

## **ORDINANCE NO. 23-2**

AN ORDINANCE TO ALLOW THE MCMINNVILLE FIRE DISTRICT TO ADOPT COST-BASED FEES AND RATES FOR DISTRICT PROVIDED SERVICES AND ALLOWING FOR FUTURE BOARD AMENDMENTS OF FEES AND RATES BY RESOLUTION.

### **RECITALS:**

**Whereas**, the McMinnville 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 services provided by District personnel;

**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(1) authorizes a 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**, ORS 478.310(2) authorizes a district who responds to a call for assistance from an incident involving an airplane crash or an occurrence on a transportation route within the district the ability to recover costs from the person or property receiving the direct fire or safety services as a result of the incident. The following costs may be recovered:

- a. The contract or reasonable value of the use, including repairs and depreciation, of the apparatus and equipment used in accordance with a state standardized-costs schedule issued by the State Fire Marshal; and
- b. Other expenses or costs reasonably incurred in furnishing the assistance, as adopted by the service provider.

**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; and

**Whereas**, the Fire Chief, or his or her designee, will have the sole discretion to waive, or reduce any published rates and fees based on the circumstances of the services provided.

**NOW, THEREFORE, THE BOARD OF THE MCMINNVILLE FIRE DISTRICT ORDAIN AS FOLLOWS:**

- 1. Adoption of a rate and fee schedule.** The McMinnville Fire District hereby authorizes the adoption of a rate and fee schedule, by resolution of the Board. 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.
- 2. Fees established.** The Board of Directors hereby establishes and adopts 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 Fees**

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 on the most current fee schedule as adopted under Resolution.
  - b. Unprotected or Inadequately Protected Area Response Fees**

A cost-based fee may be imposed for response 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, using rates from the current adopted fee schedule. Fees shall not be imposed for requested mutual-aid responses.

**c. Conflagration/Mobilization response Fees**

A reimbursement-based fee will be collected from the State of Oregon for responses which support the Oregon Fire Service Mobilization plan in accordance with ORS 476.510-476.610. Reimbursement will be claimed for all resources as documented on the manifest list, approved expenses, and damaged or lost equipment. Reimbursement will be paid at the published rates of the current year mobilization plan.

**d. Transportation Route Response Fees**

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 or occurrences on such Transportation Routes, including aircraft crashes.

**e. Hazardous Materials Response Fees**

A cost-based fee may be imposed for responses involving hazardous materials. Costs may include reimbursement for personnel, administrative costs and miscellaneous supplies deemed reasonable and necessary to support and stabilize the hazardous materials incident.

**f. Ambulance Transport Fees**

A cost-based fee may be imposed for certain ambulance transports as provided for in the adopted fee schedule. 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 patients insurance using the contracted ambulance transportation billing agent.

**g. Medical Assistance Fees**

A cost-based fee may be imposed on patients and/or the patients insurance company for requests for emergency service which result in medical care being provided, however, the patient is not transported to a medical facility.

**h. Public Records Request Fees**

A cost-based fee may be imposed for public records requests. Requests for disclosure of public documents shall be in writing 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.

**i. Fire and Life Safety Inspection Fees**

A cost-based fee may be imposed for any fire and life safety inspections of existing occupancies located within Fire District boundaries. Fees for reinspection's of previously identified fire code violations, to correct such violations, shall be referenced in the most currently adopted fee schedule. Fees assessed will be based upon the actual cost of conducting such inspections, enforcing the code, or performing related fire inspection activities.

Fees may also be imposed for special event inspections, special request inspections or fire inspections which are conducted outside of normal working hours.

**j. Utility Assistance Fees**

A cost-based fee may be imposed for responses to service calls involving utilities such as electric or cable wires down, natural gas leaks, water main leaks, etc. In addition, administrative costs and miscellaneous supplies and services associated with utility assistance responses may also be billed.

**j. Open Burning Violation Fees**

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 and/or during official "burn bans" as established by the Yamhill County Fire Defense Board and/or the McMinnville Fire District.

**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.

- 3. 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; a vehicle or plane owner or agent; an occupant, a driver or passenger 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.

- 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, upon the Fire Chief's sole discretion. The fees 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.
- 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 and policy 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 10 business 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.
- 7. Collection 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. 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.** This Ordinance will take effect 30 days after passage by the Board of Directors.
- 9.** The recording secretary of the district board, after attesting the same, shall file this ordinance in the records of the district and cause a certified copy to be filed with the county clerk.

Passed by the Board of Directors of the McMinnville Fire District at a regular meeting held the 17<sup>th</sup> day of August 2023 by the following votes:

Ayes: 5 Garvin, Smyth, Pratt, Traff, Sparrow

Nays: 0

  
\_\_\_\_\_  
President

Approved as to form:


  
\_\_\_\_\_  
Fire District Attorney

Attest:

  
\_\_\_\_\_  
Fire Chief/ Recorder

### Certification of Copy

I hereby certify that the foregoing ordinance is a true and correct copy of the original ordinance on file with McMinnville Fire District.

  
\_\_\_\_\_

Presiding Officer  
President