

NEW

TOWNSHIP OF ARMADA
MACOMB COUNTY, MICHIGAN

ORDINANCE NO: 150

ARMADA TOWNSHIP OUIL COST RECOVERY ORDINANCE

TITLE

AN ORDINANCE to recover the costs and damages incurred by Armada Township in making emergency responses to motor vehicle accidents and/or arrests involving drivers who are operating a motor vehicle while under the influence of alcoholic beverages and/or a controlled substance.

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

SECTION 1. Short Title.

This Ordinance shall be known and cited as the *Armada Township OUIL Cost Recovery Ordinance*.

SECTION 2. Intent and Purpose.

A significant number of traffic arrests and accidents in the Township involve drivers operating a motor vehicle while under the influence of intoxicating liquor

or a controlled substance, or a combination of both. Furthermore, the Township finds that there is a greater likelihood of personal injury and property damage in accidents involving a driver operating under the influence of intoxicating liquor or controlled substance, or a combination of both. As a result, the Township finds that a greater operational and financial burden has been placed on the Township's fire fighting, and rescue services by persons who are operating a motor vehicle while under the influence of alcoholic beverages or a controlled substance, or a combination of both, and that it is necessary to recover these increased emergency response costs.

SECTION 3. Scope and Application.

Section 3.1. Interpretation. The terms and provisions of this Ordinance shall be interpreted and applied as minimum standards and requirements for the promotion of the public health, safety and welfare, for persons and property within the Township of Armada.

Section 3.2. Interference with other ordinances. This Ordinance shall not interfere with, abrogate, annul or repeal any other valid law, ordinance, rule or regulation previously in effect, including any other valid cost recovery ordinance. Moreover, in instances where this Ordinance specifically imposes a greater restriction or higher standard than other ordinances, the provisions of this Ordinance shall govern.

Section 3.3. Conflicts with State law. This Ordinance is not intended to conflict with and/or preempt application of the statutes of the State of Michigan and the laws of the United States against operating a motor vehicle under the influence of

intoxicating liquor or controlled substance, or a combination of both.

Section 3.4. Prosecution of other ordinances. This Ordinance is not intended to govern prosecution of Township Ordinances against operating under the influence of intoxicating liquor or a controlled substance, or a combination of both.

SECTION 4. Enabling Authority.

This ordinance is adopted pursuant to and in accordance with the provisions of Act 246, Public Acts of 1945, as amended, and Act 359, Public Acts of 1947, as amended.

Section 5. Definitions.

For the purpose of construction and application of this Ordinance, the following definitions shall apply:

- (a.) "Emergency Response" shall mean providing, sending or utilizing fire fighting, or emergency medical service by the Township, or by a private individual or corporation operating at the request or direction of the Township, in connection with any incident involving a driver of a motor vehicle operating under the influence of intoxicating liquor or a controlled substance, or a combination of intoxicating liquor and a controlled substance. These incidents shall include, but not be limited to, any accident involving a motor vehicle where one or more of the driver's was operating a motor vehicle while under the influence of intoxicating liquor or controlled substance, or combination of intoxicating liquor and controlled substance.

- (b.) "Cost Of Emergency Response" shall mean all direct and reasonable costs related to an emergency response incurred by the Township or by private individuals or corporation operating at the request of the direction of the Township. These costs shall include, but are not limited to, the costs of the fire fighting, emergency medical and rescue services; the salaries, wages, fringe benefits of any personnel responding to the incident; the salaries, wages and fringe benefits of any personnel engaged in investigating the incident and all costs of any related reports; all costs connected with the supervision of personnel responding to, or investigating any incident; all costs linked with the administration of processing the chemical tests of blood, breath or urine of the driver; and all costs related to any prosecution of the person causing the incident.
- (c.) "Vehicle" shall mean every device in, upon, or by which any person or property is or may be transported or drawn on a highway, except devices which are moved exclusively by human power or which are used exclusively on stationary rails or tracks and except for a mobile home as defined in section 2 of Act No. 419 of the Public Acts of 1976, as amended, being § 125.1102 of the Michigan Compiled Laws, including but not limited to any snowmobile, off road vehicle, or vessel.
- (d.) "Township" shall mean the Township of Armada, Macomb County, Michigan.
- (e.) "Township Board" shall mean the governing body of the Township.

SECTION 6. Liability For Costs Of An Emergency Response.

Section 6.1. Liability. Any person is liable for the costs of an emergency response if that person, while under the influence of intoxicating liquor or a controlled substance, or a combination of intoxicating liquor and a controlled substance, proximately causes any incident resulting in an emergency response.

Section 6.2. Presumptions. For the purpose of this Ordinance, a person is under the influence of an intoxicating liquor or a controlled substance, or the combination of an intoxicating liquor and a controlled substance, when his or her physical or mental abilities are so weakened by the consumption of alcohol that he or she drove with less ability than would an ordinary, careful, and prudent driver of if a chemical analysis of his or her blood, urine or breath indicates that the amount of alcohol in his or her blood was in excess of .07%.

Section 6.3. Charges Against A Person. The costs of an emergency response shall be a charge against the person liable for the costs of an emergency response. The charge constitutes a debt of that person and is collectible by the Township for incurring those costs in the same manner as in the case of an obligation under a contract, expressed or implied.

Section 6.4. Certification of Expenses. Township personnel and departments involved in an emergency response shall keep an itemized record of recoverable expenses resulting from an emergency response. Promptly after completion of an emergency response, the Township departments shall certify those expenses to the Fire Chief, or the Chief's agent.

Section 6.5. Billing. The Fire Chief or the Chief's agent may, within 30 days of receiving a complete list of itemized costs of an emergency response, submit a bill for these costs by first class mail, certified mail or personal service to the person liable for the costs. This bill shall require full payment in 30 days from the date of receipt.

Section 6.6. Failure To Pay; Procedure To Recover Costs. Any failure by the person described in this Ordinance as liable for the costs of an emergency response, to pay the bill within 30 days of receipt shall be considered a default. In case of default, the Township of ARMADA may commence a civil suit to recover the costs plus any additional costs or expenses allowed by law.

SECTION 7. Repeal of Conflicting Provisions.

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

SECTION 8. Severability.

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

SECTION 9. Publication.

A true copy or summary of this Ordinance shall be twice published in the _____, a newspaper having general circulation within the Township of Armada.

SECTION 10. Effective Date.

This Ordinance shall take effect thirty (30) days from and after _____ publication of a true copy or summary thereof as heretofore provided in Section 9.

CERTIFICATE OF TOWNSHIP DEPUTY 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 regular meeting held on the 16th day of July, A.D., 1998.

I hereby further certify that the following Board Members were present at said meeting:

and the following Board Members were absent;

I further certify that Member _____ moved for the adoption of said Ordinance, and that motion was supported by Member _____.

I further certify that the following Armada Township Board Members voted for the adoption of said Ordinance:

and that the following Armada Board Members voted against adoption of said Ordinance: _____

GERI CLAEYS
Armada Township Deputy Clerk

CERTIFICATE OF PUBLICATION

I, the undersigned Township Deputy Clerk of the Township of Armada, do hereby certify that on July 22, 1998, the foregoing Ordinance or Summary thereof was duly published in the Armada Times, a newspaper having general circulation within the Township.

GERI CLAEYS
Armada Township Deputy Clerk

