

ARTICLE I. - CHARGES FOR FIRE RUNS AND EMERGENCY SERVICES

Sec. 12-1. - Statement of purpose.

This article is adopted to enable the City of Fenton ("the city") to bill for and collect "cost recovery charges," as defined herein, from those receiving direct benefits from fire department services and other emergency services provided by the city.

It is expressly the purpose of this article 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.

(Ord. No. 654, § 1, 8-23-10)

Sec. 12-2. - Definitions.

- (a) *Bomb threat* means the verbal or written threat of a bomb or other explosive device which, if discharged as threatened, would violate a federal, state, or local law.
- (b) *City* means the City of Fenton and all of its departments, specifically including its police and fire departments.
- (c) *Cost recovery charges* include the non-exhaustive list of fire protection services and other emergency services enumerated in section 12-3 of this article.
- (d) *Demolition of a structure* means the tearing down of a structure damaged by fire that must, as determined by the city fire chief, be promptly demolished following the fire to protect public safety.
- (e) *Receiving a direct benefit* means causing, requesting, or being involved in an accident or incident within the city limits that causes a response by the city (i.e. a fire run) to provide fire or other emergency services.
- (f) *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 if the owner or party responsible for the maintenance of such utility line does not respond within one hour to a request to repair or correct such failure.
- (g)

Excessive requests for emergency assistance means any request for emergency assistance made to a particular location if emergency assistance has been requested to such location more than eight times in the preceding 30 days.

- (h) *False alarm* means any automated or manual device that requests or summons emergency assistance whether such device is activated intentionally or otherwise, in the absence of an actual need for emergency assistance. The determination that there was no actual need for emergency assistance shall be made by the city fire department chief. A false alarm shall not be deemed to have occurred if: (i) it was caused by an act of God, i.e. a lightning storm; or (ii) it originates from a motor vehicle or building alarm system and it has not occurred more frequently than three times within a calendar month or four times within a calendar year.
- (i) *Motor vehicle* means any self-propelled or towed vehicle designed or used on the public streets, roads, and highways to transport passengers or property which is required to be registered for use upon such public streets, roads, and highways. For the purposes of this article, 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 emergency services provided by the city, and the heirs, estates, successors, and assigns of such responsible person(s), subject to any limitations expressly stated in section 12-6 (Exemptions) and section 12-8 (Multiple responsible persons) herein.
- (k) *Threats of harm to oneself or others* means any verbal or written threat of physical harm to oneself or another's property that, if carried out, would be a violation of federal, state, or local law.

(Ord. No. 654, § 1, 8-23-10)

Sec. 12-3. - Cost recovery charges.

Subject to section 12-6 of this article (Exemptions), the following is a non-exhaustive list of fire protection services and other emergency services that, when provided by the city within the city limits, are billable and collectible as "cost recovery charges" in accordance with the city's resolution adopting fee schedule for this article and the fee schedule attached thereto.

- (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, train, tree or forest, house, multiple-family building, hotel, motel, or other commercial establishment fire.

- (c) Responding to a downed power line or other non-HAZMAT public utility hazard response.
- (d) Responding to a false alarm.
- (e) Responding to excessive requests for emergency assistance.
- (f) Responding to a bomb threat.
- (g) Responding to a threat to harm oneself or others.
- (h) Demolition of a structure.
- (i) Other emergency rescue service(s).
- (j) Other services not specifically listed that are determined by the city fire department chief to be fire protection or other emergency services.

(Ord. No. 654, § 1, 8-23-10)

Sec. 12-4. - Time for payment of cost recovery charges.

The cost recovery charges under this article are due and payable by the responsible person(s) within 30 days from the date on the city'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 city'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.

(Ord. No. 654, § 1, 8-23-10)

Sec. 12-5. - Collection of charges.

The city 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 section 12-4 of this article (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. After the time limit for payment provided in section 12-4 of this article (Time for payment of cost recovery charges), unpaid cost recovery charges constitute a lien upon the real property of the responsible person(s) in the city from which, upon which, or related to which the cost recovery charges were incurred. Such lien shall be the same character and effect as the lien created by city charter for city real property taxes, and shall include accrued interest and penalties. The city treasurer shall, prior to March 1 of each year, certify to the city assessor

the fact that such cost recovery charges are delinquent and unpaid. The city assessor shall then enter the delinquent amount on the next general ad valorem tax roll as a charge against the affected property, and the lien thereon shall be enforced in the same manner as provided and allowed by law for delinquent and unpaid real property taxes.

(Ord. No. 654, § 1, 8-23-10)

Sec. 12-6. - Exemptions.

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

- (a) Responding to a fire involving city buildings, grounds, and/or property.
- (b) Responding to a fire or providing other emergency services that are provided and performed outside of the city. Notwithstanding such exemption for services provided outside of the city, the city 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 emergency services within the city limits that are provided to or performed for a resident of the city. This exemption is made due to the fact that city residents provide pro rata support for fire and other emergency services through taxes paid to the city. Provided, however, that this exemption does not apply if the city responds to a fire or provides other emergency services resulting from recurrent false alarms or excessive requests for other emergency services.

(Ord. No. 654, § 1, 8-23-10)

Sec. 12-7. - Non-exclusive charges.

Cost recovery charges are not the only charges that may be made by the city for the costs and expenses of providing fire protection and other emergency services within the city limits. Additional charges may be collected by the city through general taxation after an approving vote of the electorate or by a special assessment established under the applicable Michigan statute(s). General fund appropriates may also be made to cover such additional costs and expenses of providing fire protection and other emergency services.

(Ord. No. 654, § 1, 8-23-10)

Sec. 12-8. - Multiple responsible persons.

When a particular fire protection or other emergency service rendered by the city directly benefits more than one person, each person so benefited is liable for the payment of the full charge for such service. Provided, however, that if a court of competent jurisdiction determines that one or more persons who received fire protection or other emergency service rendered by the city was at fault for the incident resulting in such service, the other person(s) involved in the incident shall not be considered "responsible persons" for the purposes of this article. The interpretation and application of this section is delegated to the city fire chief, subject only to written appeal within the time limits for payment in section 12-4 of this article (Time for payment of cost recovery charges) to the city council, 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.

(Ord. No. 654, § 1, 8-23-10)

Sec. 12-9. - Non-applicability of no fault act.

This article provides authority to the city to collect "cost recovery charges" for fire and emergency services provided by the city, and within the city, to a responsible person(s). No claim under this article 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 article.

(Ord. No. 654, § 1, 8-23-10)

Sec. 12-10. - Non-applicability of natural resources and environmental protection act.

This article provides authority to the city to collect "cost recovery charges" for fire and emergency services provided by the city, and within the city, to a responsible person(s). No claim under this article 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 article.

(Ord. No. 654, § 1, 8-23-10)

Sec. 12-11. - No limitation of liability.

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

(Ord. No. 654, § 1, 8-23-10)

Sec. 12-12. - Severability.

If any provision or part of this article 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.

(Ord. No. 654, § 1, 8-23-10)

Secs. 12-13—12-15. - Reserved.