

ORDINANCE NO: 2019-10-22-001

Amendment 2012-01-10-001

AN ORDINANCE ESTABLISHING AND IMPLEMENTING A PROGRAM TO CHARGE MITIGATION RATES FOR THE DEPLOYMENT OF EMERGENCY RESPONSE SERVICES BY THE FIRE DEPARTMENT FOR SERVICES PROVIDED/RENDERED FOR THE KEMPNER VOLUNTEER FIRE DEPARTMENT.

WHEREAS, the emergency services response activity to incidents continues to increase each year; Environmental Protection requirements involving equipment and training, and Homeland Security regulations involving equipment and training, creating additional demands on all operational aspects of the fire department services;

WHEREAS, the fire department has investigated different methods to maintain a high level of quality of emergency and non-emergency service capability throughout times of constantly increasing service demands, where maintaining an effective response by the fire department decreases the costs of incidents to insurance carriers, businesses, and individuals through timely and effective management of emergency situations, saving lives and reducing property and environmental damage;

WHEREAS, raising real property tax to meet the increase in service demands would not be fair when the responsible party(s) should be held accountable for their actions;

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the City of Kempner has general authority to adopt an ordinance or police regulation that is for the good government, peace, and order of the City; and

WHEREAS, the Board of the Kempner Volunteer Fire Department desires to implement a fair and equitable procedure by which to collect said mitigation rates and shall establish a billing system in accordance with applicable laws, regulations and guidelines;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KEMPNER, TEXAS THAT:

Section 1. The Kempner Volunteer Fire Department shall initiate mitigation rates for the delivery of emergency response services by the fire department for personnel, supplies and equipment to the scene of emergency response incidents as listed in "EXHIBIT A". The mitigation rates shall be based on actual costs of the services and that which is usual, customary and reasonable (UCR) as shown in "EXHIBIT A", which may include any services, personnel, supplies, and equipment and with baselines established in "EXHIBIT A" attached hereto and incorporated herein. In the event any rates for services rendered are not included in the attached "EXHIBIT A", the most recently published Federal Emergency Management Agency (FEMA) rate schedule(s) shall apply.

Section 2. A claim shall be filed to the responsible party(s) through their insurance carrier. In some circumstances, the responsible party(s) will be billed directly.

Section 3. The fire department's Board may make rules or regulations and from time to time may amend, revoke, or add rules and regulations, not consistent with this Section, as they may deem necessary or expedient in respect to billing for these mitigation rates or the collection thereof.

Section 4. It is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, *Chapt. 551 Tex. Gov't. Code.*

Section 5. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation of this ordinance of any such invalid phrase, clause, sentence, paragraph or section. If any provision of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision, and to this end the provisions of this Ordinance are declared to be severable.

Section 6. All prior ordinances of the City dealing with or applicable to emergency response services are hereby amended to the extent of any conflict herewith, and all ordinances or parts thereof conflicting or inconsistent with the provisions of this Ordinance as adopted and amended herein, are hereby amended to the extent of such conflict. In the event of a conflict or inconsistency between this Ordinance and any other code or ordinance of the City, the terms and provisions of this Ordinance shall govern.

Section 7. This Ordinance shall take effect at the date of adoption.

Section 8. The Mitigation Rates lists in Exhibit A will increase by 1.5% annually or based on the annual percentage increase in the Consumer Price Index (CPI), as developed by the Bureau of Labor Statistics of the U.S. Department of Labor, whichever is more. Rate adjustments will occur on the anniversary date of this ordinance/resolution to keep the fire department's cost recovery program in conformity with increasing operating expenses.

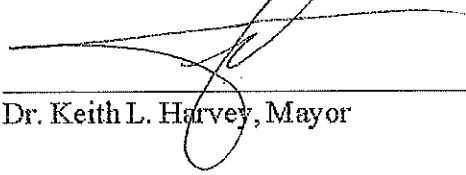
PASSED AND APPROVED on this 22nd day of October, 2019.

Attest:



Monica Peña, City Secretary

The City Kempner, Texas



Dr. Keith L. Harvey, Mayor

EXHIBIT A

MITIGATION RATES BASED ON PER HOUR

The mitigation rates below are average "billing levels", and are typical for the incident responses listed, however, when a claim is submitted, it will be itemized and based on the actual services provided.

These rates are based on actual costs using amortized schedules for apparatus (including useful life, equipment, repairs, and maintenance). Labor rates include an average department's actual burdened labor costs and not just a firefighter's wage. These include wages, retirement, benefits, workers comp, etc.

MOTOR VEHICLE INCIDENTS

Level 1 - \$494.00

Provide hazardous materials assessment and scene stabilization. This will be the most common "billing level". This occurs almost every time the fire department responds to an accident/incident.

Level 2 - \$562.00

Includes Level 1 services as well as clean up and material used (sorbents) for hazardous fluid clean up and disposal. We will bill at this level if the fire department has to clean up any gasoline or other automotive fluids that are spilled as a result of the accident/incident.

Level 3 - CAR FIRE - \$687.00

Provide scene safety, fire suppression, breathing air, rescue tools, hand tools, hose, tip use, foam, structure protection, and clean up gasoline or other automotive fluids that are spilled as a result of the accident/incident.

ADD-ON SERVICES:

Extrication - \$1,483.00

Includes heavy rescue tools, ropes, airbags, cribbing etc. This charge will be added if the fire department has to free/remove anyone from the vehicle(s) using any equipment. We will not bill at this level if the patient is simply unconscious and fire department is able to open the door to access the patient. This level is to be billed only if equipment is deployed.

Creating a Landing Zone - \$454.00

Includes Air Care (multi-engine company response, mutual aid, helicopter). We will bill at this level any time a helicopter landing zone is created and/or is utilized to transport the patient(s).

Itemized Response: You have the option to bill each incident as an independent event with custom mitigation rates, for each incident using, itemized rates deemed usual,

customary and reasonable (UCR). These incidents will be billed, itemized per apparatus, per personnel, plus products and equipment used.

ADDITIONAL TIME ON-SCENE

Engine billed at \$455 per hour.

Truck billed at \$568 per hour.

Miscellaneous equipment billed at \$341.

HAZMAT

Level 1 - \$796.00

Basic Response: Claim will include engine response, first responder assignment, perimeter establishment, evacuations, set-up and command.

Level 2 - \$2,842.00

Intermediate Response: Claim will include engine response, first responder assignment, hazmat certified team and appropriate equipment, perimeter establishment, evacuations, set-up and command, Level A or B suit donning, breathing air and detection equipment. Set-up and removal of decon center.

Level 3- \$6,707.00

Advanced Response: Claim will include engine response, first responder assignment, hazmat certified team and appropriate equipment, perimeter establishment, evacuations, first responder set-up and command, Level A or B suit donning, breathing air and detection equipment and robot deployment. Set-up and removal of decon center, detection equipment, recovery and identification of material. Disposal and environment clean up. Includes above in addition to any disposal rates of material and contaminated equipment. and material used at scene. Includes 3 hours of on scene time - **each additional hour @ \$336.00 per HAZMAT team.**

ADDITIONAL TIME ON-SCENE (for all levels of service)

Engine billed at \$455 per hour.

Truck billed at \$568 per hour.

Miscellaneous equipment billed at \$341.

FIRES

Assignment - \$455.00 per hour, per engine/ \$568.00 per hour, per truck

Includes:

- Scene Safety
- Investigation
- Fire / Hazard Control

This will be the most common "billing level". This occurs almost every time the fire department responds to an incident.

OPTIONAL: A fire department has the option to bill each fire as an independent event with custom mitigation rates.

Itemized, per person, at various pay levels and for itemized products use.

ILLEGAL FIRES

Assignment - \$455.00 per hour, per engine/ \$568.00 per hour, per truck

When a fire is started by any person or persons that requires a fire department response during a time or season when fires are regulated or controlled by local or state rules, provisions or ordinances because of pollution or fire danger concerns, such person or persons will be liable for the fire department response at a cost not to exceed the actual expenses incurred by the fire department to respond and contain the fire. Similarly, if a fire is started where permits are required for such a fire and the permit was not obtained and the fire department is required to respond to contain the fire the responsible party will be liable for the response at a cost not to exceed the actual expenses incurred by the fire department. The actual expenses will include direct labor, equipment costs and any other costs that can be reasonably allocated to the cost of the response.

WATER INCIDENTS

Level 1

Basic Response: Claim will include engine response, first responder assignment, perimeter establishment, evacuations, first responder set-up and command, scene safety and investigation (including possible patient contact, hazard control). This will be the most common "billing level". This occurs almost every time the fire department responds to a water incident.

Billed at \$455 plus \$57 per hour, per rescue person.

Level2

Intermediate Response: Includes Level 1 services as well as clean up and material used (sorbents), minor hazardous clean up and disposal. We will bill at this level if the fire department has to clean up small amounts of gasoline or other fluids that are spilled as a result of the incident.

Billed at \$909 plus \$57 per hour, per rescue person.

Level3

Advanced Response: Includes Level 1 and Level 2 services as well as D.A.R.T. (Drowning Accident Rescue Team) activation, donning breathing apparatus and detection equipment. Set up and removal of decon center, detection equipment, recovery and identification of material. Disposal and environment clean up. Includes above in addition to any disposal rates of material and contaminated equipment and material used at scene.

Billed at \$2,274 plus \$57 per hour per rescue person, plus \$114 per hour per HAZMAT team member.

Level4

Itemized Response: You have the option to bill each incident as an independent event with custom mitigation rates for each incident using itemized rates deemed usual, customary and reasonable (UCR). These incidents will be billed, itemized, per trained rescue person, plus rescue products used.

BACK COUNTRY OR SPECIAL RESCUE

Itemized Response: Each incident will be billed with custom mitigation rates deemed usual, customary and reasonable (UCR). These incidents will be billed, itemized per apparatus per hour, per trained rescue person per hour, plus rescue products used.

Minimum billed \$455 for the first response vehicle plus \$57 per rescue person. Additional rates of \$455 per hour per response vehicle and \$57 per hour per rescue person.

CHIEF RESPONSE

This includes the set-up of Command and providing direction of the incident. This could include operations, safety, and administration of the incident.

Billed at \$284 per hour.

MISCELLANEOUS/ ADDITIONAL TIME ON-SCENE

Engine billed at \$455 per hour.

Truck billed at \$568 per hour.

Miscellaneous equipment billed at \$341.