Township and other municipalities may adopt Ordinances to impose fees for Fire, emergency and other incident response within their respective territories under MCL 41.801 et seq., as amended.
- C. Fire, emergency and other incident response services within the Township provided to property for which property taxes are paid to the Township or to a responsible person owning property for which property taxes are paid to the Township. This exemption is made in consideration for the fact that the owners of Township properties for which property taxes are paid have already contributed to the cost of fire, emergency and other incident response services through their property taxes. Provided, however, that this exemption does not apply if the Township provides fire, emergency and other incident response services resulting from recurrent false alarms or excessive requests for other emergency services.

Section 7: Non-Exclusive Charges: Cost recovery charges are not the only charges that may be made by the Township for the costs and expenses of providing fire, emergency and other incident response services within the Township. Additional charges may be collected by the Township for fire, emergency and other incident response services within the Township through general taxation or special assessments as provided by law. General fund appropriations may also be made to recover the costs of fire, emergency and other incident response services within the Township.

Section 8: Multiple Responsible Persons: When a particular fire, emergency and other incident response service rendered within the Township directly benefits more than one person, each person so benefited is liable for the payment of the full charge for such service. Provided,

however, that if a court of competent jurisdiction determines that one or more persons who fire, emergency and other incident response service rendered within the Township was solely at fault for the incident resulting in such service, the other person(s) involved in the incident shall not be considered "responsible persons" for the purposes of this Ordinance. The interpretation and application of this section shall be undertaken by the Indianfields Township Board.

Section 9: Non-Applicability of No Fault Act: This Ordinance provides authority to the Township to collect "cost recovery charges" for fire and emergency services provided by the Township, and within the Township, to a responsible person(s). No claim under this Ordinance is for, or relates to, property damage(s). Michigan's No Fault Act, as amended, MCL 500.3101 *et seq.*, does not apply to, conflict with, or preempt this Ordinance.

Section 10: Applicability of Natural Resources and Environmental Protection Act: This Ordinance provides authority to the Township to collect "cost recovery charges" for fire and emergency services provided by the Township, and within the Township, to a responsible person(s). "Cost recovery charges" includes the cleanup or remediation of hazardous substances, as permitted under Part 201 of the Natural Resources and Environmental Protection Act, as amended, MCL 324.20101 *et seq.* Michigan's Natural Resources and Environmental Protection Act, as amended, MCL 324.20101 *et seq.*, does not conflict with or preempt this Ordinance.

Section 11: No Limitation of Liability: The collection of cost recovery charges pursuant to this Ordinance does not limit the liability of a responsible person under applicable local, state, or federal law.

Section 12: Repealer Provision: This Ordinance repeals all ordinances or parts of ordinances, as well as resolutions or parts of resolutions, in conflict herewith.

Section 13: Severability: If any provision or part of this Ordinance is declared invalid or unenforceable by a court of competent jurisdiction, the validity or enforceability of the balance of the Ordinance is not affected and remains in full force and effect.

Section 14: ENACTMENT AND EFFECTIVE DATE

This Ordinance shall take effect thirty (30) days after publication as required by law.

Roll Call:

YEAS: Osborn, Campbell, Renden,

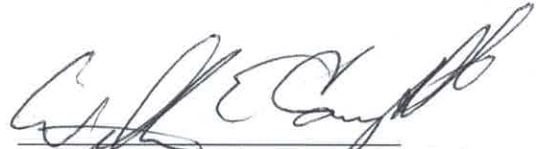
NAYS: None

ABSENT: Keilitz, Woloshen

ORDINANCE DECLARED ADOPTED.


Ray Renden, Supervisor

I, William Campbell, Township Clerk of Indianfields Township, hereby certify this to be a true and complete copy of Ordinance No. 49, duly adopted at a Special Meeting of the Township Board held on the third day of September, 2015.


William Campbell, Township Clerk