

ORDINANCE NO. 2021-22-01

REPEALING ORDINANCE 19-01; ADOPTING COST-BASED FEES AND RATES FOR DISTRICT PROVIDED SERVICES, ALLOWING FOR FUTURE BOARD AMENDMENT OF FEES AND RATES BY RESOLUTION; AND DECLARING AN EMERGENCY.

WHEREAS, SW Polk Fire District (the District) Board of Directors ("the Board of Directors") desires to adopt an ordinance to enable the District to recover its actual costs for nonemergency response services provided by District personnel; and

WHEREAS, in 2019, the District adopted Ordinance 19-01, which authorized certain fees for services in compliance with Oregon law and the Board of Directors now wishes to repeal Ordinances 19-01 with the goal of amending existing fees, adopting new fees, and clarifying the process for future amendment of such fees;

WHEREAS, ORS 478.410(4) authorizes a District to create fees for any services provided by the District through the adoption of an ordinance; and

WHEREAS, ORS 478.310 authorizes the 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 the District for costs incurred in responding in unprotected or inadequately protected areas outside of the District; and

WHEREAS, the fees established by this Ordinance have been evaluated by the Board of Directors and the 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 responses to repeated false alarms and egregious open burning violations are a drain on District resources and may impede legitimate emergency responses; and

WHEREAS, the District desires to establish a published system of regulations, including fees and charges, to recover the District's reasonable estimate of the actual cost, 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 11(b) of the Oregon Constitution;

NOW, THEREFORE BE IT ORDAINED AS FOLLOWS:

1. **REPEAL OF ORDINANCES 19-01.** The Board of Directors of the SW Polk Fire District hereby repeals in their entirety Ordinance 19-01.
2. **ADOPTION OF RATE SCHEDULE.** The Board of Directors of SW Polk Fire District 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 actual cost to the District. The Board of Directors may, from time to time, amend the Rate and Fee Schedule by resolution as provided in Section 5 herein.
3. **FEES ESTABLISHED.** The Board of Directors hereby establishes and adopts the following cost-based fees, which shall be imposed subject to the Fire Chief or his or her designee's sole discretion 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) responses to fire and medical alarms as provided in this section. However, no cost recovery fee shall be imposed for the first false fire alarm or medical response to any residential or commercial occupancy during a calendar year. 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 a reasonable estimate of the actual cost of similar fire or medical alarm responses.
 - 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 violation during high and extreme fire danger. 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 response invoices will use dispatch time records to determine the commitment of apparatus and personnel and will 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. **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-emergent 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, in his or her sole discretion, consider whether the response was: 1) a result of a nonemergent situation; 2) caused by or related to a lack of adequate staffing or lack of adequate facility resources necessary to meet the residents’ non-emergent 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.

f. **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 outside normal working hours may result in higher cost recovery fees due to the District’s increased personnel costs for such requests.

g. **Public Records Request Fee**

A cost-based fee may be imposed for public records requests as provided for in this section. Requests for disclosure of public documents shall be in writing and on a District form and shall state the name and mailing address of the requestor. The Fire Chief or designee shall be responsible for reviewing requested materials prior to disclosure and will determine if 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 records 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. If locating a document will require

more than one-quarter hour to complete, or will require extensive research or labor, the District will provide to the requestor an estimate of when the materials will be available and the costs associated with the request. The District will require a deposit equal to the total amount of the fee if the costs of producing the documents will exceed one-quarter hour of staff time. If the actual costs exceed the estimated costs, the District may invoice the requestor for the balance of the costs. All fees are due prior to public record request documents being released.

h. Facility Rental and Training Classes

A cost-based fee may be imposed for District training facility rentals or training classes. Such fee will be imposed at the discretion of the Fire Chief or his or her designee. Profits realized through outside class participants or acquired structure live fire events will be deposited into the District's Enterprise Fund and be utilized to replace, repair, or enhance the District's capital assets involved in providing these training opportunities.

i. Hazardous Materials Response Fees

Cost-based fees may be imposed for responses involving hazardous materials remediation and for hazardous materials-related incidents. Fees may be imposed regardless of a State Hazardous Materials Team response and, if imposed will only be charged for the hazardous materials-related costs. Such fees will be based on the rates and fee schedule in Appendix A, as well as other documented actual costs of such response. In addition, administrative costs and miscellaneous supplies and services may be billed.

j. Utility Assistance Fees

Cost-based fees may be imposed for responses to requests from utilities for assistance. The District responds to service calls involving utilities such as electric or cable wires down, natural gas leaks, water main leaks, etc. Cost-based fees may be imposed for these responses. Such fees will be based on the rates and fee schedule in Appendix A, as well as other documented actual costs of such response. In addition, administrative costs and miscellaneous supplies and services may be billed.

k. Technical Rescue Fees

Cost-based fees may be imposed for responses requiring technical or specialty rescue equipment or training. The Fire Chief shall determine if such fees shall be charged, taking into consideration whether the incidents occurred due to a lack necessary resources or adequate safety preparations. If such fees are imposed, they will only be charged for the costs related to technical or specialty rescue response. Such fees will be based on the rates and fee schedule in Appendix A, as well as other documented actual costs of such response. In addition, administrative costs and miscellaneous supplies and services may be billed.

l. 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 Resolution 2021-22-01.

4. **INVOICES; WAIVER.** The District shall address the invoices for fees to the responsible party or agent, which may be: a registered property owner or agent; a service recipient or agent; an occupant, a driver or passenger or agent; a vehicle or plane owner or agent; an insurance company; or any person or entity requesting or receiving services. 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, at his or her discretion, waive or amend fees assessed in compliance with this Ordinance and any applicable administrative rules.
5. **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 upon the Fire Chief's sole discretion. The fees and 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 resolution, the Board shall hold an opportunity for the public to comment on the resolution.
6. **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.
7. **APPEALS.** To file an appeal of a fee assessed under this Ordinance, the appellant must provide a written statement to the Fire Chief within twenty-one (21) days of receipt of the fee invoice. The statement must clearly explain the basis of the appeal, stating why the filer thinks the fee was improper, noting specifically whether it was properly assessed or calculated. The Fire Chief will issue a written decision within ten (10) days. Decisions of the Fire Chief are final and not appealable.
8. **COLLECTIVE PROCEDURES.** Fees will be invoiced within sixty (60) days of the service delivery date. Payment is due upon receipt. If payment or reasonable payment arrangements are not made within sixty (60) days of billing, the invoice shall be considered delinquent and the District will proceed with the collections as deemed appropriate by the Fire Chief, including use of an outside collection agency. 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.
9. **EMERGENCY.** It is hereby adjudged and declared that the immediate passage of this ordinance is necessary for the preservation of the public peace, health and safety of the SW Polk Fire District, and therefore an emergency is hereby declared to exist and this ordinance shall take effect and shall be in full force and effect on January 1st, 2022.

ADOPTED this _____ day of _____, 2021.

Rod Watson
President, Board of Directors

Bob Davis
Secretary, Board of Directors

SW Polk Fire District
RATE AND FEE SCHEDULE

APPENDIX A

Fees for service shall be limited to cost recovery. Methods of calculating the cost of services shall be identified and generally based upon the average cost or specific cost of providing the service. Cost calculations will include direct costs (apparatus, personnel, and any miscellaneous supplies and services) and indirect costs (administrative costs and overhead). Cost recovery calculation methodology for specific responses will be provided upon request.

The District adopts the current rates and fee schedule established by the Office of the State Fire Marshal (OSFM) (OAR 837, Division 130 and the State Fire Marshal's Oregon Fire Service Mobilization Plan and any applicable Conflagration Act). This model will be used, when applicable, to set the rates regarding billing of actual costs associated with District resource usage and may include equipment rates.

District personnel costs will be billed at current District pay scale including employer payroll based costs. If overtime is necessary, staffing costs will be billed at 1.5 times the current pay scale.

Miscellaneous Supplies and Services

Disposable supplies used will be billed on specific usage and cost of replacement. Cost of outside vendors or services used will be billed without markup. Other expenses directly related to the service delivery shall be charged at the actual cost.

Automatic Monitored Fire and Medical Responses

Automatic fire and medical alarm responses will be billed on a per hour basis using the rates and fee schedule established by this Appendix A. In addition, administrative costs and overhead will be added to each invoice.

Fire Code Inspection and Enforcement Fees

Fire code inspections and enforcement fees will be billed on a per hour basis using the rates and fee schedule established by this Appendix A. In addition, administrative costs and overhead will be added to each invoice.

If a commercial establishment denies entry of the Fire District fire code enforcement personnel for inspection purposes, an inspection warrant will be required to proceed. All staff time, trip charges, and other expenses required to obtain the inspection warrant and all subsequent fire inspections to complete the inspection process will be invoiced as cost recovery fees including invoicing fees.

Open Burning Violation Responses

Open burning violation responses that are invoiced will be billed on a per hour basis using the rates and fee schedule established by this Appendix A. In addition, administrative costs and overhead will be added to each invoice.

Transportation Route Responses

Transportation route responses will be billed on a per hour basis using the rates and fee schedule established by this Appendix A. Miscellaneous supplies and services, if applicable, will be based upon

scene documentation of the officer in charge. In addition, administrative costs and overhead will be added to each invoice.

Response to Unprotected or Inadequately Protected Areas

Responses to unprotected areas will be billed on a per hour basis using the rates and fee schedule established by this Appendix A. Miscellaneous supplies and services, if applicable, will be based upon scene documentation of the officer in charge. In addition, administrative costs and overhead will be added to each invoice.

Assisted Living, Residential Care, and Nursing Facilities

Responses that are invoiced will be billed on a per hour basis using the rates and fee schedule established by this Appendix A. In addition, administrative costs and overhead will be added to each invoice.

Public Record Requests

Fees for service shall be limited to cost recovery. Methods of calculating the cost of services shall be identified and generally based upon the average cost of providing the time, materials of requested services, and overhead expenses (TMO). The District will calculate fees for service for specific requests when a request is estimated to require more than one-quarter hour of staff time to accomplish. Cost calculations may include direct costs (transportation, personnel, and any miscellaneous supplies and services) and indirect costs (administrative overhead and facility costs).

Inspection of public records is permitted, but does not include the right to enter restricted areas of the District's offices. Original records will not be removed from the District property. The District will not manipulate data or create new documents to respond to a request. A staff member shall be present at all times while any public records are being inspected and the requestor may be charged for such staff time.

No charge will be imposed upon District residents, patients, victims when requesting a basic incident report, up to \$20.00, for incidents involving them specifically. This non-charge will require confirmation of identification and must comply with Federal and Oregon HIPAA laws.

General requests estimated at less than one-quarter of an hour to complete (includes labor) B and W

Incident report \$20.00

CD Creation \$10.00

For requests estimated at requiring more than one-quarter of an hour to complete

All requests will be estimated using TMO; staff time, materials, and overhead.* Staff wages will be billed at actual wage costs including benefits.

Additional costs MAY BE CHARGED AND MAY INCLUDE (without additional markup)

Archiving retrieval/restoring fees for off-site storage

Contracted employee costs of hiring temporary staff

If necessary, notary fees

Disposable supplies calculated upon specific usage and cost of replacement

Other actual costs associated with the request of TMO

Ambulance Transport Fees

Ambulance transport fees shall not exceed those authorized by the established Resolution 2021-22-01.

Facility Rental and Training Class Fees

Each request for facility rental or class attendance will require an analysis of costs related to the request pertaining to class development, instruction, disposables, and other related costs. The Chief Training Officer will develop cost analysis for each specific class. Class costs may include depreciation of props as a portion of the fee. If outside agencies request instructor(s), fees if applicable, will be based upon a signed contract for service.

Acquired Structure Live Fire Event

Each request for assistance from the District to demolish an existing home by fire will be evaluated on an individual basis. The District will charge the property owner the following for acquired structure live fire events.

\$3,000.00 flat fee for homes up to 1,000 square feet in size.

For homes greater than 1,000 square feet in size, an additional fee of \$3.00 per square foot will be added to the flat fee.