

REPORT TO COUNCIL

City of Sacramento



915 I Street, Sacramento, CA 95814-2604
www.CityofSacramento.org

Staff Report
November 23, 2010

**Honorable Mayor and
Members of the City Council**

Title: Ordinance: Adding City Code Chapter 8.128 Relating to Fire Cost Recovery

Location/Council District: Citywide

Recommendation: 1) Adopt an **Ordinance** adding City Code Chapter 8.128 Relating to Fire Cost Recovery; 2) Adopt a **Resolution** establishing fees for services for motor vehicle accidents and vehicle fires

Contact: Lloyd Ogan, Operations Deputy Chief, Fire Department, (916) 808-1300
Mark Prestwich, Special Projects Manager, City Manager's Office,
(916) 808-5380

Presenter: Ray Jones, Fire Chief, (916) 808-1300

Department: Fire Department

Division: Not applicable

Organization No: 11000

Description/Analysis

Issue: Sacramento's Fire Department provides services for motor vehicle accidents, vehicle fires, and structure fires, among other services. A growing number of fire districts and cities, including Roseville, Stockton, San Francisco and Oakland, have adopted ordinances authorizing the recovery of costs of providing emergency response services to "at-fault" drivers involved in motor vehicle accidents. All persons operating motor vehicles in the State of California are required to maintain liability insurance coverage, which pays expenses related to accidents when the insured is at fault. The adoption of City Code Chapter 8.128 will allow the City of Sacramento to recover a portion of the cost of providing these services. The ordinance has been revised to apply to "at-fault" drivers regardless of residency.

Policy Considerations: Like most cities, the City already charges fees for some services provided by the Fire Department (e.g., Advanced Life Support ambulance, hazardous materials calls, high risk rescues, etc.) to recover costs associated with the delivery of service. While the ordinance has been drafted broadly to apply to a variety of emergency incidents, the accompanying fee resolution limits cost recovery strictly to motor vehicle accidents and vehicle fires attributable to "at-fault" drivers. The Sacramento Metropolitan Fire District is also considering implementing

a similar program and recently concluded a Request for Proposal (RFP) process seeking a third party vendor to process the anticipated volume of claims.

Environmental Considerations: The recommendation does not constitute a "project" and therefore is exempt from the California Environmental Quality Act (CEQA) according to Sections 15061(b)(3) and 15378(b)(2) of the CEQA Guidelines.

Commission/Committee Action: The proposed ordinance was reviewed by the Law and Legislation Committee on July 20, 2010. The Committee directed staff to forward the proposed Ordinance to Council for consideration and requested staff provide additional detail related to the proposed dispute resolution process and ability to audit the program.

Sustainability Considerations: Not applicable

Rationale for Recommendation: The purpose of this ordinance is to recover costs for emergency response services provided to "at-fault" drivers. Adoption of the accompanying Resolution will establish fees for services for motor vehicle accidents and vehicle fires.

Financial Considerations: The City estimates annual recovery of \$1.1 million in General Fund costs associated with emergency response services provided to "at-fault" drivers. This figure is based on analysis of the City's accident data and interviews with firms providing fire cost recovery billing services.

Emerging Small Business Development (ESBD): Not applicable

Respectfully Submitted by: Cassandra H.B. Jones
Lloyd Ogan, Operations Deputy Chief

Reviewed By:

Cassandra H.B. Jones
Ray Jones, Fire Chief

Recommendation Approved:

Cassandra H.B. Jones
for Gustavo F. Vina, City Manager

APPROVED AS TO FORM:

[Signature]
CITY ATTORNEY

Table of Contents

Report	Pg. 1
Attachments	
1 Background	Pg. 4
2 Proposed Ordinance	Pg. 7
3 Proposed Resolution	Pg. 9
Fee Schedule (Exhibit A)	Pg. 10
4 California Agencies with Fire Recovery Ordinances	Pg. 11
5 Appeal Process for Billing Disputes	Pg. 13

Background

The Sacramento Fire Department provides a variety of emergency response services including, but not limited to, motor vehicle accident response, motor vehicle hazardous fluid spill clean-up, and vehicle fire suppression. A growing number of fire departments have implemented fees to recover a portion of their emergency response service costs, and to avoid service brown-outs and staff reductions. The Fire Department responds to approximately 3,600 auto accidents annually in the City limits.

In California, more than 50 public agencies (see Attachment 4) have adopted ordinances authorizing cost recovery of fire related costs associated with providing services to at-fault drivers involved in motor vehicle accidents. While some agencies seek recovery only from non-resident drivers, the passage of Proposition 26 on November 2, 2010, and other laws likely preclude adoption of new ordinances limiting cost recovery strictly to non-residents.

On July 20, 2010, the City's Law and Legislation Committee reviewed a proposed ordinance authorizing the recovery of costs associated with responding to motor vehicle accidents. As drafted at that time, the proposed ordinance applied only to non-resident "at-fault" drivers. The Committee directed staff to forward the proposed ordinance to Council for consideration and requested staff provide additional detail related to the proposed dispute resolution process and ability to audit the program. Following the meeting, Staff also initiated a Request for Proposal (RFP) process to seek third party billing services to assist the City in processing reimbursement claims as it already does with Advanced Life Support (ALS) ambulance services.

The proposed ordinance no longer distinguishes between residents and non-residents. It does, however, only apply to persons who are "at fault."

Proposed Ordinance and Resolution

The adoption of City Code Chapter 8.128 will authorize the City to seek cost recovery of emergency response services provided to persons who are "at-fault" for the incident. Because the "at-fault" party's acts or omissions necessitated the City's response and expenses, including the foreseeable consequences of the "at-fault" party's actions, the ordinance places the burden of providing reimbursement to the City on the "at-fault" party. This reimbursement is fair and equitable because the expenses incurred by the City were beneficial to the "at-fault" party in that they served to limit and mitigate the damages from the incident. If there is no clear "at-fault" party in an incident, the City will not seek recovery of its costs.

While the ordinance has been drafted broadly to apply to a variety of emergency incidents, the fee resolution currently proposed limits cost recovery strictly to motor vehicle accidents and vehicle fires attributable to "at-fault" drivers. All persons operating motor vehicles in the State of California are required to maintain liability insurance coverage, which pays expenses related to accidents when the insured is at fault. However, all persons who are determined to be at fault will be billed, regardless of insurance coverage.

Staff has prepared a Resolution with a proposed Fee Schedule (see Attachment 3) for Fire Department cost recovery claims. The proposed fees reflect the City's cost of providing services and take into account the cost of personnel, supplies, and equipment. The fees do not exceed the City's reasonable actual cost of provided services. Staff estimates the City will recover approximately \$1.1 million of General Fund expenses annually via adoption of this ordinance.

The fire cost recovery program will be managed by the Fire Department's Operations Deputy Chief.

Cost Recovery and Reimbursement Process

Staff intends to utilize a third party billing service selected through a competitive Request for Proposal (RFP) process just as the City does now for claims related to providing Advanced Life Support (ALS) ambulance services. The City utilizes third party billing services for ALS cost recovery because the expertise and advanced billing methods provided by these specialty vendors typically result in much higher claim reimbursement rates. Additionally, the City does not have the staffing to process the volume of ALS reimbursement claims nor the anticipated volume of claims resulting from "at-fault" drivers involved in motor vehicle accidents. Most cities with similar fire cost recovery ordinances utilize third party billing companies.

Third party billing generally requires the City to pay a percentage of funds recovered (typically 14 to 20 percent). Because the volume of claims is driven by the number of accidents, the third party billing company only processes the claims and specific charges provided to it by the City. This is the same procedure used by the City for recovery of ALS ambulance fees.

Dispute Resolution and Customer Service

Two important characteristics of the contractual billing relationship with a third party vendor will be the process of resolving disputes and the delivery of customer service. These are also important characteristics of the City's existing ALS vendor relationship.

The recommended ordinance provides authority to the Fire Chief to adopt written rules and administrative regulations related to billing, collection, and dispute resolution. This is an approach that has worked successfully with ALS billing procedures and with other jurisdictions involved in fire cost recovery efforts. Staff has developed a draft policy based on industry best practices and the City's own experience with the ALS billing process in developing administrative rules and procedures (see Attachment 5).

The policy provides a process for disputes to be forwarded to a Fire Department Division Manager for a determination based on an investigation of the case. The Division Manager will have the authorization to uphold, adjust, or dismiss the fees, whichever is appropriate based on their investigative findings. If the disputing party does not agree with the Division Manager's determination, they will be advised to submit an appeal within 30 days to a hearing examiner consistent with Chapter 1.24 of the Sacramento City Code.

Audit Requirements

At the request of the Law and Legislation Committee, staff also consulted with the City Auditor to discuss an effective means of auditing the fire cost recovery program. The Auditor suggested including language in the RFP and subsequent vendor agreement advising of the City's right and intention to audit the program and vendor documentation/records. Language to this effect was included in the RFP and will be added to the City's standard non-professional services agreement with the recommended vendor.



ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

AN ORDINANCE ADDING CHAPTER 8.128 TO TITLE 8 OF THE SACRAMENTO CITY CODE RELATING TO FIRE COST RECOVERY

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

The city council finds and determines that:

- A. The city of Sacramento operates a fire department that provides timely and efficient services to city residents and visitors.
- B. The fire department responds to a high volume of calls for service, including, but not limited to, car fires, motor vehicle accidents, structure fires, and rescues.
- C. The volume of calls for service continues to grow.
- D. The high volume of calls responded to by the fire department causes a significant drain on the finances of the city, and it could jeopardize the city's ability to continue to operate a fire department.
- E. Operating a fire department, with modern equipment and sufficient numbers of trained professional personnel, is essential for the protection of the public health, safety, and welfare of city residents and visitors.
- F. Cost recovery for fire department service calls is essential for the continued operation of the fire department as a modern, professional, and first-class public safety operation, which ultimately reduces the costs to motorists, property owners, members of the general public, and their insurers, by minimizing or mitigating personal injury, property damage, and environmental harm through fast and capable responses to accidents, fires, rescues, and other incidents.
- G. In recognition of the foregoing, and to promote the public health, safety, and welfare, this ordinance authorizes the establishment of fees for recovery of costs for fire department services.
- H. The fees established by this ordinance are not "taxes" under Proposition 26. The purpose of the fees is not to secure revenue but to recover reasonable city costs from the person who has by his or her acts or omissions necessitated the expenditure of time, money, and resources by the city's fire department. The fees are for services provided directly to the person at fault for the incident; such services are beneficial to the at-fault person in that they serve to limit the extent of the damages or potential damages arising from his or her acts or omissions. It is fair and reasonable to allocate fire department response costs to the person whose acts or omissions placed the burden upon the fire department and who receives the mitigation benefits of the fire department's response.

SECTION 2.

Chapter 8.128 is added to Title 8 of the Sacramento City Code to read as follows:

Chapter 8.128

Cost Recovery for Fire Services

8.128.010 Cost Recovery

A. Fees are established to recover from at-fault persons the cost of services provided by the Sacramento fire department in responding to the scene of any incident. The cost recovery fees are for services directly beneficial to the at-fault person in that they serve to limit the extent of damages or potential damages arising from his or her acts or omissions.

B. The amount of recovery for specified fire services shall be set by resolution of the city council, shall be based on the type and amount of services provided, and shall not exceed the recovery of the actual cost of personnel, supplies, and equipment present or used at the scene. The cost recovery fees may include an administrative charge in an amount set by resolution of the city council.

C. The fire chief, or designee, shall make the at-fault determination. In order to administer and implement the provisions of this chapter, the fire chief is authorized to adopt written rules and regulations that are consistent with the provisions of this section, including those related to billing, collection, and dispute resolution, including appeal to a hearing examiner pursuant to Article II of Chapter 1.24 of this Code.

D. This section shall not apply to response costs covered by California Government Code Section 53150.

E. For purposes of this chapter, a person is "at fault" if his or her willful, reckless, or negligent acts or omissions are a proximate cause of the incident. More than one person may be considered "at fault," in which case the fees under this chapter shall be proportionately allocated according to the at-fault determination.

F. The provisions of this chapter are not intended to establish or create a special relationship with any particular person or group of persons who will or may be affected by the provisions of this chapter. This chapter neither creates nor imposes any duty on the part of the city nor any of its departments, divisions, officials, agents, or employees. Nothing in this chapter shall be interpreted as requiring or promising any response by the fire department to the scene of any incident.

SECTION 3.

If any of the provisions of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance, including the application of such part or provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this ordinance are severable.



RESOLUTION NO.

Adopted by the Sacramento City Council

**ESTABLISHING FEES FOR SERVICES FOR
MOTOR VEHICLE ACCIDENTS AND VEHICLE FIRES**

BACKGROUND

- A. The city of Sacramento operates a fire department that provides timely and efficient services to city residents and visitors.
- B. The fire department responds to a high volume of calls for service, including, but not limited to, car fires, motor vehicle accidents, structure fires, and rescues.
- C. The volume of calls for service continues to grow.
- D. The high volume of calls responded to by the fire department causes a significant drain on the finances of the city, and it could jeopardize the city's ability to continue to operate a fire department.
- E. Operating a fire department, with modern equipment and sufficient numbers of trained professional personnel, is essential for the protection of the public health, safety, and welfare of city residents and visitors.
- F. Cost recovery for fire department service calls is essential for the continued operation of the fire department as a modern, professional, and first-class public safety operation, which ultimately reduces the costs to motorists, property owners, members of the general public, and their insurers, by minimizing personal injury and property damage through fast and capable responses to accidents, fires, rescues, and other incidents.

**BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL
RESOLVES AS FOLLOWS:**

Section 1. The fees set forth in Exhibit A to this Resolution are hereby adopted.



Sacramento Fire Department
Services
For Motor Vehicle Accidents and Vehicle Fires

Description	Proposed Amount
Level 1 –Scene stabilization and hazardous materials assessment ⁽¹⁾	\$435.00
Level 2 – Scene stabilization, hazardous materials assessment, clean up and material used (sorbents) for hazardous fluid clean up and disposal ⁽²⁾	\$495.00
Level 3 (Vehicle Fire) – Scene stabilization, fire suppression, breathing air, rescue tools, hand tools, hose, tip use, foam, structure protection, hazardous materials assessment and clean up and material used (sorbents) for hazardous fluid clean up and disposal	\$680.00
Level 4 – Scene stabilization, hazardous materials assessment, clean up and material used (sorbents) for hazardous fluid clean up and disposal, and extrication (heavy rescue tools, ropes, airbags, cribbing, etc.) ⁽³⁾	\$1,875.00
Level 5 – Scene stabilization, hazardous materials assessment, clean up and material used (sorbents) for hazardous fluid clean up and disposal, and extrication (heavy rescue tools, ropes, airbags, cribbing etc.) and Air Care (multi-engine company response, mutual aid, helicopter) ⁽⁴⁾	\$2,275.00
<u>Miscellaneous</u>	
Engine Company per hour rate	\$400.00
Truck Company per hour rate	\$500.00
Miscellaneous Equipment per item	\$300.00
Command and Control unit per hour rate	\$75.00

Endnotes

- ⁽¹⁾ Billed every time a fire department responds to an accident.
- ⁽²⁾ Billed only if gasoline or other automotive fluids spills need to be cleaned.
- ⁽³⁾ Billed only if equipment is deployed.
- ⁽⁴⁾ Billed any time a helicopter is utilized to transport the patient(s).



California Agencies with Fire Recovery Ordinances

Agency	Billing Only Nonresidents	Billing Residents and Nonresidents
Apple Valley Fire Protection District		X
Arbuckle - College City Fire Prot. District	X	
California City FD	X	
Carpinteria - Summerland FPD	X	
City of National City	X	
City of Oceanside	X	
City of Selma FD	X	
City of Stockton	X	
City of Willows FD	X	
Dobbins-Oregon House FPD	X	
El Dorado County FPD	X	
El Medio FPD	X	
Escalon Consolidated Fire District	X	
Foresthill FPD	X	
Georgetown FPD	X	
Hamilton City FD	X	
Hemet FD		X
Higgins Area FPD	X	
Intermountain F&R Dept.	X	
Keyes FPD	X	
Kirkwood VFD	X	
Lake Valley FD	X	
Loomis FPD	X	
Manteca FD	X	
Meridian FPD	X	
Mokelumne Rural Fire District	X	
Montezuma FPD	X	
National City FD	X	
Nevada City FD	X	
Nevada County Consolidated Fire District	X	
Newcastle FPD	X	
North County FPD		X
North Tahoe FPD	X	
Oakdale Rural FPD	X	

Agency	Billing Only Nonresidents	Billing Residents and Nonresidents
Oakland FD	X	
Olancha Cartago FD		X
Penn Valley FPD	X	
Penryn FPD	X	
Petaluma FD	X	
Pinole FD		X
Pioneer FPD	X	
Placer County FD	X	
Placer Hills Fire District	X	
Rio Vista FD	X	
Rio Vista PD	X	
Ripon Fire District	X	
River Delta Fire District	X	
Roseville FD	X	
San Bernardino City FD		X
San Francisco FD		X
San Miguel Consolidated FPD	X	
Schell-Vista FPD	X	
South Lake Tahoe FD		X
South Placer Fire District		X
Sutter-Basin Fire District	X	
Tuolumne Fire District	X	
Upland FD		X
Waterloo Morada Rural County FPD	X	
Willow Creek FPD	X	
Woodland FD		X

MANUAL OF OPERATIONS



SECTION 11 – Subject 71

APPEAL PROCESS FOR BILLING DISPUTES



In the course of providing services to the citizens of the City of Sacramento, there are occasions where individuals may be billed for cost recovery of services provided. Due to the comprehensive nature of this process, the Fire Department has chosen to outsource the collections of said fees to an outside vendor. These vendors have been chosen through a competitive selection process.

All information necessary for billing purposes is gathered from the respective initial contact resources and forwarded to the billing vendor. The billing vendor is responsible for developing and submitting a bill for service to the responsible party.

In the event that the responsible party disputes the bill, the vendor will forward the responsible party to the appropriate division manager in the Fire Department. The division manager will consider all the information provided and make a determination based upon the merits of the information. The merits will be determined by investigating the circumstances that generated the bill. If the merits are validated and the information is correct, the responsible party will be required to pay. If the information is found to be incorrect or incomplete, the division manager has the authorization to adjust or dismiss the fees, whichever is most appropriate.

If the responsible party is not satisfied with the final results of the division review, they may submit an appeal to a hearing examiner pursuant to Article II of Chapter 1.24 of the Sacramento City Code within 30 days of the division manager's determination.

APPROVED:

Fire Chief