ORDINANCE NO. 1564

AN ORDINANCE IMPOSING LIFT ASSIST FEES

FOR THE VILLAGE OF DWIGHT

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 Village of Dwight is a non-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 Village operates one such department that provides emergency services to residents and others; and,

WHEREAS, the Village has reported requests for Lift Assists, as that term is defined herein; and,

WHEREAS, requests for Lift Assists are increasing operational costs and diverting the Village limited resources away from other calls for service and emergencies in the Village; and,

WHEREAS, the Village understands that, while Lift Assists are a service provided in appropriate circumstances, Lift Assists (1) are labor and time intensive; (2) are not intended to be a primary service offering by the Emergency Services Department; and, (3) must be balanced with the other emergency services that all residents of the Village expect; and,

WHEREAS, Section 11-6-12 of the Illinois Municipal Code, 65 ILCS 5/11-6-12, empowers the Village to balance these competing demands by allowing that any assisted living facility or nursing home facility within the Village can receive six (6) Lift Assists annually at no cost, while also empowering the Village to fix, charge and collect a reasonable fee for any Lift Assist requested beyond the six (6) that are 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, emergency 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 President and Board of Trustees of the Village believe that it is appropriate, necessary and in the best interests of the Village and its residents, that the Village affirm its intent to provide six (6) Lift Assists annually to the assisted living facilities and nursing home facilities within the Village at no cost to the facility, while also adopting a fee schedule for providing any additional Lift Assists beyond the six (6) discussed herein; and,

WHEREAS, the President and Board of Trustees of the Village believe that such a fee structure would appropriately allocate the cost of providing Lift Assists while also protecting the operational readiness of the Village to address other requests for service.

NOW, THEREFORE, be it ordained, by the President and Board of Trustees of the Village of Dwight as follows:

Section 1. Incorporation of Recitals. The foregoing recitals shall be and are hereby incorporated as findings of fact as if said recitals were fully set forth herein.

Section 2. Definitions. In addition to those terms previously defined, the following terms shall be defined to mean:

A. "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.

B. "Lift Assist" means a response to an assisted living facility or nursing home facility by personnel of a emergency management 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.

C. "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. Imposition of Lift Assist Fee. The appropriate municipal department 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 Village. Said fee shall not exceed the actual personnel and equipment costs incurred

by the department in rendering the Lift Assist. Any on-site appearances for a Lift Assist, beyond the initial six (6) Lift Assists provided on a calendar basis at no cost, shall, under Section 11-6-12, be assessed pursuant to the Village of Dwight's fee schedule.

Section 4. Lift Assist as Emergency Service. To the extent that the municipal department currently fixes, charges and collects a fee for emergency 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.

Section 5. Rules and Regulations. The appropriate municipal department 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 President and Board of Trustees of the Village.

Section 6. Repeal of Conflicting Provisions. All ordinances, resolutions and policies or parts thereof, in conflict with the provisions of this Ordinance are, to the extent of the conflict, expressly repealed on the effective date of this Ordinance.

Section 7. Severability. If any provision of this Ordinance or application thereof to any person or circumstances is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Ordinance is severable.

Section 8. Headings/Captions. The headings/captions identifying the various sections and subsections of this Ordinance are for reference only and do not define, modify, expand or limit any of the terms or provisions of the Ordinance.

Section 9. Publication. The clerk is directed by the corporate authorities to publish this Ordinance in pamphlet form. This Ordinance shall be in full force and effect after its passage and publication in accordance with 65 ILCS 5/1-2-4.

PASSED THIS 26th day of February, 20 26.

AYES: 4
NAYS: 0
ABSTENTIONS: 0
ABSENT: 3

APPROVED THIS 26th day of February, 20 26.

Village President

ATTEST:

Nicole Bozarth
Clerk