

ORDINANCE # 2011-25
CAROL STREAM FIRE PROTECTION DISTRICT
SPILLER PAYS ORDINANCE

WHEREAS, Section 6 of the Illinois Fire Protection District Act, 70 ILCS 705/6, empowers the Board of Trustees to adopt all ordinances necessary to operate the Fire Protection District, and;

WHEREAS, The Hazardous Material Emergency Response Reimbursement Act, 430 ILCS 55, obligates responsible parties in a hazardous material emergency incident to reimburse emergency response agencies such as the District for the costs incurred in the course of providing emergency action; and

WHEREAS, the District's previous ordinance addressing hazardous material expense recovery, Ordinance Number 91-041, has not been updated for several years; and

WHEREAS, the Board of Trustees has deemed it necessary to adopt a new ordinance providing for the regulation, control and handling of hazardous materials and hazardous substances, and;

WHEREAS, because the cost for cleanup of hazardous material incidents can be excessive, the Board of Trustees has deemed it necessary and appropriate to assess financial responsibility for incidents involving hazardous materials and hazardous substances and to adopt a procedure for the recovery of costs incurred by the Carol Stream Fire Protection District related thereto.

NOW, THEREFORE, be it ordained by the Board of Trustees of the Carol Stream Fire Protection District as follows:

- I. **DEFINITIONS:** For the purposes of this Article the following words and/or phrases shall have the meanings respectively ascribed to them:
- (a) Hazardous Substances or Hazardous Material: means a substance or material in a quantity and form determined by the United States Department of Transportation to be capable of posing an unreasonable risk to health and safety or property when transported in commerce.
 - (b) Hazardous Material Incident or Hazardous Material Emergency Incident: means an incident which threatens public health or safety involving the actual potential release of a hazardous substance or hazardous material.
 - (c) Person: shall mean an individual, partnership, corporation, trust, firm, company, estate, unincorporated association, any unit of federal, state or local government, or other legal entity.

- (d) District: means the Carol Stream Fire Protection District, or any entity or agency acting on its behalf, including but not limited to other fire departments responding to mutual aid calls and independent contractors.
- (e) Responsible Party: shall mean a person who (1) owns or has custody of hazardous material that is involved in an incident requiring emergency action by the District; or (2) owns or has custody of bulk or non-bulk packaging or a transport vehicle that contains hazardous material that is involved in an incident requiring emergency action by the District; and (3) who causes or substantially contributed to the cause of the incident.

II. **HAZARDOUS MATERIALS OR HAZARDOUS SUBSTANCE INCIDENT EXPENSE RECOVERY:**

- (a) Any Responsible Party in a hazardous material incident shall be jointly and severally liable for all of the following:

- (1) Reimbursement in full for any and all costs incurred by the District in responding to such hazardous materials incidents at the rate of \$250.00 per hour per vehicle and the hourly rate of pay, including overhead costs, for each employee who participates in such response to a hazardous materials incident. Costs shall include reimbursement in full for all costs of collection incurred by the District in enforcing the provision of this ordinance including reasonable attorneys' fees and costs.

- (2) Reimbursement in full for any and all costs incurred by the Carol Stream Fire Protection District for equipment and materials damaged, lost, spent, destroyed or rendered irreparable in connection with a hazardous materials incident.

- (3) Assumption of any and all liability and costs for any cleanup or removal resulting from a hazardous material incident, including, but not limited to, any independent cleanup contractor necessitated by such hazardous material incident.

- (b) The Carol Steam Fire Protection District shall prepare and forward to the Responsible Party or Parties in a hazardous material incident a bill for the total costs and expenses incurred for which said person or persons are responsible pursuant to this Section; provided, however, any cost in connection with any independent cleanup contractor shall be billed directly by such contractor. Payment of the total bill shall be made within sixty (60) days of receipt. Any bill or portion of a bill remaining unpaid after sixty (60) days of receipt shall accrue interest on the unpaid balance of 1 ½% per month, or the maximum legal rate, whichever is lower.

III. **LIMITATION OF LIABILITY:** The Carol Stream Fire Protection District, its agents, its officers, and employees shall not have any liability or responsibility for any claim, injury, or damage of any kind resulting from a hazardous

material incident to which the District or any of its departments officers, agents or employees respond.

IV. **INVALIDITY:** Should any clause, sentence, paragraph, or part of this ordinance be declared by a Court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid.


V. **Prior Conflicting Ordinances:** Ordinance 91-041 shall hereby cease to apply for hazardous material incidents occurring after the effective date of this Ordinance, although it will continue to apply in full force and effect for persons who were assessed charges thereunder prior to the effective date of this Ordinance. All other ordinances or parts of ordinances in conflict with the provisions hereof are hereby repealed insofar as they conflict therewith.

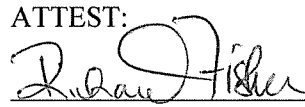
VI. **EFFECTIVE DATE:** This ordinance shall be in full force and effect upon the later of January 1, 2012, or after its passage, approval, and publication as provided by law.

VII. **ADMINISTRATION:** The Fire Chief is hereby authorized and directed to publish this Ordinance in a newspaper published in the District within thirty days of the Ordinance's passage as required by law, and to administer and enforce the provisions of the Ordinance within its intent, meaning and purpose.

BY ORDER OF The Board of Trustees of the Carol Stream Fire Protection District, as passed this 14th day of November, 2011.

AYES: _____
NAYS: _____
ABSTAIN: _____
ABSENT: _____


Deldon D. Miller, President

ATTEST:

Richard Fisher, Secretary