

**TOWNSHIP OF ARMADA**

**COUNTY OF MACOMB**

**ORDINANCE NO. R2012-14**

**EMERGENCY ACTION COST RECOVERY ORDINANCE**

**Title**

An Ordinance to provide for the reimbursement of recoverable expenses to Armada Township to protect the Township from extraordinary expenses resulting from utilizing Township resources to respond to utility line failures, intentionally set fires and false alarms and establishing penalties for the violation of this Ordinance and repealing any and all ordinances and/or regulations inconsistent herewith.

**THE TOWNSHIP BOARD OF THE TOWNSHIP OF ARMADA, COUNTY OF MACOMB, STATE OF MICHIGAN ORDAINS:**

**Section 1. Short Title and Legal Authority**

This Ordinance shall be known and cited as the Armada Township Emergency Action Cost Recovery Ordinance. This Ordinance is adopted pursuant to MCL §41.806a.

**Section 2. Definitions**

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

Emergency action means any or all of the following:

1. The fighting of a fire intentionally set.
2. Response to a false alarm.
3. Response to a utility line failure.

*Person* includes an individual, partnership, joint venture, trust, firm, joint stock company, corporation including a government corporation, association, local unit of government, commission, state, political subdivision of the state, an interstate body, federal government, a political subdivision of the federal government or any other legal entity.

*Recoverable expenses* include, but are not limited to those expenses incurred by the Township that are reasonable, necessary and allocable to the emergency action. Expenses allowable for recovery shall include but are not limited to the following:

1. Apparatus and manpower charges as established by the county fire chiefs' association dated August 2001 and as may be modified from time to time hereafter.
2. Disposable materials and supplies acquired, consumed and expended specifically for the purpose of the emergency action.
3. Additional compensation of employees for the time and efforts devoted specifically to the emergency action.
4. Rental or leasing of equipment used specifically for the emergency action (such as protective equipment or clothing, scientific and technical equipment).
5. Replacement costs for equipment owned by the Township that is contaminated beyond reuse or repair if the equipment was a total loss and the loss occurred during the emergency action (such as self-contained breathing apparatus irreparably contaminated during the response).
6. Decontamination of equipment contaminated during the response.
7. Special technical services specifically required for the response (such as costs associated with the time and efforts of technical experts or specialists not otherwise provided for by the Township).
8. Other special services specifically required for the emergency action.
9. Laboratory costs of analyzing samples taken during the emergency action.
10. Costs of cleanup, storage or disposal of the release material.
11. Costs associated with the services, supplies and equipment procured for a specific evaluation.
12. Medical expenses incurred as a result of response activities.
13. Legal expenses that may be incurred as a result of the emergency action, including efforts to recover expenses pursuant to this Ordinance.

*Utility line failure* means the disabling of any transmission or service line, cable, conduit, pipeline, wire or the like used to provide, collect, 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.

### **Section 3. Responsibility for Intentional Fires, False Alarms, and Utility Line Failures**

- a. All persons causing or contributing to the intentional setting of a fire that results in an emergency action by the Township shall be responsible to the Township for the recoverable expenses resulting from such action. Such responsibility shall be in addition to all penalties and/or remedies

- provided by law.
- b. All persons causing or contributing to the setting of a false alarm which results in an emergency action by the Township shall be responsible to the Township for the recoverable expenses resulting from such action. Such responsibility shall be in addition to all penalties and/or remedies provided by law. For purposes of this Ordinance the term "false alarm" means a communication, by whatever form, to the Township requesting response to a nonexistent emergency condition resulting in the expenditure of recoverable expenses as herein defined.
  - c. The owner of a utility line shall be responsible to the Township for recoverable expenses incurred by the Township if the owner or party responsible for maintenance of the utility lines fails to respond and institute repairs within one and a half hours of a request to repair or correct the utility line. The expenses will continue to accrue until:
    - 1. Arrival and stabilization of the incident by the responding utility company;
    - 2. The Armada Township incident commander determines the incident is stable and emergency standby no longer required.
    - 3. The incident can be left with utility personnel to warn, observe and guard against further injury or damage.

#### **Section 4. Recovery of Expenses**

- a. The reimbursement of recoverable expenses by persons causing or contributing to the intentional setting of fires, false alarms or utility line failure shall be provided in accordance with this Ordinance.
- b. Township personnel and departments involved in an emergency action shall keep an itemized record of recoverable expenses resulting from an emergency action. Promptly after completion of an emergency action, the appropriate Township department shall certify those expenses to the Township Clerk.
- c. The Township shall submit a written itemized claim for the total expenses incurred by the Township for the emergency action to the responsible persons and a written notice that unless the amounts are paid in full within 30 days after the dates of mailing the claim and notice, the Township will institute the appropriate legal proceeding to recover such amounts.

**Section 5. Procedure for appealing recoverable expenses.**

Any person who receives an invoice for recoverable expenses shall have an opportunity to meet with the Township Supervisor or his or her designee to request a modification of recoverable expenses. The person shall request in writing such meeting within fourteen (14) calendar days of the date of the invoice assessing the recoverable expenses. If after the meeting with the Township Supervisor or his or her designee the person is still not satisfied, he or she may request an opportunity to appear before the Township Board to further request a modification of recoverable costs. A person 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 (7) calendar days of the date of the meeting with the Township Supervisor. Upon receipt of such request, the Township Clerk will place the person on the agenda of the next regularly scheduled Township Board meeting, which meeting is at least fourteen (14) calendar days after the date on which the person files the request to appear. Any filed request to appear shall specifically identify and explain all reasons why the person believes the recoverable expenses should be modified. Failure to timely file a written request to appear shall constitute a waiver of the person's right to appear before the Township Board. After a person has been given an opportunity to appear before it, the Township Board shall promptly determine whether to confirm, modify or void the payment of recoverable expenses invoiced.

**Section 6. Prohibited Conduct**

It shall be unlawful for any person to cause or contribute to or intentionally set a fire; or to intentionally turn in a false alarm that results in an emergency action by the Township; or to fail to respond to a utility line failure within one hour of being so requested to do so by Township Supervisor, Fire Chief or emergency personnel.

**Section 7. Penalties**

Any person who shall violate any provision of this Ordinance shall be guilty of a misdemeanor and upon conviction thereof may be punished by a fine of not more than Five Hundred (\$500.00) Dollars or by imprisonment not exceeding ninety (90) days, or both such fine and imprisonment. Each day that a violation continues shall be deemed as a separate offense.

**Section 8. Repeal of Conflicting Provisions**

All resolutions, ordinances, or parts thereof in conflict with the provisions of this Ordinance are to the extent of such conflict hereby repealed.

**Section 9. Severability**

If any section, paragraph, clause or provision of this Ordinance is for any reason held to be invalid or unconstitutional, the invalidity of unconstitutionality of the section, paragraph, clause or provision shall not effect any of the remaining provisions of this Ordinance.

**Section 10. Publication**

A true copy of this Ordinance or summary shall be published in a newspaper in general circulation in the Township of Armada within thirty (30) days after its adoption.

**Section 11. Effective Date**

This Ordinance shall be effective thirty (30) days from and after publication of a true copy or summary thereof in a newspaper circulating with the Township of Armada.

**CERTIFICATION OF TOWNSHIP CLERK**

I hereby certify that the foregoing constitutes a true and complete copy of an Ordinance duly adopted by the Township Board of the Township of Armada, Macomb County, Michigan, at a meeting held on the **12th day of December, 2012.**

I further certify that the following Township Board Members were present at the meeting: **Paterek, Smith, Goetzinger and Swiacki** and the following Township Board members were absent: **LeMieux.**

I further certify that Member **Swiacki** moved for the adoption of the Ordinance, and that motion was supported by Member **Goetzinger.**

I further certify that the following Township Board Members voted for the adoption of the Ordinance: **Paterek, Smith, Goetzinger and Swiacki** and the following Township Board members voted against adoption of the Ordinance: **None.**

This Ordinance was published in the Armada Times as required by law in its edition for December 26, 2012.

*Mary K. Swiacki*  
Mary K. Swiacki,  
TOWNSHIP OF ARMADA CLERK

**CERTIFICATE OF PUBLICATION**

I, the undersigned Township Clerk of the Township of Armada, do hereby certify that on December 26, 2012 the foregoing Ordinance, or Summary thereof, was published in the Armada Times, a newspaper having general circulation within the Township of Armada.

Mary K. Swiacki

Mary K. Swiacki  
TOWNSHIP OF ARMADA CLERK

**NOTICE OF ADOPTION  
ORDINANCE NO. R2012-14  
TOWNSHIP OF ARMADA**

Notice is hereby given that at its regular meeting of December 12, 2012, the Armada Township Board of Trustees adopted Ordinance No. R2012-14 commonly referred to as Emergency Action Cost Recovery Ordinance. The Ordinance has been published within 15 days of the Board's adoption and becomes effective 30 days after publication of this notice. Copies of the text of the Ordinance are available at the Township Offices during regular business hours. A summation of the Ordinance is as follows:

The Ordinance provides for the reimbursement of recoverable expenses to Armada Township to protect the Township from extraordinary expenses resulting from utilizing Township resources to respond to utility line failures, intentionally set fires and false alarms and establishing penalties for the violation of the Ordinance and repealing any and all ordinances and/or regulations inconsistent herewith.

**Section 1.** Short Title and Legal Authority, **Section 2.** Definitions, **Section 3.** Responsibility for Intentional Fires, False Alarms and Utility Line Failures, **Section 4.** Recovery of Expenses, **Section 5.** Procedure for appealing recoverable expenses, **Section 6.** Prohibited Conduct, **Section 7.** Penalties, **Section 8.** Repeal of Conflicting Provisions, **Section 9.** Severability, **Section 10.** Publication, **Section 11.** Effective Date.

Mary K. Swiacki  
Township of Armada Clerk

Published: 12/26/2012