

HOMESTEAD TOWNSHIP  
BENZIE COUNTY, MICHIGAN  
STATE OF MICHIGAN

HOMESTEAD TOWNSHIP ORDINANCE NO. 16-5-5  
ADOPTED: 5-2-2016

EFFECTIVE: July 1, 2016

HOMESTEAD TOWNSHIP EMERGENCY SERVICES  
COST RECOVERY ORDINANCE

THE TOWNSHIP OF HOMESTEAD ORDAINS:

**SECTION I. Findings and Purpose.**

The purpose of this Ordinance is to establish the basis and method for Homestead Township to recover costs for the use of equipment, personnel and supplies associated with fire, transportation, and other emergency services provided by the Township, and to recover costs incurred from a response to incidents involving hazardous materials, downed utilities, arson and other emergency incidents as may be identified by the Township Board. Such costs shall include, but are not limited to, personnel expenses, fuel, food, equipment, materials and any related third-party costs associated with firefighting, medical, rescue or transportation services, incident abatement, mitigation, cleanup, standby and other emergency services provided by the Township.

**SECTION II. Definitions.**

For purposes of this ordinance, the following terms or phrases shall have the meanings set forth below:

**A. Costs of Emergency Response**

The actual costs incurred by the Township, and by any other governmental or intergovernmental entity providing services at the request or direction of the Township's Fire Department, as the result of an emergency response, except as may be limited by a Resolution of the Township Board.

Such costs shall include, without limitation, all labor costs (including wages, salaries, fringe benefits, and reimbursable expenses) of all personnel responding to the incident and all personnel engaged in the investigation, supervision and report preparation relating to the incident; all costs for materials, supplies, and equipment utilized or damaged in connection with an emergency incident and emergency response; all costs for the repair or replacement of publicly owned

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property (real and personal property), buildings, facilities and infrastructure (such as utilities, roads, sidewalks, safety paths and other infrastructure and public improvements) damaged or destroyed in connection with or as a direct or indirect result of an emergency incident and emergency response; investigation of an emergency incident and fire-fighting, emergency services, cleaning up, inspecting, testing, abating, mitigating, restoring and crowd control at the site of an emergency response; all costs for labor and services for which the Township had to contract in connection with or as a direct or indirect result of an emergency incident and emergency response, and any other expenses incurred by the Township, and by any other governmental or intergovernmental entity providing services at the request or direction of the Township's Fire Department, in connection with or as a direct or indirect result of an emergency incident and emergency response.

Costs shall also include such items as disposable materials and supplies used during the response to such incidents, the rental or leasing of equipment used for the specific response, replacement of equipment which is contaminated beyond reuse or repair during the response to such incidents, special technical services and laboratory costs, and services and supplies purchased for any specific evacuation relating to such incidents.

#### B. Emergency Incident

Hazardous materials incident, utility emergency, or arson.

#### C. Emergency Response

The dispatch, provision, response and/or utilization of fire and/or other emergency services by the Township, or by any other governmental or intergovernmental entity providing any such services at the request or direction of the Township's Fire Department, in response to a hazardous materials incident, utility emergency, or arson.

#### D. Hazardous Materials Incident

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 by any code adopted or enforced by the Township, or by any federal or state law or regulation.

#### E. Person

Any individual, partnership, corporation, limited liability company, association, consortium, governmental entity, public utility company, or any other legal entity.

#### F. Utility Emergency

Downed power lines, gas pipeline breaks, or other mishaps occurring in connection with the activities of public utilities or their suppliers which necessitates an emergency response or monitoring by the Township's police, fire-fighting and/or emergency medical/rescue services, or causes damage to public property.

### Section III. Liability for Costs of Emergency Response.

A. The person which is the owner, lessor and operator of any property to which there is an emergency response shall be presumed liable for the cost of the emergency response.

B. Any person or vehicle owner/lessee who owns, leases and/or operates a motor vehicle, other transporter or equipment of any kind, the operation of which results in an emergency response, shall be presumed liable for the costs of the emergency response.

C. Any person owning, maintaining or operating a railroad shall be presumed liable for the cost of the emergency response in the event of an emergency incident involving the railroad.

D. Any person who is responsible for or whose actions are a cause of an emergency incident giving rise to a need for an emergency response shall be liable for the costs of the emergency response.

E. In any case where an emergency response results from an actual or possible hazard created by the construction, operation, maintenance, and/or act of God (i.e. weather) involving any public or private utility company operating within the Township, the utility company shall pay to the Township the expenses of the response. For purposes of this section, costs and expenses include utility stand-bys (i.e. where fire fighters may monitor a downed power line). The decision to render such services or to provide such personnel and/or equipment, shall be based either upon the request of a utility, a Township resident, or upon the sole and exclusive discretion of Township officials.

F. If more than one person is liable for the expense of an emergency response under the foregoing provisions, all such persons shall be jointly and severally liable for the cost of the emergency response.

G. In any case in which arson takes place, the person(s) convicted of that crime, or of any lesser charge, or by way of a plea bargain, shall be financially

responsible for all expenses of the response including the costs of investigation, fighting and extinguishing the fire and/or for any EMS service, for any board-up services and/or for any other security procedures performed by the Township or its agents.

H. In the event of an emergency response that involves a hazardous materials incident, to the extent the Michigan Natural Resources and Environmental Protection Act (being MCLA § 323.101 et seq.) or any other law preempts the cost recovery provisions of this Ordinance, 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 Township may pursue collection of such costs of the emergency response in a civil action, pursuant to said laws.

#### **Section IV. Payment of Costs.**

A. The cost of an emergency response shall be a charge against the person or persons deemed liable for the expenses of an emergency response. Such charge constitutes a debt of that person or persons and is collectible by the Township in the same manner as in the case of an obligation under an express or implied contract. The Township may, within 30 days of receiving all or part of the itemized costs incurred by the Township and any other jurisdiction providing mutual aid to the Township for an emergency response, submit a bill for such costs by first-class mail or personal service to the person or persons liable for the expenses as enumerated under this Ordinance.

B. Any person receiving such a bill shall have the opportunity to appeal all or any portion of the amount shown on such statement by filing a written request for same with the Fire Chief within 30 days of receipt of an invoice from the Township. The request must be accompanied by a written explanation as to why the amount appealed should not be charged to the appellant. The Fire Chief or his designee shall hear such appeals. If the Fire Chief or his designee determines that the appellant is not properly liable for any of the entire amount charged, the Fire Chief, or his designee may waive such charge against the appellant. The findings and decisions of the Fire Chief shall be in writing and filed with the Township Clerk and Treasurer. If no written request for appeal is received within the specified time, the Township may proceed in accordance with applicable laws and ordinances to collect any monies remaining unpaid at the expiration of 30 days from billing.

C. Any failure by any person or entity to either pay the bill within 30 days of service, or file an appeal as set forth in Subsection B shall be considered to be a civil default, and the Township may commence a civil suit against such person or entity to recover the billed expenses of an emergency response, plus the Township's attorney fees, court costs, litigation expenses and all other costs allowed by law or equity. The recovery of costs of an emergency response under

this article is a separate civil liability of any person liable for the emergency response, and is separate from and in addition to any criminal proceedings that may be brought against the person or persons.

D. In addition, the Township shall have any other remedy available to the Township by law or equity, including but not limited to requesting the Township Attorney to file a civil action for the recovery of costs as provided in this article or otherwise.

**Section V. Severability.**

This Ordinance and the various parts, sections, sub-sections, phrases and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph, section, sub-section, phrase or clause is adjudged unconstitutional or invalid, it shall not be affect the remainder of the Ordinance. The Township Board hereby declares that it would have passed this Ordinance and each section, sub-section, phrase, sentence and clause therefore irrespective of the fact that any one or more sections, sub-section, phrases, sentences or clauses be declared invalid.

**Section VI. Repeal.**

This Ordinance repeals any prior Township emergency services cost recovery ordinance.

**Section VII. Effective Date.**

This Ordinance shall take effect on the 30<sup>th</sup> day following its publication as required by law.

THOSE VOTING IN FAVOR: Rosa, Moore, Wooten, Holbrook, Geetings

THOSE VOTING AGAINST: None

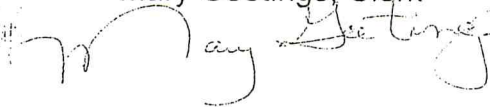
THOSE ABSENT OR ABSTAINING: None

CERTIFICATION

I, Mary Geetings, Clerk of the Township of Homestead, Benzie County, Michigan, do hereby certify that the above is a true and correct copy of the Homestead Township Emergency Services Cost Recovery Ordinance of 2016 as adopted by the Homestead Township Board at a meeting held on the 2nd day of May, 2016, at which a quorum was present.

Date: 5/3/2016

Mary Geetings  
Mary Geetings, Clerk



County of...  
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Published: June 1, 2016

Filed with the County Clerk: 5/25/2016

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**AFFIDAVIT OF PUBLICATION**

STATE OF MICHIGAN  
County of Benzie

Marilyn Barker, being duly sworn, deposes and says that she is one of the editors, publishers of the Benzie County Record Patriot, a newspaper printed, published and circulated in said County of Benzie, and the annexed notice was duly printed and published in said newspaper on the following dates:

June 1, 2016

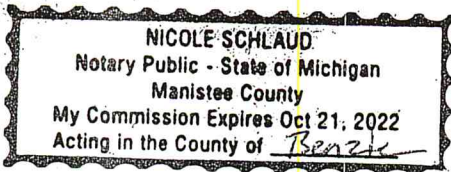
*Michelle Graves*

Michelle Graves, Editor

Subscribed and sworn before me, this 1<sup>st</sup>  
day of June 2016.

*Nicole Schlaud*

Notary Public: Nicole Schlaud  
State of Michigan, County of Benzie  
My Commission Expires: October 21, 2022  
Acting Benzie County



HOMESTEAD TOWNSHIP  
BENZIE COUNTY, MICHIGAN  
STATE OF MICHIGAN  
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ORDINANCE NO. 16-5-5  
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EFFECTIVE: July 1, 2016  
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EMERGENCY SERVICES  
COST RECOVERY  
ORDINANCE

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THOSE VOTING IN FAVOR: Rosa, Moore, Wooten, Holbrook, Geetings

THOSE VOTING AGAINST: None

THOSE ABSENT OR ABSTAINING: None

CERTIFICATION

I, Mary Geetings, Clerk of the Township of Homestead, Benzie County, Michigan, do hereby certify that the above is a true and correct copy of the Homestead Township Emergency Services Cost Recovery Ordinance of 2016 as adopted by the Homestead Township Board at a meeting held on the \_\_2nd\_\_ day of \_\_May\_\_, 2016, at which a quorum was present.

Date: 5/3/2016

Mary Geetings

Mary Geetings, Clerk

Published: June 1, 2016

Filed with the County Clerk: 5/25/2016

June 1, 2016





The Pioneer Group  
 115 N. Michigan Big Rapids MI 49307  
 Phone: (231) 796-4831  
 Fax: (231) 796-1152

HOMESTEAD TOWNSHIP  
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 Size: 1.00 x 48.98  
 Salesperson: Denise Favreau

		Publication	Run Date	Cost
Publication Cost	\$328.31	53 Benzie County Record Patriot		
Adjustments	\$13.00	Affidavit		\$13.00
Net Cost	\$341.31	Insertion	6/1/16	\$328.31
Prepaid Amount	\$0.00			
Amount Due	\$341.31			

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 STATE OF MICHIGAN  
 HOMESTEAD TOWNSHIP  
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