

**KINROSS CHARTER TOWNSHIP
EMERGENCY SERVICES
COST RECOVERY ORDINANCE
ORDINANCE NO. 1.129**

Adopted: November 1, 2004
Published: September 16 & November 11, 2004
Effective Date: December 11, 2004

AN ORDINANCE to establish charges for emergency services *under Michigan Public Act 33 of 1951, as amended (MCL 48.801 et seq.), Public Act 368 of 1978, as amended (MCL 333.20948) and Public Act 246 of 1945 as amended (MCL 41.181)*, to provide methods for the collection of such charges and exemptions there from, and to repeal all ordinances or parts of ordinances in conflict herewith.

**KINROSS CHARTER TOWNSHIP, CHIPPEWA COUNTY, MICHIGAN,
HEREBY ORDAINS:**

The Kinross Charter Township Board hereby Ordains:

TITLE

This Ordinance shall be known and may be cited as the "Kinross Charter Township Emergency Services Cost Recovery Ordinance."

SECTION 1
PURPOSE

In order to protect the Charter Township of Kinross from extraordinary expenses resulting from the utilization of township resources in response to certain emergency incidents and demands for services, including, but not limited to, Police, Fire, Ambulance, the Department of Public Works and other outside agencies. The Charter Township of Kinross authorizes the imposition of charges to recover reasonable and actual costs incurred by the township in responding to such incidents under the authority of *P.A. 179 of 1990, P.A. 35 of 1951, P.A. 33 of 1951 as amended, by P.A. 81 of 1989, 42 U.S. Code [USC], et seq, P.A. 390 of 1976, as amended, P.A. 451 of 1994, P.A. 359 of 1947, P.A. 50 of 1960, and P.A. 246 of 1945.*

SECTION 2
ESTABLISHMENT OF TYPICAL FEES

All owners of premises, or all individuals as the case may be, involved in an incident in which there is a response of emergency services, equipment and personnel within Kinross Charter Township shall remit to the Township the actual cost or fees established by Township Resolution for typical costs. Said funds shall be used to help defray the costs

associated with providing and/or contracting for emergency services by the Township. The Resolution(s) establishing the fees may be updated or changed on a periodic basis to reflect changes in the cost of providing these services.

SECTION 3
DEFINITIONS

The following terms or phrases shall be defined to mean:

- a. Assessable Costs. Those costs for services incurred by the township in connection with a response to a public safety incident, emergency assistance, excessive requests for emergency assistance, false alarms, or requested service. Included, but not necessarily limited, are costs of the actual labor and material costs of the township (including, without limitation, employee wages, fringe benefits, administrative overhead, costs of equipment, costs of equipment operation, cost of materials, costs of transportation, costs of material disposal and costs of contracted labor) whether or not the services are provided by the township or by a third party on behalf of the township; service charges and interest; attorney's fees, litigation costs, charges, fines or penalties to the township imposed by any court or state or federal governmental entities.
- b. Bomb Threats. 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.
- c. Charge Against Person. The costs of an emergency response shall be a charge against the person liable for the costs under this ordinance. The charge constitutes a debt of that person and is collectible by the township for incurring those costs in the same manner as in the case of an obligation under a contract, expressed or implied.
- d. Cost Recovery Schedule. The Township Board shall from time to time adopt resolutions that set forth a schedule of the costs incurred in making an emergency response. It shall be presumed that the costs listed in this schedule are the true costs incurred by the township and represent the "costs of an emergency response or requested service." This schedule shall be available to the public from the Township Clerk.
- e. Department of Public Works. The department created by the Township Board of the Charter Township of Kinross.
- f. Emergency Assistance. Any request for emergency medical, public safety, police, fire, public works, and civil defense services defined herein.
- g. Emergency Medical Services Director. The chief operational and administrative officer of the EMS Department, or in his/her absence, the senior officer in charge at the time of response.

- h. Emergency Medical Services Department: The Emergency Medical Services Department created by the Township Board of the Charter Township of Kinross.
- i. Excessive Requests for Emergency Assistance. Any request for emergency assistance made to a particular location or premises if such location or premises has requested emergency assistance more than 3 times in the preceding thirty (30) days.
- j. Extra Services, Special Services. Services provided by the Kinross Police Department, Emergency Medical Services, Department of Public Works or individual officers of the department(s) that are specifically identified in the cost recovery schedule.
- k. False Alarms. Any automated or manual devices designed to request or summon emergency assistance which device is activated intentionally or otherwise, in absence of an actual need for emergency assistance. The most senior person responding to a false alarm shall make the determination that there was no actual need for emergency assistance. Provided, however, a false alarm shall not be deemed to have occurred if
 - (1) caused by an act of God, i.e. lightning storm,
 - (2) it originates from a motor vehicle alarm system or
 - (3) has not occurred more frequently than three (3) times in a calendar year.
- l. Hazardous Substance or Materials: For the purpose of this Ordinance, hazardous substances and/or materials include but are not necessarily limited to, a chemical that is a combustible liquid, a flammable gas, an explosive, a flammable or organic peroxide, an oxidizer, a pyrophoric, an unstable reactive or water reactive substance, petroleum and/or petroleum by-products, a flammable solid, a poisonous or infectious material, a radioactive material, a corrosive, or any other material that may be defined as hazardous by the US Department of Transportation or by the laws of the State of Michigan.
- m. Hazardous Materials Release: A release shall be any spilling, leaking, pumping, pouring, emitting, emptying, discharging, ejecting, dumping, or disposing of a substance or material into the environment.
- n. Illegal Fire. A fire set or determined to be set in violation of a federal, state or local law and shall include an arson fire and a fire set in violation of a “no-burning” ban, order, or ordinance. An illegal fire does not include an unintentional fire or a fire caused by an act of God, i.e. lightning storm.
- o. Motor Vehicle. Any self propelled or towed vehicle designed or used on the public streets, roads, and highways and for the purpose hereof all trailers or appurtenances attached to any motor vehicle.
- p. Mutual Aid Agreement. An agreement between municipalities to assist each other with emergency services under certain circumstances spelled out within the agreement.

- q. Police Chief: The chief operational and administrative officer of the Police Department, or in his/her absence, the senior police officer in charge at the time of response.
- r. Police Department: The Police Department created by the Township Board of the Charter Township of Kinross.
- s. Public Safety or Emergency Incident. Including
 - (1) excessive requests for emergency assistance,
 - (2) a false alarm,
 - (3) a hazardous material incident, emergency or release,
 - (4) an illegal fire,
 - (5) bomb threats,
 - (6) threats to oneself or others, or
 - (7) utility line failure.
- t. Public Works Director. The head of the Department of Public Works for the Charter Township of Kinross.
- u. Responsible Party: A responsible party is any individual, firm, corporation, association, partnership, commercial entity, consortium, joint venture, government entity, or any legal entity that is responsible for a release of a hazardous material, either actual or threatened, or as an owner, tenant, occupant, or party in control of the property, onto which or from which hazardous material is released or the owner, possessor or party in control of the hazardous substance immediately prior to the said release.
- v. Responsible Party, Under the Influence. Any person is liable for the costs of an emergency response if that person, while under the influence of intoxicating liquor or a controlled substance, or a combination of intoxicating liquor and a controlled substance, proximately causes any incident resulting in an emergency response.
- w. Responsible Party, Extra Services. Any persons, individual, business or other entity that requests, requires or is provided extra services or special services specifically identified in the Cost Recovery Schedule.
- x. Threats to Oneself or Others. Verbal or written threat of physical harm to oneself or another or another's property which if carried out would be a violation of federal, state or local law.
- y. Utility Line Failure. The disabling of any transmission or service line, cable, conduit, pipeline, wire or the like used to provide, collect or transport natural gas or communication or electronic signals (including, but not limited to, telephone, computer, cable television and stereo signals or electronic impulses) if the owner or party responsible for the maintenance of such utility line does not respond within one (1) hour to a request to correct or repair such failure.

SECTION 4
CHARGES IMPOSED UPON RESPONSIBLE PARTY

The Township Supervisor shall prepare and propose a schedule of fees for review by the Township Board. The schedule shall consider the actual cost of usual services, the nature and extent of the usual services required, and for certain emergency services. Upon review, the Township Board shall adopt by resolution(s) fee schedules and such fees shall be charged to the owner of the premises or to another individual, as the case may be, for receiving such emergency services. A copy of such schedules shall be made available to the public at the office of the Township. When the Township responds to a call for emergency assistance, other actual costs incurred by it in responding to and mitigating such incident may be imposed upon the responsible party, including, but not limited to:

- a. A fee at the prevailing rate for the equipment, materials, supplies, apparatus, and other items required, in the opinion of the officer in command, to respond and be present and/or to stand by at the scene of the emergency response. For each hour or fraction thereof that the equipment, materials, supplies, apparatus, and other items is used or is required at the site by the officer in command, an additional hourly sum, hour or fraction thereof, may be charged.
- b. All personnel related costs incurred by the Police Department, Ambulance, Fire Department, the Public Works Department, and/or other outside agencies as a result of responding to and mitigating an emergency response or demands for services. Such costs may include, but are not limited to, wages, salaries, fringe benefits, insurance, and other costs which may be a part of Kinross Charter Township's allowed usual and customary established rates for full time and part time personnel, whether incurred at regular or overtime rates. Such personnel related charges shall commence at the time Township personnel are dispatched to the emergency incident and shall continue until all personnel have concluded their related responsibilities.
- c. Other expenses incurred by the Township in responding to and mitigating an emergency incident, including, but not limited to, rental or purchase of machinery, equipment, labor, consultants, legal and engineering fees, and replacement costs related to disposable personal protection equipment, extinguishing agents, supplies, charges for emergency response teams of other governmental agencies as well as Kinross Township Personnel, meals, refreshments for personnel working the scene of an emergency incident and all like and similar incidental costs arising from said emergency response and mitigation.
- d. Any and all charges to the Township imposed by any local, state or federal entities related to the emergency response incident or service provided.

- e. The cost of repair or replacement of any apparatus, equipment, protective clothing, or materials damaged, destroyed, or consumed as a result of the response and mitigation activities.
- f. Costs incurred in accounting for all hazardous material incident related expenditures to include billing and collections costs and to include actual attorney fees incurred and all related costs associated with the collection of said expenditures, including court costs, witness fees, and expert fees incurred in support thereof.

SECTION 5
MODIFICATION OF FEES AND CHARGES

Fees and charges referenced in this ordinance may be modified and amended from time to time by resolution(s) of the Township Board.

SECTION 6
TIME FOR PAYMENT

All of the charges shall be due and payable within 120 days from the date the service has been rendered. The debt shall become delinquent, 120 days after billing, with the Township reserving all rights of collection that may be available for charges to the Township resulting from such emergency services. It is the responsibility of the Township to bill the responsible party, as soon as practicable, after the services have been rendered.

SECTION 7
ENFORCEMENT OF COLLECTION

The Township Supervisor is hereby authorized to enforce the collection of charges for emergency services and legal action may be instituted by the Township against the customer or liable party to collect payment of charges. The charges for emergency services may become a lien on the premises owned by the responsible party for services rendered. The Township Treasurer shall certify all unpaid charges for services furnished to any premises or person, which are unpaid for a period of 6 months to the Township Supervisor who shall proceed with appropriate collection procedures.

SECTION 8
EXEMPTIONS

The following circumstances shall be exempt from the foregoing charges:

1. False alarms, except as otherwise provided for herewith and within the Fee Schedule Resolution(s);
2. Alarms and/or emergency calls made for which there was no malicious intent, and that did not require a response by an emergency response department;

3. Fires caused by railroad trains, which are the specific statutory responsibility of railroad companies;
4. Emergency services performed outside the jurisdiction of the Township under a mutual aid contract or agreement with other municipalities.
5. No additional fees may be incurred for Kinross Police services by any individual, firm, or corporation already paying for such services via special assessments levied for the operation of the Kinross District Police Department.

Mutual aid agreements may dictate costs to be charged within the agreement. In absence of costs dictated in the mutual aid agreement, this ordinance shall be a controlling document, in part or in its entirety, excepting sections of the mutual aid agreement expressly intended to be contrary to this ordinance.

SECTION 9 **NON-EXCLUSIVE CHARGES**

The foregoing rate and charges shall not be exclusive of the charges that may be made by the Township for the cost and expenses of maintaining emergency services, but shall only be supplemental thereto. Charges may additionally be collected by the Township through general taxation or by a special assessment established under the Michigan statutes pertinent thereto, or by General Fund Appropriations, in order to cover emergency service costs and expenses.

SECTION 10 **MULTIPLE PROPERTY PROTECTION**

When a response is made by the providers of the Township which involves more than one person (or family) or more than one unit of personal or real property, each person and/or owner of property involved in the incident shall be liable for the payment of the full charge for such response as herein before set forth. Any person receiving a bill may appeal to the Township Board at the next regularly scheduled meeting for a decision concerning whether and to what extent that individual is responsible for payment.

SECTION 11 **AMENDMENT**

The Township specifically reserves the right to amend this Ordinance in whole or in part, at any time hereafter, or to repeal the same, and by such amendment to repeal, abandon, increase, decrease or otherwise modify any of the fees, charges or rates provided herein or within the Emergency Services Cost Recovery Fee Schedule Resolution(s).

ARTICLE 12 **ATTORNEYS FEES**

Should suit be filed pursuant to this Ordinance, and judgment has been entered on behalf of the Plaintiff, the Plaintiff may charge actual attorneys fees involved with the enforcement as well as out-of-pocket expenses.

ARTICLE 13
SEVERABILITY CLAUSE

The provisions of this ordinance are hereby declared severable, if any clause, sentence, word, section or provision is declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect any portion of the ordinance other than said part or portion declared void or unenforceable.

SECTION 14
ORDINANCE REPEAL

Any ordinance or parts of ordinances in conflict herewith are hereby repealed.

SECTION 15
PUBLICATION AND EFFECTIVE DATE

- A. A true copy of this Ordinance shall be published in a newspaper of general circulation within thirty (30) days after its adoption.
- B. The Township Clerk shall file or cause to be filed, an attested copy of this Ordinance with the County Clerk.
- C. This Ordinance shall be in full force and effect thirty (30) days after its adoption and publication, as provided for by law.

Passed and adopted by the Township Board of the Charter Township of Kinross, County of Chippewa, Michigan, on November 1, 2004.