

STATE OF MICHIGAN
COUNTY OF WAYNE
CITY OF TAYLOR

ORDINANCE NO. 2015 - 488

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF TAYLOR, MICHIGAN, BY ADDING A NEW ARTICLE TO CHAPTER 2 – ADMINISTRATION, WHICH NEW ARTICLE SHALL BE DESIGNATED AS **ARTICLE VI – COST RECOVERY FOR EMERGENCY RESPONSE** OF SAID CODE.

THE CITY OF TAYLOR ORDAINS:

SECTION 1. A new Article of the Taylor Code of Ordinances, **Article VI – Cost Recovery For Emergency Response**, shall be inserted in Chapter 2 of the Code of Ordinances and be designated and read as follows:

Sec. 2-370. - Purpose and intent

Costs for emergency services are a normal and budgeted public expenditure by the City in order to serve its residents, taxpayers, and the public at large. However, the City Council finds that certain kinds of emergency responses primarily benefit identifiable persons or property owners, or are necessitated by certain kinds of unlawful or improper conduct. The City Council further finds that such costs should be borne by the party responsible for those costs, as provided for in this article, in order to avoid imposition of an economic hardship on the City.

Sec. 2-221. - Definitions

Costs of the emergency response shall mean the actual costs incurred by the City, and by any other governmental or intergovernmental entity providing services at the request or direction of the City's fire or police department, as the result of an emergency response. Such costs shall include, without limitation:

- (a) All labor costs for City personnel (including wages, salaries, fringe benefits, and reimbursable expenses);
- (b) All costs for materials, supplies, resources and equipment utilized or damaged in connection with an emergency incident and emergency response;

- (c) All costs for the repair or replacement of publicly-owned equipment, property, buildings, facilities, and infrastructure damaged or destroyed in connection with an emergency response;
- (d) All costs for cleaning up, boarding-up, inspecting, testing, abating, mitigating and/or restoring at the site of an emergency response;
- (e) All costs for labor and services for which the City had to contract in connection with or as a direct or indirect result of an emergency incident and emergency response;
- (f) All costs for investigation, enforcement and prosecution in connection with the incident or response; and
- (g) Any other costs incurred by the City, and by any other governmental or intergovernmental entity providing services at the request or direction of the City's fire or police department, in connection with an emergency incident and emergency response.

Emergency response shall mean the dispatch, provision, response, and/or utilization of police, fire, emergency medical, rescue services, and/or other emergency services by the City, or by any other governmental or intergovernmental entity providing any such services at the request or direction of the City's fire or police departments, in response to a call for assistance from any person, property owner, government agency, emergency service provider, or other entity.

Hazardous substances incident shall mean an incident involving any chemical, substance, compound, mixture, or other material defined as, designated as, listed as, or having the same characteristics as any substance, compound, mixture or material listed as hazardous under the fire code adopted under Chapter 22 of this Code, any other section or code adopted or enforced by the City, or any federal or state law or regulation.

Large-scale incident shall mean an incident, such as a tanker truck fire or explosion, a railroad derailment, gas well explosion, or the like that results in the disruption of day-to-day activities in the City and the use of City personnel or contracted resources for a prolonged period of time.

Responsible person shall mean any individual, firm, corporation, association, partnership, commercial entity, consortium, joint venture, or other entity that creates the need for a response, or who owns, operates,

maintains, occupies, or controls any building, premises, or property in a manner that causes a response incident to arise. The phrase "creates the need for an emergency response" or "responsible person" is intended to include only those persons whose intentional, criminal or negligent actions caused the need for the emergency response.

Sec. 2-222. - Assessment of costs of the emergency response.

The costs of an emergency response shall be assessed to and received from the responsible person(s) for causing the response in the following circumstances:

- (1) Any responsible person who is responsible for or whose actions create the need for an emergency response.
- (2) Where the costs result from a charge, invoice, or other expense to the City for an emergency response by any other governmental or intergovernmental entity at the request or direction of the City pursuant to a mutual aid agreement.
- (3) Where the costs result from a hazardous substances incident, subject to subsection (6) below.
- (4) Where the costs result from a violation of law for which the responsible party has been convicted or found responsible in a court of law.
- (5) Where the costs result for a large scale incident.
- (6) In the event of an emergency incident that involves a hazardous substances 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 article, 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 City may pursue collection of such costs of the emergency response in a civil action, pursuant to said laws.
- (7) If there is determined to be more than one responsible person that creates the need for an emergency response, then those responsible persons shall be jointly and severally liable for the costs of the emergency response.

Sec. 2-223. - Payment of costs, appeal, and collection.

- (1) A schedule of costs shall be established by resolution of the City Council. The cost of an emergency response shall be a charge against the responsible person(s). Such charge constitutes a debt of that person or persons. The City Treasurer shall serve an invoice for costs by first class mail or personal service to the person or persons determined by the fire chief or police chief or his or her designee to be liable for the expenses as enumerated under this Article.
- (2) Any responsible person receiving an invoice may appeal all or any portion of the amount shown on such invoice by filing a written request with the City Clerk within thirty (30) days of service of an invoice from the City. The appeal shall be reviewed by an ad hoc committee consisting of the current Mayor or designee, the City's Director of Budget & Finance, and a past Councilmember appointed by the current Mayor. The committee may grant or deny the relief requested in the appeal and affirm, waive or reduce the amount of any invoice by majority vote.
- (3) In the event of a failure to pay the invoice within thirty (30) days of service or the denial of any appeal, the invoiced responsible person(s) shall be in default to the City and the City may commence a civil action to recover the invoiced expenses of an emergency response, plus the City's attorney fees, court costs, litigation expenses and all other costs allowed by law. If the responsible person owns real estate in the City, the costs of the emergency response may be assessed against the real estate in the manner provided by the City Charter (delinquent bills and assessments). The City shall also have any other remedy available to the City by law, including, but not limited to, requesting the City attorney to file a civil action for the recovery of costs.

SECTION 2. SEVERABILITY. If any section, subsection, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion of this ordinance, and such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION 3. SAVINGS. All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this ordinance takes effect are saved and may be consummated according to the law in force when they are commenced.

SECTION 4. REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this ordinance full force and effect.

SECTION 5. EFFECTIVE DATE. This Ordinance shall be effective upon the passage by the City Council and the publication of the Ordinance in accordance with the Charter of the City of Taylor and the statutes of the State of Michigan.

I hereby certify that the foregoing constitutes a true and complete copy of an Ordinance duly adopted by the City Council of the City of Taylor, at a Regular Meeting held in the Council Chambers at the Taylor Municipal Building, 23555 Goddard Road, Taylor, Michigan on the 7th day of April, 2015.

I further certify that the following Council Members were present at said meeting:

Parker-Craig, Croft, Bzura, Garza, Johnson, Roberts, and Woolley.

Members were absent: None.

I further certify that Council Member Woolley moved adoption of said Ordinance, and said motion was supported by Council Member Croft.

I further certify that the following Council Members voted for adoption of said Ordinance:

Parker-Craig, Croft, Bzura, Garza, Johnson, Roberts, and Woolley and the following Council

Members voted against adoption of said Ordinance: None.

ORDINANCE NO. 15-488

RESOLUTION NO. 4.134-15


CYNTHIA A. BOWER, CITY CLERK

I hereby approve the foregoing Ordinance.

RICK SOLLARS, MAYOR