

**GLEN ARBOR TOWNSHIP
LEELANAU COUNTY, MICHIGAN**

ORDINANCE NO. 1-2021

AN ORDINANCE TO ESTABLISH A BASIS FOR THE RECOVERY OF ASSESSABLE COSTS INCURRED BY GLEN ARBOR TOWNSHIP'S FIRE DEPARTMENT, KNOWN AS THE GLEN LAKE FIRE DEPARTMENT, FOR PROVIDING CERTAIN EMERGENCY RESPONSE SERVICES AND TO PROVIDE FOR THE COLLECTION OF SUCH CHARGES, COSTS, AND FEES; TO ESTABLISH EXEMPTIONS FROM LIABILITY; TO ESTABLISH A PROCESS FOR APPEAL OF THE IMPOSITION OF SUCH COSTS OF EMERGENCY RESPONSE SERVICES WITHIN THE SERVICE AREA OF THE GLEN LAKE FIRE DEPARTMENT.

THE TOWNSHIP OF GLEN ARBOR ORDAINS:

Section 1. Title.

This ordinance shall be known and may be cited as the Emergency Response Cost Recovery Ordinance.

Section 2. Purpose.

Pursuant to the authority granted by Michigan Public Act 33 of 1951, as amended (MCL 41.806a and MCL 41.181), this ordinance authorizes the imposition of charges to recover assessable costs incurred by Glen Arbor Township's Glen Lake Fire Department for certain emergency responses within the service area of the Department.

Section 3. Definitions.

- A. "Assessable Cost" shall mean those charges, costs, and fees for services incurred by the Glen Lake Fire Department in connection with an emergency response including, but not limited to, the actual labor and material costs of the Township (including, without limitation, employee wages, fringe benefits, administrative overhead, costs of equipment, costs of equipment operation, cost of materials, costs of transportation, costs of material disposal and costs of contracted labor), whether or not the services are provided by the Township or by a third party on behalf of the Township; service charges and interest; and attorney fees, litigation costs, charges, fines or penalties imposed on the Township by any court or state or federal governmental entity, except that the Township shall not be reimbursed under this Ordinance more than once for any expense incurred by the Glen Lake Fire Department.
- B. "Department" or "Fire Department" shall mean the Glen Lake Fire Department which is owned and operated by Glen Arbor Township.

- C. "Township" shall mean Glen Arbor Township and its elected officials or designee.
- D. "Emergency Response" shall mean providing, sending or utilizing firefighting or emergency medical and rescue services, or related services and personnel by any other municipality, corporation or individual operating at the request or direction of the Township or its designee to a public safety or fire emergency incident which threatens the public health, safety, welfare or property within the Fire Department's service area including:
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| 1. Motor vehicle accident. | 10. Bomb threat. |
| 2. Motor vehicle fires. | 11. Utility line failure. |
| 3. Medical assistance. | 12. False alarm. |
| 4. Illegal fire. | 13. Excessive requests for emergency assistance. |
| 5. Wildland fire. | 14. Hazardous substance or material incident. |
| 6. Structure fire. | 15. Threats to oneself or others. |
| 7. Structure demolition. | 16. Overland search and rescue. |
| 8. Water search/rescue/recovery. | 17. High and Low Angle rope rescue. |
| 9. Watercraft fire. | |
- E. "Bomb Threat" shall mean the verbal or written threat of the use, placement or discharge of a bomb or other explosive device, which if discharged as threatened, would violate a federal, state, or local law.
- F. "Cost Recovery Schedule" shall mean the published emergency service charges, costs, and fees associated with an emergency service response.
- G. "Excessive Requests for Emergency Assistance" shall mean the third and all subsequent requests for emergency assistance within any twelve (12) month period made to a particular location or premises required by any type of alarm caused by mechanical failure.
- H. "False Alarm" shall mean any request for emergency assistance made when the person making the request knows there is no actual need for emergency assistance. Such request may be in any form and includes a request by telephone or any other method, including the activation of any automated or manual device designed to request or summon emergency assistance. The determination that there was no actual need for emergency assistance shall be made by the most senior person responding to a false alarm.
- I. "Hazardous Substance or Material" shall mean those elements, substances, wastes or by-products, including but not necessarily limited to, combustible liquids, flammable gases, explosives, flammables, poisons, organic peroxides, oxidizers, pyrophorics, unstable reactive or corrosive materials, which are: a) potentially harmful to the environment or human or animal life, including any material defined as hazardous by any state or federal law, rule or regulation; or b) which pose an unreasonable or imminent risk to life, health or safety of persons or property, or to the ecological balance of the environment as determined by the fire chief or the senior fire official of the fire department in charge at the scene of the hazardous material incident.
- J. "Hazardous Substance or Material Incident" shall mean any occurrence, incident, activity, or

accident where a release or threatened releases of a hazardous substance or material occurs or is reasonably imminent.

- K. "High and Low Angle rope rescue" shall mean any technical rescue where the rescue personnel use a rope to overcome the descent required to reach the victim. The steeper the angle of descent the more technical the rescue. Typically, an angle of between 15 and 35 degrees is considered Low Angle and an angle over 60 degrees is considered High Angle.
- L. "Illegal Fire" shall mean a fire intentionally or negligently set or determined to be set in violation of a federal, state, or local law, including, without limitation, an arson fire and a fire set in violation of a "no-burning" ban, order, or ordinance. An illegal fire does not include a fire unintentionally caused or caused by an act of God.
- M. "Motor Vehicle" shall mean any self-propelled or towed vehicle designed to be used on or used in the public streets, roads, and highways which is required to be registered for use upon such public streets, roads and highways, including any trailer or appurtenance attached to any motor vehicle.
- N. "Overland search and rescue" shall mean the search of vacant structures, non-urban, and wilderness search and rescue activities which include, but are not limited to emergency incidents that involve locating missing persons, extraction, and treating any victims upon rescue.
- O. "Release" shall mean any actual or threatened spilling, leaking, pumping, pouring, emitting, emptying, discharging, ejecting, leaching, dumping or disposing into the air, soil, groundwater, and/or surface water.
- P. "Responsible Party" shall mean any individual, firm, corporation, association, partnership, commercial entity, consortium, joint venture, government entity, or legal entity that is responsible for a public safety or fire emergency incident or any owner, tenant occupant or party in control of real and 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.
- Q. "Structure Demolition" shall mean the tearing down of a structure damaged by fire which must, in the opinion of the fire chief or his or her designee, be promptly demolished following the fire incident to protect public safety.
- R. "Structure Fire" shall mean a fire that involves any building, outbuilding or similar structure. This would include any fire that involves the burning of contents within the structure as well as any fire involving the structure itself including, without limitation, interior and exterior walls, roof and roof structures, structural members, sub-structural members, ceiling and floor structures, porches, decks and awnings.
- S. "Threat to Oneself or Others" shall mean a verbal or written threat of physical harm to oneself or another or another's property which, if carried out, would be a violation of federal, state or local law.

- T. "Utility Line Failure" shall mean the disabling of any transmission or service line, cable, conduit, pipeline, wire or the like used to provide, collect or transport water, sanitary sewage, storm sewage, electricity, natural gas, communication or electronic signals (including, but not limited to, telephone, computer, cable television and stereo signals or electronic impulses) owned by non-governmental entities where the failure presents a threat to public health or safety.
- U. "Water search/rescue/recovery" shall mean the search for and provision of aid to people who are in distress or imminent danger from all hazards involving water. This includes locating, accessing, medically stabilizing, and extricating victims from the hazard area or damaged watercraft.
- V. "Wildland Fire" shall mean any fire in open areas, fields, woods and forests.

Section 4. Service Area.

The Glen Lake Fire Department provides emergency service response within the geographic boundaries of Glen Arbor Township and Empire Township, including the village of Empire, as well as other contracted service areas. The Glen Lake Fire Department also provides emergency service responses outside its service area pursuant to agreements with other fire departments and/or municipalities. It is intended that the rights and procedures provided herein shall, to the extent permitted by law, extend and apply to the entire service area, and that same are an inseparable aspect of the services provided by the Township and its Fire Department throughout the service area.

Section 5. Liability for Expenses of an Emergency Response

- A. Responsibilities Defined: Unless specifically exempted from liability, the property owner, occupant, or operator of real or personal property are all individually liable to the Township for the expense of an emergency response. The property owner remains liable for reimbursing the Township for any cost incurred in response to an incident involving his/her/its property even though the owner has, by agreement, imposed on an occupant or operator the duty to guard against, insure against or indemnify from any of the charges, costs or fees encompassed by this Ordinance.
- B. When a particular response by the Fire Department 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, shall be jointly and severally liable for the payment of the full fee or such service hereinbefore outlined. The apportionment of costs among and between recipients of emergency services, interpretation, and application of this subsection is hereby delegated to the Township Fire Chief subject only to the appeal procedures set forth in section 8.
- C. All resident taxpayers within the service area will not be held liable for costs beyond what is covered by their insurance.

Section 6. Cost Recovery Authorization and Procedure.

- A. Glen Lake Fire Department may recover all, or part of, assessable charges, costs, and fees in connection with an emergency service response from any or all responsible parties jointly or

severally.

- B. The Fire Chief or his or her designee shall determine the total assessable charges, costs and fees, and shall determine whether to assess any, all, or part of such costs against any of the responsible parties. In making such determination, the following may be considered:
- (1) the total assessable costs;
 - (2) the risk the public safety or fire emergency incident imposed on the Township, its residents and their property;
 - (3) whether there was any injury or damage to person or property;
 - (4) whether the public safety or fire emergency required evacuation;
 - (5) whether the public safety or fire emergency required an unusual or extraordinary use of Township personnel and equipment and the extent of that use;
 - (6) whether there was any damage to the environment;
 - (7) whether the department contracted with a third party; and
 - (8) the existence and extent of negligence or fault on the party of the responsible party.
- C. In order to determine the assessable costs against a party, the Fire Chief or his or her designee shall rely on a report of the actual incurred expenses prepared by Department personnel or agents involved in responding to the incident and the amounts as set forth in the cost recovery schedule.
- D. The Fire Chief or his or her designee may allocate assessable charges, costs, and fees among and between responsible parties, including allocating all or some of such costs jointly and severally against more than one responsible party regardless of whether a responsible party has other legal liability therefore or is legally at fault.
- E. If the Fire Chief or his or her designee determines not to assess all or a part of assessable costs against a responsible party, such determination shall not in any way limit or extinguish any liability a responsible party may have to the other parties.

Section 7. Billing and Collection of Assessable Costs.

Once a determination has been made to charge assessable costs against a responsible party, or parties, the Fire Chief or his or her designee shall seek collection of same from the responsible party, or parties. In that regard, the Township may contract with and utilize the services of a third-party billing service. In such event, the Fire Chief or his or her designee shall submit an itemized accounting of all charges and responsible party contact information along with any other required information to the Department's third-party billing service. The billing service is authorized to invoice the responsible party(s) and/or their insurance carrier and to demand full payment within thirty (30) days of billing. The

billing service will make every attempt to collect the payment. Any amount due that remains unpaid ninety (90) days after the date of billing shall be sent to collections.

For a responsible party claiming hardship the billing service is authorized to request to the party to provide documentation of said hardship. Following guidelines set forth in the Township's Financial Hardship Determination Policy the billing service is further authorized to set up a payment plan with the monthly payment being no less than \$25.00. The billing service is authorized to request a letter outlining the hardship which the service will send to the Township. The Township Board and Fire Chief will consider the hardship and make a determination on a billing adjustment within thirty (30) days of receipt of the hardship letter and will notify the billing service of said determination.

Any additional expense that becomes known following the transmittal of the invoice to the responsible party shall be billed in the same manner on a subsequent invoice to the responsible party.

Any failure by a responsible party to pay an invoice for an emergency service response within the time limits provided and who does not respond to the collection attempt shall be considered a default, in which case the Township may commence a civil suit to recover the costs plus any additional costs or expenses allowed by law. In addition to the foregoing, the Township may pursue any other remedy or may institute an appropriate action or proceeding in a court of competent jurisdiction to collect the charges imposed under this ordinance together with court costs and attorney fees.

Section 8. Appeal Procedure.

Any party aggrieved by a charge or an apportionment of charges authorized in this Ordinance may appeal the charge or its apportionment as follows:

- A. Within the time period for which a bill is payable the party shall file a written request with the Glen Arbor Township Clerk setting forth specific reasons alleging why the charge is improper.
- B. The Clerk shall notify the aggrieved party, in writing, of the time, place and date the Township Board and Fire Chief will hold a hearing on the appeal.
- C. The Township Board may grant relief on appeal if it finds:
 1. The service provided was given as the result of false information or false alarm not caused by the party to whom service was provided.
 2. The charges assessed do not comply with the Township's schedule of charges or that the apportionment of said charges is in some fashion inappropriate.
 3. For other good cause with sufficient proof to satisfy the Township Board and Fire Chief.

Section 9. Cost Recovery Schedule of Charges.

The Glen Arbor Township Board shall, by Resolution, adopt and periodically amend, a schedule

of charges, costs, and fees within the expenses of an emergency response as proposed by the Fire Chief. The schedule shall include consideration of the actual cost of Department emergency and fire equipment as well as consideration of the effective hourly wage schedule for fire and emergency personnel. This schedule shall be made available to the public from the Township Clerk's office.

Section 10. Conflict with Natural Resources and Environmental Protection Act.

If there is any conflict between the provisions of this ordinance and the provisions of Part 201 of the Natural Resources and Environmental Protection Act [MCL 324.20101 *et seq*] (NREPA), the provisions of the NREPA shall take precedence and the provisions of this ordinance in conflict therewith shall be deemed non-enforceable, but only to the extent to avoid said conflict.

Section 11. No Admission of Liability.

The payment of expenses determined to be due and owing under this ordinance does not constitute an admission of liability or negligence in any criminal action or any other action for damages.

Section 12. Severability.

The phrases, sentences and provisions of this ordinance are severable. If any provision or part of this ordinance is declared by any court of competent jurisdiction to be invalid or unenforceable, such declaration shall not affect the validity or enforceability of any other provision or part, which shall remain in full force and effect.

Section 13. Repeal of Prior Ordinances.

Ordinance No. 1-2005 is hereby repealed in its entirety. Further, any other Township ordinances, or provisions thereof, which are in conflict with this ordinance are, to the extent of such conflict, null and void.

Section 14. Effective Date.

This ordinance shall take effect thirty (30) days after publication thereof in the Leelanau Enterprise.

At a regular meeting of the Glen Arbor Township Board held on February 16, 2021, adoption of the foregoing ordinance was moved by board member Don Lewis and supported by board member John Pepler.

Upon Roll Call vote the following voted

“Aye”: Don Lewis, John Pepler, Lee Houtteman, Pam Laureto, Tom Laureto

“Nay”: none; Abstain: none; Absent: none

The Supervisor declared the ordinance adopted.



Thomas S. Laureto, Township Supervisor

Date of publication of Notice of Adoption: February 25, 2021

Effective date: March 27, 2021

CERTIFICATION

I, Pamela J. Laureto, the duly elected and acting Clerk of Glen Arbor Township, hereby certify that the foregoing is a true copy of Ordinance No. 1-2021 and that said ordinance was adopted by the Glen Arbor Township Board at a regular meeting held on February 16, 2021, at which meeting a quorum was present by a roll call vote of said members as hereinbefore set forth; that said ordinance was ordered to take effect thirty (30) days after publication in the Townships newspaper of record.



Pamela J. Laureto
Glen Arbor Township Clerk