

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FRISCO, TEXAS, AMENDING FRISCO’S CODE OF ORDINANCES, ORDINANCE NO. 06-03-31, CHAPTER 34 (ENVIRONMENT), ARTICLE III (HAZARDOUS MATERIALS), SECTION 34-56 (DEFINITIONS); MODIFYING THE DEFINITION OF CERTAIN TERMS USED IN ARTICLE III (HAZARDOUS MATERIALS); CLARIFYING CERTAIN FEES TO BE CHARGED FOR SERVICES PROVIDED BY FRISCO IN CONNECTION WITH THE ABATEMENT OR CLEANUP OF HAZARDOUS MATERIALS INCIDENTS; MODIFYING AND CLARIFYING CERTAIN REGULATIONS RELATED TO THE IMPOSITION OF SUCH FEES; PROVIDING A SAVINGS/REPEALING CLAUSE, SEVERABILITY CLAUSE, PENALTY CLAUSE AND AN EFFECTIVE DATE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

WHEREAS, the Fire Department of the City of Frisco, Texas (“Frisco”) is authorized to identify, control and clean up hazardous materials incidents and to coordinate the assistance of other departments and agencies as might be necessary; and

WHEREAS, the Frisco Fire Department also is authorized to inspect facilities to ensure compliance with regulations governing the storage, use and handling of hazardous materials; and

WHEREAS, in Ordinance No. 10-01-04, the Frisco City Council (“City Council”) established fees to be charged for services provided by Frisco in connection with the abatement or cleanup of hazardous materials incidents and established permit fees for the storage, use and handling of hazardous materials in Frisco; and

WHEREAS, Ordinance No. 10-01-04 is codified at Article III (Hazardous Materials) of Chapter 34 (Environment) of Frisco’s Code of Ordinances, Ordinance No. 06-03-31, as amended (“Code of Ordinances”); and

WHEREAS, the City Council has investigated and determined that it would be advantageous and beneficial to the citizens of Frisco to amend Section 34-56 (Definitions; Fees) Article III (Hazardous Materials) of Chapter 34 (Environment) of Frisco’s Code of Ordinances by modifying the definition of certain terms used in Article III (Hazardous Materials); clarifying certain fees to be charged for services provided by Frisco in connection with the abatement or cleanup of hazardous materials incidents; and modifying and clarifying certain regulations related to the imposition of such fees; and

WHEREAS, Frisco has complied with all notices and public hearings as required by law; and

WHEREAS, the City Council finds that it would be advantageous and beneficial to the citizens of Frisco to amend Chapter 34 (Environment), Article III (Hazardous Materials), Section 34-56 (Definitions) of the Code of Ordinances, as set forth below.

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

SECTION 1: Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2: Amendment to the Code of Ordinances, Chapter 34 (Environment), Article III (Hazardous Materials), Section 34-56 (Definitions). The Code of Ordinances, Chapter 34 (Environment), Article III (Hazardous Materials), Section 34-56 (Definitions) is hereby amended as follows:

“ARTICLE III. HAZARDOUS MATERIALS

Sec. 34-56 Definitions; Fees; Imposition of Fees

- (a) **Definitions.** For purposes of this article, the following words and phrases shall have the following meanings:

Costs incurred by the Fire Department, Police Department, Health Department, Public Works, and/or any other department and/or agency of Frisco shall include, but not be limited to, expenses attributable to the abatement or cleanup of any hazardous materials incident, including the following: personnel costs; equipment operation costs; costs of materials and supplies; costs of specialists, experts, or other contract labor not in the full time employment of Frisco; disposal costs; overhead costs; overtime costs; and any other incidental cost incurred by Frisco. Basic costs associated with services provided by the Fire Department shall be as outlined in the table below.

For hazardous materials incidents located within the jurisdiction of the City of Frisco, costs and fees are measured from the time the first Fire Department vehicle arrives at the incident site; all costs described in this ordinance shall be billable.

For hazardous materials incidents located outside the jurisdiction of the City of Frisco, costs and fees are measured from the time the first Fire Department vehicle checks en route to the incident site; all costs described in this ordinance shall be billable.

Hazardous materials means any substances or materials in a quantity or form which, in the determination of the fire chief, or his authorized representative, poses a risk to persons, property, or the environment, and shall include, but not be limited to, such substances as explosives, radioactive materials, petroleum products, poisons, compressed or liquefied gases, etiologic (biologic) agents, oxidizers, corrosives, carcinogens, cryogens, and organic peroxides.

Hazardous materials incident means the release, or potential release, of a hazardous material from its container into the environment.

(b) Fees.

EQUIPMENT			
Code	Heavy	Rate	Unit
AUTO - 1001	All Terrain Transport Vehicle	\$230.00	day
AUTO - 1002	All Terrain Transport Trailer	\$180.00	day
AUTO - 1003	Backhoe Loader (Public Works)	\$330.00	day
AUTO - 1006	Hazardous Materials Response Unit	\$500.00	hour
AUTO - 1007	Support Vehicle	\$100.00	hour
AUTO - 1011	Trailer, Equipment Hauler 20'	\$100.00	day
AUTO - 1014	Command Communications Vehicle	\$500.00	hour
AUTO -1015	Fire Engine/Brush	\$480.00	hour
AUTO -1016	Aerial Ladder Truck/Quint	\$480.00	hour
AUTO -1017	Mobile Intensive Care Unit	\$240.00	hour
AUTO -1018	Chief Officer/ Safety Officer Vehicle	\$240.00	hour
AUTO -1019	Special Operations - Heavy Rescue	\$500.00	hour
Code	Pumps	Rate	Unit
PMP - 1006	Fuel Transfer Pump	\$75.00	day
PMP - 1008	Fuel Transfer Hose	\$100.00	day
Code	Sampling / Diagnostic	Rate	Unit
DIA - 1001	pH Analysis (Roll, Box)	\$25.00	roll
DIA - 1002	Chemical Classifier Strips	\$35.00	tube
DIA - 1006	Drager, CDS Colorimetric System, w/ Tubes	\$250.00	day
DIA - 1008	Smiths Detection, HazMat ID, (Solids, Liquids, Pastes)	\$500.00	day
DIA - 1009	Smiths Detection, Gas ID, (Gas, Vapors, Aerosols)	\$500.00	day
DIA - 1010	Smiths Detection, Responder RCI (Raman Spectral)	\$300.00	day
DIA - 1011	Smiths Detection, HGVI	\$1,500.00	day
DIA - 1012	Smiths Detection APD 2000 (Chem TICs, Irritants)	\$200.00	day
DIA - 1017	RAE Systems, Multi-Rae	\$100.00	day
DIA - 1018	RAE Systems, Isotope Identifier	\$150.00	day
DIA - 1019	RAE Systems, Q-Rae Plus or Toxi-Rae or 4-Gas	\$150.00	day
DIA - 1020	RAE Systems, Gamma Rae Dosimeter / Detector	\$100.00	day

Code	HazMat Equipment	Rate	Unit
HMT - 1001	Chlorine Emergency "A" Kit	\$500.00	day
HMT - 1002	Chlorine Emergency "B" Kit	\$750.00	day
HMT - 1003	Chlorine Emergency "C" Kit	\$1,000.00	day
HMT - 1004	Transfer Equipment	\$500.00	day
HMT - 1006	Portable Lights	\$25.00	day
HMT - 1007	Chain Saw	\$80.00	day
HMT - 1010	Drum Dolly	\$30.00	day
HMT - 1014	Generator, 10 kw	\$100.00	day
HMT - 1015	Pressure Washer, 3,000 psi or less	\$275.00	day
HMT - 1016	Saw, Air Powered Cut Off Wheel	\$80.00	day
HMT - 1017	Saw, Portable	\$80.00	day
Code	PERSONNEL	Rate	Unit
PER - 1007	Operator, Heavy Equipment (Public Works)	\$45.00	hour
PER - 1013	IT/Communications Specialist (IT Department)	\$60.00	hour
PER - 1018	Engineer (Engineering Department)	\$75.00	hour
	Other Specialist/Experts (Professional)	cost	hour
Code	COMMUNICATIONS	Rate	Unit
COM - 1001	Communication Service Fees (Data, Voice, Other)	Cost	unit
PERSONAL PROTECTIVE EQUIPMENT			
Code	Suits	Rate	Unit
PPE - 1001	Bunker Gear (Pants, Coat, Gloves, Helmet, Boots)	cost	each
PPE - 1003	Cool Vest	\$55.00	each
PPE - 1005	Coveralls, Tyvek / Saranex Stitched Seam	\$10.00	each
PPE - 1008	Level A, Responder, Tychem 10K, Kappler Z500	\$795.00	each
PPE - 1009	Level A, St. Gobain "One Suit"	\$1125.00	each
PPE - 1010	Level B, Fully Encapsulated (CPF 4)	\$240.00	each
PPE - 1012	Level B, MT-94 CBRNE / Utility Recon Suit	\$195.00	each
PPE - 1014	Level C, Hood, Boot (CPF 1)	\$25.00	each
PPE - 1017	Full Body Harnesses, Fall Protection	\$200.00	each
Code	Boots	Rate	Unit
PPE - 2003	Chemical Vapor Boot	\$25.00	pair
Code	Gloves	Rate	Unit

MIS - 1023	Decontamination Shower - Single	\$500.00	day
MIS - 1024	Decontamination Shower - Multi Stage	\$1,500.00	day
MIS - 1025	Submersible Pump, 1/6 hp	\$20.00	day
MIS - 1026	Electric Tent Inflator, 1/3 hp	\$10.00	day
MIS - 1027	Rotary Drain Pump w/ Drip Pan	\$110.00	each
MIS - 1032	Utility Scrub Brush, Long Handle	\$13.00	each
MIS - 1035	Pre & Post Decon Kit - Civilian	\$50.00	each
MIS - 1038	Flashlight	\$10.00	day

(c) Imposition of Fees. The following regulations shall apply in connection with the imposition and collection of fees for the recovery of costs incurred by the Fire Department, Police Department, Health Department, Public Works, and/or any other department and/or agency of Frisco under this ordinance:

- (1) Stand-by rates will be equal to the daily rates in the schedule set forth in subsection (b) unless otherwise agreed to in writing.
- (2) The usage period begins when an item of equipment is first made available for use on the hazardous materials incident site and continues until such equipment is returned to the apparatus for use in other hazardous materials incidents or is returned to the responsible party for disposal or replacement.
- (3) The rates set forth in subsection (b) apply to, among other things, equipment, personnel and materials utilized by Frisco in the performance of public safety and mitigation during a hazardous materials incident.
- (4) During the course of performance of work, Frisco may add additional equipment items to the schedule set forth in subsection (b) at rates to be determined by the City of Frisco Purchasing Department.
- (5) Due to the nature of hazardous chemical mitigation, it may be necessary to dispose of equipment and / or protective clothing due to corrosion or wear. If necessary, the scheduled rates set forth in subsection (b) will be charged plus replacement at cost.
- (6) In the event any item of equipment is damaged at the hazardous materials incident site, Frisco shall be entitled, at its option, to charge the replacement or repair cost of such item of equipment. Repair or replacement cost shall be billed at cost.
- (7) Decontamination charges will be charged according to the applicable rates identified in the schedule set forth in subsection (b).
- (8) Rebuild fees may be charged when a pump is damaged during operation on the hazardous materials incident site. Repair parts and labor may be charged in lieu of rebuild fees when minor damage occurs.

- (9) The cost of all laboratory services, testing services, and / or other services that are not performed by Frisco and are subcontracted by Frisco shall be charged in an amount equal to Frisco's cost for such subcontracted service.
- (10) Minimum protective equipment shall include, but not limited to, hard hats, safety goggles, safety shields, steel toe boots and standard Frisco Fire Department uniforms. Additional charges for these items may be invoiced when such items are damaged or broken or when they must be replaced due to contamination or damage.
- (11) In the event that any Frisco personnel are engaged to provide expert testimony in any court, administrative or other proceeding, the rate for such personnel while testifying, either at a deposition or hearing, shall be two (2) times the hourly rate of such personnel.
- (12) The information contained in the schedule set forth in subsection (b) is intended for the use of the person, firm, entity or corporation to which an invoice or claim presented.
- (13) In the event that a responsible party fails to pay an invoice submitted under this ordinance, the responsible party may be subject to a "Stop Work Order" from the City of Frisco, which may apply to, among other projects, the project in which the hazardous materials incident occurred."

SECTION 3: Savings/Repealing. The Code of Ordinances shall remain in full force and effect, save and except as amended by this or any other ordinance. All provisions of any ordinance in conflict with this Ordinance are hereby repealed, but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent prosecution from being commenced for any violation occurring prior to the repeal of the ordinance. Any remaining portions of conflicting ordinances shall remain in full force and effect.

SECTION 4: Severability. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional and/or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, regardless of whether any one or more sections, subsections, sentences, clauses or phrases is declared unconstitutional and/or invalid.

SECTION 5: Penalty. Any person, firm, entity or corporation violating any provision of this Ordinance, as it exists or may be amended, shall be guilty of a misdemeanor, and on conviction, shall be fined in an amount not exceeding Two Thousand Dollars (\$2,000.00). Each continuing day's violation shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude Frisco from filing suit to enjoin the violation. Frisco retains all legal rights and remedies available to it pursuant to local, state and federal law

SECTION 6: Effective Date. This Ordinance shall become effective from and after its adoption and publication as required by the City Charter and by law.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF FRISCO, TEXAS on this ____ day of _____, 2016.

Maher Maso, Mayor

**ATTESTED TO AND
CORRECTLY RECORDED BY:**

Jenny Page, City Secretary

APPROVED AS TO FORM:



Abernathy Roeder Boyd & Hullett P.C.
Ryan D. Pittman, City Attorneys

Dates of Publication: _____, *Frisco Enterprise*