

**Bear Creek Township
Cost Recovery Ordinance
Ordinance No. 32-13**

Cost Recovery Ordinance, to establish charges for fire department services under Michigan Compiled Law 41.806a and to provide methods for collection of such charges and exemptions from such charges

The Township of Bear Creek, County of Emmet, State of Michigan, ordains:

SECTION 1: TITLE

This Ordinance shall be known and cited as the Township of Bear Creek "Cost Recovery" Ordinance.

SECTION 2: PURPOSE OF THIS ORDINANCE

Is to allow the Township of Bear Creek to recover from responsible parties those assessable costs incurred in connection with extraordinary events, providing fire protection, and other emergency services, and to provide for the enforcement of this ordinance.

SECTION 3: RESPONSIBLE PARTIES; CHARGES

The Township shall bill Assessable Costs to those parties determined by law enforcement or the Township to be responsible for services provided by or through the Township of Bear Creek and/or the Resort Bear Creek Fire Department ("RBCFD").

Responsible parties shall include, but shall not be limited to, all natural persons, estates, corporations, entities, or other parties, who cause the need for the provision of service by the Township and/or the RBCFD which gives rise to assessable costs as set forth in the schedule of assessable costs as adopted by resolution of the Township of Bear Creek Board of Trustees from time to time. Any party determined by law enforcement to be a responsible party for such services shall be liable for the full payment for such services rendered.

A party may be the responsible party regardless of whether the recipient of emergency police or fire services acknowledges the need for such services and whether or not the responsible party is criminally prosecuted or civilly sued.

Parents and or guardians shall be responsible for the payment of assessable costs incurred as a result of such conduct by their minor children or wards.

SECTION 4: SERVICES GIVING RISE TO ASSESSABLE COSTS

Assessable costs shall be those associated with the schedule of services set forth in this ordinance or adopted from time to time by the Township Board. Responsible parties determined by law enforcement or Township shall be assessed for assessable costs incurred by the Township and/or the RBCFD which shall include, but not be limited to, materials, equipment, manpower, administration, and assistance within the fire department, or outside sources or contractors, or damages which result from the event which caused the Township and/or the RBCFD to provide fire protection and other emergency services and any other factors deemed relevant by the Township Board.

ASSESSABLE COSTS INCLUDE:

- (a) Costs incurred to contain, abate, or remedy any spill, or release of any hazardous materials and any liabilities resulting from such.
- (b) Extraordinary costs incurred to extinguish or fight a fire.
- (c) Any demolition costs if a structure must be demolished to protect public safety following a fire, and any liabilities resulting from such.
- (d) Costs incurred in connection with a utility line or facility failure or problem and any liabilities resulting from such.

- (e) Costs incurred in connection with any water, ice, confined space, trench, high angle, or technical rescue or recovery.
- (f) Costs associated with any motor vehicle accident, extrication of individuals from a vehicle or motor vehicle fire, including but not limited to spill cleanup; foam; fire extinguishers; and any liabilities resulting from.
- (g) Costs associated with fraudulent requests for emergency assistance, including but not limited to intentionally dishonest and/or prank calls and requests for response made under false pretenses.
- (h) Any assessable costs, including litigation expenses, which become known to the Township following the transmittal of a statement to the responsible party pursuant this article, which shall be billed in the same manner on a subsequent statement to the responsible party.
- (i) Costs associated with Township or department response and operations at scenes resulting from activities that violate state, federal, or local laws or ordinances including but not limited to: illegal dumping of waste, arson, use of illegal fireworks, response required because of conduct or activities of a responsible party who is under the influence of intoxicating substances, such as operating a motor vehicle under the influence of intoxicants and/or illegal drugs.
- (j) Costs associated with use of Township or departmental equipment and personnel for the furtherance of private enterprise, a private business or for-profit corporation.

SECTION 5: PAYMENT OF ASSESSABLE COSTS:

Rates and guidelines for charges and assessable costs shall be set by resolution of the Township Board. All costs assessed pursuant to this article shall become due within thirty (30) calendar days of the date of the statement, unless an appeal is pending.

SECTION 6: INTERPRETATION

The Fire Chief shall have the right to render formal interpretations of provisions of this article, including what constitutes "extraordinary costs." Any such interpretation shall be binding unless any such interpretation is overturned or modified by a timely appeal to the Township Board pursuant to the right to an appeal as set forth herein below.

SECTION 7: APPLICABILITY OF CHARGES REGARDLESS OF OUTCOME

The assessable costs and charges under this article shall be applicable regardless of the result or outcome of services provided by or through the Township with regard to the particular fire, rescue services, or other emergency involved.

SECTION 8: ADDITIONAL REMEDIES The assessable costs and charges specified by this article are intended to reimburse the Township for its reasonable costs and expenses incurred, and are not penal in nature.

SECTION 9: RIGHT TO APPEAL

Any responsible party who receives a statement of costs assessed pursuant to this article shall have the opportunity to appeal the assessment of costs to the Township Board. The Township Board may adopt policies, forms, payment schedules, or other formal procedures regarding the right to appeal, by resolution from time to time. The responsible party who wishes to appeal any assessable costs shall file a written appeal with reasons for assessed costs, in conformance with such procedures. The appeal will stay all payments due until the appeal is decided by the Township Board. The appeal will be placed on the agenda of the next regularly scheduled Township Board meeting. The Township Board will consider the request, and make a determination regarding the assessable costs in the case appealed. The Township Board will also determine the date that any or all assessable costs involved in the appeal will become due. Any appeal must be submitted within thirty (30) days of the date of invoice to the Township Supervisor.

SECTION 10: EXEMPTIONS

No assessable costs for emergency service under Section 4F shall be charged to:

- (a) A resident of the Township;
- (b) A business whose principal place of business is in the Township; or
- (c) An entity that contributes to the Bear Creek Township fire millage.

Unless such party causes the Township and/or RBCFD to provide emergency or fire services due to the party's own criminal action determined by law enforcement or Township.

SECTION 11: COLLECTION OF CHARGES

The Township may proceed in a court of competent jurisdiction by suit to collect any monies remaining unpaid and shall have any and all other remedies provided by law for the collection of said charges. The township shall also be entitled to recover its costs of collection, including attorneys' fees in such an action.

SECTION 12: NON-EXCLUSIVE CHARGES

The forgoing rates and charges shall not be exclusive of the charges that may be made by the Township for the costs and expenses of maintaining a fire department, but shall only be supplemental thereto. Charges may additionally be collected by the Township through general taxation after a vote of the electorate approving same or by a special assessment established under Michigan statutes pertinent thereto. General fund appropriations may also be made to cover such additional costs and expenses.

SECTION 13: SEVERABILITY AND EFFECTIVE DATE

Should any provision or part of the Ordinance within be declared by any court of competent jurisdiction to be invalid or unenforceable, the same shall not affect the validity or enforceability of the balance of this Ordinance which shall remain in full force and effect. This Ordinance shall take effect the day following the publication of the Ordinance or an ordinance summary.

The above Ordinance was offered for adoption by Township Board Member Mays, and was seconded by Township Board Member Nowland, the vote being as follows:

YEAS: Keiser, Hoffman, Nowland, Golding, Mays

NAYS: none

ABSTAIN/ABSENT: none

ORDINANCE DECLARED ADOPTED:

By: Judy Mays, Township Clerk
Township of Bear Creek

CERTIFICATION

I hereby declare that the above is a true copy of an Ordinance adopted by the Township of Bear Creek Board at a board meeting held on November 6, 2013, at the Township of Bear Creek Hall, pursuant to the required statutory procedures.

Dated: 11/6/13

By: Judy Mays, Township Clerk
Township of Bear Creek

**BEAR CREEK TOWNSHIP
EMMET COUNTY, MICHIGAN**

Summary of a Cost Recovery Ordinance, No. 32-13, adopted by the Bear Creek Township Board of Trustees at its regular meeting on November 6, 2013.

Section 1 - Title. The Bear Creek Township Cost Recovery Ordinance.

Section 2 - Purpose. To recover from responsible parties assessable costs incurred in connection with extraordinary events, providing fire protection, and other emergency services, and to provide for enforcement of the ordinance.

Section 3 - Responsible parties; charges. The township shall bill assessable costs to parties responsible for certain services. Certain categories of responsible parties are identified. Costs shall be established by resolution of the township board.

Section 4 - Services giving rise to assessable costs. Assessable costs are those associated with a schedule of services in the ordinance or adopted from time to time by the township board. Indicates and provides examples of the type of costs to be assessed to responsible parties for fire protection and other emergency services.

Section 5 - Payment of assessable costs. Rates and guidelines for charges and assessable costs shall be set by resolution of the Township Board. Assessed costs are due within thirty (30) days of statement, unless an appeal is pending.

Section 6 - Interpretation. The fire chief may render formal interpretations of provisions of this article, including what constitutes "extraordinary costs." Such interpretations are binding unless overturned or modified by a timely appeal to the township board.

Section 7 - Applicability of charges regardless of outcome. Assessable costs and charges are applicable regardless of the outcome of services provided.

Section 8 - Additional remedies. Assessable costs are intended to reimburse the township for reasonable costs and expenses incurred, and are not penal in nature.

Section 9 - Right to appeal. Provides the process for a written appeal to the township board of a cost assessment and that an appeal must be submitted within thirty (30) days of the date of an invoice for such assessable costs.

Section 10 - Exemptions. Provides an exemption of certain assessable costs for township residents, taxpayers, and certain businesses.

Section 11 - Collection of charges. Allows the township to proceed in court for the collection of unpaid charges and collection costs.

Section 12 - Non-exclusive charges. Provides that assessable costs are not the only charges that the township may make to maintain a fire department. Funds may also be collected from an approved tax or assessment and made available by general fund appropriation.

Section 13 - Severability and effective date. Provides that if any portion of the ordinance is found to be invalid, the validity of the remaining portions shall not be affected. Also provides that the ordinance shall take effect the day following the publication of the ordinance or an ordinance summary.

A true copy of the entire Bear Creek Township Cost Recovery Ordinance may be inspected or obtained at the Bear Creek Township Hall, 373 N. Division Road, Petoskey, Michigan, 49770.

Judy Mays
Bear Creek Township Clerk