

Upon motion by Brian P. McGrath, seconded by Lawrence G. Curtis,
 the following Ordinance was duly enacted, 3 voting in favor of enactment, 0 voting
 against enactment.

ORDINANCE 2004-12

An Ordinance of Millcreek Township, authorizing recovery and reimbursement of costs of materials and equipment used and services rendered in provision of fire protection, emergency medical and extraordinary municipal services; prescribing penalties for violation and including severability and repealer clauses.

WHEREAS, the Board of Supervisors by Resolution No. 99-R-21, as may in the future be amended, has approved agreements with Belle Valley Fire Department, Kearsarge Fire Department, Lake Shore Fire Department, West Lake Fire Department and West Ridge Fire Department for provision of fire protection, ambulance and emergency medical services in the Township, each Department being assigned a designated territory of Millcreek Township; and

WHEREAS, said Departments are independent nonprofit Pennsylvania corporations; and

WHEREAS, said Departments, themselves or through entities established by or contracted with by them, ensure provision of emergency medical services to persons residing, working and traveling in Millcreek Township; and

WHEREAS, Millcreek Township has established a Police Department and other service departments, including but not limited to the Streets Department, to provide police protection and other services to the Township; and

WHEREAS, Erie County has established an E-911 emergency system to facilitate the prompt reporting and dispatching of incidents requiring provision of police, fire protection and emergency medical services; and

WHEREAS, calls placed with Erie County's E-911 system are forwarded to the dispatch center maintained by or for Millcreek Township, with police, fire protection and/or emergency medical service providers designated to serve Millcreek Township then alerted as needed to deliver the necessary service; and

WHEREAS, under mutual aid agreements, other providers of police, fire protection or emergency medical services may be asked to assist with provision of services to a given incident; and

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WHEREAS, considerable sums are expended by providers of such services for equipment, materials and staff; and

WHEREAS, municipal services for general governmental operations, including prevention of crime and protection of the public safety generally, are provided as a function of Township government and are not intended to be affected by this Ordinance; and

WHEREAS, providers of fire protection and emergency medical services are authorized under the general laws and under Agreements with Millcreek Township to recover the usual, reasonable and customary fees and charges for their services; and

WHEREAS, many persons and entities maintain medical, property casualty and other insurance which includes coverage for medical services and/or services to protect, preserve, minimize damage to and restore insured property; and

WHEREAS, the Board of Supervisors has determined that insurance companies which have contracted with individuals and entities to provide coverage and benefits and to protect their insureds in the event of covered losses have elected to instead undertake efforts to avoid payment of fees for fire protection and emergency medical services; pay to an insured instead of the provider fees for emergency medical services while paying other medical treatment providers directly; assert defenses against payment for which no legal basis is known, all of which exposes their insureds to potential actions for reimbursement and disregards their obligations; and

WHEREAS, the Board of Supervisors has determined that it is necessary and in the best interests of the Township and those providing fire protection and emergency medical services to establish regulations and specific authorization relating to payment of fees for services provided.

IT IS HEREBY ORDAINED AND ENACTED by the Board of Supervisors of the Township of Millcreek, Erie County, Pennsylvania, and it is ordained and enacted, as follows:

1.01 Definitions.

1.01.1 "Emergency Medical Service Provider" shall mean the Fire Department or designee of the Fire Department (currently Millcreek Paramedic Service) providing emergency medical services pursuant to dispatch under the E-911 system and any other emergency medical service provider providing emergency medical services under mutual aid agreement with the Fire Department or its designee.

1.01.2 "Fire Department" shall mean the Fire Department providing fire protection and related services under Agreement with the Township, and shall include for purposes of authorization to invoice and recover fees for services designees or contractors of such Department and any fire department of another municipality providing services under mutual aid agreement or dispatch under the E-911 system.

1.01.3 "Person" shall mean any natural person(s), partnership, corporation, limited liability partnership or corporation, association, firm, insurance carrier, servicing agent or other legal entity.

1.02 Authorization to Recover Costs and Expenses.

1.02.1 Fire Departments are hereby authorized, pursuant to general laws, agreements between the Township and Fire Departments and this ordinance, to recover the usual, reasonable and customary costs of materials used and expended, use of equipment, hazardous situation abatement materials and personnel services used in or devoted to any fire, safety, rescue and/or hazardous waste abatement incident, these including but not limited to vehicular accidents and fires.

1.02.2 Emergency Medical Service Providers are hereby authorized, pursuant to general laws, agreements between the Township and Fire Departments and between Fire Departments and the Provider and this ordinance, to recover the usual, reasonable and customary costs of materials used and expended, use of equipment, personnel services and transport costs used in or devoted to the provision of emergency medical services and emergency transport.

1.02.3 Fire Departments and Emergency Medical Service Providers shall establish schedules of fees and costs for their respective services, which may be amended from time to time. Such schedules of fees and costs shall be posted at the Department's or Provider's business offices and shall be made available to persons upon request. The costs and expenses authorized by this Ordinance shall be those established in current and posted schedules.

1.03 Extraordinary Municipal Services. Millcreek Township generally shall not seek to recover as damages costs of its general governmental operations. The Township shall be authorized to recover costs and expenses in certain extraordinary situations, including the following:

1.03.1 Where the presence of uniformed or nonuniformed police officers at events attracting large crowds is deemed a necessary protection to the public by the Chief of Police, he or she shall have full authority to require that the person, entity or organization conducting such event shall employ such number of uniformed or nonuniformed police officers as may be designated by the Chief.

1.03.2 Where presence of uniformed or nonuniformed police officers is requested by the person, entity or organization sponsoring an event for reasons other than general public safety for which the Department is responsible, such sponsor shall pay all costs of the Police Department's providing such personnel for the requested period(s) of time.

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1.03.3 Where the Police Department is asked by another governmental agency to provide services to safeguard a potential crime scene after the incident and incurs additional expense for personnel, equipment, materials or contracted services as a result, the Township shall be authorized to seek recovery and reimbursement of such additional expenses.

1.03.4 Where the Township is requested by a private person or other governmental agency to provide services of a department other than the Police Department to assist in an emergency caused by an incident or to assist the private person other than within the scope of its general municipal services, the Township shall be authorized to seek recovery and reimbursement of such additional expenses and, in the case of assisting private persons, to require payment of defined costs and expenses in advance.

1.04 Collection of Costs, Expenses and Fees.

1.04.1 Costs, expenses and fees authorized in Section 1.02 of this Ordinance shall be charged, collected and recovered directly by the Fire Department, the Emergency Medical Service Provider or their appointed designee or agent. The person invoiced for such costs, expenses and fees, and/or that person's insurance carrier, servicing agent or other representative, shall remit payment of invoiced costs, expenses and fees directly to the Fire Department or Emergency Medical Service Provider, as is applicable.

1.04.2 Costs, expenses and fees authorized in Section 1.03 of this Ordinance shall be charged, collected and recovered directly by Millcreek Township or its appointed designee or agent. The person invoiced for such costs, expenses and fees, and/or that person's insurance carrier, servicing agent or other representative, shall remit payment of invoiced costs, expenses and fees directly to Millcreek Township.

1.04.3 In addition to such costs, expenses and fees, Fire Departments, Emergency Medical Service Providers and the Township are authorized to impose interest or finance charges upon invoiced amounts not paid within thirty (30) days after the invoice date, at such rates as are authorized by the laws of Pennsylvania.

1.04.4 In addition to such costs, expenses and fees, in the event Fire Departments, Emergency Medical Service Providers or the Township are compelled to initiate private collection or legal proceedings to collect sums due, such provider, in addition to all costs, expenses, fees and interest or service charges due, shall be entitled to recover in such proceeding all attorney's fees, collection agency fees, filing fees and litigation expenses reasonably incurred in the proceeding.

1.05 Violations; Penalties for Violation.

1.05.1 Any person violating the provisions of Sections 1.04.1 and/or 1.04.2 of this Ordinance shall violate this Ordinance.

1.05.2 Each day that a violation continues shall be considered a separate violation.

1.05.3 This Ordinance shall be enforced in accordance with Ordinance Nos. 96-8 and 96-9, as may be amended, governing civil enforcement of ordinances and collection of attorneys' fees and costs in enforcement actions.

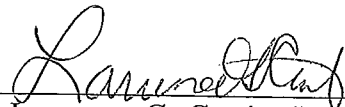
1.05.4 A fine in an amount not less than \$250.00 and not more than \$600.00 per violation and for each day of violation is hereby prescribed for violations of this Ordinance.

1.05.5 Upon a finding of violation, any person violating any provision of this ordinance shall be sentenced to pay fines as prescribed in Section 1.05, plus costs and with all attorneys' fees incurred by the Township in the proceeding.

1.06 Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance or its application to any person, property or circumstances is for any reason held invalid or unconstitutional by any court, such holding shall not be construed to affect the validity of any of the remaining provisions of this Ordinance or its application, for such portion shall be deemed as a separate, distinct and independent provision from the remaining provisions which shall be and remain in full force and effect. It is hereby declared the legislative intent that this Ordinance would have been adopted had such valid or unconstitutional provision of its application not been included herein.

1.07 Repealor. All Ordinances or parts of any Ordinances inconsistent herewith are hereby repealed.

BE IT ENACTED this 31st day of August, 2004.



Lawrence G. Curtis, Secretary

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