

**ORDINANCE 2018-02**  
**COST RECOVERY ORDINANCE**

An ordinance to establish cost-recovery charges and exemptions for fire department and other emergency services under Public Act 33 of 1951, as amended (MCL 41.801, et seq.) (the “Act”) and to provide methods for collecting those charges.

THE CITY OF HART, OCEANA COUNTY, MICHIGAN ORDAINS:

**Section 1: Purpose**

This ordinance is adopted by the City of Hart, pursuant to the Act, to enable the Hart Area Fire Administrative Board, the “Board”, to bill for and collect cost recovery charges from those who are not assessed property tax levies but receive direct benefits, including but not limited to, fire protection and/or public safety services provided by the Board. It is the further purpose of the ordinance to provide full funding of the fire protection and other emergency services which remain, in part, an at-large expense based upon the general benefits derived by all property owners within the City’s jurisdiction.

**Section 2: Definition**

1. Jurisdiction means the City of Hart.
2. Charges means and/or refers to costs for services incurred by the Board in connection with a response to a fire emergency, or a public safety incident, including but not limited to, labor and material costs of the Board, whether or not services are provided by the Board or a third party on behalf of the Board; service charges and interest; attorney fees, litigation costs, and any costs, charges, fines or penalties imposed on the Board by any court or state or federal governmental entity.
3. Emergency Services means and/or refers to emergency medical assistance, hazardous materials incident, public safety services, police, fire, and civil defense services.
4. Hazardous Materials means and/or refers to those elements, substances, wastes including but not limited to combustible liquid, flammable gas, explosives, flammables, ammonia, poisons which are or potentially are harmful to the environment, human or animal life, or which pose an unreasonable or imminent risk to life, health, or safety of persons or property or the ecological balance of the environment as determined by the Fire Chief or senior fire official in charge of the scene.
5. Hazardous Material Incident or Emergency means and/or refers to any occurrence, activity, accident, incident or emergency means and/or refers to situations where the release of hazardous materials occurs or is reasonably imminent and where the Fire Chief or designee has so declared such activity, accident, or emergency a hazardous material incident or emergency.
6. Motor Vehicle means and/or refers to any self-propelled or towed vehicle designed for or used on the public streets, roads, and highways which is required to be registered to use public streets, roads, and highways, to transport passengers or property, or non -registered off road vehicles and all trailers or appurtenances attached to any motor vehicle.

7. Public Safety Incident means and/or refers to requests for emergency response or assistance including but not limited to downed electric power, cable or telephone lines, gas leaks, and any situation when the public is in danger of injury and/or death.
8. Release means and/or refers to any actual or threatened spilling, leaking, pumping pouring, emitting, emptying, discharging, injecting, leaching, dumping, or disposing into the environment, including but not limited to air, soil, groundwater, and surface water.
9. Responsible Party means and/or refers to any individual, firm, corporation association, partnership, commercial entity, consortium, joint venture, government entity, or any other legal entity responsible for a public safety or fire emergency incident, or any owner, tenant, occupant, or party in control of real or personal property from which onto which or related to which there is a public safety or fire emergency incident, and their heirs, estates, successors and assigns.

### **Section 3: Cost-Recovery Charges**

The Board will, from time to time, set a schedule of charges due and payable by parties not assessed property taxes for fire protection and other emergency services.

### **Section 4: Time Limit Payment**

All charges are due and payable within 30 days from the date the service is rendered, and in default of payment, are collectable through proceedings in 78<sup>th</sup> District Court or any court of competent jurisdiction as a matured debt. Unpaid charges shall accrue a late fee of 1% per month or fraction thereof that the amount due and any previously imposed late payment fee remains unpaid.

### **Section 5: Exemptions**

1. False Alarms not occurring more than five times in a 365-day period.
2. Fire involving municipal buildings, grounds, and/or property.
3. Fire or other emergency service performed outside the jurisdiction of the Hart Area Fire Board, unless the other municipalities have adopted an ordinance to impose fees for fire and emergency service runs within their respective territories under MCL 41.806a.

### **Section 6: Collection of Charges**

The Township or, on its behalf, the Board may proceed to 78<sup>th</sup> District Court by suit to collect any monies remaining unpaid from a responsible party and shall have all other remedies provided by and subject to law for the collection of said charges. All monies collected shall be used to cover any costs of recovery and any remaining funds shall be deposited if the Fire Board general fund.

### **Section 7: Multiple Property Protection**

When a particular fire protection or other emergency service rendered by the Board directly benefits more than one person or property, the owner of each property so benefited, and each person so benefited where property protection is not involved, is liable for the payment of the full charge for such service. The interpretation and application of this section is delegated to the

Fire Chief, subject to appeal, within time limits for payment, to the Hart Area Fire Board and shall be administered so that charges shall only be collected from recipients of the service.

**Section 8: Procedure for Appeal**

Any responsible party who receives an invoice for charges shall have the opportunity to request an appeal of those charges to the Board. Such appeal must be made in writing within seven calendar days of the invoice date. The request shall specifically identify and explain all reasons why the responsible party believes the charges should be modified or voided. Upon receipt of such request the responsible party shall be placed on the agenda of the next regularly scheduled Fire Board meeting. The fire board shall make a determination within thirty days to confirm, modify or void the charges. The decision of the Fire Board will be final.

**Section 9: Severability**

If any provision or part of this ordinance is declared invalid or unenforceable by a court of competent jurisdiction, the validity or enforcement of the balance of the ordinance is not affected and remains in full force and effect.

**Section 9: Effective Date**

First Reading:	April 10, 2018
Second Reading & Adoption:	May 8, 2018
Publication:	May 17, 2018
Effective Date:	Ten days after publication

I, the undersigned, the duly qualified and acting City Clerk of the City of Hart, Oceana County, Michigan, do hereby certify that the foregoing Ordinance amendments and additions were adopted by City of Hart at a regular City Council meeting properly held on the 8<sup>th</sup> day of May, 2018; and that the meeting with held in compliance with notice provisions and all other requirements of Act 267 of the Public Acts of 1976, as amended. I hereby certify that I published the Ordinance amendments and additions in the Oceana Herald Journal on the 17<sup>th</sup> day of May, 2018.

I hereby certify this to be a true and correct copy of the document on file with the office of the City of Hart Clerk.



Cheryl Rabe, City Clerk

Moved by Splane supported by Frontiera and thereafter adopted by the Hart City Council at a regular council meeting held on May 8, 2018.

Ayes: 6    Nays: 0    Absent: 1