

City of Hastings

## ARTICLE IV. RECOVERY OF COSTS INCURRED FOR CERTAIN PUBLIC SAFETY EMERGENCY RESPONSES

### Sec. 34-100. Scope and purpose.

This article authorizes the imposition of charges to recover the actual costs and expenses incurred by the City of Hastings, the B.I.R.C.H. Rural Fire Association, the units of local government participating in the B.I.R.C.H. Rural Fire Association, the City of Hastings Fire Department, other departments of the City of Hastings, or others providing public safety related services from incurring any extraordinary costs and expenses resulting from the utilization of public safety and emergency assistance resources by nonresidents of the B.I.R.C.H fire district and the City of Hastings, and/or in response to any illegal or unlawful activities, in order to protect their economic viability (see fee schedule).

(Ord. No. 401, § I, 10-24-05)

### Sec. 34-101. Definitions.

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

*Applicable structure demolition* means the tearing down of a structure damaged by fire which must in the opinion of the fire chief or his/her designee, be promptly demolished following a fire to protect the public safety.

*Assessable costs* mean those costs and expenses incurred as a result of emergency assistance provided in connection with a response to a public safety or fire emergency incident, including, but not limited to, the actual labor and material costs of the City of Hastings/B.I.R.C.H. fire district or others providing public safety services (including, without limitation, employee wages, fringe benefits, administrative overhead, costs of equipment, costs of equipment operation, costs of materials, cost of transportation, costs of material disposal and costs of contracted labor, legal fees, collection costs, etc.) whether or not the services are provided by the fire department, public safety agency or by a third party on behalf of the fire department or public safety agency; service charges and interest; attorney's fees, litigation costs and any costs, charges, fines or penalties to the city imposed by any court or state or federal government entities.

*B.I.R.C.H. fire district* means the association of Baltimore Township, Irving Township, Rutland Charter Township, Carlton Township and Hastings Charter Township in their entireties Barry County, Michigan.

*Bomb threats* mean the verbal or written threat of a bomb or other explosive device which if discharged as threatened would violate a federal, state or local law.

*City* means the municipality of Hastings, Michigan.

*Emergency assistance* means emergency fire, public safety, and civil defense services.

*Excessive requests for emergency assistance* means a request for emergency assistance made to a particular location or premises if such location or premises has requested emergency assistance more than five times in the preceding 30 days.

*False alarm* means any automated or manual device to request or summon emergency assistance which device is activated intentionally or otherwise, in the absence of an actual need for emergency assistance. The determination that there was no actual need for emergency assistance shall be made by the most senior person responding to a false alarm. Provided however, a false alarm shall not be deemed to have occurred if:

- (a) Caused by an act of God, i.e., a lightning storm.
- (b) It originates from a motor vehicle alarm system.

- (c) Has not occurred more frequently than three times in a calendar year.

*Fire department* means the City of Hastings/B.I.R.C.H. Fire Department.

*Illegal fire* means a fire set or determined to have been set in violation of a federal, state or local law and shall include a fire set in violation of a no burning ban or order. An illegal fire does not include an unintentional fire or a fire caused by an act of God, i.e., a lightning storm.

*Motor vehicle* means any self-propelled or towed vehicle designed to be used, or used on public streets, roads and highways to transport passengers or property, which is required to be registered for use upon such public streets, roads and highways and for the purposes hereof; all trailers or appurtenances attached to any motor vehicle.

*Public safety or fire emergency incident* means:

- (a) Excessive requests for emergency assistance.
- (b) A false alarm.
- (c) An illegal fire.
- (d) A bomb threat.
- (e) A threat of harm to oneself or others.
- (f) A utility line failure.
- (g) An applicable structure demolition.

*Responsible party* means any individual, firm, corporation, association, partnership, commercial entity, consortium, joint venture, government entity or any other legal entity which does not own property in the City of Hastings or the B.I.R.C.H fire district, or individuals who are nonresidents of the City of Hastings or the B.I.R.C.H fire district, responsible for a public safety or fire emergency incident. "Responsible party" shall also include owners of property in the City of Hastings and the B.I.R.C.H fire district and City of Hastings and B.I.R.C.H fire district residents who are responsible for an illegal or unlawful activity resulting in a public safety or fire emergency incident.

*Threats of harm to oneself or others* means the verbal or written threat of physical harm to oneself or another or another's property, which if carried out would be a violation of federal, state or local law.

*Townships* means the township municipalities of Baltimore, Irving, Carlton, Rutland and Hastings, Michigan.

*Utility line failure* means the disabling of any transmission or service line, cable, conduit, pipeline, wire or the like used to provide, collect or transport electricity, natural gas, communication or electronic signals (including, but not limited to, telephone, computer, cable television or stereo signals or electronic impulses), water or sanitary or storm sewage if the owner of the party responsible for the maintenance of such utility line does not respond within one hour to a request to repair or correct such failure.

(Ord. No. 401, § I, 10-24-05)

### **Sec. 34-102. Cost recovery authorization.**

The city, townships, and/or B.I.R.C.H. district shall be entitled to recover all assessable costs incurred in connection with a public safety or fire emergency incident from any and all responsible parties. Such costs and expenses shall be the joint and several responsibility of the responsible party.

(Ord. No. 401, § I, 10-24-05)

### **Sec. 34-103. Billing and collection of assessable cost and expenses.**

- (a) The city clerk/treasurer shall mail an itemized invoice to the responsible party at its last known address. Such invoice shall be due and payable within 30 days of the date of mailing and any amounts unpaid after such

date shall bear a late payment fee equal to one percent per month or fraction thereof that amount due and any previously imposed late payment fee remains unpaid. If a responsible party shall appeal assessable costs pursuant to section 34-104 such costs, if unpaid, in whole or in part, shall be due and payable 30 days from the date of determination of the appeal and any late payment fees shall apply thereafter.

(b) The city, townships, and/or B.I.R.C.H. fire district shall have a lien for all unpaid costs and expenses incurred by any one of them and may enforce such lien in the manner prescribed by the general laws of the State of Michigan for the enforcement of tax liens.

(Ord. No. 401, § I, 10-24-05)

### **Sec. 34-104. Procedure for appealing assessable costs.**

Any responsible party shall have the right to appeal the costs and expenses assessed to them under this article pursuant to the following procedure:

(a) The responsible party shall have the right to request a meeting with the fire chief or his/her designee to review the tabulation of the assessable costs. The responsible party shall request in writing such meeting within 14 calendar days of the invoice date.

(b) If after meeting with the fire chief or his/her designee the responsible party does not concur with the tabulation, he or she may request an appeal to the City of Hastings/B.I.R.C.H. fire district board of appeals (consisting of the members of the B.I.R.C.H. fire district board, and the Hastings City Manager and Hastings City Clerk/Treasurer) for a review of the assessable costs. The responsible party shall request said appeal within 14 calendar days of the date of the meeting with the fire chief or his/her designee. Any filed request to appear shall specifically identify and explain all reasons why the responsible party believes the assessed costs should be modified. Failure to timely file a written request for an appeal shall constitute a waiver of the responsible party's right to appeal to the City of Hastings/B.I.R.C.H. fire district board of appeals; and shall further constitute the responsible party's agreement to pay the assessable costs invoiced.

(c) Upon receipt of such request the chairman of the B.I.R.C.H. fire district will convene a meeting of the City of Hastings/B.I.R.C.H. fire district board of appeals and place the responsible party on the agenda of the meeting.

(d) After a responsible party has been given an opportunity to appear and have their appeal be heard, the City of Hastings/B.I.R.C.H. fire district board of appeals shall promptly determine whether to confirm, modify or void the payment of assessable costs involved.

(Ord. No. 401, § I, 10-24-05)

### **Sec. 34-105. Other remedies.**

In addition to the remedy set forth in section 34-103, the city, townships, and/or B.I.R.C.H. fire district may pursue any other remedy, or may institute any appropriate action or proceeding in a court or competent jurisdiction as permitted by law to collect the assessable costs and expenses permitted under this article.

(Ord. No. 401, § I, 10-24-05)

### **Sec. 34-106. No limitation of liability.**

The recovery of assessable costs pursuant hereto does not limit the liability of a responsible party under applicable local, state or federal law.

(Ord. No. 401, § I, 10-24-05)