

**AN ORDINANCE TO AMEND THE WESTLAND CITY CODE BY AMENDEING ARTICLE VI, SECTIONS 50-181 TO 50-185, CONCERNING EMERGENCY RESPONSE COST RECOVERY**

It is hereby ordained:

**Section 1.** That Chapter 50, Article VI, Sections 50-181 to 50-185 of the Westland City Code are hereby amended to provide as follows:

**“Article VI. - EMERGENCY RESPONSE COST RECOVERY**

**Sec. 50-181. Purpose.** This Article is created and adopted to insure that the city shall, to the extent permitted by law, recover the costs of an emergency response from the responsible party.

**Sec. 50-182. Definitions.** As used in this section:

(1) *Emergency response* shall mean any response by the fire department, an entity operating at the request of the fire department, or any other responder as set forth in the national incident management system (Homeland Security Presidential Directive 5), to any call, including medical emergencies, for assistance from any person, property owner, government agency, emergency service provider, or other entity.

(2) *Cost of the emergency response* shall mean the costs incurred in responding to an emergency event, except as may be limited by City policy. Costs include labor, equipment usage, and materials associated with investigation, removal, repair, abatement, mitigation, monitoring, cleanup, analysis, collection costs and attorney fees.

(3) *Person* shall mean any individual, partnership, corporation, limited liability corporation, association, consortium, governmental entity, or any other legal entity.

(4) *Hazardous materials response* shall mean any response to an event involving any chemical, substance, compound, mixture, or other material defined as, designated as, listed as, or having the same characteristics as any substance, compound, mixture or material listed as hazardous under federal or state law or regulation.

**Sec. 50-183. Liability for expense of emergency response.**

(1) Any owner, lessor, lessee, or operator of any property who is responsible for, or contributes to an emergency response shall be liable for the expense of the emergency response.

(2) Any registered owner, lessor, lessee, or operator of any motor vehicle, the operation of which results in an emergency response, shall be liable for the expense of the emergency response.

(3) Any public or private utility whose activities or facilities necessitated an emergency response shall be liable for the expense of the emergency response.

(4) Any person owning, maintaining or operating a railroad shall be liable for the expense of the emergency response.

(5) When an emergency response directly benefits more than one person or property, each person and/or property benefitted shall be jointly and severally liable for the payment of the expense of the emergency response. For purposes of an emergency response involving a motor vehicle, occupants other than the operator and the registered owner shall not be liable for the expense of the emergency response.

(6) Cost recovery for any hazardous materials response may be pursued in a civil action, pursuant to the Natural Resource Environmental Protection Act (MCL 324.20135).

**Sec. 50-184. Collection and billing of emergency response costs.**

(1) Collection recovery costs incurred by the fire department, including billing and collection costs, court costs, and attorney fees, shall be assessed to a responsible party who fails to remit reimbursement for the costs of the provided emergency services in accordance with the billing procedures of this section.

(2) Upon determination of responsibility for an emergency response, the fire chief, or his designee, shall prepare and deliver an invoice of the charges imposed to the responsible party or parties for payment. The responsible party shall reimburse the fire department, as directed by the invoice, for the charges set forth in the invoice within 30 days. The responsible party shall be liable for any costs associated with the collection of the unpaid balance that remains after the expiration of 30 days.

(3) If the responsible party refuses to reimburse the city for costs and damages as provided in [section 50-183\(1\)](#), the city shall have a lien for all unpaid costs and damages incurred by the city as above-described, and may enforce such lien in the manner prescribed by the general laws of the state providing for the enforcement of tax liens if the person(s) has a legal or equitable ownership interest in the property where the emergency response occurred. The city shall also have the right to bring an action in the appropriate court to collect such costs if it deems such action to be necessary.

**Sec. 50-185. Severability.** If any subsection, clause, phrase, or portion of this Article 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 section, and such holding shall not affect the validity of the remaining points of this section.”

**Section 2.** That all other provisions of the Westland City Code shall remain in full force and effect.

**Section 3. Severability.** The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

**Section 4. Repeal.** All other Ordinances inconsistent with the provisions of this Ordinance are, to the extent of such inconsistencies, hereby repealed.

**Section 5. Publication.** The City Clerk shall cause this Ordinance to be published in the manner required by law.

**Section 6. Effective Date.** This Ordinance shall become effective upon publication as required by law.