

Thetford Township
Genesee County, Michigan

NOTICE OF ORDINANCE ADOPTION/SUMMARY

TO: THE RESIDENTS AND PROPERTY OWNERS OF THETFORD TOWNSHIP,
GENESEE COUNTY, MICHIGAN, AND ANY OTHER INTERESTED PERSONS:

PLEASE TAKE NOTICE that at a meeting on June 22, 2015 the Thetford Township Board adopted Ordinance 2015-06-07 which is summarized as follows:

SECTION I --- ARTICLE 1: Public Safety and Fire Emergency response cost recovery

- Purpose
- Definitions
- Cost Recovery Authorization and Procedure
- Billing and Collection of Assessable Costs
- Procedure for Appealing Assessable Costs
- Enforcement of Assessable Costs

SECTION II --- ARTICLE 2: Cost Recovery for OWI Arrests

- Findings and Purpose
- Definitions
- Liability for Expense of Emergency Response
 - Proximate cause of need for emergency response
 - Charge against person
 - Cost recovery schedule
 - Billing
 - Failure to pay

SECTION III --- EFFECTIVE DATE: Provides for Ordinance to take effect 30 days after publication as required by law.

PLEASE TAKE FURTHER NOTICE that the full text of the original of Ordinance 2015-06-07 may be inspected and a copy of same may be purchased by contacting the Thetford Township Clerk as indicated below.

Leanne Pennington, Clerk
Thetford Township
4014 E. Vienna Road
Clio, MI 48420
810-686-5200

THETFORD TOWNSHIP, GENESEE COUNTY, MICHIGAN

ORDINANCE NO. 2015-06-07

AN ORDINANCE TO AUTHORIZE THE COLLECTION OF FEES TO RECOVER COSTS FOR EMERGENCY POLICE OR FIRE SERVICE PURSUANT TO MCL 41.806a.

THETFORD TOWNSHIP ORDAINS:

ARTICLE I – PUBLIC SAFETY AND FIRE EMERGENCY RESPONSE COST RECOVERY

SECTION 1 – Purpose

In order to protect the township and the fire authority, the within article is adopted for the purpose of providing financial assistance to the township in the operation of a fire department from those receiving direct benefits from the fire protection service. It is the further purpose of the within article to provide for partial funding of the fire department operation which remains, in part, an at-large governmental expense based upon the general benefits derived by all property owners within the township, pursuant to the authority granted to townships by state law, being MCL 41.806a.

SECTION 2 -- Definitions

Unless the context specifically indicates otherwise, the meaning of the terms used in this article shall be as follows:

Assessable costs means those costs for services incurred by the township for police, fire and emergency personnel 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, with limitation, employee wages, fringe benefits, administrative overhead, costs of equipment, costs of equipment operation, costs 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; attorneys' fees, litigation costs and any costs, fines or penalties to the township imposed by any court or state or federal governmental entities.

Bomb threats 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.

Emergency assistance means emergency medical, public safety, police, fire and civil defense services.

Excessive requests for emergency assistance means any request for emergency assistance made to a particular location or premises if such location or premises has requested emergency assistance more than five times in the preceding 30 days.

False alarm means any automated or manual device designed to request or summon emergency assistance which 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 most senior person responding to a false alarm. Provided, however, a false alarm shall not be deemed to have occurred if:

- (1) Caused by an act of God, i.e., a lightning storm; or
- (2) It originates from a motor vehicle alarm system.

Hazardous materials means any materials which are potentially harmful to the environment or human or animal life, or which are unreasonable or imminent risk to life, health or safety of a person or property, or to the ecological balance of the environment as determined by the fire chief or the senior fire official in charge at the scene, including but not limited to hazardous substances as defined in Act 307 of Michigan Public Acts of 1995 (being MCL 324.20101 et seq.), as amended, and any other substances that have been classified by the local, state or federal government or any of their departments or agencies to be hazardous or toxic, i.e., elements, substances, wastes or by products, including but not limited to, combustible liquid, flammable gas, explosives, flammables, poisons, organic peroxides, oxidizers, pyrophorics, unstable reactive matter, water reactive matter, petroleum products, anti-freeze, polychlorinated biphenyls and asbestos.

Hazardous material incident or emergency means any occurrence, incident, activity, accident or emergency where a release of hazardous materials occurs or is reasonably imminent and where the fire chief or his or her designee has so declared such activity, accident or emergency a hazardous material incident or emergency.

Illegal fire means a fire set or determined to have been 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 or order. An illegal fire does not include an unintentional fire or fire caused by an act of God, i.e., lightning storm.

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 and for the purposes hereof all trailers or appurtenances attached to any motor vehicle.

Public safety or fire emergency incident means:

- (1) Any response by the Fire Department, including, but not limited to;
- (2) Excessive requests for emergency assistance;
- (3) A false alarm;
- (4) A hazardous material incident or emergency;

- (5) An illegal fire;
- (6) Bomb threats;
- (7) Threats of harm to oneself or others;
- (8) A structure demolition; or
- (9) A utility line failure.

Release means any actual or threatened spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, leaching, dumping or disposing into the environment, including, but not limited [to], the air, soil, groundwater and surface water.

Responsible party means any individual, firm corporation, association, partnership, commercial entity, consortium, joint venture, government entity or any other legal entity that is responsible for a public safety or fire emergency incident, either actual or threatened, or is an owner, as defined in Act 71 of Michigan Public Act 1995 (being MCL 324.20101 et seq.), as amended, tenant, occupancy 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.

Structure demolition means the tearing down of a structure damaged by fire which must in the opinion of the fire chief or his or her designee be promptly demolished following the fire to protect public safety.

Threats of harm to oneself or others means the verbal or written threat of physical harm to oneself or another or another's property which if carried out would be a violation of federal, state, or local law.

Utility line failure means 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), 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 request to repair or correct such failure.

SECTION 3 -- 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 or severally.

(b) The Township shall, by resolution, adopt a schedule of the costs incurred when the Fire Department responds. The total cost so determined for each response shall be billed to each recipient

of assistance from the Fire Department.

(c) The township supervisor or his or her designee shall determine the total assessable costs and shall in consultation with other township 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 shall 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 incident required evacuation;
- (5) The extent 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.

(d) After consideration of the factors in (b) immediately above, the township supervisor 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 determines not to assess all or a portion 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 4 – BILLING AND COLLECTION OF ASSESSABLE COSTS

(a) After determining to assess assessable costs against a responsible party, a representative of the township, shall mail an itemized invoice to the responsible party at its last known address. Such invoice shall be due and payable within 30 days of the date of mailing and any amounts unpaid after such date shall bear a late payment fee equal [to] one percent per month or fraction thereof that the amount due and any previously imposed late payment fee remains unpaid. If a responsible party shall appeal assessable cost pursuant to this Article, such costs, if upheld, in whole or in part, shall be due and payable 30 days from the date of determination of the appeal and any late payment fees shall apply thereafter.

(b) Cost recovery for the fire department will be handled as follows: When an incident is billed it will be a calculated fee for personnel, equipment, trucks, supplies, and contracted services. If not paid within 30 days a second and final notice will be sent.

(c) A copy of any bill shall be forwarded to the township supervisor at the same time it is sent.

SECTION 5 – PROCEDURE FOR APPEALING ASSESSABLE COSTS

Any responsible party who receives an invoice for assessable costs shall have an opportunity to meet with the township supervisor or his or her designee to request a modification of assessable costs. The responsible party shall request in writing such meeting within seven calendar days of the date of the invoice assessing the assessable costs. If after meeting with the township supervisor or his or her designee the responsible party is still not satisfied, he or she may request an opportunity to appear before the township board to further request a modification of assessable costs. A responsible party who desires to appear before the township board must first meet with the township supervisor or his or her designee as provided above and shall file a written request to appear before the township board with the township clerk within seven calendar days of the date of the meeting with the township supervisor. Upon receipt of such request, the township clerk will place the responsible party on the agenda of the next regularly scheduled township board meeting, which meeting is at least 10 calendar days after the date on which the responsible party files the request to appear. Any filed request to appear shall specifically identify and explain all reasons why the responsible party believes the assessed costs should be modified. Any reason, basis or argument for modification of assessable costs not set forth in the request to appear shall be deemed waived by the responsible party. Failure to timely file a written request to appear shall constitute a waiver of the responsible party's right to appear before the township board; and shall further constitute the responsible party's agreement to pay the assessable costs invoiced. After a responsible party has been given an opportunity to appear before it, the township board shall promptly determine whether to confirm, modify or void the payment of assessable costs invoiced.

SECTION 6 – ENFORCEMENT OF ASSESSABLE COSTS

Assessable costs assessed against a responsible party not paid when due shall entitle the governmental unit to take any steps allowed by law, including commencing civil litigation, to collect the same.

SECTION 7 – OTHER REMEDIES

In addition to the remedy set forth above, the township shall be entitled to pursue any other remedy or may institute any appropriate action or proceeding in a court of competent jurisdiction as permitted by law to collect assessable costs from a responsible party.

SECTION 8 – NO LIMITATION OF LIABILITY

The recovery of assessable cost pursuant hereto does not limit the liability of a responsible party under applicable local, state or federal law.

ARTICLE 2 – COST RECOVERY FOR OWI ARRESTS

SECTION 1 – Findings and Purpose

The township finds that a significant number of traffic arrests and traffic accidents in the township by drivers who operate a motor vehicle while their ability to do so is impaired by the use of alcoholic beverages and/or controlled substances. In addition, the township finds that there is a greater likelihood of personal injury and property damage in traffic accidents caused by drivers who operate a motor vehicle while their ability to do so is impaired by the use of alcoholic beverages and/or controlled substances. As a result, a disproportionate operational and financial burden is placed upon the public and private police, firefighting and rescue services by persons who operate motor vehicles while their ability to do so is impaired by the use of alcoholic beverages and/or controlled substances.

SECTION 2 – Definitions

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Emergency response means the utilization of public or private police, firefighting, emergency medical, or rescue services at an accident caused by a motor vehicle operated by an impaired driver.

Expense of an emergency response means the direct and indirect costs incurred by a public or private operator in the course of an emergency response. These costs include, but are not limited to, salaries and wages of public and private personnel responding, investigating, supervising and reporting as well as costs related to the administration, preparation and analysis of all chemical tests of the driver's blood, breath or urine.

Impaired driver means a driver that is impaired by an alcoholic beverage, controlled substance, or any combination thereof of an alcoholic beverage and controlled substance, when the driver's physical or mental abilities are affected to a degree that the driver no longer has the ability to operate a motor vehicle in a manner characteristic of a sober person of ordinary prudence. Further, it shall be presumed that a driver was impaired if a chemical analysis of the driver's blood, urine or breath indicates that the amount of alcohol in the driver's blood was in excess of 0.05 percent.

SECTION 3 – Liability for Expense of Emergency Response

(a) *Proximate cause of need for emergency response.* A person is liable for the expense of an emergency response, if, while impaired, such person's operation of a motor vehicle is a proximate cause of the need for an emergency response.

(b) *Charge against person.* The expense of an emergency response shall be a charge against the person liable for the expense under this division. The charge constitutes a debt of that person and is collectible by the township in the same manner as in the case of an obligation under contract.

(c) *Cost recovery schedule.* The township board shall, by resolution, adopt a schedule of the costs included in an emergency response. Such schedule shall be available to the public from either the township clerk or the police department.

(d) *Billing.* The chief of police, or substitution commander in charge, or his designee, shall, within ten days of receiving an itemization of the expenses of an emergency response, or any part thereof, submit a bill for such costs by first class mail or personal service to the person liable for the expense. The bill shall require full payment within 30 days from the date of service. A copy of the bill shall be forwarded to the township supervisor.

(e) *Failure to pay.* Any failure by the person liable for the expenses of an emergency response to pay within 30 days of service shall be considered a default. The township may thereafter commence civil suit to recovery such expense plus any costs allowed by law.

ARTICLE 3 – Effective Date

SECTION 1 – Severability

If any section, paragraph, sentence, clause, phrase, or part of the Ordinance is declared invalid for any reason whatsoever, such a decision shall not affect the remaining portions of the Ordinance which shall remain in full force and effect and the provisions of the Ordinance are hereby declared severable.

SECTION 2 – Effective date

This Ordinance shall take effect 30 days after the first publication of the Ordinance.

Motion by Eric Gunnels supported by John Congdon
to adopt Ordinance No. 2015-06-07

Vote:
yes OK Eileen Kerr, Supervisor
yes UP Leanne Pennington, Clerk
yes SA Shelly Ayotte, Treasurer
yes JE John Congdon, Trustee
yes MC Martin Cousineau, Trustee
yes EG Eric Gunnels, Trustee
NO GS Gary Stevens, Trustee

The Foregoing Ordinance was duly adopted at a regular meeting of the Thetford Township Board held on the 22 day of JUNE, 2015.

Eileen Kerr
Eileen Kerr,
Supervisor of Thetford Township

Leanne Pennington
Leanne Pennington,
Clerk of Thetford Township

I Leanne Pennington, Clerk of Thetford Township, do hereby certify that the above is a true and exact copy of the Ordinance passed by the Township Board for Thetford Township, Genesee County, Michigan.

This Ordinance was published in the Genesee County Herald on the 19 day of August, 2015.

Leanne Pennington
Leanne Pennington,
Clerk of Thetford Township