

Part 49: Ordinance 1

**FIRE DEPARTMENT AND AMBULANCE COST RECOVERY
ORDINANCE**

An Ordinance to authorize the collection of costs incurred in providing emergency fire service and/or emergency ambulance and advanced life support services in situations which involve spills, leaks, releases, accidents or related occurrences of hazardous or dangerous materials or substances; and in responding to a negligently caused fire emergency from persons responsible therefor; costs incurred as a result of the Fire Department responding to false alarms; **cost incurred as a result of Fire Department or the EMS Authority responding to a utility line failure**; and costs incurred in providing emergency fire service and/or emergency ambulance and advanced life support services arising from the operation of a motor vehicle, motorcycle, snowmobile, or off-road vehicle (ORV) by a person who is impaired by or under the influence of intoxicating liquor or a controlled substance or in violation of any arrestable misdemeanor and/or felony driving offence; and to establish procedures for such collection.

THE TOWNSHIP OF LENOX ORDAINS:

SECTION 1. Short Title

This Ordinance shall be known and cited as the “Fire Department and Ambulance Cost Recovery Ordinance.

SECTION 2. Definitions

The following words and phrases as used herein shall have the following meanings:

- A. Costs:** All fees, charges, and other expenses associated with the response to, mitigation and clean-up of hazardous or dangerous materials and substances, including stand-by situations; all fees, charges and other expenses for the repair, decontamination or replacement of equipment, apparatus, materials and supplies; all fees, charges and other expenses necessarily incurred to insure the protection of the public health, safety or welfare of Lenox Township and the persons therein without limitation to the amounts customarily incurred in providing emergency fire service and/or emergency ambulance and advanced life support services without limitation to the amount customarily incurred in providing emergency fire service and/or emergency ambulance and life support services, and including all manpower costs, mutual aid costs, and non-recoverable equipment costs; all costs incurred as a result of the Fire Department responding to false alarms; and **all costs incurred by the Fire Department or the EMS Authority in responding to a utility line failure.**

- B.** *Hazardous or dangerous materials and substances.* Any substance, including but not limited to, alcohol, gun powder, dynamite, crude petroleum or any of its by-products, fuel oils, pyroxylin, corrosives, acids, poisons, insecticides, herbicides, fertilizers, chemicals, any, **combustible materials**. Combustible liquids or materials, and any other commodities of a similar nature or quality and all other substance which pose a fire hazard or pose a substantial present or potential hazard to the public health, safety or welfare, or endanger, cause, or are capable of causing loss, injury or damage to person, property or the environment.
- C.** *Negligently caused fire emergency.* A fire proximately caused by the negligence of the owner and/or occupant, including his agent, employee, contractor or child, of property and/or structure which presents a direct and immediate threat to public health and safety and requires an emergency response by the Lenox Township Fire Department and/or Richmond Lenox EMS Ambulance Authority.
- D.** *Alarm System.* Alarm system shall mean an assembly of equipment and devices or a single device arranged to signal the presence of a hazard requiring urgent attention, and to which the Fire Department may be summoned directly or indirectly to respond, including, but not limited to systems designed or use in combination of the following: the detection of fire, smoke or heat within a building, structure or vehicle.
- E.** *Alarm Originator.* Alarm originator shall mean any of the following: the person, partnership or corporation or limited liability company, who requested the installation of the alarm system; or the person, partnership, corporation or limited liability company who either has an ownership interest in the premises, a leasehold interest, or possesses and occupies the subject premises. In the event the premises are owned or occupied by a partnership or corporation, each partner of the partnership, and each officer and director of the corporation shall be deemed an originator. With respect to motor vehicle alarms, the owner, lessee or operator of the motor vehicle is the originator of the alarm. Excluded from this definition are persons who use self-contained alarm systems which signal or alert other authorized persons who are on the premises with respect to an emergency condition, provided such system does not utilize an audible signal emitting sounds or light, assigned to alert persons of the emergency condition who are outside of the premises.

- F.** *False Alarm.* False alarm shall mean any alarm activation or condition which is registered at or reported to the Lenox Township Fire Department, either directly or indirectly. Also included is any alarm condition, registered at or reported to either the Macomb County Sheriff's Department or the Lenox Township Fire Department not resulting from a fire or a potential fire condition. The false alarm does not include an alarm caused by hurricane, tornado, storm, earthquake or other violent conditions beyond the control of the alarm originator, or upon any extenuating circumstances as determined by the Lenox Township Fire Chief.
- G.** *Automatic Telephone Alarm System.* Automatic telephone alarm system shall be defined as a device or combination thereof that will upon activation, either mechanically, electronically, or by other means, initiate the automatic calling, dialing, or connection to any telephone number assigned to any public, service, utility, fire department or public agency by a public telephone line.
- H.** *Utility Line Failure.* The failure of or disabling of operation of a cable, conduit, wire, pipeline, or other transmission device used to transport electricity, natural gas, communication or electronic signals, water or sanitary or storm sewage when the party responsible for maintaining the cable, conduit, wire, pipeline, or transmission device fails to undertake repairs of the failing or disabling within a reasonable time, not to exceed one hour from the time the party responsible received notices of the failing or disabling, or when the party responsible fails to complete repair of the failing or disabling within a reasonable amount of time.

SECTION 3: Alarm Duration.

No person, or entity shall operate, install, direct the installation of alarm system, or use an alarm system that emits an audible and/or visual signal for a period of longer than 15 minutes from the initial activation of the device. All person and entities who have an existing alarm system shall, within 180 days of the effective date of this ordinance, bring the alarm system into conformity with this section. Whenever an alarm system continues to emit audible signals continuously or on a regular repeating basis for over 30 minutes and the owner and/or entity in possession and control of the premises cannot be contacted or does not respond within 30 minutes of being contacted, the audible signals create a nuisance per se and a disturbance of the peace and tranquility of the neighborhood, and any alarm originator shall be guilty of a misdemeanor. In addition, the township and its designees shall be further authorized to disconnect, or otherwise disable the alarm system by cutting wires, disconnecting speakers, or dialing other components of the alarm system that are located on the exterior of the premises and the township shall not be responsible to hold harmless and indemnify the alarm owner, under those circumstances, for such damage.

SECTION 4. False Alarm Fees.

Notwithstanding any other provision of this ordinance or penalties provided in order to defray the costs of responding to false alarms, a false alarm fee shall be charged for the second and subsequent false alarms within the same calendar year by the same alarm originator as set forth herein:

A. Fees for false alarms requiring Fire Department response: Standard response (requiring a minimum of equipment and manpower):

(1)	Second False Alarm	\$ 300.00
(2)	Third False Alarm	\$ 400.00
(3)	Fourth or subsequent false alarms	\$ 500.00

In the event that optimal response is required (requiring significant deployment of manpower and equipment due to the nature of the building for which the alarm is given, including maximum response uses as set forth in the Fire Prevention Code, NFPA sections, and other fire prevention ordinances adopted by Lenox Township, such as, but not limited to multi-family residential with more than 12 units, institutions, high-hazard industries, and places of assembly of more than 100 persons):

(1)	Second False Alarm	\$ 500.00
(2)	Third False Alarm	\$ 700.00
(3)	Fourth or subsequent false alarms	\$1000.00

B. The false alarm fee shall not apply in the case of the first two false alarms with the two week period following installation of a new alarm system or the upgrading of an existing alarm system, provided that the Macomb County Sheriff's Department and the Lenox Township Fire Department has been notified of the installation or change. In addition, the false alarm fee shall only be imposed where false alarms are actually responded to by fire personnel and/or equipment.

C. Fees. False alarm fees shall not apply where the alarm system has malfunctions, provided that corrective measures have been undertaken within 10 days after the false alarm and a copy of the repair order documenting the completed repair by a licensed alarm service contractor is furnished within 30 days to the Lenox Township Fire Department. Withstanding the above, in any calendar year, this procedure shall excuse no more than three false alarms. Should a fourth false alarm result, a fourth alarm fee shall be paid for fourth or subsequent alarms.

D. It shall be unlawful for any person, or entity, to willfully, assist in giving, or cause to be given any false alarm in any manner; provided that this subsection shall not apply to members of the Lenox Township Fire Department.

SECTION 5. Authority to Collect Costs.

The Lenox Township Fire Department and/or the Richmond Lenox EMS Ambulance Authority, shall have the authority to collect all costs incurred, as defined in Section 2(a), in providing emergency fire service or emergency ambulance and advanced life support services in situations which involve hazardous or danerous materials as defined in Section 2(b), the authority to collect all costs as defined in Section 2(a) for any negligently caused fire emergency as defined in 2(c), and any costs as defined in Section 2(a) arising out of the operation of a motor vehicle, motorcycle, snowmobile, or off-road vehicle (ORV), by a person who is impaired or under the influence of intoxicating liquor or a controlled substance or by a person in violation of any arrestable misdemeanor and/or felony driving offense under Michigan law, and any cost resulting from a false alarm as defined herein, **and any costs that result from a response to a utility line failure.** In addition, the Lenox Township Supervisor shall have the authority to direct the Township Attorneys to institute litigation, where necessary, to collect such costs, and the Lenox Township Supervisor shall the authority to add any unpaid costs to the property tax bill of any Lenox Township property owner who owes Lenox Township such costs.

SECTION 6. Persons Responsible for Costs.

With respect to any costs incurred in connection with hazardous or dangerous materials and substances, all such costs shall be charged against and be the responsibility of the owner, operator and/or person of the property, equipment, vehicle or container, causing, contributing, allowing or failing to manufacture, keep, store, transport or otherwise handle, or dispose of hazardous or dangerous materials or substances in a manner by a method so as to not constitute a fire hazard or pose a substantial present or potential hazard to the public health, safety or welfare, or to endanger or cause loss, injury or damage to person, property or environment. With respect to costs incurred in connection with a negligently caused fire emergency, the owner and/or occupant of the property, and/or his agent, employee or contractor. With respect to any costs arising out of the operation of a motor vehicle, motorcycle, snowmobile, or off-road vehicle (ORV), by a person who is impaired by or under the influence of intoxicating liquor or a controlled substance, or in violation of any arrestable misdemeanor and/or felony driving offense in violation of any Michigan Statutes, the person who is found guilty of those offenses and/or owner of the motor vehicle, motorcycle, snowmobile, or off-road vehicle (ORV) provided that the device was being operated at the time of the violation with the implied consent of the owner. With respect to any costs arising out of false alarm as defined herein, the alarm originator shall be responsible for such costs. **With respect to any costs that result from a response to a utility line failure, the owner and/or operator of the utility line that fails shall be responsible.** Such costs shall constitute a debt of the persons responsible and be collectible in the same manner as any legal obligation.

SECTION 7. Statement for Services Rendered.

The Lenox Township Fire Department and/or the Richmond Lenox EMS Ambulance Authority shall submit a statement showing the costs associated with the aforesaid emergency services to the person or persons responsible therefor by First Class Mail or personal service, and the amount of the fee charged pursuant to the provisions of the Ordinance. With respect to a false alarm, a \$10.00 collection fee shall be imposed on the alarm originator even if false alarm fees are paid within 30 days.

SECTION 8. Delinquent Accounts.

Any person responsible for the aforesaid emergency services who fails to remit the fee charged within thirty (30) days of the date of the statement of services rendered shall be considered delinquent unless an extension of time for payment is approved by the Township Board. All such delinquent accounts shall pay a late fee of 1% per month and shall be collected as provided by law.

SECTION 9. Administration and Appeal Regarding False Alarms.

The Lenox Township Fire Department shall be charged with administering false alarms as defined herein. Any alarm originator aggrieved with the fee imposed pursuant to this ordinance shall be entitled to an appeal. Such appeals must be pursued on a form as approved by the Fire Chief and shall be filed within 30 days of the notice of the fee being imposed. The Appeal Board shall consist of the Lenox Township Fire Chief and the Lenox Township Supervisor. The person appealing shall be entitled to be present and present documents, witnesses or evidence supporting their appeal. However, if the appeal is denied, then the monthly interest as set forth above begins to run on that date. Furthermore, if such appeal is denied it will constitute an exhaustion of administrative remedies on the part of the person aggrieved.

SECTION 10. Penalties.

Any person found guilty of violating Section 3 (Alarm Duration) as set forth above shall be guilty of a misdemeanor in which the defendant shall be sentenced up to 90 days in jail and/or pay a fine of \$500.00.

SECTION 11. Repeal.

Any and all other Ordinances of the Township of Lenox which are inconsistent herewith are hereby repealed.

SECTION 12. Severability.

If any section, paragraph, clause or provision of this Ordinance is, for any reason, held to be invalid or unconstitutional, the invalidity or unconstitutionality of such section, paragraph, clause or provision shall not affect any of the remaining provisions of the Ordinance.

SECTION 13. Effective Date. This Ordinance shall become effective thirty (30) days after the date of its passage and its first publication.

Part 49: Ordinance 2

FIRE PREVENTION ORDINANCE

The Township of Lenox does hereby ordain as follows:

SECTION 1:

That a certain document of which is on file in the office of the Township Clerk of the Township of Lenox, being marked and designated as the International Fire Code, 2009 Edition, including all Appendix Chapters and References, as published by the International Code Council, be hereby adopted as an amendment to the Lenox Twp. Fire Prevention Ordinance of the Township of Lenox in the State of Michigan regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials, and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Fire Code on file in the office of the Lenox Township Clerk are hereby referred to, adopted and made part hereof, as is fully set out in this Ordinance.

SECTION 2:

That any pre-adopted amendments to the Lenox Township Fire Prevention Ordinance or any other previously adopted Fire Code(s) as referenced in the adoption of previous editions of the International Fire Code with appendixes and references are hereby repealed.

SECTION 3:

If at any time this adopted code is in conflict with any other adopted local, state or federal code, regulation or law, the most restrictive code, regulation or law shall be followed and enforced.

SECTION 4:

That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Township of Lenox hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

SECTION 5:

That nothing in this Ordinance or in the Fire Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance repealed as cited in Section 2 of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

SECTION 6:

That the Lenox Township Clerk is hereby ordered and directed to cause this ordinance to be published.

SECTION 7:

That this ordinance amendment and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect 14 days from the date of its final passage and adoption.

Part 49: Ordinance 3

OPEN BURNING ORDINANCE

AN ORDINANCE prohibiting open burning in the Township except under certain circumstances and/or pursuant to a permit issued by the Township Fire Department, prescribing information to be disclosed as a condition for issuance of such permit, regulating permitted open burning, prescribing a penalty for a violation thereof, and repealing any and all ordinances or resolutions in conflict therewith.

THE TOWNSHIP OF LENOX, MACOMB COUNTY, MICHIGAN, ORDAINS:

SECTION 1: Short Title.

This Ordinance shall be known and cited as the "Lenox Township Open Burning Ordinance".

SECTION 2: Enabling Authority.

This Ordinance is adopted pursuant to and in accordance with 1945 PA 246, as amended, and 1965 P A 348, as amended.

SECTION 3: Prohibition Of Open Burning.

Except for campfires and fires used for outdoor cooking and other recreational purposes or ceremonial occasions, fires purposely set for the actual instruction and training of public and industrial fire fighting personnel, and as may be allowed pursuant to a permit issued by the Lenox Township Fire Department as set forth in Section 4, open burning of any type is hereby expressly prohibited within the boundaries of the Township of Lenox. For purposes of this Section, the term "open burning" means a fire from which the products of combustion are emitted directly into the open air without passing through a stack or chimney.

SECTION 4: Applicable Areas.

The regularity provisions of this Ordinance apply to all areas within the Township of Lenox except those areas in which open burning is prohibited by Rule of the Air Pollution Control Commission, namely any area within 1,400 feet of the boundaries of an incorporated city or village or in Sections 27, 28, 33, or 34 (MAC R.336.1310 (1) c). Except for campfires and fires used for outdoor cooking and other recreational purposes or ceremonial occasions, or fires purposely set for the actual instruction and training of public and industrial firefighting personnel, no open burning under any circumstances is permitted within 1,400 feet of the boundaries of an incorporated city or village or in Sections 27, 28, 33 or 34.

SECTION 5: Permitted Open Burning.

- A. The open burning of dry, nontoxic wood, brush, tree stumps, branches, hedge and grass clippings and leaves may be allowed after a property owner first secures a permit therefore issued by the Township Fire Department.
- B. Permits may be secured during regular business hours and, as a minimum, shall include the following information:
 - (1) The name and address of the applicant and proof that the applicant is over 18 years of age; and
 - (2) The location and ownership of the land and/or premises where such open burning is to occur; and
 - (3) The type of material to be burned; and
 - (4) The time and date contemplated for such open burning. Permits shall be valid for a period of not to exceed fourteen (14) days after the date of issuance.
- C. Permits may be issued to a property owner with condition, or denied, cancelled or revoked, based upon a determination by the Township Fire Department that the requested open burning may endanger persons or property.
- D. The Township Board may establish a fee for such permit to cover the cost of administration. Such fee may be established by resolution and published in a newspaper of general circulation within thirty (30) days after adoption. The authority to levy such fee shall become effective upon publication.

SECTION 6: Regulation Of Permitted Open Burning.

- A. Except for campfires and fires used for outdoor cooking and other recreational purposes or ceremonial occasions, permitted open burning shall:
 - (A) Occur only between the hours of sunrise and one hour before sunset;
 - (B) Not be located within fifty (50) feet of any structure, combustible material, woodlot or property line;
 - (C) Not include burning of building demolition or excess construction materials;
 - (D) Not occur on any land and/or premises more than six (6) times per year.
 - (E) Not occupy a space larger than two (2) feet high and three (3) feet square;
 - (F) Not allow the use of flammable liquids to start the fire, nor shall flammable liquids be burned in any permitted fire.
 - (G) Occur on residential or agricultural property.

- B. All permittees shall be fully responsible for containing such open burning and shall assume any and all civil and/or criminal liabilities which may result from failure to do so.

SECTION 7: Enforcement.

The Township Fire Chief and any other person or persons designated by the Township Board shall act as enforcement officers of this Ordinance.

SECTION 8: Violation; Penalty.

Any person, firm or corporation, who shall violated any of the provisions of this Ordinance shall, upon conviction thereof, be subject to a fine of not to exceed Five Hundred (\$500.00) Dollars and/or imprisonment in the County Jail for a period not to exceed ninety (90) days, or by both such fine and imprisonment.

Any such person, partnership, firm, association or corporation who sets an open fire which necessitates calling the Lenox Township Fire Department, or any other fire department, shall pay Lenox Township all costs and charges incurred by said Township by reason of calling the Lenox Township Fire Department, or any other fire department. The Township of Lenox may sue in any court of competent jurisdiction for civil damages and may recover such costs and expenses incurred by them from any person, partnership, firm, association or corporation who sets such an open fire.

SECTION 9: Severability.

If any section, paragraph, clause or provision of this Ordinance is for any reason held to be invalid or unconstitutional, the invalidity or unconstitutionality of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION 11: Publication.

This Ordinance shall be published in full in the Voice (both editions) newspaper or general circulation in the Township of Lenox, within thirty (30) days after its adoption.

SECTION 12: Effective Date.

This Ordinance shall take effect thirty (30) days from and after the date of publication of a true copy thereof in a newspaper circulating within the Township of Lenox, as provided by Section 11.

If any provision, section or part of this Open Burning Ordinance is declared to be unconstitutional, the balance shall remain in full force and effect.