

ORDINANCE NO. 2021-03

EAST DUNDEE AND COUNTRYSIDE FIRE PROTECTION DISTRICT

SPILLER PAYS AND OTHER SERVICE FEES ORDINANCE

WHEREAS, the East Dundee and Countryside Fire Protection District (the “District”), Kane and Cook County, Illinois, is a fire protection district duly incorporated under the laws of the State of Illinois; and

WHEREAS, the Board of Trustees (the “Board”) has full power pursuant to **70 ILCS 705/6**, to pass all necessary ordinances, and rules and regulations for the proper management and conduct of the business of the District for carrying into effect the objects for which the District was formed; and

WHEREAS, the board previously adopted, on August 15th, 2006, Ordinance 2006-O4 requiring reimbursement to the District for payments to third parties for services rendered in providing aid or emergency relief and for payments to replenish necessary supplies and equipment used while providing air or emergency services.

WHEREAS, the cost of providing emergency response to incidents involving the actual or potential discharge of hazardous materials and to mitigate the effects of the discharge of hazardous materials within the District has increased rapidly in recent years; and

WHEREAS, the District has acquired and maintains specialized equipment, provides specialized training to District personnel, and participates with area response teams and respond to emergencies involving certain hazardous materials to prevent or mitigate the effects of the discharge of hazardous materials on the health, safety, and welfare of the District’s residents and property and on the ecological balance of the environment; and

WHEREAS, in order to obtain sufficient funds to provide emergency response to incidents involving the actual or potential discharge of hazardous materials and to mitigate the effects of the discharge of certain hazardous materials and where appropriate to require additional support services to address certain incidents beyond the resources of the District, it is necessary to require those individuals or entities requiring such emergency services to reimburse the District for such services; and

WHEREAS, the Board has found and determined that it is in the best interest of the District, its residents, businesses, and property owners to provide specific regulations regarding the actual or potential discharge of hazardous materials and to require reimbursement for emergency services involving hazardous materials

NOW, THEREFORE, BE IT ORDAINED by the Board of Trustees of the East Dundee and Countryside Fire Protection District, Kane and Cook County, Illinois, as follows:

SECTION ONE: The Board finds and determines the above recitals to be true and correct, and incorporates them as if written out here in full.

SECTION TWO: The Ordinance shall supersede any ordinances or motions or parts of ordinances or motions in conflict with any part herein, and any such ordinances or motions or parts of such ordinances are hereby repealed, including the entirety of Ordinance 2006-O4.

SECTION THREE: If any section, paragraph or provisions of the Ordinance shall be held invalid or unenforceable for any reason, such invalidity or unenforceability shall not affect any of the remaining provisions of this Ordinance.

SECTION FOUR: The Secretary of the East Dundee Fire Protection District is hereby directed to publish this Ordinance at least once in a newspaper published in the District. Publication shall take place at least ten (10) days prior to implementation of this Ordinance. The provisions of this Ordinance shall be in full force and effect ten (10) days after publication as provided by law (**70 ILCS 705/7**).

SECTION FIVE: Nothing in this Ordinance shall preclude the assessment of fees or other charges pursuant to any other laws or District Ordinances or Resolutions, including but not limited to penalties for filing or causing false fire alarms (**70 ILCS 705/6(h)**).

SECTION SIX: Any person or entity that refuses to pay or fails to pay the below-listed service charges within sixty (60) days of notice of the charge will be deemed to have violated this Ordinance. The District reserves the right to pursue all remedies at law and equity to recover charges due and owing, including the use of the services of collection agency.

SECTION SEVEN: The District's Fire Chief is hereby authorized to waive any or all of the fees due under the Ordinance. He or she may do so by policy or on an individual basis.

SECTION EIGHT: All revenue from the charges assessed pursuant to the Ordinance shall be deposited in the General Fund of the East Dundee and Countryside Fire Protection District.

TECHNICAL RESCUE SERVICES

SECTION NINE: Notwithstanding any other provision of rule of law, the following persons shall be jointly, or jointly and severally, liable for all costs of Technical Rescue Services as set forth in this Ordinance:

- A. The owner(s) of the property on which Technical Rescue Services are provided or occur; and
- B. The owner(s) of a vehicle at which Technical Rescue Services are provided or occur; and
- C. Any person(s) involved in any activity which caused or contributed to the causation of the emergency, including but not limited to any person filing a false report resulting in dispatch of Technical Rescue Services; and
- D. In cases involving rescue and recovery of an individual(s), the individual(s) and his/her employer if the person was in the District in furtherance of the employer's interests; and
- E. In cases involving the rescue or recovery of property, the owner of the property and anyone who had custody or control or control of the property at the time of the emergency.

SECTION TEN: The charges for District Emergency Technical Rescue Services or:

- A. For each category of Technical Rescue Services provided, except Extrication Rescue/ Recovery services:

<u>Category</u>	<u>Resident</u>	<u>Non-Resident</u>
1. Vehicles (per hour)	\$125.00 per vehicle	\$250.00 per vehicle
2. Team Members (per hour)	\$35.00 per member	\$70.00 per member
3. Cost of extraordinary expenses for all materials used in providing the response.		

- B. The term "Technical Rescue Services" as used in this Ordinance is defined as emergency rescue/recovery response services including, but not limited to the following categories or types of services: (a) High Angle Rescue/Recovery, (b) Confined Space Rescue/Recovery, (c) Trench Engulfment Rescue/Recovery, (d) Structural Collapse Rescue/Recovery, (e) River/Lake Rescue/Recovery, (f) Vehicle/Machinery Rescue/Recovery, and/or (g) Extrication Rescue/Recovery; and

SPILLER PAYS

SECTION ELEVEN: DEFINITIONS: As used in this Ordinance, the following terms shall have the following meanings.

COSTS All expenses incurred by the District or by another authorized emergency response agency for any removal or remedial action.

EMERGENCY RESPONSE AGENCY A unit of local government, volunteer organization or other support agency including licensed hazardous waste contractors that provide one (1) or more of the following services: (1) firefighting services; (2) emergency medical services; (3) emergency medical treatment or transportation; (4) hazardous materials response teams; (5) emergency service, disaster response or civil defense services; (6) public works or maintenance; (7) police agencies (federal, state, or local); or (8) remediation, mitigation, or disposal of hazardous materials by a hazardous waste contractor.

FACILITY Any building structure, installation, equipment, pipe, or pipeline including but not limited to any pipe into a sewer or publicly owned treatment works, well, pond, lagoon, impoundment, ditch, landfill, storage container, tank, motor vehicle, truck trailer, rolling stock, or aircraft. Also, any site or area where a hazardous material has been deposited, stored, disposed of, abandoned, placed, or otherwise come to be located.

HAZARDOUS MATERIALS Any material, substance, or mixture of materials or substances which are toxic, flammable, corrosive, explosive, carcinogenic, or radioactive including, but not limited to, any substance or material which is designated a hazardous material pursuant to the "Hazardous Materials Transportation Act" (**49 U.S.C. §5101 et seq.**) in a quantity and form which may pose a substantial present or potential hazard to human health, property or the environment when improperly released, treated, stored, transported, disposed of, or otherwise managed.

MATERIALS INCIDENT A situation involving an actual, suspected, or possible hazardous material for which the Fire District or other emergency response agency must respond in order to ensure the safety of personnel or property.

MUTUAL AID Any action taken by the Fire District or any public agency pursuant to an intergovernmental agreement, including, but not limited to agreements made as part of the Mutual Aid Box Alarm System (MABAS).

PERSON Any individual, business, firm, partnership, corporation, association, trust, estate, joint venture, or other legal entity, or their legal representative, agent, or assign.

RELEASE Any spilling, leaking, pumping, pouring, emitting, escaping, emptying, discharging, injecting, teaching, dumping, or disposing of a hazardous materials into or on any land, air,

water, well, stream, sewer or pipe so that such hazardous material or any constituent thereof may enter the environment.

REMEDIAL ACTION Any consistent with a permanent, remedy taken instead of, or in addition to, removal actions in the event of a release or threatened release of a hazardous material into the environment, to prevent or minimize the release of hazardous materials so that they do not migrate to cause a substantial present or potential hazard to human health, property or the environment. The term includes, but is not limited to, such actions at the location of the release as storage, confinement, perimeter protection using dikes, trenches, or ditches, clay cover, neutralization, clean up of released hazardous materials or contaminated materials, recycling or reuse, diversion, destruction, segregation of reactive wastes, repair or replacement of leaking containers, collection of leachate and runoff, onsite treatment or incineration, provision of alternate water supplies, and any monitoring reasonably required to assure that such actions protect the public health and welfare and the environment.

REMOVAL The cleanup or removal of released hazardous materials from the environment, such actions as may be necessary or appropriate to monitor, assess, and evaluate the release or threat of release of hazardous materials, the disposal of removed material, or the taking of such action as may be necessary to prevent, minimize, or mitigate damage to the public health or welfare of the environment.

RESPONSE Any removal or remedial action to a materials incident or other incident.

SECTION TWELVE: PROHIBITED ACTS: No person(s) shall cause, threaten or allow the release of hazardous materials into the environment unless such release is in accordance with an appropriate permit granted by the Illinois Environmental Protection Agency or other State or Federal agency having primary jurisdiction over the release and such release is in such place and manner as will not create a substantial present or potential hazard to human health, property or the environment.

SECTION THIRTEEN: RESPONSE AUTHORITY:

- A. The Fire Chief or his authorized representative shall have authority to respond to any release or threatened release of hazardous materials within the District or affecting the public water supply, wells, or sewage treatment works located within the District. The authority includes, but is not limited to, remedial action and removal.
- B. The Fire Chief shall have primary authority to respond to any release or threatened release of hazardous materials as described above. The Fire Chief shall report any release or threatened release of hazardous materials to all appropriate Federal, State, and local public health, safety and emergency agencies with twenty- four (24) hours of any substantial release of hazardous materials. The Fire Chief shall relinquish his response authority at such time, if any, as the Federal, State, or local emergency response agency having primary jurisdiction over the release or threatened release has assumed responsibility for responses to the release or threatened release.
- C. The Fire Chief, during such time as response authority is vested in him or her, shall be authorized to utilize all District personnel and equipment and he or she may, in his sole

discretion, take such remedial or removal action as he or she may deem necessary or appropriate to respond to the release or threatened release of hazardous material including the use of material and in accordance with any Mutual Aid Box Alarm System ("MABAS") agreements.

- D. All responding personnel shall cooperate with and operate under the direction of the Fire Chief or other person then exercising such response authority under this Ordinance until such time as the person exercising such response authority has determined that the response is complete or responsibility for response is assumed by the Federal, State, or local emergency response agency having primary jurisdiction over the release or threatened release.
- E. The person exercising response authority under this Ordinance shall coordinate and/or cooperate with other Federal, State, or local emergency response agencies involved in response to the release or threatened release of hazardous materials.
- F. By responding to and exercising its response authority over a hazardous materials incident, the District shall in no way be deemed to assume any liability for the release or threatened release of hazardous materials, nor be responsible in any way for the clean-up or other actions required to fully remedy the release.

SECTION FOURTEEN: LIABILITY FOR COSTS:

- A. Notwithstanding any other provision or rule of law, and subject only to the defenses set forth in this Ordinance, the following persons shall be jointly and severally liable for all costs of removal and remedial action incurred by the District as a result of a release or threatened release of a hazardous material.
 - 1. The owner and operator of a facility or vessel from which there is a release or substantial threat of release of a hazardous material.
 - 2. Any person(s) who, at the time of disposal, transport, storage, or treatment of a hazardous material, owned or operated the facility or vessel used for such disposal, transport, treatment or storage from which there was a release or substantial threat of a release of any such hazardous material.
 - 3. Any person(s) who by contract, agreement, or otherwise has arranged with another party or entity for transport, storage, disposal or treatment of hazardous materials owned, controlled or possessed by such person at a facility owned or operated by another party or entity from which facility there is a release or substantial threat of a release of such hazardous materials.
 - 4. Any person(s) who accepts or accepted any hazardous materials for transport to disposal, storage or treatment facilities or sites from which there is a release or a substantial threat of release of such hazardous substances.

5. Any person or entity who causes or substantially contributes to the cause of the incident.

SECTION FIFTEEN: DEFENSES: There shall be no liability under this Ordinance for a person otherwise liable who can establish by a preponderance of the evidence that the release or substantial threat of release of a hazardous material and the resulting damages occurred under one of the permitted defenses set for in **415 ILCS 5/22.2 (j)**

SECTION SIXTEEN: COSTS AND PENALTIES:

- A. Any person(s) who is liable for the release or threatened release of a hazardous material who fails without sufficient cause to pay for or provide removal or remedial action upon or in accordance with a notice and request of the District, or in accordance with any order of any court having jurisdiction on the matter, shall be liable to the District for any costs incurred by the District as a result of such failure to provide or take such removal or remedial action, together with the cost of any removal or remedial action taken by the District in accordance with the ordinance, and all attorneys' fees and related legal costs incurred in connection therewith.
- B. In addition, any such person(s) shall be guilty of a violation of this Ordinance and shall be fined not less than one hundred dollars (\$100.00) nor more than seven hundred and fifty dollars (\$750.00) for each offense. A separate offense shall be deemed committed such violation occurs or continues. Where such violation is found to be the result of willful and/or wanton conduct or gross negligence, or the person(s) committing such violation attempts to evade responsibility hereunder by leaving the scene of the occurrence or by other means, that person(s) shall be subject to a fine as provided for above or a fine in an amount equal to three (3) times the cost, including attorneys' fees and legal costs, for which it is liable under Paragraph A, whichever is greater.
- C. Charges for removal or remedial action when rendered by the District or any agency in accordance with any mutual aid agreement shall be as follows:
 1. The cost of vehicles as determined by the responding agency, but in no case less than \$250.00 per hour for all District vehicles, or such maximum rate as allowed by Illinois law, as amended from time-to-time; and
 2. The cost of all personnel including any overtime cost to the East Dundee and Countryside Fire Protection District or to any responding agency, incurred as a result of the removal or remedial action, but in no case less than \$70.00 per hour per team member, or such maximum rate as allowed by Illinois law, as amended from time-to-time; and
 3. The cost of all materials and equipment used, expended, depleted, destroyed or removed from service in accordance with federal, state or local ordinance as a result of the mitigation or containment operations or at the request of the District or any responding agency; and

than \$70.00 per hour per team member, or such maximum rate as allowed by Illinois law, as amended from time-to-time; and

3. The cost of all materials and equipment used, expended, depleted, destroyed or removed from service in accordance with federal, state or local ordinance as a result of the mitigation or containment operations or at the request of the District or any responding agency; and
4. The costs of service and/or goods provided by a private or public entity which are used, expended, depleted or destroyed as a result of the response.

D. Injunctive Relief: As an alternative or in conjunction with the imposition of a fine as provided in this Section, the District may elect to seek injunctive relief from a court of equity requiring compliance with this Ordinance. The District shall be entitled to an award of reasonable attorneys' fees and all costs of litigation including court costs, deposition fees and expert witness fees incurred in enforcing this Ordinance through this provision.

NON-RESIDENT FEES

SECTION SEVENTEEN: When emergency response services are rendered by the District for persons, businesses, or other entities who are not residents of the East Dundee and Countryside Fire Protection District, the District may charge up to \$250.00 per hour for all District vehicles responding and up to \$70.00 per hour per for personnel responding, or such maximum rate as allowed by Illinois law, as amended from time-to-time, and may charge for extraordinary expenses of materials used in rendering such services (**70 ILCS 705/11f(c)**)

SECTION EIGHTEEN: No charge pursuant to Section Seventeen (17) herein shall be levied against non-residents of the District if the total charge of the emergency response service is less than fifty dollars (\$50.00)

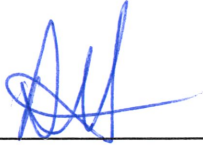
ADOPTED this 20 day of April 2021, by the following roll call vote

AYES: 3
NAYS: 0
ABSENT: 0



President, Board of Trustees
East Dundee and Countryside Fire
Protection District

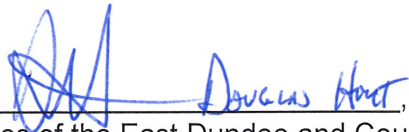
ATTEST



Secretary, Board of Trustees
East Dundee and Countryside Fire Protection District

STATE OF ILLINOIS)
COUNTY OF KANE) SS
)

SECRETARY'S CERTIFICATE

I,  Douglas Hoyt, the duly qualified and acting Secretary of the Board of Trustees of the East Dundee and Countryside Fire Protection District, Kane County, Illinois, do hereby certify that attached hereto is a true and correct copy of an Ordinance entitled:

ORDINANCE 2021-03

EAST DUNDEE AND COUNTRYSIDE FIRE PROTECTION DISTRICT
SPILLER PAYS AND OTHER SERVICE FEES ORDINANCE

Which Ordinance was duly adopted by said Board of Trustees at a meeting held on the 20th day of April, 2021

I do hereby further certify that a quorum of said Board of Trustees attended said meeting, and that the Board complied with all requirements of the Illinois Open Meetings Act.

IN WITNESS THEREOF, I have hereunto set my hand this 20 day of
June, 2021.



Secretary, Board of Trustees
East Dundee and Countryside Fire Protection
District