

**TOWN OF WIMINGTON, VERMONT
WILMINGTON FIRE DEPARTMENT
SERVICE REIMBURSEMENT ORDINANCE**

ARTICLE I. GENERAL PROVISIONS

A. Title

All rules and regulations contained herein, together with such additions and amendments as may be hereafter adopted, are hereby designated as the “Wilmington Fire Department Service Reimbursement Ordinance”, or “Ordinance”.

B. Authority

This Ordinance is adopted pursuant to authority granted under 24 V.S.A. § 1971-1983 and 1951-1957. Additional related authority granted under 20 V.S.A. §§ 2672, 2675, 2961, and 2963.

C. Purpose

The purpose of this Ordinance is to provide for the reimbursement of costs incurred by the Town for emergency and non-emergency responses by the Wilmington Fire Department for special events, malicious incidents, nuisance incidents, hazardous materials incidents, and incidents caused by negligence and/or willful disregard for established fire and life-safety codes and ordinances such as non-permitted burns, permitted burns that get out of control due to negligence, and wildland fires AS DEFINED IN THIS ORDINANCE. The Town of Wilmington, and all persons responsible for and involved with enforcement or application of this Ordinance, shall not be liable for any damage or injury to persons or property arising out of or relating in any way to this Ordinance or enforcement or application of this Ordinance. This ordinance does not supersede any signed agreement between the Town of Wilmington and any other town or individual property owner.

D. Filing of Ordinance

The Town Clerk of the Town of Wilmington shall file a certified copy of this Ordinance, as well as certified copies of any additions or amendments to this Ordinance as may be hereafter adopted, in the municipal records.

ARTICLE II. DEFINITIONS

Unless the context specifically indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

“Alarm Activations”/“Automatic Alarms” shall mean audible and/or visual alarm activations within or outside of a protected property, including those systems incorporating automatic fire department notification.

“Emergency Incident” shall mean those incidents that require fire and/or emergency response in an immediate fashion, following established emergency response protocols.

“Emergency Personnel” shall mean the personnel appointed by the Town Manager who are employees of the Wilmington Fire Department and/or Highway Department/Wastewater Treatment Facility, during their involvement in an emergency or non-emergency incident/event.

“Emergency System” shall mean a system within any given property provided for activation and occupant and/or emergency services notification in the event of a fire and/or medical emergency.

“Fire Alarms” – see “Alarm Activations”

“Fire Chief” shall mean the individual appointed by the Town Manager as the department head responsible for the Wilmington Fire Department.

“Firefighter” shall mean all Fire Department Personnel, including the Fire Chief.

"Hazardous Materials Incident" shall mean those incidents involving the release of any product that could prove a danger to health or the environment.

"Malicious Incident" shall mean those emergency incidents which stem from an individual's intentional purpose to cause property damage, endanger lives, and/or cause the response of emergency personnel for other than an actual emergency.

"Non-Emergency Incident" shall mean those incidents which allow for fire and/or emergency medical response in a less urgent fashion, following established non-emergency response protocols.

"Non-Permitted Burn" shall mean the intentional disposal of outside debris via burning, without the required verbal and/or written permission of authorized officials.

"Nuisance Incident" shall mean those incidents that are of the same nature, on a repetitive basis, at the same location, due to the lack of servicing to mechanical and/or electrical equipment of an emergency system, or the failure to correct a previously documented fire hazard, or false reporting of an emergency incident.

"Permitted Burn" shall mean the intentional disposal of outside debris via burning, with the required verbal and/or written permission of authorized officials.

"Special Event" shall mean those non-emergency events that occur within the Town, requiring the presence of emergency personnel and/or permitting by the Town, as required by Town Ordinance, Vermont Labor & Industry, the Fire Department, or as requested by the owner of the involved property or event coordinator.

"Town" shall mean the Town of Wilmington, Vermont.

"Wildland Fire" shall mean any outside fire involving general natural combustible materials, other than a permitted burn or caused by a lightning strike or other 'Act of God', with no restriction concerning area involved, or size of any damaged area.

"Willful Disregard" shall mean knowingly and not accidentally or involuntarily overlooking or ignoring.

ARTICLE III. ELIGIBLE OCCURRENCES/INCIDENTS

The following types of occurrences and incidents within the primary coverage area of the Wilmington Fire Department are eligible for invoicing:

- A. Malicious Incidents
- B. Nuisance Incidents
- C. Hazardous Materials Incidents
- E. Non-Permitted Burns
- F. Permitted Burns that get out of control due to negligence
- G. Wildland Fires caused by negligence
- H. Special Events

ARTICLE IV. ENFORCEMENT

- A. All enforcement, invoicing, and application of this Ordinance is the responsibility of the Fire Chief.
- B. The Fire Chief is authorized to conduct investigations and take other steps that are necessary and provided by law to enforce this ordinance. A written report explaining reasons for invoking this ordinance must be maintained in the Fire House for at least 5 years. Fire Chief, after consultation with Town Manager, to apply consistent standards as to whether incident legally warrants invoice.

ARTICLE V. INVOICING

- A. Malicious Incidents shall be invoiced per occurrence, with the perpetrator to be held responsible.
- B. Nuisance Incidents shall be invoiced per occurrence, after three occurrences per calendar year. The property owner shall be held responsible.
- C. Hazardous Materials Incidents are invoiced per occurrence, with the property owner and/or supplying company being held responsible.
- D. Non-Permitted Burns shall be invoiced per occurrence, with the individual responsible for the burn being held responsible.
- E. Permitted Burns that get out of control due to negligence shall be invoiced per occurrence, with the individual to whom the burn permit was issued being held responsible.
- F. Wildland Fires shall be invoiced per occurrence, with the individual responsible for the fire being held responsible.
- G. In circumstances where the responsible party in the preceding circumstances (#A, B, D, E and F) cannot be identified and/or located and/or reimbursement cannot be obtained from the person, the property owner shall be responsible for the invoiced costs if the Fire Chief determines that services were made necessary due to the fault of the property owner.
- H. Special events shall be invoiced per occurrence, with the property owner or event organizer(s) responsible as indicated at the time of the event planning.
- I. Invoicing/Reimbursement rates for any incident and/or occurrence shall be as established by the Wilmington Selectboard and are not part of this Ordinance. Rates shall be on file in the Town Manager's office and available for inspection. Rates may change based on recommendations of Fire Chief and Town Manager and warned vote of the Wilmington Selectboard.
- J. Reimbursement of costs incurred by the Town for emergency and non-emergency responses by the Wilmington Fire Department shall be sought only for Occurrences and Incidents Types #A, B, C, D, E, F, and G in Article III and only as follows:
 - 1. Unless otherwise specified in this ordinance, Occurrences and Incidents of Types #A, B, D, E and F in Article III shall, after investigation by the Fire Chief, be invoiced to the person(s) responsible.
 - 2. "Equipment" costs for engine, tanker, rescue vehicle, trucks, boat, all terrain vehicles, snow mobiles and other related equipment utilized; support apparatus such as tools, hose, ladders, etc; gear such as personnel protective equipment, and related paraphernalia.
 - 3. "Expendable Item's" used at the scene of an incident that are replaceable supplies, and will include but are not limited to Foam and Hazmat Containment. It is anticipated that these items will be billed at replacement cost with a 10% service fee.

ARTICLE VI. ORDINANCE MANAGEMENT

- A. This Ordinance shall be managed by the Fire Chief.
- B. The Town of Wilmington shall be reimbursed by the responsible party designated in Article V for reasonable and necessary expenses, as specified in the "Fire Department Reimbursement Schedule", incurred by the Wilmington Fire Department pursuant to the following procedures:
 - 1. Invoices shall be issued by the Fire Chief.
 - 2. Invoices shall include the date(s) on which services were provided by the Wilmington Fire Department, the type of incident under Article V that is serving as the basis for the invoice, an explanation of the services provided, and the cost of the services provided.

3. Invoices shall provide that payment shall be made to the Wilmington Town Treasurer within 30 days of the date of invoice with interest to accrue at the statutory rate beginning on the 31st day.
4. The invoice shall be mailed first class, registered mail, return receipt to the last known address of the person responsible for paying the invoice.

ARTICLE VII. SEVERABILITY, LIABILITY, AMENDMENTS

- A. If any portion of this Ordinance is held unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected.
- B. This Ordinance and its provisions may be amended by the Wilmington Selectboard, pursuant to applicable provisions of the law.

ARTICLE VIII. – PENALTIES

This Ordinance is designated as a civil ordinance. In the event of any non-payment of an invoice the town may recover such invoice payments together with all legal costs including reasonable attorney's fees in an action of contract brought in a court of competent jurisdiction.

ARTICLE IX. APPEALS PROCESS

Any invoice may be appealed to the Wilmington Selectboard. The appeal shall be in writing and shall be filed with the Wilmington Selectboard within ten days of the invoice date. The appeal shall be acted upon by the Wilmington Selectboard within fifteen days after the receipt of the appeal notice. If the appeal requests a public hearing the Selectboard shall hold a public hearing within the 15 day time frame. The Town Manager, the Fire Chief, and the person appealing the invoice shall be notified of the hearing date. Upon such appeal, the Wilmington Selectboard shall act to reverse, affirm, or modify in any regard the original invoicing determination of the Fire Chief. The Wilmington Selectboard shall issue a written decision to the aggrieved party within fifteen days of the Selectboard's receipt of the appeal, or in the case of an appeal hearing within fifteen days after the appeal hearing.

ARTICLE X. PUBLICATION AND POSTING

This Ordinance shall be entered into the minutes of the town records and shall be posted in at least five conspicuous places in town. A concise summary of it shall be published in the Deerfield Valley News, not later than fourteen (14) days following the date specified below when this Ordinance is adopted.

ARTICLE XI. INFORMATION

The Wilmington Town Manager whose telephone number is 464-8591, and whose address in Box 217, Wilmington, VT 05363, is a person knowledgeable about the Ordinance and is available to answer questions and provide persons with a full text thereof.

ARTICLE XII. RIGHT TO PETITION

Citizens of the Town of Wilmington are further hereby notified that within forty-four (44) days from the date of adoption they may petition for a vote on the above Ordinance at an annual or special town meeting as provided in 24 VSA 1973.

ARTICLE XIII. ORDINANCE IN FORCE

A. Date of Adoption

Duly adopted and ordained by the Selectboard of the Town of Wilmington, Windham County, State of Vermont, on this 17th day of September, 2008, at a duly warned and duly held meeting of said Selectboard.

B. Effective Date

This Ordinance shall become effective sixty (60) days from the date hereof, that is, on November 16, 2008.

Wilmington Selectboard

Margaret L. Streeter, Chair
Thomas P. Consolino
Julie Lineberger
Susan Joy Haughwout