

**LOWELL CHARTER TOWNSHIP
COST RECOVERY ORDINANCE
ORDINANCE NO. 03-2021**

At a regular meeting of the Township Board for Lowell Charter Township held at the Township offices on _____, 2021, at 7:00 p.m., the following Ordinance was offered for adoption by Township Board Member _____ and was seconded by Township Board Member _____:

Present: _____

Absent: _____

**AN ORDINANCE ADOPTED PURSUANT TO MICHIGAN PUBLIC ACT 33 OF 1951,
AS AMENDED (BEING MCL 41.801 ET SEQ), AND OTHER APPLICABLE PROVISIONS OF
MICHIGAN STATUTES AND LAW TO ALLOW LOWELL CHARTER TOWNSHIP TO RECOVER COSTS
INCURRED BY THE TOWNSHIP IN CONNECTION WITH THE PROVISIONS OF CERTAIN POLICE, FIRE,
RESCUE, AND EMERGENCY SERVICES, AND TO PROVIDE FOR THE ENFORCEMENT OF THIS ORDINANCE
AND CERTAIN ADMINISTRATIVE PROVISIONS.**

THE CHARTER TOWNSHIP OF LOWELL (the "Township"), COUNTY OF KENT,
AND STATE OF MICHIGAN, ORDAINS:

Section 1 – Purpose:

This ordinance is adopted to provide reimbursement to the Lowell Area Fire and Emergency Services Authority (the "LAFESA") and Bowne Township Fire Department (the "BTFD") relative to certain fire and emergency services rendered by the LAFESA and/or BTFD.

Section 2 – Definitions:

The following words, terms, and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Any reference to Fire Department means either or both the Lowell Area Fire and Emergency Services (LAFESA) or Bowne Township Fire Department (BTFD).

Fire department response means coming to the scene of a fire or hazardous materials incident, traffic or vehicular accident, or hazardous condition, or any investigation in connection with a fire, hazardous materials incident, accident or hazardous condition.

Hazardous condition means any condition creating a concern for the physical welfare of persons in the immediate area of the situation (including downed utility lines or gas leaks not in an occupied structure), requiring a fire department response.

Investigation means gathering of evidence or data in connection with arson investigations, or special investigations required to determine the responsibility of persons for fires, spills, accidents, or

hazardous conditions. Investigations do not include the normal investigation made to determine cause and origin of a fire as required by the state.

Release means any leaking, spilling, pumping, poring, emitting, emptying, discharging, injecting, leaching, dumping, or disposal into the environment.

Water rescue attempt means any emergency response by the LAFESA or BTFD (or anyone acting for or on the behalf of the LAFESA or BTFD) in connection with any emergency or perceived emergency, on, near or caused by a body of water naturally open to the atmosphere. For purposes of this definition, “body of water” includes without limitation rivers, lakes, streams, impoundments, estuaries, springs, ditches, canals, wells, or other collectors of water, including a wetland, as defined by the Michigan Goemaere-Anderson Wetland Protection Act, as amended, and including an inland lake or stream as defined in the Michigan Inland Lakes and Streams Act, as amended.

Section 3 – **Charges for services:**

Pursuant to the authority granted by Public Act No. 33 of 1951 (MCL 41.801 et seq.) the LAFESA or BTFD shall render charges to persons or properties served by the Lowell Area Fire and Emergency Services Authority or Bowne Township Fire Department for certain specific services for conditions described as follows:

- (1) Any fire department response to a fire started by a property owner or person, such as but not limited to, a controlled brush fire or other burning, which becomes uncontrolled, any fires purposely or knowingly started in any building, dwelling, appurtenant structure, or any other structure, or any motor vehicles when said fire has been started for the specific purpose of and with the intent of causing damage to or destruction of any building, dwelling, appurtenant structure, or vehicle.
- (2) Any fire department response to an incident caused by a criminal act, i.e., DUI, intentional false alarm, arson, etc.
- (3) Any fire department response to a fire in a structure causing a loss, ignited by accidental means shall be subject to cost recovery for damage or destruction to fire department equipment beyond normal wear and tear, and for all expenses incurred and paid to a third party.
- (4) Any fire department response requiring containment, abatements, or any safety measure in connection with any hazardous or toxic material release. Charges in such case shall be made to the person responsible for the release, whether or not the release occurs on the property of the responsible party.
- (5) The responsibility for the release includes release caused by the person as well as any release from any vehicle, building, or other instrumentality, owned, occupied, or utilized by the person, regardless of fault.
- (6) Any fire department response to a traffic or vehicular accident, including but not limited to the control of fires or spills, assistance to injured persons or ambulance crews, or extraction of persons from vehicles.

- (7) Any fire department response for hazardous conditions.
- (8) The cost of copies for fire department reports generated for any person, except for governmental entities.
- (9) Any township response to a false alarm due to system malfunction or maintenance issue at a property that is not a single-family or duplex residence in excess of three such alarms in any consecutive 12-month period.
- (10) The provision of fire department equipment or personnel for the purpose of providing standby fire, rescue, or emergency medical services necessary to support a nonemergency event/situation hosted by a for-profit organization. When such services are requested by a nonprofit organization, the township board will act upon a recommendation by the fire chief to charge for services.
- (11) Failure to comply with requests made by the fire department to abate hazards as specified in the fire safety codes as adopted by the township. If compliance is not made within three inspection visits over a 30-day period, the fire safety specialist will notify the fire chief, who will charge the person responsible for the property the appropriate fee as provided by resolution.

Section 4 – **Exemptions:**

The following properties and services shall be exempt from the charges set out in this section:

- (1) Fires caused by railroad trains which are the specific statutory responsibility of railroad companies.
- (2) Fire service performed outside the jurisdiction of Lowell Area Fire and Emergency Services Authority or Bowne Township Fire Department under a mutual aid contract with an adjoining municipality.

Section 5 – **Responsibility for charges:**

Persons responsible for charges include:

- (1) Persons who caused the condition.
- (2) Property owners or occupants of property upon which the conditions exist.
- (3) Owners or lessees of instrumentalities involved in the condition, such as vehicle owners, utility or gas companies.
- (4) Owners of vehicles from which occupants are extricated, owners or renters of premises from which a person or person are rescued, and owners of vehicles receiving fire extinguishment or spill abatement shall be deemed as benefitting from the services provided.

- (5) Insurers or guarantors for person responsible or benefited.
- (6) Notwithstanding the foregoing, a person who is a resident of the township at the time of an incident shall not be responsible for any charges imposed under section 3.

Section 6 – Multiple property protection:

When a particular service rendered by the Lowell Area Fire and Emergency Services Authority or Bowne Township Fire Department directly benefits more than one person or property, each person responsible as set forth in section 3 shall be jointly and severally liable for the payment of the full charge for such service hereinbefore outlined. The interpretation and application of the payment for service within this section is hereby delegated to the Lowell Area Fire and Emergency Services Authority Fire Chief or the Bowne Township Fire Department Chief subject only to appeal, within the time limits for payment, to the LAFESA or BTFD.

Section 7 – Payment for services:

The Lowell Area Fire and Emergency Services Authority or Bowne Township Fire Department shall bill persons determined to be responsible for the incident charged for, or owners of property, for amounts set forth in the resolution determining charges. All bills rendered for charges shall be paid within 30 days of the mailing of the billing.

Section 8 – Collection of charges:

The LAFESA or BTFD may proceed in district 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.

Any responsible party who receives a statement of costs or bill from the LAFESA or BTFD assessed pursuant to this Ordinance shall be given the opportunity to appear before the Township Board to request a waiver or modification of the assessed costs. Any responsible party who desires to appear before the Township Board shall file a written request with the Township Clerk within 21 calendar days of the date of the statement or bill of assessed costs. The responsible party will be placed on the agenda of the next regularly scheduled or special Township Board meeting which is at least 14 calendar days after the date on which the responsible party files with the Township Clerk a request to appear. Any filed request to appear shall specifically identify and explain all reasons why the responsible party believes the costs assessed pursuant to this Ordinance should be modified or waived. Any reason, basis or argument for a modification or waiver of the assessed costs not set forth in the written request to appear shall be deemed waived by the responsible party. Failure to file a written request to appear with the Township within 21 days of the date of the statement of assessed costs shall constitute a waiver of the responsible party's right to appear before the Township board and shall also be deemed to be the responsible party's agreement to pay the assessed costs, which payment must be made within 30 days of the date of the statement sent to the responsible party.

At the Township Board meeting, any responsible party who has filed a timely written request to appear shall have the opportunity to address the Township Board regarding the written request that the Township Board may modify or waive the assessed costs. The responsible party shall be limited, in addressing the Township Board, to those reasons and bases set forth in that responsible party's written request to appear. The Lowell Area Fire and Emergency Services Authority Chief or Bowne Township

Fire Department Chief shall have the opportunity to address the Township Board to explain the process by which the assessed costs were determined and allocated. The Township Board, after hearing from the responsible party and the LAFESA Chief or BTFD Chief, shall review the assessed costs and make a final determination regarding the costs assessed to the responsible party. The Township Board shall pass a motion or resolution detailing its final determination regarding the assessed costs. The Township Clerk shall then send a confirmed or updated statement of assessed costs to the responsible party. The assessed costs shall be due and payable 30 days from the date of that statement. The Township Board's decision shall be final. If the responsible party fails to pay the assessed costs within those 30 days, the Township shall have available to it all remedies available.

Section 9 – Charges to be determined by resolution:

Charges for fire department services enumerated in this ordinance shall be determined by resolution of the Lowell Area Fire and Emergency Services Authority board or the Bowne Township Fire Department.

Section 10 – Disbursement of funds:

All funds collected as a result of this ordinance shall be used for the normal operations and maintenance of the fire department and its equipment.

Section 11 – Other remedies:

The recovery of charges and expenses imposed under this ordinance shall not relieve or limit the liability of any person under any other local ordinance, or state or federal law, rule or regulation. The remedies provided herein shall be in addition to those remedies provided by the hazardous material expense recovery provisions set out in section 3 (4) of this ordinance, and nothing in this ordinance shall prohibit the LAFESA or BTFD from also proceeding under the hazardous material expense recovery provisions in section 3 (4) of this ordinance.

Section 12 – Effective Date: This ordinance shall be effective upon the expiration of 30 days after this Ordinance or a notice of adoption of this Ordinance appears in the newspaper as provided by law.

The vote to adopt/approve the above Ordinance was as follows:

YEAS: _____

NAYS: _____

ABSTAIN/ABSENT: _____

ORDINANCE DECLARED ADOPTED.

Monica Burt
Lowell Charter Township Clerk

CERTIFICATION

I the Clerk for the Charter Township of Lowell, Kent County, Michigan, do hereby certify that the foregoing Ordinance was adopted at the time, date, and place specified above pursuant to the required statutory procedures.

Lowell Charter Township Clerk