

**CITY COMMISSION
CITY OF OTSEGO
Allegan County, Michigan**

Commissioner Allard, supported by Commissioner Misner, moved the adoption of the following ordinance:

ORDINANCE NO. 149

AN ORDINANCE TO AMEND DIVISION 1 OF ARTICLE II OF CHAPTER 30 OF THE CODE OF ORDINANCES OF THE CITY OF OTSEGO, MICHIGAN TO PROVIDE FOR THE RECOVERY OF COSTS ASSOCIATED WITH CERTAIN EMERGENCY RESPONSE SERVICES

THE CITY OF OTSEGO ORDAINS:

Section 1. Amendment. Division 1 of Article II, "Recovery of Certain Emergency Response Costs", of Chapter 30, "Emergency Services", of the Code of Ordinances of the City of Otsego, Michigan is amended to read as follows:

Division 1. Charges for Certain Emergency Response Services

Section 30-31. Purpose.

This Division is adopted to defray some costs incurred in providing certain emergency response services. It is not the purpose of this Division to provide complete reimbursement or funding for the Otsego fire department.

Section 30-32. Definitions.

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

(1) *Emergency response* means the following actions or services provided by the City, or by a private individual or corporation operating at the request or direction of the City:

- (a) Extinguishing or fighting any fire occurring in or at a structure or occurring on public or private property.
- (b) Any incident requiring a response by the City that involves any public or private utility property and requires City equipment or personnel to remain at the incident to protect the health, safety and welfare of the public until the utility provider responds to the incident and takes corrective measures.
- (c) The extrication of an individual(s) from a vehicle involved in an accident.
- (d) Extinguishing or fighting any vehicle fire.
- (e) Any response to a false alarm at a property in excess of two times in a calendar year.

(2) *Person responsible* means the owner, operator and/or person in charge of or person in possession of the structure, property or vehicle to which the emergency response is directed.

(3) *Vehicle* means all motor vehicles (including but not limited to cars, trucks, semitractors, motorcycles and trailers), trains, aircraft or watercraft.

Section 30-33. Charges.

(1) The expense of an emergency response shall be charged against the person(s) responsible. If there is more than one person responsible, liability shall be joint and several and the City may

bill any or all persons responsible, however the City may not collect more than the total amount owed. Liability for charges assessed under this Division shall not be dependent upon fault or negligence. The charge constitutes a debt of the person(s) responsible and shall be collectable by the City in the same manner as an obligation under a contract.

(2) The costs included within the expense of an emergency response shall be set from time to time by the City Commission by resolution.

Section 30-34. Exemptions.

(1) The following circumstances shall not constitute a false alarm:

(a) An alarm activated by damage to public utility lines when the affected public utility corroborates that the damage to such lines caused the alarm.

(b) An alarm caused by storm, tornado, or other violent condition beyond the control of the person whose property is served by the alarm.

(2) The City is exempt from all charges authorized by this Division.

Section 30-35. Billing.

The city manager or his/her designee shall submit a bill for the expense of an emergency response by first class mail or personal service to the person responsible for the expense as enumerated under this Division. The bill shall require full payment within 28 days from the date of billing.

Section 30-36. Failure to Pay Charges.

Any failure by a person responsible to pay a bill issued under this division within 28 days of the date of billing shall be considered a default. In case of a default, the City may commence a civil suit or take any other actions permitted at law or in equity to recover the expenses of an emergency response. If legal action is taken to collect an amount owed pursuant to this Division, the City shall be entitled to recover the cost of such legal action from the person responsible, including reasonable and actual attorneys' fees.

Section 2. Effective Date. This ordinance shall take effect upon the latter of publication or the passage of twenty (20) days time following its final adoption in accordance with the City Charter.

YEAS: Commissioners: Tom Gilmer, Kathleen Misner, Joel M. Thompson, Timothy Allard and Molly Wieber.

NAYS: Commissioners: None.

ABSTAIN: Commissioners: None.

ABSENT: Commissioners: None.

ORDINANCE ADOPTED.

CERTIFICATION

I certify that this is a true and complete copy of an ordinance adopted by the City Commission of the City of Otsego at a Regular Meeting held on May 17, 2010.

Dated: May 17, 2010

Angela Cronen, City Clerk