

ORDINANCE NO.

AN ORDINANCE AMENDING CHAPTER 12, SECTION 13 (g) TO ADD “IMPOSING LIFT ASSIST FEES” ORDINANCE OF THE CITY OF JOLIET CODE OF ORDINANCES

WHEREAS, the Illinois Municipal Code, 65 ILCS 5/1-2-1, provides that the corporate authorities of each municipality may pass all ordinances and make all rules and regulations proper or necessary, to carry into effect the powers granted to municipalities, with such fines or penalties as may be deemed proper; and,

WHEREAS, the City of Joliet is a Home Rule Illinois municipality pursuant to the Constitution of the State of Illinois of 1970, as amended; and,

WHEREAS, Section 11-6-1 of the Illinois Municipal Code, 65 ILCS 5/11-6-1, empowers Illinois municipalities to operate municipal fire and public safety departments that provide fire and rescue services to residents and others; and,

WHEREAS, the City of Joliet operates one such department that provides fire and rescue services to residents and others; and,

WHEREAS, the City of Joliet has reported requests for “Lift Assists”, as that term is defined herein; and, requests for “Lift Assists” are increasing operational costs and diverting the City of Joliet’s limited resources away from other calls for service and emergencies; and,

WHEREAS, the City of Joliet understands that, while “Lift Assists” are a service provided in appropriate circumstances, “Lift Assists” are (1) labor and time intensive; (2) not intended to be a primary service offering by the Fire Department; and, (3) must be balanced with the other fire and rescue services that all residents of the City of Joliet expect; and,

WHEREAS, Section 11-6-12 of the Illinois Municipal Code, 65 ILCS 5/11-6-12, empowers the City of Joliet to balance these competing demands by allowing that any assisted living facility or nursing home facility within the City of Joliet can receive six (6) “Lift Assists” annually at no cost, while allowing the City of Joliet to fix, charge and collect a reasonable fee for any “Lift Assist” requested beyond the six (6) provided annually; and,

WHEREAS, Illinois courts have recognized that fee assessments like the one in Section 11-6-12 of the Illinois Municipal Code are intended to protect taxpayers because they allow the municipality’s public safety, fire and rescue services to provide a unique, labor-intensive service in a manner that appropriately allocates the cost of that service between the taxpayers and the requestor. See, e.g., City of Effingham v. Diss Truck & Repair, LLC, 2019 IL App (5th) 180064; and,

WHEREAS, the Mayor and City Council believe that it is appropriate, necessary and in the best interests of the City of Joliet and its residents, that the City of Joliet affirm its intent to provide six (6) “Lift Assists” annually to the assisted living facilities and nursing home facilities within the City of Joliet at no cost, while adopting a fee schedule for providing additional “Lift Assists” beyond the initial six (6); and, the City of Joliet understands that, while “Lift Assists” are a service provided in appropriate circumstances, “Lift Assists” are (1) labor and time intensive; (2) not intended to be a primary service offering by the Fire Department; and, (3) must be balanced with the other fire and rescue services that all residents of the City of Joliet expect; and,

WHEREAS, the Mayor and City Council believe that such fee structure would appropriately allocate the cost of providing "Lift Assists" while also protecting the operational readiness of the City of Joliet to address other services.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF JOLIET, PURSUANT TO ITS HOME RULE AND STATUTORY AUTHORITY, AS FOLLOWS:

SECTION 1: The Mayor and City Council hereby find that the recitals contained in the remainder of this Ordinance are true, correct and complete and are hereby incorporated into this Ordinance by reference.

SECTION 2: The Chapter 12, Section 13(f) shall include the following definitions to read as follows:

- (6) "Assisted Living Facility" means any facility licensed under the Assisted Living and Shared Housing Act, 210 ILCS 9/1, et seq., as well as any other residential setting that provides assisted-living services for remuneration to three or more persons who reside in such residential setting and are not related to the owner of the residential setting, including but not limited to (i) a Supportive Living Program participant that is regulated by the Illinois Department of Healthcare and Family Services and, (ii) unless expressly exempted in this section, includes a home, an apartment or other facility. Notwithstanding any other provision of this Ordinance to the contrary, "assisted living facility" shall not include an apartment or facility where casual care is provided at irregular intervals, nor where a competent person residing in such home, apartment or facility providing for or contracting for his or her own personal or professional services if no more than 50 percent of the persons residing in such home, apartment or facility receive such services.
- (7) "Lift Assist" means a response to an assisted living facility or nursing home facility by personnel of a fire department, an emergency response unit or a unit of another public safety department providing automatic or mutual aid to a municipality in order to lift a patient or other individual from the individual's current position to a desired position. Notwithstanding anything in this Ordinance to the contrary, the act of lifting a patient or other individual during a response to a request for transportation to a health care facility (specifically such as a hospital or emergency room) shall not be considered a lift assist service.
- (8) "Nursing Home" means a facility licensed under the Nursing Home Care Act, 210 ILCS 45/1, et seq., or a facility or long-term care facility where medical care, nursing care, rehabilitation or related services and associated treatment are provided for a period of more than 24 consecutive hours to persons residing at such facility who are ill, injured or disabled.

SECTION 3: that Chapter 12, Section 13(g) Imposing Lift Assist Fees, shall be added to read as follows:

- (a) **Imposition of Lift Assist Fee.** The City of Joliet is hereby empowered, to the maximum extent permitted by Section 11-6-12 of the Illinois Municipal Code, to assess a fee for providing a Lift Assist to any Assisted Living Facility or Nursing Home within the City of Joliet. Said fee shall not exceed the actual personnel and equipment costs incurred by the department in rendering the Lift Assist.
- (b) **Lift Assist as Firefighting Service.** To the extent that the City of Joliet currently fixes, charges and collects a fee for firefighting services under Section 11-6-1.1 of the Illinois Municipal Code,

65 ILCS 5/11-6-1.1, a Lift Assist is hereby declared to constitute a firefighting service provided by the department.

(c) Rules and Regulations. The Fire Chief or their designee is hereby authorized and directed to promulgate reasonable rules and regulations related to the imposition, assessment and collection of the fees allowed under this Ordinance, except that no such rule or regulation shall provide any official with the authority to reduce or waive any fee imposed under this Ordinance without a concurrence of the Mayor and City Council.

| <u>NUMBER OF ALARMS</u> | <u>SERVICE CHARGE</u> |
|--------------------------------|------------------------------|
| 0 - 6 | No charge |
| 7 – 10 | \$350.00 Charge Per Call |
| 11 or more | \$500.00 Charge Per Call |

SECTION 3: In the event that any provision(s) or portion(s) of this Ordinance shall be declared invalid or unenforceable by a Court of competent jurisdiction, such adjudication shall in no way affect or impair the validity or enforceability of any of the remaining provision(s) or portion(s) of this ordinance that may be given effect without such invalid or unenforceable provision(s) or portion(s).

SECTION 4: All ordinances or parts thereof in conflict herewith are hereby repealed to the extent of any such conflict.

SECTION 5: This Ordinance shall be deemed severable, and the invalidity of any portion hereof shall not invalidate the remainder.

SECTION 6: This ordinance shall be in full force and effect immediately upon its passage, approval and publication as provided by law.

PASSED this ____ day of _____, 20____.

MAYOR

VOTING YES: _____

VOTING NO: _____

CITY CLERK

NOT VOTING: _____