

ORDINANCE 2023-20

ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 94, "FIRE PREVENTION," TO AUTHORIZE RECOVERY OF COSTS AND EXPENSES ASSOCIATED WITH PROVISION OF FIRE SERVICES IN THE MUNICIPAL CODE OF THE BOROUGH OF KENILWORTH.

WHEREAS, the Borough of Kenilworth Fire Department is wholly volunteer and is funded by the taxpayers of the Borough of Kenilworth; and

WHEREAS, The Borough of Kenilworth recognizes the Fire Department's need to bill for fire, rescue, and other related services to aid in the provision of high-quality emergency services; and

WHEREAS, the Borough of Kenilworth Municipal Council finds that it is in the best interests of the Borough and its citizenry to amend and modify such sections of its Borough Code so that the Borough can collect the fees and costs of fire-fighting materials used and expended; the costs of the use of the fire trucks, fire engines, rescue equipment, and tankers; and the costs of personnel hours involved in any fire, safety and rescue incident or operation, including vehicular accidents and fires, by the Kenilworth Fire Department; and

WHEREAS, pursuant to N.J.S.A. 40:48-1, the governing body of a municipality may make, amend, repeal, and enforce such other ordinances, regulations, rules and by-laws not contrary to the laws of this State or Federal Government, as it may deem necessary and proper for the good of government, order and protection of person and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants, and as may be necessary to carry into effect the powers and duties conferred and imposed by this subtitle, or by any law; and

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Kenilworth in the County of Union, State of New Jersey as follows:

SECTION 1. The foregoing whereas clause is incorporated herein by reference and made a part hereof.

SECTION 2. Chapter 94, "Fire Prevention," shall be amended to include Article 14, "Emergency Services Cost Recovery" in its entirety.

§ 94-14 EMERGENCY SERVICES COSTS RECOVERY.

§ 94-14.1 Definitions.

"Person" shall mean a natural person or persons, partnership, corporation, association, firm or other legal entity.

"Responsible Party" shall mean the Person having received emergency services provided by the Kenilworth Fire Department.

§ 94-14.2 Authorization to Recover Fees and Costs for Emergency Services provided by the Borough.

The Borough is hereby authorized to recover from any Person or insurance carrier the fees and costs of fire-fighting materials used and expended; the costs of the use of the fire trucks, fire engines, rescue equipment, and tankers; and the costs of personnel hours involved in any fire, safety and rescue incident or operation, including vehicular accidents and fires ("Emergency Services").

§ 94-14.3 Schedule of Fees and Costs.

The following fees and costs charged and invoiced to any Person or insurance carrier for Emergency Services rendered and/or materials provided for Emergency Services shall be as follows:

- (1) Level One includes the standard response which includes scene safety and investigation, traffic control, patient and hazard control, cleanup of minor spills of automotive fluids caused by accident: \$665.

ORDINANCE 2023-20

- (2) Level Two includes response for car fires which includes scene safety, fire suppression, rescue tools, foam, structure protection and cleanup of automotive and related fluids: \$800.
- (3) Level Three includes Level One and Level Two responses as well as extraction (heavy rescue tools, jaws of life, ropes, airbags, cribbing, etc.) where such equipment is necessary to remove one or more passengers from the vehicle: \$2,000.

§ 94-14.4 Application.

The fee and cost recovery provisions shall apply to all Emergency Services rendered by the Borough's emergency personnel to a Person except those Emergency Services rendered to the Borough's tax-paying residents including those commercial businesses located in the Borough, unless the necessity for providing the Emergency Services was a violation of the Fire Code, in which instance the Borough may seek to recover the fees and costs for responding to the emergency along with any penalties authorized by the Uniform Fire Code.

§ 94-14.5 Policy.

- A. No Person requiring Emergency Services shall be denied said services due to lack of insurance or inability to pay.
- B. Any applicable fees and costs incurred by the Borough for rendering Emergency Services shall be billed directly to the Responsible Party or the Responsible Party's insurance company.
- C. The Borough may, either directly or through any third-party billing agency with which it has contracted, make arrangements with a Responsible Party or the Responsible Party's insurance company for the payment of fees and costs for Emergency Services rendered by the Borough on an installment basis as agreed to by the parties in writing and approved by the Borough's Municipal Council.

- D. The Fire Department shall provide a financial reporting to the Borough's Chief Financial Officer on a semiannual basis of:

- 1. The opening balance of funds on hand that are collected through this Ordinance.
- 2. Number of billings issued.
- 3. Amount of collections in satisfaction of billings issued.
- 4. A detailed listing of any amounts disbursed, including the name of the vendor receiving disbursements and purpose of disbursement.
- 5. The ending balance of funds on hand.

§ 94-14.6 Procedure for billing.

- A. The Borough is hereby authorized to enter into a contract with a third-party billing agency and/or collection agency to recover the fees and costs associated with the performance of Emergency Services by the Borough, provided that the following standards for third-party billing are met:
 - 1. The third-party billing service is to be provided at an amount consistent with the fair market value for the services rendered.
 - 2. Unless otherwise set forth in Section 94-14.4 above, neither the billing agency nor any of its employees are exempt from the provisions of this Ordinances.
 - 3. The billing agency is bonded and/or insured in amounts satisfactory to the Borough of Kenilworth.
- B. The Borough may, at its discretion, bill additionally for material and vehicle costs in the case

ORDINANCE 2023-20

of any malicious false call or alarm or for any major, extraordinary, or unique incidents, including, but not limited to fire emergency and rescue incidents that destroy or severely damage emergency services equipment.

C. User fees.

1. Any and all amounts collected as a result of this article shall be used exclusively for the replacement or maintenance of Fire Department emergency services materials, equipment and training and shall be held in trust by the Borough's Chief Financial Officer for that purpose.

2. The Borough of Kenilworth may implement rules and/or regulations and/or revoke or amend existing rules and/or regulations as may be deemed necessary for the billing and/or collection and use of user fees pursuant to this article.

D. Uncollectable accounts.

1. All costs and fees are anticipated to be paid by the Responsible Party's insurance company. In the instance where the Borough receives notification from, the insurance carrier that it will not honor the invoice, the Borough is authorized to invoice the Responsible Party directly and take any legal action necessary to collect the fee(s), including negotiating a settlement.

a. It shall be a violation of this subsection for any Responsible Party to fail to pay the amounts hereunder within 30 days of invoice or other written demand.

2. The Borough may, at its discretion, write off the uncollected fee amounts as a bad debt, without prejudice to the Responsible Party.

3. Should the Borough determine that an insurance carrier has remitted a fee to the Responsible Party involved and the Responsible Party fails to remit the fee, the Borough is authorized to pursue all legal means and appropriate action in order to collect the account.

SECTION 3. This ordinance is hereby ratified from July 13, 2023 until the date the Ordinance shall take effect.

SECTION 4. If any section, paragraph, subdivision, clause, or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause, or provision so adjudged and the remainder of this Ordinance shall remain valid and effective.

SECTION 5. Any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

SECTION 6. This Ordinance shall take effect upon final passage and publication according to law.

INTRODUCTION						COUNCIL PERSON	FINAL ADOPTION					
Moved	Sec.	Aye	Nay	Abs.	NP		Moved	Sec.	Aye	Nay	Abs.	NP
					X	JOSEPH FINISTRELLA			X			
		X				WILLIAM MAURO		X	X			
		X				SCOTT PENTZ			X			
	X	X				FRED PUGLIESE						X
		X				SAVINO SCORESE			X			
X		X				JOHN ZIMMERMAN	X		X			
Introduced: August 16, 2023						I hereby certify the above ordinance was adopted by the Borough Council of the Borough of Kenilworth, County of Union, State of New Jersey on the aforementioned date.						
Final Adoption: September 6, 2023						 Angela Lazzari, Borough Clerk						