

**Chapter 1064
Charges for Fire Runs and Emergency Services**

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CROSS REFERENCES
Michigan Police and Fire Protection Act, MCL 41.806a
Michigan No Fault Act, MCL 500.3101 et seq.
Natural Resources and Environmental Protection Act, MCL 324.101 et seq.

1064.01 STATEMENT OF PURPOSE

This Chapter is adopted to enable the City of Manistee (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 Chapter to provide for and promote the safety and welfare of the general public.

1064.02 DEFINITIONS

- A. "Bomb threat" means the verbal, electronic 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 Manistee 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 1064.03 of this Chapter.
- D. "Demolition of a structure" means the tearing down of a structure damaged by fire that must, as determined by the City Fire Chief or Public Safety Director, be promptly demolished 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, except for medical assistance requests, made to a particular location if emergency assistance has been requested to such location more than three times in the preceding thirty 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 Chief or Public Safety Director. 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 thirty days 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 Chapter, 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, city public works 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 1064.06 (Exemptions) and 1064.08 (Multiple Responsible Persons) of this Chapter.

1064.03 COST RECOVERY CHARGES

Subject to Section 1064.06 of this Chapter (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 a fee schedule for the cost recovery charges described in this Chapter.

- A. Responding to a multi or single motor vehicle and/or pedestrian accident, or other incident involving motor(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. Demolition of a structure.
- H. Other emergency rescue service(s).
- I. Other services not specifically listed that are determined by the City Fire Chief or Public Safety Director to be fire protection or other emergency services.

1064.04 TIME FOR PAYMENT OF COST RECOVERY CHARGES

The cost recovery charges under this Chapter 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.

1064.05 COLLECTION OF CHARGES

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 the 85th District Court or in any court of competent jurisdiction as a matured debt and the City 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 1064.04 of this Chapter (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 a 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.

1064.06 EXEMPTIONS

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

- 1. Responding to a fire involving City buildings, grounds, and/or property.

2. 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.

3. 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

1064.07 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.

1064.08 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 Chapter. The interpretation and application of this section is delegated to the City Fire Chief or Public Safety Director, subject only to written appeal within the time limits for payment in Section 1064.04 of this Chapter (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.

1064.09 NON-APPLICABILITY OF NO FAULT ACT

This Chapter 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 Chapter 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 Chapter.

1064.10 NON-APPLICABILITY OF NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT

This Chapter 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 Chapter 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 Chapter.

1064.11 NO LIMITATION OF LIABILITY

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

1064.12 SEVERABILITY

If any provision or part of this Chapter 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. 19-24 adopted 1-7-2020)