

NORTH LINCOLN FIRE & RESCUE DISTRICT #1

ORDINANCE No. 2021-01

AN ORDINANCE ADOPTING COST-BASED FEES AND RATES FOR NON-EMERGENCY SERVICES AND EXTRATERRITORIAL OR EXTRAORDINARY RESPONSES; ALLOWING FOR FUTURE BOARD AMENDMENT OF FEES AND RATES BY RESOLUTION

WHEREAS, the North Lincoln Fire & Rescue District #1 (District) Board of Directors (Board) desires to adopt an ordinance to enable District to recover its actual costs for non-emergency response services and emergency response services that take place on transportation routes provided by District personnel; and

WHEREAS, ORS 478.410(4) authorizes District to create fees for any services provided by the District through the adoption of an ordinance in amounts not exceeding the cost to the District of providing the service; and

WHEREAS, ORS 478.310 authorizes District to recover its reasonable actual expenses for responses in unprotected areas outside of the Fire District, including the contract or reasonable value of use, including repairs and depreciation of equipment and other expenses reasonably incurred in furnishing the firefighting or public safety service; and

WHEREAS, the District Board of Directors has examined the current Oregon State Fire Marshal's Standardized Cost Schedule from the Oregon Fire Service Mobilization Plan and determined that such costs are reasonable and would satisfactorily reimburse District for costs incurred when responding to unprotected or inadequately protected areas outside of District; and

WHEREAS, the fees established by this Ordinance have been evaluated by the Board of Directors and they Directors have reviewed and approved the actual costs of providing such services, responses, or permits; and

WHEREAS the Board of Directors has determined that the fees do not exceed the actual cost of providing such services, responses, or permits; and

WHEREAS, the Board of Directors has determined that it is fair, reasonable, and appropriate to adopt a cost recovery mechanism to collect the costs of providing such services or responses, and the Board of Directors has determined that such fees will be limited to cost recovery only and will not be used to generate revenue for the District; and

WHEREAS, the Board of Directors wishes to equitably distribute District resources among all District citizens and has further determined that District plan review for county and city jurisdictions, which are experiencing unprecedented levels of growth and expansion, and responses to repeated false alarms and egregious open burning violations are a drain on District resources and may impede legitimate emergency responses; and

WHEREAS, District desires to establish a published system of regulations, including fees and charges, to recover District's reasonable estimate of its actual costs, including labor and material, repairs and depreciation of capital assets, and other overhead; and

WHEREAS, the fees and charges imposed by this Ordinance are not taxes subject to property tax limitations of Article XI, Section I (b) of the Oregon Constitution; and

WHEREAS, pursuant to ORS 294.160, members of the public were provided an opportunity to comment on the proposed new and/or increased fees at the District Board meeting held on October 13 and November 10, 2021.

NOW, THEREFORE, BE IT ORDAINED AS FOLLOWS:

1. **ADOPTION OF RATE SCHEDULE.** The Board of Directors of North Lincoln Fire & Rescue District #1 hereby adopts the rates set forth in the Rate and Fee Schedule attached hereto and by this reference incorporated within this Ordinance as Appendix A. The Board further directs that such rates and fees, other than penalties for late payments, shall not be imposed as a penalty, but shall be calculated to recover the reasonable estimate of the District's actual costs.
2. **FEES ESTABLISHED.** The Board hereby establishes and adopts the following cost-based fees, which shall be imposed subject to the Fire Chief's assessment of financial hardship or reciprocal benefit to the District in compliance with this Ordinance and any applicable administrative rules or procedures.

a. False Fire and Medical Alarm Fee

A cost-based fee may be imposed for responses to repetitive false (nuisance) fire and medical alarms, as provided in this section. No cost recovery fee shall be imposed for the initial three (3) fire alarm or medical responses to any residential or commercial occupancy during a calendar month. No cost recovery fee shall be charged if the fire alarm is a result of a fire or results in medical treatment being provided by EMS personnel. Cancelled enroute false alarms are billable events subject to this fee. Fees under this section will be based upon the rates in Appendix A, as well as other documented actual costs of responding to the violation.

b. Open Burning Violation Fee

A cost-based fee may be imposed for open burning violation responses as provided in this section. Open burning violations are defined as violations of any locally adopted fire code or violations of any applicable Oregon Revised Statute or DEQ regulation. Such fees may be imposed for repeated violations, egregious or purposeful violations, or for any open burning during a District-wide advertised burn ban. Fees will be based upon the rates in Appendix A, as well as other documented actual costs of responding to the violation.

c. Transportation Route Response Fee

A cost-based fee may be imposed for responses on certain transportation routes, as further provided in this section. "Transportation route" means any roadway, railway right-of-way, or waterway, against which no taxes or assessments for fire protection are levied by the District. Such cost-based fees may be imposed for responses to incidents, responses, or occurrences on such Transportation Routes, including aircraft crashes. Transportation Route fees for responses within District boundaries will be imposed only when the required response lasts longer than one half hour and requires any fire response vehicles at the scene. District residents will have **their** insurance billed for cost of response however no out of pocket expenses for deductibles or policy limits will be collected.

Transportation Route response invoices will use dispatch time records to determine the commitment of apparatus and personnel and will, if applicable, use the rates as listed in Appendix A. Miscellaneous supplies and services may also be invoiced and will be based upon scene documentation of the officer in charge.

d. Unprotected or Inadequately Protected Area Response Fee

A cost-based fee may be imposed for responses to incidents in unprotected or inadequately protected areas outside of District boundaries as provided in this section. These responses will be billed on a "per hour" basis using dispatch time records to determine the commitment of apparatus and personnel, as well as rates in Appendix A. Miscellaneous supplies and services may also be invoiced and will be based upon the rates provided in Appendix A as well as scene documentation of the officer in charge.

e. Ambulance Transport Fee

A cost-based fee may be imposed for certain ambulance transports as provided in this section. If the District transports a patient to an emergency room or to a helicopter landing zone using a District ambulance, it may invoice the patient and/or the patient's insurance using the contracted ambulance transportation billing agent. Fees for such ambulance transport will be based on the established Lincoln County Ambulance Service Area Agreement.

f. Non-Emergency Facility Response Fee

A cost-based fee may be imposed for certain non-emergency requests for assistance from assisted living, residential care, or nursing facilities as provided in this section. If District staff or resources are requested by a commercial assisted living, residential care, or nursing facility to provide assistance to the facility's staff for non-emergency situations (such as physically moving a non-injured resident), the District may impose the fees provided in this Section. In determining whether to impose such fees, the Fire Chief shall, at their sole discretion, consider whether the response was: 1) a result of a non-emergency situation; 2) caused by or related to a lack of adequate staffing or lack of adequate facility resources necessary to meet the resident's non-emergency needs, or 3) requested by a facility who has repeatedly requested non-emergency assistance. Such fees will be based on the rates and fee schedule in Appendix A, as well as other documented actual costs of such response. Cancelled enroute requests are considered billable events.

g. Temporary Membrane Structures, Tents, Canopies; and Carnivals, Fairs, Exhibitions, and Events

(i) Definitions.

- A. Temporary Membrane Structure: an air-inflated, air-supported, cable- or frame-covered structure as defined by the International Building Code and not otherwise defined as a tent.
- B. Tent: a structure, enclosure or shelter, with sidewalls or drops, constructed of fabric or pliable material supported by any manner except by air or the contents it protects.
- C. Canopy: a structure or architectural projection of ridged construction over which a covering is attached that provides weather protection, identity or decoration, and may be structurally independent or supported by attachment to a building on one end and by not less than one stanchion on the other end.
- D. Carnival: a mobile enterprise principally devoted to offering amusement or entertainment to the public in, upon, or by means of temporary structures, rides or any combination of both.
- E. Fair: an enterprise principally devoted to the exhibition of products of agriculture or industry in connection with the operation of amusement rides or devices, or concession stands.
- F. Exhibition: an event in which the display of products or services is organized to bring together the provider and user of the products or services.

- (ii) Temporary Membrane Structure, Tent or Canopy Sizes. A permit will be required for any temporary membrane structure or tent that is over four hundred (400) square feet, or canopies whose area is over seven hundred (700) square feet. (OFC 105.7.25). Associated fees for permit processing, onsite inspection, and reinspection, if needed, are set in the attached Appendix A.

- (iii) Carnivals, Fairs, Exhibitions, and Events with Assemblages of 500 People or More. A permit will be required for a Carnival, Fair, Exhibition, or Event with assemblages of 500 people or more. Associated fees for permit processing, onsite inspection, and reinspection, if needed, are set in the attached Appendix A.

h. Development Plan Review Fees

A cost-based fee for development and building permit plan reviews may be imposed for each plan review conducted. Such fees will be based upon the actual cost of conducting such reviews in conformance with the Oregon Fire Code or performing any related work and shall be calculated, as applicable, using the rates provided in Appendix A.

i. Fire Code Inspection and Enforcement Fees

A cost-based fee for fire code inspections and code enforcement may be imposed for any fire and life safety occupancy inspections; for re-inspections for previously identified fire code violations; or for the documented actual costs of enforcing the fire code to correct previously identified violations as provided in this section. Fees assessed may include any District-incurred costs to obtain necessary inspection warrants, including attorney costs. Such fees will be based upon the actual cost of conducting such inspections, enforcing the code, or performing any related work and shall be calculated, if applicable, using the rates provided in Appendix A. Requests from contractors or business owners for new construction or maintenance inspections after 5 pm or on the weekend may result in higher cost recovery fees due to the District's increased personnel costs for such requests.

j. Public Records Request Fee

A cost-based fee may be imposed for public records requests as provided for in this section. The District will follow its Policy 5.1 "Public Records". Requests for disclosure of public documents shall be in writing, on a District form, and shall state the name and mailing address and email address of the requestor. The Fire Chief or designee shall be responsible for reviewing requested materials prior to disclosure and will determine whether the records are statutorily exempt from disclosure. Public records requests received from an opposing party or its legal counsel during pending litigation will be referred to District legal counsel.

The District will not impose a fee for public record requests for incident reports from District residents or patients if the work entails less than one quarter hour of staff time and the documents pertain to or involve the requestor. All requests require confirmation of requestor's identification and must comply with the Federal and Oregon HIPAA laws.

k. Facility Rental and Training Classes

A cost-based fee may be imposed for District facility rentals or District training classes. Such fee will be imposed at the discretion of the Fire Chief or ~~his or her~~ designee, based upon fees set in Appendix A. Profits realized through outside class participants or acquired structure live fire events will be deposited into the District's General Fund.

l. Acquired Structure Live Fire Event

Occasionally, homeowners request assistance from the District to demolish an existing home by fire. This can benefit the District by turning it into a live fire training event. Although there is a training benefit, this benefit comes at a cost to the District that the homeowner may be requested to pay. The District would calculate and enter into an agreement with the homeowner based on fees as set in Appendix A.

m. Hazmat Response Fees

A cost-based fee may be imposed for responses to Hazardous Materials incidents within or outside District boundaries as provided in this section. These responses will be billed on a "per hour" basis using dispatch time records to determine the commitment of apparatus and personnel, as well as rates in Appendix A. Miscellaneous supplies and services may also be invoiced and will be based upon the rates provided in Appendix A as well as scene documentation of the officer in charge.

n. Technical Rescue Fees

A cost-based fee may be imposed for responses to Technical Rescue incidents within or outside of District boundaries as provided in this section. These responses will be billed on a "per hour" basis using dispatch time records to determine the commitment of apparatus and personnel, as well as rates in Appendix A. Miscellaneous supplies and services may also be invoiced and will be based upon the rates provided in Appendix A as well as scene documentation of the officer in charge.

3. **INVOICES; WAIVER.** The District shall address the invoices for fees to the responsible party, which may be: a registered property owner, a service recipient, an occupant, a driver or passenger, a vehicle or plane owner, or a person requesting services, depending upon the circumstances. The Fire Chief, or designee, shall be responsible for determining the responsible party and for reviewing all the cost recovery invoices. The Fire Chief may waive or amend fees assessed in compliance with this Ordinance and any applicable administrative rules.

4. REVIEW AND AMENDMENT. The Fire Chief will present the fees or rates adopted under this Ordinance to the Board ~~of Directors~~ for review and possible amendment at least once every two years, or sooner at the Fire Chief's discretion. The fees set forth in Appendix A, which are adopted and approved by the Board of Directors in this Ordinance, may be amended from time to time by Board resolution at a duly noticed and public Board meeting. Prior to adoption of the new fees or fee increase, the Board shall hold an opportunity for the public to comment on the proposed fees per ORS 294.160.
5. RULES. The Board ~~of Directors~~ hereby grants to the Fire Chief the discretion to interpret and apply this Ordinance and to develop administrative rules to apply this Ordinance equitably. Such administrative rules must be consistent with this Ordinance and with applicable Board policy.
6. APPEALS. To file an appeal of a fee assessed under this Ordinance, the appellant must provide a written statement to the Fire Chief within ten days of receipt of the fee invoice. The statement must clearly explain the basis of the appeal, stating why the appellant thinks the fee was improper, noting specifically whether it was properly assessed or calculated. The Fire Chief will issue a written decision within ten days. Decisions of the Fire Chief are final and not appealable.
7. COLLECTION PROCEDURES. Fees are immediately due and payable at the time of application or will be invoiced within fourth-five (45) days of the service delivery date. Payment is due upon receipt. If payment or reasonable payment arrangements are not made when due, the invoice shall be considered delinquent and the District will proceed with the collections as deemed appropriate by the Fire Chief. Costs of collection shall be charged to the persons responsible. Collection costs may include penalty fees or interest payments on the amounts due and owing, as determined by the District.
8. REPEAL.

Any existing ordinances or resolutions of the District which conflict with the service fees as established by any provision of this Ordinance are hereby repealed. Fees assessed for District costs previously incurred remain due and owing to the extent unpaid on the effective date of this ordinance.

ADOPTED this 10 day of November 2021, by action of the District Board of Directors.

NORTH LINCOLN FIRE & RESCUE DISTRICT #1
BOARD OF DIRECTORS

Ronald Woodard II
Board President

ATTESTED:

Dan Drayton
Board Secretary