

ORDINANCE NO. 2012-06  
(Uncodified)

**(Cost Recovery for Emergency Responses)**

The Contra Costa County Board of Supervisors, as and constituting the Board of Directors of the Contra Costa County Fire Protection District, ordains as follows:

**SECTION I. Authority.** This ordinance is enacted pursuant to Health and Safety Code Sections 13000 through 13011, and 13910 through 13919, and Government Code Sections 53150 through 53159.

**SECTION II. Recitals and Findings of Fact.**

- (a) The Contra Costa County Fire Protection District (“Fire District”) provides timely and efficient emergency, rescue, fire protection, and other services to residents and businesses located within the district, and to persons that visit, do business in, or travel through the Fire District’s jurisdiction.
- (b) Providing emergency, rescue, fire protection, and other services, and maintaining modern equipment and sufficiently trained personnel, are necessary for the protection of the public health, safety, and welfare of Fire District residents, businesses, and visitors.
- (c) The Fire District responds to a high volume of calls for emergency, rescue, fire protection, and other services, which causes a significant impact on the finances of the Fire District. Many of these calls relate to incidents that are caused or contributed to by a person’s or business’s negligence or violation of the law. These incidents may require a response of substantial Fire District resources and personnel, leaving other areas of the Fire District with less-than-normal coverage, and imposing a significant burden on Fire District financial resources.
- (d) The Fire District has experienced ongoing reductions in funding and increasing demands for services. The Fire District’s revenues are inadequate to continue to meet these service demands. In order to continue to provide a high level of service throughout the Fire District’s service area, the Fire District intends to recover its costs of providing emergency services for incidents that are caused by, or contributed to by, a person’s or business’s negligence or violation of the law.
- (e) The Fire District has reasonably calculated its costs for providing emergency services. These costs include the Fire District’s actual personnel and apparatus costs, the costs of supplies, and the costs of equipment. Each charge under this ordinance will be calculated based on, and will not exceed, the Fire District’s actual costs of providing emergency services.

### **SECTION III. Fire District Cost Recovery.**

- (a) This ordinance authorizes the Fire District to obtain reimbursement from responsible individuals for costs incurred by the Fire District in responding to emergencies caused by certain negligent or criminal actions, and establishes the Fire District's cost recovery rates.
- (b) Any person who acts negligently or in violation of the law and thereby requires the Fire District to provide an emergency response to a danger posed by a fire or hazardous substance is liable for reimbursement to the Fire District for its response costs incurred, in accordance with Health and Safety Code sections 13009, 13009.1 and 13009.6.
- (c) Any person who is under the influence of an alcoholic beverage or any drug, or the combined influence of an alcoholic beverage and any drug, and whose negligent operation of a motor vehicle, boat or vessel, or civil aircraft, proximately causes an incident, or who makes a false police report, and thereby requires the Fire District to provide an emergency response, shall reimburse the Fire District for its response costs incurred, in accordance with Government Code sections 53150 through 53158.
- (d) The amount of emergency response costs that the Fire District charges to any person will be calculated based on the Fire District's actual personnel costs, apparatus and vehicle costs, and service and equipment costs that are incurred in order to provide emergency services necessary to respond to the incident. The Fire District's hourly personnel costs, apparatus and vehicle costs, and service and equipment costs, are more particularly described in the Schedules of Costs that are attached hereto as Exhibits A through C, and incorporated herein by reference.
- (e) Any person who is charged emergency response costs is responsible for remitting payment of the response costs directly to the Fire District, or to cause its insurer to remit payment to the Fire District. Regardless of whether a person requests that an insurer reimburse the Fire District for its response costs, the person charged a response cost remains liable for payment of the charge until the charge is paid in full. A charge against a person under this ordinance is also a charge against the person's employer if the incident occurs in the course of the person's employment.
- (f) A charge against a person under this ordinance shall constitute a debt against the person or business until it is paid in full, and shall be collectable by the Fire District in the same manner as in the case of an obligation under contract, express or implied.
- (g) No charge against a person under this ordinance shall exceed the Fire District's actual costs of providing the emergency services for which the charge is incurred. Notwithstanding any other provision of this ordinance, if an incident is caused by or contributed to by any negligent act or violation of the law described in Government Code sections 53150 through 53159, then the response charge shall not exceed \$12,000 per incident, pursuant to Government Code section 53155.

#### **SECTION IV. Determination of Charge Amount; Payment.**

- (a) When the Fire District determines that it will charge a person or persons for costs incurred in responding to emergencies under this ordinance, Fire District personnel will prepare a written report that includes the following information: (1) the location, date, and time of the incident for which costs will be charged; (2) a calculation of the costs incurred by the Fire District in response to the incident; (3) the person or persons to be charged for those costs; (4) the evidence in support of the determination that the person or persons to be charged are liable for emergency response costs; and (5) a statement that the person or persons may appeal the charge.
- (b) The written report will be served on the person or persons to be charged for those costs along with an invoice. The invoice and report will be served either by: (1) certified mail and first-class mail; or (2) personal service. Service is deemed completed upon deposit of the invoice and report in the United States mail, or on the date of personal service.
- (c) The invoice must be paid by the person or persons within 30 days after the invoice is served, unless an appeal is timely filed.

#### **SECTION V. Appeal of Cost Recovery Charges.**

- (a) Any person who receives an invoice for emergency response costs incurred by the Fire District may appeal the charge within 30 days after the invoice is served.
- (b) An appeal of an emergency response cost invoice must be in writing and filed with the Fire Chief. The written appeal must include a brief statement of the material facts that the appellant claims supports his or her contention that no charge should be imposed or that a charge of a different amount is warranted.
- (c) Upon receipt of the request for appeal, the Fire Chief will schedule an appeal hearing before the Fire Chief. The Fire Chief will notify the person or business of the date, time and location of the hearing by mailing a notice to the person or business at least 10 days before the hearing date.
- (d) The Fire Chief will hear the appellant's evidence and argument in support of the appeal, and the Fire District's evidence and argument in support of the charge.
- (e) At the conclusion of the hearing, the Fire Chief will issue a decision that reverses, modifies, or affirms the amount of the charge. The decision will be in writing, include findings based on the evidence, and include the amount of the final charge. The Fire Chief will reduce or reverse the charge if one or more of the following findings are made: (1) the amount of the charge exceeds the Fire District's reasonable costs of providing the emergency services for which the charge was imposed; (2) the person did not act negligently or in violation of the law to cause or contribute to the incident for which emergency services were provided; (3) the charge is not authorized by statute; or (4) it

would not be in the public interest pursuant to Health and Safety Code section 13919 to require the person to pay some or all of the charge.

(f) The Fire Chief's decision is final on the date it is mailed.

**SECTION VI. Increases in Response Costs.** The Fire District Board of Directors may adjust any of the costs in Exhibits A through C pursuant to Health and Safety Code section 13916.

**SECTION VII. Other Application.** The costs in Exhibits A through C also apply when the Fire District pursues or is entitled to cost recovery pursuant to Health and Safety Code section 25500 et seq., Penal Code section 1203.11, or any other applicable law providing for cost recovery.

**SECTION VIII. Severability.** If any fee or provision of this ordinance is held invalid or unenforceable by a court of competent jurisdiction, that holding shall not affect the validity or enforceability of the remaining fees or provisions, and the Board declares that it would have adopted each remaining part of this ordinance irrespective of any such invalidity.

**SECTION IX. Effective Date.** This ordinance becomes effective 30 days after its passage. Within 15 days after its passage, this ordinance shall be published once with the names of the directors voting for and against it in the Contra Costa Times, a newspaper published in this County.

PASSED ON \_\_\_\_\_ by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST: DAVID J. TWA,  
Clerk of the Board of Supervisors  
and County Administrator

\_\_\_\_\_  
Board Chair

By: \_\_\_\_\_  
Deputy

[SEAL]

SMS:  
H:\Client Matters\CCCFPD\Cost Recovery Ordinance Final.wpd