

Charter Township of Orion

Ordinance No. 161

Orion Township Fire

Department Cost Recovery

Ordinance

Adopted: April 5, 2021

AN ORDINANCE TO PROVIDE FINANCIAL ASSISTANCE TO THE TOWNSHIP IN THE OPERATION OF A FIRE DEPARTMENT FROM THOSE RECEIVING DIRECT BENEFITS FROM THE FIRE PROTECTION SERVICE AND TO PROVIDE RECOVERY FOR EMERGENCY COSTS.

ARTICLE I – DEFINITIONS

The following words, terms, and phrases, when used in this Ordinance, shall have the following meanings:

“Cost of Emergency Response” shall Mean all direct and reasonable costs related to an emergency response incurred by the township Fire Department. These costs shall include, but are not limited to, the costs of firefighting, emergency medical and rescue services; the salaries, wages, fringe benefits of any personnel engaged in investigating the incident and all costs of any related reports; and all costs connected with the supervision of personnel responding to or investigating any incident.

“Downed Power Line or other Non-HAZMAT Public Utility Hazard Response” means the disabling of any transmission, distribution 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, and stereo signals or electronic impulses), water or sanitary or storm sewage.

“Emergency Response” shall mean providing, sending, or utilizing firefighting, specialized rescue, hazardous materials mitigation, or emergency medical service by the township Fire Department, by another municipality under the mutual aid guidelines, or by a private individual or corporation operating at the request or direction of the township Fire Department.

“Fire Watch” means a temporary measure intended to ensure continuous surveillance of a building or portion thereof by one or more qualified individuals for the purposes of identifying and controlling fire hazards, detecting early signs of unwanted fire, raising an alarm of fire, and notifying the Fire Department.

“Public Safety Personnel” includes police officers, deputy sheriffs, 9-1-1 dispatchers, firefighters, EMS/ALS personnel, first responders, and other employees of the Township who provide emergency services to persons and/or to property within the Township, including but not limited to its Department of Public Works.

“Public Utility” includes but is not limited to any transmission, distribution or service line, cable, conduit, pipeline, wire, or the like used to provide, collect or transport electricity, natural gas, electronic signals, telephone, computer, cable television, stereo signals, electronic impulses, water, or sanitary or storm sewage.

“Safeguard a Scene” means all activities, personnel costs, and expenditures related to the Township's response to downed wires, gas line or main breaks, or any other non-HAZMAT response to a public utility hazard response and as set forth in Article II, Section 1 herein.

ARTICLE II–PURPOSE AND ENABLING AUTHORITY

Section 1

Purpose. The purpose of this Ordinance is to provide financial assistance to the Township in the operation of a Fire Department from those receiving direct benefits from the fire protection service and to provide recovery for emergency costs. A significant number of fire/rescue incidents in the Township involve acts by nonresident individuals, contractors, and/or tax-exempt facilities. There has been an increased demand for fire rescue services beyond regular firefighting, requiring additional training, certification, licensure, and specialized equipment. As a result, the Township finds that a greater operational and financial burden has been placed on the Township's Fire Department by the actions of and demands for service from nontax paying entities. A further burden has been placed on the Township's Fire Department from drivers operating a vehicle while under the influence of intoxicants or controlled substances, who are more likely to cause personal injury or property damage and require fire/rescue services. These amendments are necessary to recover such increased emergency response costs.

Section 2

Enabling Authority. This article is adopted pursuant to, and in accordance with, Public Act 33 of 1951, as amended (Michigan Compiled Law 41.806(a) *et al.*).

ARTICLE III–SERVICES FOR WHICH THE FIRE DEPARTMENT MAY RECOVER COSTS**Section 1**

Services. The following enumerated services may be charged to a recipient of any of the following services:

- A. Motor vehicle-related incident, initial response/rescue/medical treatment.
- B. Motor vehicle-related incident clean-up using hazmat kit.
- C. Intentional fire in a commercial establishment or residential structure.
- D. Intentional fire in an industrial or manufacturing establishment or residential structure.
- E. Confined space rescue (emergency response, first operational hour).
- F. Confined space rescue (emergency response, second hour, and beyond).
- G. Confined space rescue (nonemergency/continuous on-site stand-by).
- H. Hazardous materials operation (initial response - first operational hour).
- I. Hazardous materials operation (second hour or more).
- J. Emergency ice rescue services (per person).
- K. Watercraft rescue (per person).
- L. Aircraft and boat fires (nonresident).
- M. Annual fire code compliance inspections (fines set by Resolution).
- O. Stand-by fee for utility providers/Downed Power Line or other Non-HAZMAT Public Utility Hazard Response: Second hour or more/per hour.
- P. Response for a Violation of Open Burning Requirements (Ordinance No. 157).
- Q. Special Events cost recovery (per event, per personnel, per apparatus, and equipment provided for event): Personnel and/or resources made available and dedicated to a specific event for the purpose of providing emergency service response or other agreed-upon assistance. This does not include Department resources assigned to cover emergency responses within another jurisdiction under an established Mutual or Automatic Aid Agreement.
- R. Fire Watch (per personnel, per equipment, and per apparatus provided for response): Any Fire Department response to a fire watch for a commercial or multi-family occupancy.
- S. Response Outside of Jurisdiction (per personnel, per equipment, and per apparatus provided for response): Any Fire Department response to a fire or other emergency service performed outside the jurisdiction of the Township, including a fire watch, if the other municipality has adopted an ordinance to impose fees for fire and emergency service runs within its respective territory under MCL 41.806a. Recovery outside of the jurisdiction is also barred if a signed Mutual or Automatic Aid Agreement is in place that prohibits such cost recovery.

Section 2

Fees Set by Resolution. Periodically, the Fire Department shall evaluate the actual costs incurred in making the emergency responses listed in Article III and determine an average cost during emergency responses for submission to the Township Board of Trustees. The Board of Trustees shall adopt a cost schedule by Resolution.

ARTICLE IV- BILLING OF CHARGES**Section 1**

Motor vehicle-related incidents. Billing for motor vehicle response services shall be submitted by the Fire Department to the insurance carrier(s) of all involved vehicles. If payment is not received from the insurance carrier, the fee for service will be forwarded to the individual involved in the accident. If the owner/operator of the motor vehicle is a resident of Orion Township, all fees are waived unless the operator of the vehicle was under the influence of alcohol or operating the motor vehicle in a reckless or hazardous manner with disregard for public safety. The full fee for services will be imposed if the nonresident driver was operating the motor vehicle illegally. Illegal operation of the motor vehicle includes, but is not limited to the following:

- (1) Operation of a motor vehicle while under the influence of intoxicants or drugs (or a combination thereof).
- (2) Operation of a motor vehicle without a valid license.
- (3) Operation of a motor vehicle in a reckless or hazardous manner with disregard for public safety.
- (4) Operation of a motor vehicle that results in a traffic citation being issued by any law enforcement officer.
- (6) Determination that the driver was the "at fault" driver in an accident, as designated by the police department in the accident investigation report.

Section 2.

Necessity of additional fees. Additional fees may apply other than those expressly adopted by Resolution if off-duty personnel are re-called or if outside agencies are required. Fees applied for other municipal service providers (police department, department of public works, etc.) and for private contractors will reflect actual billing as submitted.

Section 3.

Time of payment for run. All of the charges adopted by Resolution shall be due and payable within 30 days from the date the service is rendered, and payment in default shall be collectible through proceedings in the district or circuit court or in any court of competent jurisdiction as a matured debt.

Section 4.

Collection of charges. The Township may proceed in district court or circuit court by suit to collect any monies remaining unpaid and shall have any and all other remedies provided by law for the collection of said charges.

Section 5.

Exemptions. The following properties and services shall be exempt from the foregoing charges:

- A. Fires caused by railroad trains, which are the specific statutory responsibility of railroad companies.
- B. Fire involving township buildings, grounds, and/or property.
- C. Fire services performed outside of the jurisdiction if the other municipality has not adopted an ordinance to impose fees for fire and emergency service runs within its respective territory under MCL 41.806a.

D. Fire service performed outside the jurisdiction of the Township under a mutual aid contract with an adjoining municipality.

Section 6.

Nonexclusive charge. The foregoing rates and charges shall not be exclusive of the charges that may be made by the Township for the costs and expenses of maintaining a Fire Department but shall only be supplemental thereto. Charges may additionally be collected by the Township through general taxation after a vote of the electorate approving the same or by a special assessment established under the Michigan statutes pertinent thereto. General fund appropriations may also be made to cover such additional costs and expenses.

Section 7.

Multiple property protection. When a particular service rendered by the township Fire Department directly benefits more than one person or property, the owner of each property so benefitted, and each person so benefitted where property protection is not involved shall be liable for the payment of the full charge for such service hereinbefore outlined. The interpretation and application of the within section is hereby delegated to the township fire chief or his designee subject only to appeal, within the time limits for payment, to the township board and shall be administered so that charges shall only be collected from the recipients of the service.

Section 8.

Appeal. Any person in receipt of a fee invoice to cover the cost of a fire response may submit a letter of appeal to the Township Board of Trustees for review. Such appeal letters must be submitted within fourteen (14) days of the date of the fee invoice. Such fee may be adjusted and/or waived based upon hardship or other considerations. The following appeal process shall be afforded upon receipt of an appeal letter.

Board of Trustees Review. The Township Board of Trustees shall decide the matter based upon its review of the letter of appeal and any supporting materials. The Board's decision shall be rendered in writing no later than 60 days from the date the appeal was received by the Township unless the Township Supervisor issues a written notice that the review is subject to circumstances beyond its control that require up to an additional 30 days in order to complete the review. The Board's decision shall be final, and if the Board makes a finding that the appeal is denied, all outstanding fees owed shall be paid within ten (10) days of the date the Township Board of Trustees forwards the final decision to the recipient of Fire Department Services.

Section 9.

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

Section 10

Severability. This Ordinance and all provisions hereof are hereby declared to be severable, and if any provision hereof or part hereof is adjudged by a court of competent jurisdiction to be invalid or unenforceable for any reason whatsoever, it is hereby declared and provided that the remainder of this Ordinance shall not be affected thereby.

Section 11.

Effective Date. This Ordinance shall become effective upon publication, as provided by law.