

**ELK RAPIDS TOWNSHIP  
ANTRIM COUNTY, MICHIGAN**

**ORDINANCE NO. 2018-2**

**ELK RAPIDS TOWNSHIP FIRE DEPARTMENT  
COST RECOVERY ORDINANCE**

An ordinance to establish cost recovery charges and exemptions for fire department services under Public Act 33 of 1951, as amended, MCL 41.801 *et seq.*, and to provide methods for collecting those charges.

THE TOWNSHIP OF ELK RAPIDS, ANTRIM COUNTY, MICHIGAN ORDAINS:

SECTION 1: Title.

This Ordinance shall be known as the Elk Rapids Township Fire Department Cost Recovery Ordinance.

Article I. Charges for Fire Runs and Services

SECTION 2: Statement of Purpose.

This Ordinance is adopted to enable the Township of Elk Rapids (“the Township”) to bill for and collect “cost recovery charges,” as defined herein, from those receiving direct benefits from fire department services provided by the Township.

It is expressly the purpose of this Ordinance to provide for and promote the safety and welfare of the general public and not to create or designate any particular class of persons who will or should be specially protected by its terms.

SECTION 3: Definitions.

- A. “Township” means the Township of Elk Rapids and all of its departments, specifically including its fire department.
- B. “Cost Recovery Charges” include the non-exhaustive list of fire protection services and other emergency services enumerated in Section 4 of this Ordinance.
- C. Receiving a “direct benefit” means causing, requesting, or being involved in an accident or incident within the Township limits that causes a response by the Township (i.e. a fire run) to provide fire or other emergency services.

- D. “Downed power line or other 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 if the owner or party responsible for the maintenance of such utility line does not respond within two hours to a request to repair or correct such failure.
- E. “Excessive requests for assistance” means any request for assistance made to a particular location or person if assistance has been requested to such location or person more than 2 times in the preceding 90 days.
- F. “False Fire Alarm” means the activation of any Fire Alarm System which results in a response by the Fire Department and which is caused by the negligence or intentional misuse of the Fire Alarm System by the Owner, it’s employees, agents, or family or any other activation of a Fire Alarm System not caused by heat, smoke, or fire, exclusive of a Nuisance Fire Alarm. A False Fire Alarm shall be assessed a service fee if it occurs more frequently than one time within a 3 year period.
- G. “Fire Alarm System” means a system or portion of a combination system consisting of components and circuits arranged to monitor and/or annunciate the status of a fire alarm or supervisory signal-initiating devices and to initiate the appropriate response to those devises.
- H. “Nuisance Fire Alarm” means the activation of any Fire Alarm System, which results in a response by the Fire Department, caused by mechanical failure, malfunction, improper installation, lack of proper maintenance, or any cause that does not require an emergency response of the Fire Department, or any other response for which the fire department personnel are unable to determine the apparent cause of the alarm activation. A Nuisance Fire Alarm shall be assessed a service fee if it occurs more frequently than one time within a 3 year period.
- I. “Motor Vehicle” means any self-propelled or towed vehicle designed or used on the public streets, roads, waterways, and highways to transport passengers or property for use upon such public streets, roads, waterways, and highways. For the purposes of this Ordinance, all trailers and appurtenances attached to any motor vehicle are deemed to be a motor vehicle.
- J. “Responsible person” means an individual, firm, corporation, association, partnership, entity, consortium, or joint venture responsible for cost recovery charges and receiving a direct benefit from the fire protection services and/or other services provided by the Township, and the heirs, estates, successors, and

assigns of such responsible person(s), subject to any limitations expressly stated in Section 7 (Exemptions) and Section 9 (Multiple Responsible Persons) herein.

- K. "Response" is any action of the Elk Rapids Fire Department permitted by PA 207 that results from a complaint, alarm, dispatch, or request for help or services.
- L. "Event Time" is defined as the time of the original call, alarm, or dispatch to the time that all units and personnel have returned to the station plus any reasonable time to restore equipment and apparatus to a ready condition.

#### SECTION 4: Cost Recovery Charges.

Subject to Section 7 of this ordinance (Exemptions), the following is a non-exhaustive list of fire protection services and other services that, when provided by the Township within the Township limits, are billable and collectible as "cost recovery charges". The Township Board shall have the authority to set fees pursuant to this Ordinance from time to time by Resolution.

- A. Responding to a multi or single motor vehicle and/or pedestrian accident, or other incident involving motor vehicle(s) and/or pedestrian(s).
- B. Responding to a grass, rubbish, motor vehicle, aircraft, tree or forest, house, multiple-family building, hotel, motel, or other commercial establishment fire.
- C. Responding to a downed power line or other public utility hazard response.
- D. Responding to a false alarm.
- E. Responding to excessive requests for emergency assistance.
- F. Responding to water or ice related incidents.
- G. Other emergency rescue service(s).
- H. Other services not specifically listed that are determined by the Township of Elk Rapids Fire Department Chief to be fire protection or other services.

#### SECTION 5: Time for Payment of Cost Recovery Charges.

The cost recovery charges under this Ordinance are due and payable by the responsible person(s) within 30 days from the date on the Township's invoice mailed to the responsible person(s) at his/her/its last known address. If payment is not made within 30 days from the date on the Township's invoice mailed to the responsible person(s) at his/her/its last known address, such cost recovery charges are collectible through proceedings in district court or in any court of competent jurisdiction as a matured debt.

SECTION 6: Collection of Charges.

The Township may proceed in district court, or any other court of competent jurisdiction, by suit to collect any cost recovery charges remaining unpaid from a responsible person(s), after the time limit for payment provided in Sec. 5 of this Ordinance (Time for Payment of Cost Recovery Charges) and shall have any and all other remedies provided by and subject to law for the collection of such charges.

SECTION 7: Exemptions

The following properties and services are exempt from cost recovery charges under this Ordinance:

- A. Responding to a fire involving Township buildings, grounds, and/or property.
- B. Responding to a fire or providing other services that are provided and performed outside of the Township. Notwithstanding such exemption for services provided outside of the Township, the Township and other municipalities may adopt (an) ordinance(s) to impose fees for fire and emergency service runs within their respective territories under MCL 41.801 *et seq.*, as amended.
- C. Responding to a fire or providing other services within the Township limits that are provided to or performed for a property owner/taxpayer of the Township. This exemption is made due to the fact that Township property owners/taxpayers provide *pro rata* support for fire and other emergency services through taxes paid to the Township. Provided, however, that this exemption does not apply if:
  - 1. The Township responds to a fire or provides other services resulting from false fire alarms, nuisance fire alarms, or excessive requests for other services.
  - 2. The Township response involves intoxicated drivers, intentional and negligent acts or any act that violates any ordinance, local, state or federal statute.
  - 3. The Township response has an event time of 2 hours or more.
  - 4. The Township response requires mutual aid or other additional resources not normally provided by the Township.

SECTION 8: Non-Exclusive Charges.

Cost recovery charges are not the only charges that may be made by the Township for the costs and expenses of providing fire protection and other services within the Township limits. Additional charges may be collected by the Township through, among others, general taxation after an approving vote of the electorate, special assessment established under the applicable

Michigan statute(s), or by a cost recovery action under Part 201 of the Natural Resources and Environmental Protection Act. General fund appropriates may also be made to cover such additional costs and expenses of providing fire protection and other emergency services.

SECTION 9: Multiple Responsible Persons.

When a particular fire protection or other service rendered by the Township directly benefits more than one person, each person so benefited is liable for the payment of the full charge for such service. The interpretation and application of this section is delegated to the Township of Elk Rapids Fire Chief, subject only to written appeal within the time limits for payment in Section 5 of this Ordinance (Time for Payment of Cost Recovery Charges) to the Township Board, which written appeal tolls the time limit for payment, and shall be administered so that cost recovery charges shall only be collected from the recipients of the service.

SECTION 10: Non-Applicability of No Fault Act.

This Ordinance provides authority to the Township to collect “cost recovery charges” for fire and services provided by the Township, and within the Township, to a responsible person(s). No claim under this Ordinance is for, or relates to, property damage(s). Michigan’s No Fault Act, as amended, MCL 500.3101 *et seq.*, does not apply to, conflict with, or preempt this Ordinance.

SECTION 11: Non-Applicability of Natural Resources and Environmental Protection Act.

This Ordinance provides authority to the Township to collect “cost recovery charges” for fire and emergency services provided by the Township, and within the Township, to a responsible person(s). No claim under this Ordinance is for, or relates to, the cleanup or remediation of hazardous substances, as defined in Part 201 of the Natural Resources and Environmental Protection Act, as amended, MCL 324.20101 *et seq.* Michigan’s Natural Resources and Environmental Protection Act, as amended, MCL 324.20101 *et seq.*, does not apply to, conflict with, or preempt this Ordinance.

SECTION 12: No Limitation of Liability.

The collection of cost recovery charges pursuant to this Ordinance does not limit the liability of a responsible person under applicable local, state, or federal law.

SECTION 13: Severability.

If any provision or part of this Ordinance is declared invalid or unenforceable by a court of competent jurisdiction, the validity or enforceability of the balance of the Ordinance is not affected and remains in full force and effect.

SECTION 14: Effective Date; Conflicts.

This Ordinance shall become effective thirty (30) days after a copy of this Ordinance or summary thereof appears in the newspaper. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

The above Ordinance was offered for adoption by Township Board Member Hults and was seconded by Township Board Member Boisvert, the vote being as follows:

YEAS: D. Amos, S. Boisvert, M. Szymanski, A. Isenhardt, D. Hults

NAYS: None

ABSENT/ABSTAIN: None

ORDINANCE DECLARED ADOPTED.

**CERTIFICATION**

I hereby declare that the above is a true copy of an ordinance adopted by the Elk Rapids Township Board at a regular meeting held on June 12, 2018 at the Elk Rapids Governmental Center, 315 Bridge Street, Elk Rapids, pursuant to the required statutory procedures.

Date: June 12, 2018



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Shelley Boisvert  
Elk Rapids Township Clerk