

ORDINANCE NO. 234
FIRE DEPARTMENT COST RECOVERY ORDINANCE

AN ORDINANCE TO PROVIDING FOR THE RECOVERY OF COST RESULTING FROM EXPENSES RESULTING FROM THE ACTIVATION AND UTILIZATION OF THE WAKEFIELD VOLUNTEER FIRE DEPARTMENT IN RESPONSE TO CERTAIN EMERGENCIES, AND TO AUTHORIZE THE IMPOSITION OF CHARGES AND THE METHODS FOR COLLECTING FOR RECOVERING REASONABLE COSTS INCURRED IN RESPONDING TO SUCH EMERGENCIES , THE COUNCIL OF THE CITY OF WAKEFIELD ORDAINS:

This Ordinance is enacted by the City of Wakefield City Council under the authority vested in the Council by Act No. 279 of the Public Acts of the State of Michigan of 1909, as amended.

Section 1. Title. This Ordinance shall be known as the City of Wakefield Fire Department Cost Recovery Ordinance (referred to herein as the Ordinance).

Section 2. Purpose. This Ordinance is enacted for the purpose of establishing a method of recovering costs and expenses for certain services provided by the Wakefield Volunteer Fire Department which results from the utilization of City resources in response to certain public safety, fire, or emergency incidents or conditions. Depending on the circumstances, the City finds that it may not always be cost-effective for the City to pursue collection of unpaid charges.

Section 3. Definitions. For purposes of this Ordinance, the following terms are defined as follows

- (a) **ASSESSABLE COSTS.** Those costs for services incurred by the City in connection with a response to a public safety, fire, or emergency incident or condition; provided, however, the City shall not be reimbursed under this Ordinance more than once for any expense incurred by the City.
- (b) **COST RECOVERY SCHEDULE.** Periodically, the City Council shall adopt, by resolution, a schedule of the costs incurred in providing Emergency Services related to an Emergency Incident. It shall be presumed that the costs listed in the schedule are reasonable costs incurred by the City in responding to such Emergency Incident. This schedule shall be made available to the public during regular City business hours.
- (c) **DEPARTMENT.** The City of Wakefield Volunteer Fire Department.
- (d) **EMERGENCY INCIDENT.** Any situation or condition where Emergency Services are needed or requested.
- (e) **EMERGENCY SERVICES.** Services provided by the Department for the primary purpose of taking timely action to deal with events threatening health, safety, and security.
- (f) **STRUCTURE FIRE.** A fire involving the structural components of various residential buildings ranging from single-family detached homes and townhouses to apartments and tower blocks, or various commercial buildings.
- (g) **MOTOR VEHICLE INCIDENT.** A response that requires fighters to utilize fire suppression, extraction equipment, or other specialized equipment.

(h) INSURER. A person or company that underwrites an insurance risk; the party in an insurance contract undertaking to pay compensation.

Section 4. Cost-Recovery Charges. The City may recover up to \$500.00 in connection with Emergency Rendered from the Insurer of the structure or vehicle.

In addition to the examples provided in Section 1, Emergency Services include, by way of example and not limitation, specific responses or conditions as described below:

- A. Any Department response to a structure fire, whether ignited accidentally or intentionally, and includes but is not necessarily limited to the following:
 - Department containment and/or suppression of the fire in part or whole
 - Stabilization of the incident by Department resources
 - Activities resulting in damage or destruction of Department equipment beyond normal wear and tear
- B. Any 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. The responsibility for the release includes releases 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.
- C. Any Department response to a vehicle accident or traffic incident, including but not limited to the control of fires, spills, debris clean up, assistance to injured persons or ambulance crews, or the extrication of vehicle occupants using specialized tools or techniques.
- D. Any Department response for a hazardous materials incident or other hazardous condition requiring Department oversight and deployment of personnel and/or equipment to maintain public health and safety.
- E. Any Department response for a specialized rescue, disentanglement, or body recovery requiring Department oversight and/or deployment of Department personnel or equipment and the use of specialized tools, apparatus, or techniques for handling the specific incident. This includes high and low angle environments, confined spaces, below grade or trench incidents, heavy equipment or machinery, outside searches lasting longer than one (1) hour, ice or water rescue or recovery, and structural collapse.

A schedule of charges, to be known as the Cost Recovery Schedule, shall be established by resolution of the City Council.

Section 5. Exemptions.

The following properties and services are exempt from the charges authorized by this Ordinance:

- A. False alarms due to system malfunction or maintenance issue not exceeding three (3) alarms in any consecutive twelve (12) month period.
- B. Fires caused by railroad trains, which are the statutory responsibility of railroad companies.
- C. Fire involving City buildings, grounds and/or property when the fire is not caused by the act or omission of an employee or agent of the City.
- D. Fire or other emergency service performed outside the jurisdiction of the City for which a Mutual or Automatic Aid agreement is in place.
- E. Property and vehicle owners, who do not have insurance.

Section 6. Determination.

The City Manager or designee, shall leverage the maximum allowable \$500.00 costs and shall, in consultation with the Fire Chief determine whether to assess any, all or part of such costs against any of the Insurer.

If a determination is made not to assess all or a part of assessable costs against the Insurer, such determination shall not in any way limit or alter any liability an Insurer may have to other responsible parties.

Section 6. Billing and Collection of Cost

The City Treasurer or designee shall prepare and mail an invoice to the appropriate insurer or authorized agent acting on behalf of the insurer. The invoice shall demand full payment within thirty (30) days of billing. Any amount due that remains unpaid thirty (30) days after the date of billing shall have imposed a late charge thereon at the rate of one percent (1%) per month, or fraction thereof, until paid in full.

The invoice shall be served on the insurer by first class mail, registered mail or personal service. An insurer shall be deemed served by first class mail on the date of mailing, by registered mail on the date of mailing or by personal service on the date of actual service on the insurer.

The invoice shall advise the insurer of the right to appeal and the time limits for doing so as provided in Section 7 of this ordinance. If an insurer shall appeal assessable costs pursuant to Section 7 hereof, such costs, if upheld, in whole or in part, shall be due and payable thirty (30) days from the date of determination of the appeal and any late payment fees shall apply thereafter.

Section 7. Appeal Procedure.

Any Insurer who receives an invoice shall have an opportunity to meet with the City manager or designee to request a modification of the assessable costs. The responsible party shall request such meeting in writing within fourteen (14) calendar days from the date of service of the invoice.

If after meeting with the City Manager or designee the Insurer is still not satisfied, he or she may request an opportunity to appear before the City Council to further request a modification of the assessable costs. An Insurer who desires to appear before the City Council must first meet with the City Manager or designee, as provided above, and shall file a written request to appear before the City Council with the City Clerk within seven (7) calendar days of the date of the meeting with the City Manager. Any such request shall specifically identify and explain all reasons why the Insurer believes the assessed costs should be modified. Any reason, basis or argument for modification of the assessable costs not set forth in the request to appear shall be deemed waived by the Insurer. Upon receipt of such a request, the City Clerk will place the responsible party on the agenda of the next regularly scheduled City Council meeting, which meeting is at least fourteen (14) calendar days after the date on which the Insurer files the request to appear. After the Insurer has been given an opportunity to appear before it, the City Council shall promptly determine whether to confirm, modify or void payment of the assessable costs invoiced.

Failure to file a timely written request for a meeting with the City Manager or request to appear before the City Council shall constitute a waiver of the Insurer's right to same; and shall further constitute the Insurer's agreement to pay the assessable costs invoiced.

Section 8. Severability. The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

Section 9. Effective Date. This Ordinance shall become effective thirty (30) days after its publication (or publication of a summary thereof) in a newspaper in general circulation within the City of Wakefield.

Section 10. Publication. After its adoption, this ordinance or a summary thereof, as permitted by law, shall be published by the City Clerk in a newspaper of general circulation in the City.

CERTIFICATION:

Ordained and Enacted into an Ordinance at a regular meeting of the City Council of the City of Wakefield this 26th day of May, 2020.

First Reading: March 9, 2020

Public Hearing: May 26, 2020

Second Reading: May 26, 2020

Published: June 4, 2020

ATTEST:



Susan J Ahonen City Clerk