

MOTION MADE BY: _____

MOTION SECONDED BY: _____

TO ADOPT AN ORDINANCE AMENDING AND REVISING THE CODE OF ORDINANCES CHAPTER 21 ADDING ARTICLE 5 COST RECOVERY FOR EMERGENCY RESPONSES AND EXCESSIVE EMERGENCY RESPONSE DEFINING TERMS, PROVIDING FOR THE CIRCUMSTANCES FOR COST RECOVERY, APPEAL, BILLING AND COLLECTION AND PROVIDING FOR REPEALER, SEVERABILITY, PENALTY, OTHER TERMS AND EFFECTIVE DATE.

**CITY OF FRASER
MACOMB COUNTY, MICHIGAN**

ORDINANCE NO. _____

THE CITY OF FRASER ORDAINS:

Section 1. Chapter 21, of the Code of Ordinances of the City of Fraser is hereby revised and amended adding Article V as follows:

ARTICLE V. COST RECOVERY FOR EMERGENCY RESPONSES

Sec. 21-60 Purpose.

In order to protect the City from extraordinary expenses resulting from the utilization of City resources in response to certain incidents involving the utilization of emergency resources of the City, this Division authorizes the imposition of charges to recover where the cost incurred in responding to incidents. Authority for the enactment of these provisions is set forth in the Police and Fire Protection Act, MCLA 41.808 et seq.

Sec. 21-61 Definitions.

The following terms, phrases, words and their definitions shall have the meaning set forth unless the context otherwise requires:

- a. Emergency Service Fee. This shall mean the cost incurred by the City as a result of providing emergency services including police, fire, or other support services to a person within the City including but not limited to the following:
 1. Officer expenses incurred by the Public Safety Department, other public officials, or bodies, third parties engaged by the City in responding to the incident. Costs and expenses shall include cost of equipment, operations, personnel, materials used and other expenses including without limitation employee wages, fringe benefits, administrative overhead, costs of equipment including depreciation.
 2. Other costs and expenses incurred by the City in providing the emergency service or attempting to collect a fee including legal and engineering fees, litigation costs and expenses, supplies used directly or indirectly in the incident.
 3. Costs incurred in accounting for emergency services including billing and collection costs.
 4. Costs associated with deployment, including costs associated with dispatch and return of emergency resources.
- b. Non Resident. Means a person or entity that does not have a primary residence in the City of Fraser, own real property in the City of Fraser, or have a principal office or place of business within the City.

- c. Responsible Party. Means any individual, firm, corporation, limited liability company, or any other legal entity responsible in whole or in part for causing the need for emergency service, or any person receiving emergency services, or any owner, tenant, occupant, or party in control of real and personal property from which, onto which, or related to which, there is an emergency response incident and service provided. All the foregoing parties are jointly and severally responsible. The City may proceed against any or all such persons, or entities.
- d. Emergency Service. Means a response by Public Safety Department, or other responders on behalf of the City to an emergency incident, or to a call for assistance.

Sec. 21-62 Liability for emergency service fee.

Emergency Service Fees shall be accessed against any responsible party, or parties when the City of Fraser has deployed any emergency resources under the following circumstances:

- a. Emergency Services provided for any accident, or fire involving, or related to any motor vehicle, trailer, aircraft, boat, snow mobile, water craft, or other vehicles owned or operated by a non-resident of the City.
- b. Emergency response to any fire which could be set with a permit, but for which a permit was not obtained.
- c. Emergency response to any fire which could be set with a permit, but which becomes uncontrolled regardless of whether a permit was obtained.
- d. Emergency response provided to any non-resident of the City within the areas of the City opened to the public, such as parks, roads, highways and places of business.
- e. Emergency response to an illegal fire under federal, state or local law. Charges under this sub-section are payable by the responsible party causing in whole, or in part, or responsible in whole, or in part for such illegal fire.
- f. Emergency response to an activity, event, or incident in violation of federal, state, or local laws involving the illegal use of fireworks, or malicious destruction of property.
- g. Emergency response to an activity, event, or incident involving threats of harm to oneself, or another, or another's property which if carried out, would be a violation of federal, state, or local law.
- h. Utility line failure involving disabling of any transmission or service line, cable, conduit, pipeline, wire, or the like used to provide, collect, or transport electricity, natural gas, water, sewer, communication, or electronic signals (including but not limited to telephone, computer, cable, television, or other electronic impulses, if the owner, or party responsible for the maintenance of such utility line does not respond, employing personnel to the scene within one hour of a request to repair, or correct such failure.)
- i. Any emergency service response to a particular location, if an emergency response has occurred at such particular location in excess of three times within the current quarter of a calendar year. Particular location shall mean the entire area of land occupied by a business, including structures, parking areas and other improved areas utilized, or otherwise legally owned. In a case of a single family home, or condominium it shall mean the dwelling unit, any accessory structure, such as sheds or garages and any other property in which an ownership interest exists. In the case of an apartment complex, particular location shall refer to all areas of the apartment complex for owners, and the dwelling unit rented and

common areas which may be occupied without special permission in the case of renters.

Sec. 21-63 Invoice for emergency services.

The City Administration upon recommendation by the Public Safety Department, shall prepare an invoice for emergency services pursuant to the fees as defined in the fee schedule, which shall be delivered by first class mail to any person, or persons responsible for the emergency service fee. The invoice is due and payable within thirty (30) days of the date of mailing, or delivery. Over due unpaid amounts shall bear interest at the rate of twelve (12%) percent per annum simple interest. The notice shall generally identify the location of the emergency service response and provide a brief summary of the incident.

Sec. 21-64 Fee schedule.

The City Council from time to time may adopt and amend a schedule of costs as assessable costs which shall be available at the office of the City Clerk for inspection by the public during regular business hours which may set forth charges established on an hour, or fractional hour basis for apparatus equipment and personnel. Actual additional costs incurred shall be chargeable, notwithstanding that the same were not expressly provided in such fee schedule.

Sec. 21-65 Appeal.

Any person determined to be responsible for an emergency service fee may appeal that determination by filing a written statement of appeal to the City Manager setting forth the reasons for the appeal, shall be filed within twenty-one (21) days following the mailing of any invoice, or if not mailed, the date of delivery by other means. The appeal stays payment until a final determination by the City Manager. The party appealing may present information and evidence. The City Manager shall make a final determination on any appeal within fourteen (14) days of the filing of any appeal. The determination shall be in writing.

Sec. 21-66 Other remedies.

The City shall be entitled to pursue any other remedy, or may institute appropriate action or proceedings in a court of competent jurisdiction to collect successful costs from a responsible party.

Sec. 21-67 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 to the City, or to any other person, or entity.

Sec. 21-68 Assessable costs, lien upon property.

Assessable costs when not paid, including late payment and interest shall constitute a lien upon real property which shall be payable and collectible in the same manner as real property taxes, including interest and penalties thereto as a cumulative remedy.

Section 2. Severability. Should any word, phrase, sentence, or clause of this Ordinance be declared by a court of competent jurisdiction, to be invalid, or unenforceable, the same shall not effect the validity or enforceability of any other provision, or part.

Section 3. Effective Date. This Ordinance shall become effective immediately upon adoption and publication due to the emergency nature of same.

AYES _____

NAYS _____

ABSENT _____

Richard Haberman, City Manager

Attested:

Kathy Kacanowski, City Clerk

I, Kathy Kacanowski, City Clerk of the City of Fraser, Macomb County, Michigan, do hereby certify that Ordinance No. _____ was adopted by the City Council of Fraser, assembled in regular session on June _____, 2010. Said Ordinance was posted in the following places:

Notice of said posting was published in *The Macomb Daily* on _____, 2010.

Kathy Kacanowski, City Clerk

CITY COUNCIL DATE: _____

PUBLICATION DATE: _____