

**CHARTER TOWNSHIP OF HARRISON  
MACOMB COUNTY, MICHIGAN  
ORDINANCE NO. 403**

**AN ORDINANCE AMENDING CHAPTER 1 OF THE CODE OF ORDINANCES, SECTION 1-7 PROVIDING AUTHORITY FOR THE COLLECTION OF COSTS OF PROSECUTION, COURT COSTS, AND TO AMEND THE TOWNSHIP'S COST RECOVERY ORDINANCE IN CHAPTER 38, REPEALER, SEVERABILITY, PENALTIES AND EFFECTIVE DATE.**

**THE CHARTER TOWNSHIP OF HARRISON ORDAINS:**

**Section 1.** Chapter 1 Section 1-7(d) of the Harrison Township Code of Ordinances shall be amended to read as follows:

Except for a violation of this Code expressly designated to be misdemeanors, a violation of this Code shall be a municipal civil infraction. ~~Unless a different schedule of civil fines is provided for by an applicable ordinance, the civil fines payable to the township's municipal ordinance violations bureau upon admissions of responsibility by persons served with municipal ordinance violation notices shall be determined pursuant to the following schedule:~~

~~1st violation .....\$ 50.00~~

~~2nd violation of same offense .....125.00~~

~~3rd violation of same offense .....250.00~~

~~4th or subsequent violation of same offense .....500.00~~

~~In addition to the civil fines prescribed in subsection (d) of this section, costs in the amount of \$20.00 shall be assessed by the bureau if the fine and costs are not paid within ten days of the date of service of the municipal ordinance violation notice.~~

The fine schedule for Municipal Civil Infraction Citations filed in the 41B District Court are set forth in section 2-155 of the Code of Ordinances.

**Section** Chapter 2, Article IV, Division 2. , Entitled “ Ordinance Violations Bureau and ordinance Violation Notices, Sections 2-121 through 2-126 shall be deleted in its entirety.

**Section .** Chapter 2, Section 2-155 of the Harrison Township Code of Ordinances shall be amended to read as follows:

(a) The sanction for a violation which is a municipal civil infraction shall be a civil fine in the amount as provided by the ordinance violated, plus any costs, damages, expenses and other

sanctions, as authorized under chapter 87 of the Revised Judicature Act of 1961 (MCL 600.8701 et seq.) and other applicable laws.

(b) Unless otherwise specifically provided by this Code, the fine for each violation of a municipal civil infraction citation shall be **\$500.00**. ~~not less than \$100.00 or more than \$200.00.~~

(c) An increased fine may be imposed by the court for each repeat offense in accordance with the following:

(1) The fine for any offense that is a first repeat offense shall be **\$1,000.00**. ~~no less than \$250.00 nor more than \$400.00.~~

(2) The fine for any second repeat offense or any subsequent repeat offense shall be **\$1500.00** ~~no less than \$500.00.~~

(d) If a defendant is ordered to pay a civil fine under subsection (c), the court shall summarily tax and determine the costs of the action, which are not limited to the costs taxable in ordinary civil actions and may include all expenses, direct and indirect to which the plaintiff has been put in connection with the municipal civil infraction, up to the entry of judgment. ~~In no case, however, shall costs of less than \$9.00 or more than \$500.00 shall be ordered. (MCL 600.8727(3))~~ **Costs of not more than \$500.00 shall be ordered.**

(e) Pursuant to the authority set forth in Act 236 of 1961, MCL 600.8302, and MCL 600.8727 the district court may, in addition to ordering the defendant to pay a civil fines, costs and assessments, issue and enforce any judgment, writ, or order necessary to enforce the Charter Township of Harrison Township Municipal Civil Infraction Ordinance. This grant of equitable jurisdiction and authority under this subsection does not affect the jurisdiction of the circuit court to do either of the following:

(1) Hear and decide claims based on nuisance or abate nuisances under MCL 600.2940.

(2) Hear and decide actions challenging the validity or applicability of an ordinance and, in those actions, enjoin a defendant from enforcing the ordinance in the district court pending the outcome of the action in circuit court.

(f) Increased civil fines may be imposed for repeat offenses by a person of any requirement or provision of any ordinance. As used in this section, the term "repeat offense" means a second (or any subsequent) admission or determination of responsibility for the same municipal civil infraction made within the period as specified by the ordinance violated.

(g) Each day on which any violation designated as a municipal civil infraction continues constitutes a separate offense and shall be subject to sanctions as a separate violation.

(h) In addition to any remedies available at law, the township may bring an action for an injunction or other process against a person to restrain, prevent or abate any municipal civil infraction violation.

**(i) A defendant who fails to answer a citation or notice to appear in court for a municipal civil infraction is guilty of a misdemeanor.**

Section . Chapter 38, Section 38-1 of the Harrison Township Code of Ordinances shall be deleted in its entirety and amended to read as follows:

**38-1. - 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:**

**Costs means:**

**(1) All fees, charges and other expenses associated with the response to mitigation and cleanup of hazardous or dangerous materials and substances, including standby situations;**

**(2) All fees, charges and other expenses for the repair, decontamination or replacement of equipment, apparatus, materials and supplies;**

**(3) All fees, charges and other expenses necessarily incurred to ensure the protection of the public health, safety or welfare of the township and the persons in the township in excess of those fees, charges and other expenses usually and customarily incurred in providing emergency response services; and**

**(4) In the case of an intentionally caused fire emergency, all fees, charges and other expenses incurred in providing emergency response services.**

**(5) All fees, charges and costs incurred as a result of the fire department responding to a utility line failure.**

**Hazardous or dangerous materials and substances means any substance, including but not limited to alcohol, gunpowder, dynamite, crude petroleum or any of its byproducts, fuel oils, pyroxylin, combustible finishes, and other commodities of a similar nature or quality and all other substances which constitute a fire hazard or pose a substantial present or potential hazard to the public health, safety or welfare, or endanger, cause or are capable of causing loss, injury or damage to persons, property or the environment.**

**Intentionally caused fire emergency, means a fire intentionally caused by the owner or occupant of property and/or structure which requires an emergency response by the fire department, police department and/or other emergency support agencies.**

Section . Chapter 38, Section 38-2 of the Harrison Township Code of Ordinances shall be created to read as follows:

**38-2 Authority to collect costs.**

**The fire department shall have the authority to collect all costs incurred for the use of its equipment, apparatus, manpower and supplies, or incurred by reason of loss, damage or contamination of its equipment, apparatus and materials in providing emergency services in situations which involve utility line failures, spills, leaks, releases, accidents including but not limited to motor vehicle accidents, or related occurrences of hazardous or dangerous**

**materials or substances; and shall have the authority to collect all costs incurred for the use of its equipment, apparatus, manpower and supplies or incurred by reason of loss of or damage to its equipment, apparatus and materials in providing emergency services in the case of an intentionally caused fire emergency.**

Section . Chapter 38, Section 38-3 of the Harrison Township Code of Ordinances shall be created to read as follows

**38-3. - Persons responsible for costs.**

**All costs referred to in section 38-2 shall be charged against and be the responsibility of the owner or operator of the property, equipment, vehicle or container causing, contributing, allowing or the persons failing to manufacture, keep, store, transport or otherwise handle or dispose of hazardous or dangerous materials or substances in a manner and by a method so as not to constitute a fire hazard or pose a substantial present or potential hazard to the public health, safety or welfare, or to endanger or cause loss, injury or damage to persons, property or the environment, and, in the case of an intentionally caused fire emergency, the persons who proximately caused the fire and any other persons who are responsible for the actions of such persons. Any costs that result from a response to a utility line failure shall be the responsibility of the owner and/or operator of the utility line. Such costs shall constitute a debt of the persons responsible and be collectible in the same manner as an obligation under an expressed or implied contract.**

Section . Chapter 38, Section 38-4 of the Harrison Township Code of Ordinances shall be created to read as follows

**Sec. 38-4. - Statement for services rendered.**

**The fire department shall submit a statement showing the costs associated with emergency services referred to in this division to the responsible person by first class mail or personal service, and the amount of the fee charged pursuant to the provisions of this division.**

Section . Chapter 38, Section 38-5 of the Harrison Township Code of Ordinances shall be created to read as follows

**Sec. 38-5. - Delinquent accounts.**

**Any person responsible for emergency services under this division who fails to remit the fee charged within 30 days of the date of the statement of services rendered shall be considered delinquent. All such delinquent accounts shall be collected as provided by law.**

Section . Chapter 38, Section 38-81 of the Harrison Township Code of Ordinances shall be amended to read as follows:

(a) Where any person seeks relief from the decision or interpretation of a fire official enforcing the provisions of this article, including permits, certificates, waivers, alternate materials, alternate methods, approvals or variances or matters of code interpretation, that person may request reconsideration of the decision or interpretation by appealing, in writing, to the fire marshal within 15 days of the receipt of the decision, stating the reasons why relief is sought and what decision the person feels should be forthcoming. The fire marshal shall, within ten days after receiving a copy of the appeal in writing, ~~hold a hearing and decide the question after investigating all pertinent facts. The fire marshal shall~~ render a written decision within ~~five~~**10** days. ~~after the completion of the hearing.~~

(b) After the issuance of a written opinion by the fire marshal, any person seeking further relief regarding the provisions of this article may appeal to the township ~~building~~ board of appeals **as established by and in accordance with the International Fire Prevention Code Sections 108.1 and 108.2, as adopted by the Township.** Such appeal shall be in writing and directed to the board of appeals within 14 days following receipt of the fire marshal's written opinion. ~~The meeting of the building board of appeals shall be held pursuant to all applicable laws and ordinances. The procedures for the appeal shall be consistent with other cases heard by the building board of appeals.~~ The board may, after hearing such appeal, affirm, annul or modify the action of the fire marshal by a majority vote. The decision of the board or a copy of the minutes of the appeal hearing shall be mailed to the appellant within 14 days after the conclusion of the hearing. Any decision of the board shall be final, and further recourse shall be through established legal procedures.

(c) A filing fee shall accompany each notice of appeal to the ~~building~~ board of appeals in an amount as set forth in a schedule of fees on file in the township ~~building department~~ **Clerk's office.**

Section . SEVERABILITY.

If any Section, subsection, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion of this ordinance, and such holding shall not affect the validity of the remaining portions of this ordinance.

Section . REPEAL.

All ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this ordinance full force and effect.

Section . EFFECTIVE DATE.

This ordinance shall take effect immediately after the publication hereof.

CERTIFICATION

I hereby certify the foregoing is a true and complete copy of Ordinance No. \_\_\_\_\_ duly adopted by the Board of Trustees of the Charter Township of Harrison at a Regular Meeting held on \_\_\_\_\_, 2021, pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, as amended, and that the minutes of said meeting were kept and will be made available as required by said Act.

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ADAM WIT, Clerk

Introduction Date: \_\_\_\_\_

First Publication Date: \_\_\_\_\_

Adoption Date: \_\_\_\_\_

Second Publication Date: \_\_\_\_\_

Effective Date: \_\_\_\_\_