

Village of Pellston Cost Recovery Ordinance #58

Cost Recovery Ordinance, to establish charges for fire department services under Michigan Compiled Law 41.806a and to provide methods for collection of such charges and exemptions from such charges, Village of Pellston, County of Emmet, State of Michigan, ordains:

SECTION 1: TITLE

This Ordinance shall be known and cited as the Village of Pellston "Cost Recovery" Ordinance.

SECTION 2: PURPOSE OF THIS ORDINANCE

Is to allow the Village of Pellston to recover from responsible parties those assessable costs incurred in connection with extraordinary events, providing fire protection, and other emergency services, and to provide for the enforcement of this ordinance.

SECTION 3: RESPONSIBLE PARTIES; CHARGES

The Pellston Fire Department shall bill Assessable Costs to those parties determined by law enforcement or the PFD to be responsible for services provided by or through the Village of Pellston and/or the Pellston Fire Department ("PFD").

Responsible parties shall include, but shall not be limited to, all natural persons, estates, corporations, entities, or other parties, who cause the need for the provision of service by the Village and/or the PFD which gives rise to assessable costs. Any party determined by law enforcement to be a responsible party for such services shall be liable for the full payment for such services rendered.

A party may be the responsible party regardless of whether the recipient of emergency police or fire services acknowledges the need for such services and whether or not the responsible party is criminally prosecuted or civilly sued.

Parents and or guardians shall be responsible for the payment of assessable costs incurred as a result of such conduct by their minor children or wards.

SECTION 4: SERVICES GIVING RISE TO ASSESSABLE COSTS

Responsible parties determined by law enforcement or PFD shall be assessed for assessable costs incurred by the Village and/or the PFD which shall include, but not be limited to, materials, equipment, manpower, administration, and assistance within the fire department, or outside sources or contractors, or damages which result from the event which caused the Village and/or the PFD to provide fire protection and other emergency services.

ASSESSABLE COSTS INCLUDE:

- (a) Costs incurred to contain, abate, or remedy any spill, or release of any hazardous materials and any liabilities resulting from such.
- (b) Extraordinary costs incurred to extinguish or fight a fire.
- (c) Any demolition costs if a structure must be demolished to protect public safety following a fire, and any liabilities resulting from such.
- (d) Costs incurred in connection with a utility line or facility failure or problem and any liabilities resulting from such.
- (e) Costs incurred in connection with any water, ice, confined space, trench, high angle, or technical rescue or recovery.

- (f) Costs associated with any motor vehicle accident, extrication of individuals from a vehicle or motor vehicle fire, including but not limited to spill cleanup; foam; fire extinguishers; and any liabilities resulting from the above.
- (g) Costs associated with fraudulent requests for emergency assistance, including but not limited to intentionally dishonest and/or prank calls and requests for response made under false pretenses.
- (h) Any assessable costs, including litigation expenses, which become known to the Village following the transmittal of a statement to the responsible party pursuant this article, which shall be billed in the same manner on a subsequent statement to the responsible party.
- (i) Costs associated with Village and/or PFD response and operations at scenes resulting from activities that violate state, federal, or local laws or ordinances including but not limited to: illegal dumping of waste, arson, use of illegal fireworks, response required because of conduct or activities of a responsible party who is under the influence of intoxicating substances, such as operating a motor vehicle under the influence of intoxicants and/or illegal drugs.
- U) Costs associated with use of Village or departmental equipment and personnel for the furtherance of private enterprise, a private business or for-profit corporation.
- (k) Costs associated with false alarms arising from the same property in excess of three (3) times in any three hundred sixty-five (365) day period.

SECTION 5: PAYMENT OF ASSESSABLE COSTS:

Rates and guidelines for charges and assessable costs shall be set by the Fire Chief. All costs assessed pursuant to this article shall become due within thirty (30) calendar days of the date of the statement, unless an appeal is pending.

SECTION 6: INTERPRETATION

The Fire Chief shall have the right to render formal interpretations of provisions of this article, including what constitutes "extraordinary costs." Any such interpretation shall be binding unless any such interpretation is overturned or modified by a timely appeal to the Village Board pursuant to the right to an appeal as set forth herein below.

SECTION 7: APPLICABILITY OF CHARGES REGARDLESS OF OUTCOME

The assessable costs and charges under this article shall be applicable regardless of the result or outcome of services provided by or through the Village and/or PFD with regard to the particular fire, rescue services, or other emergency involved.

SECTION 8: ADDITIONAL REMEDIES The assessable costs and charges specified by this article are intended to reimburse the Pellston Fire Department for its reasonable costs and expenses incurred, and are not penal in nature.

SECTION 9: RIGHT TO APPEAL

Any responsible party who receives a statement of costs assessed pursuant to this article shall have the opportunity to appeal the assessment of costs to the Village Board. The Village Board may adopt policies, forms, payment schedules, or other formal procedures regarding the right to appeal, by resolution from time to time. The responsible party who wishes to appeal any assessable costs shall file a written appeal with reasons for assessed costs, in conformance with such procedures. The appeal will stay all payments due until the appeal is decided by the Village Board. The appeal will be placed on the agenda of the next regularly scheduled Village Board meeting. The Village Board will consider the request, and make a determination regarding the assessable costs in the case appealed. The Village Board will also determine

the date that any or all assessable costs involved in the appeal will become due. Any appeal must be submitted within thirty (30) days of the date of invoice to the Village Supervisor.

SECTION 10: EXEMPTIONS

No assessable costs for emergency service under Section 4F shall be charged to:

- (a) A resident of the Village;
- (b) A business whose principal place of business is in the Village; or
- (c) An entity that contributes to the Village fire millage.

Unless such party causes the Village and/or PFD to provide emergency or fire services due to the party's own criminal action determined by law enforcement or Village.

SECTION 11: COLLECTION OF CHARGES

The Village and/or PFD may proceed in a court of competent jurisdiction 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. The Village and/or Fire Department shall also be entitled to recover its costs of collection, including attorneys' fees in such an action.

SECTION 12: NON-EXCLUSIVE CHARGES

The forgoing rates and charges shall not be exclusive of the charges that may be made by the Village for the costs and expenses of maintaining a fire department, but shall only be supplemental thereto. Charges may additionally be collected by the Village through general taxation after a vote of the electorate approving same or by a special assessment established under Michigan statutes pertinent thereto. General fund appropriations may also be made to cover such additional costs and expenses.

SECTION 13: SEVERABILITY AND EFFECTIVE DATE

Should any provision or part of the Ordinance within be declared by any court of competent jurisdiction to be invalid or unenforceable, the same shall not affect the validity or enforceability of the balance of this Ordinance which shall remain in full force and effect. This Ordinance shall take effect January 1, 2025.

SECTION 14: REPEALER

Any other ordinances or parts of ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

The above Ordinance was offered for adoption by Village Council Member Eric Ward, and was seconded by Village Council Member Jane Ann Rose , the vote being as follows:

YEAS: Ward, Rose, Gillett, Givens, Schlappi, Peirce & Hall

NAYS: None

ABSTAIN/ABSENT: None

ORDINANCE DECLARED ADOPTED: