

Supplemental Material

For

City of Sacramento

City Council
Financing Authority
Housing Authority
Redevelopment Agency

Agenda Packet

Submitted: January 21, 2011

For the Meeting of: January 25, 2011

- Additional Material
 Revised Material

TITLE: ORDINANCE AMENDMENT: FIRE COST RECOVERY (PASSED FOR PUBLICATION ON 1-18-11, PUBLISHED ON 1-21-11)

Technical changes have been made to the staff report and ordinance at the request of the City Attorney.

Contact Information:

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City of Sacramento 16
City Council

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

Meeting Date: 1/25/2011

Report Type: Staff/Discussion

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

Report ID: 2011-00121

Location: Citywide

Recommendation: 1) Adopt an Ordinance adding City Code Chapter 8.128 Relating to Fire Cost Recovery; 2) Adopt a Resolution establishing mitigation rates

Contact: Ray Jones, Fire Chief, (916) 808-1300, Fire Department, Mark Prestwich, Special Projects Manager, (916) 808-5380, City Manager's Office

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

Department: Fire

Division: Admin Services Roll Up

Dept ID:

Attachments:

1-Description/Analysis

City Attorney Review

Approved as to Form
Matthew Ruyak

Approvals/Acknowledgements

Department Director or Designee: rjones@sfd.cityofsacramento.org

Assistant City Manager: Cassandra Jennings

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 associated with providing various emergency response services, including responding to vehicle incidents. All persons operating motor vehicles in the State of California are required to maintain sufficient liability insurance coverage. 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 to non-residents.

Policy Considerations: Like most cities, the city already recovers the cost of some services provided by the Fire Department (e.g., Advanced Life Support ambulance, hazardous materials calls, high risk rescues, etc.). 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. The proposed ordinance applies only to persons who are not residents of the City.

Environmental Considerations: The recommendation does not constitute a "project" and therefore is exempt from the California Environmental Quality Act (CEQA) according to Section 15061(b)(1) and 15378(b)(2) of the CEQA guidelines.

Sustainability: Not applicable

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.

Rationale for Recommendation: The purpose of this ordinance is to recover costs for emergency response services provided to non-residents.

Financial Considerations: The city estimates annual recovery of \$300,000 to \$500,000 in General Fund costs associated with emergency response services. 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

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 adopted ordinances authorizing mitigation rates for recovery of costs for fire department services, 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 have adopted ordinances authorizing cost recovery of fire related costs. More than 70 percent of these agencies seek cost recovery strictly from non-residents. Others seek recovery from persons regardless of residency. A list of these agencies is included in this report.

Proposed Ordinance

The adoption of City Code Chapter 8.128 establishes mitigation rates to recover the reasonable city costs from non-city residents who require services provided by the Fire Department. Residents are defined by the ordinance as: 1) any person who maintains his or her full time residence within the city; or 2) is the majority owner of a business that operates from real property owned by the business located within the city. All persons operating motor vehicles in the State of California are required to maintain sufficient liability insurance coverage.

The proposed mitigation rates reflect the city's cost of providing services and take into account the cost of personnel, supplies, and equipment. Rates cannot not exceed the city's actual cost of provided services. Staff estimates the city will recover approximately \$300,000 to \$500,000 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. 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 claim, 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 to the Fire Chief within 30 days. The ordinance further provides for a dispute resolution process with a hearing examiner pursuant to Chapter 1.24 of the 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 mitigation rates for recovery of costs for fire department services.

H. The mitigation rates established by this ordinance are not "taxes" under Proposition 26. The purpose of the mitigation rates is not to secure revenue but to recover reasonable city costs from persons who have benefited from the expenditure of time, money, and resources by the city's fire department. The mitigation rates are for services provided directly to persons involved in the incident; such services are beneficial to such persons in that they serve to limit the extent of the damages or potential damages arising from the incident. It is fair and reasonable to allocate fire department response costs to persons who receive the mitigation benefits and other benefits of the fire department's response.

I. City residents support the provision of fire department services through payment of real property tax, real property transfer taxes, utility user tax, and other taxes. Since city residents already support the provision of fire department services through payment of taxes, the cost recovery mitigation rates shall only apply to persons not residing in the city.

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. Mitigation rates are established to recover the cost of services provided by the Sacramento fire department in responding to the scene of any incident. The cost recovery mitigation rates are for services directly beneficial to persons involved in the incident in that they serve to limit the extent of damages or potential damages arising from the incident.

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 reasonable actual cost of personnel, supplies, and equipment present or used at the scene.

C. 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. 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.

G. The mitigation rates established by this chapter shall only apply to persons who are not residents of the city. For purposes of this section, a resident is: (a) any person who maintains his or her full time residence within the city; or (b) is the majority owner of a business that operates from real property owned by the business located within the city. For purposes of this section, "business" means any business, commercial enterprise, trade, calling, vocation, profession, or any means of livelihood whether or not carried on for gain or profit, and includes the offering of real property for rental by the owner of such property.

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 FIRE DEPARTMENT MITIGATION RATES

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 mitigation rates set forth in Exhibit A to this Resolution are hereby adopted.

Sacramento Fire Department

Mitigation Rates

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 safety, 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	\$275.00

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).
- (5) Billed itemized as needed based on services rendered.

California Agencies with Fire Cost Recovery Ordinances

Agency	Billing Only Nonresidents	Billing Residents and Nonresidents
1 Apple Valley Fire Protection District		X
2 Arbuckle - College City Fire Prot. District	X	
3 California City FD	X	
4 Carpinteria - Summerland FPD	X	
5 City of National City	X	
6 City of Oceanside	X	
7 City of Selma FD	X	
8 City of Stockton	X	
9 City of Willows FD	X	
10 Dobbins-Oregon House FPD	X	
11 El Dorado County FPD	X	
12 El Medio FPD	X	
13 Escalon Consolidated Fire District	X	
14 Foresthill FPD	X	
15 Georgetown FPD	X	
16 Hamilton City FD	X	
17 Hemet FD		X
18 Higgins Area FPD	X	
19 Intermountain F&R Dept.	X	
20 Keyes FPD	X	
21 Kirkwood VFD	X	
22 Lake Valley FD	X	
23 Loomis FPD	X	
24 Manteca FD	X	
25 Meridian FPD	X	
26 Mokelumne Rural Fire District	X	
27 Montezuma FPD	X	
28 National City FD	X	
29 Nevada City FD	X	
30 Nevada County Consolidated Fire District	X	
31 Newcastle FPD	X	
32 North County FPD		X
33 North Tahoe FPD	X	
34 Oakdale Rural FPD	X	
35 Oakland FD	X	
36 Olancho Cartago FD		X
37 Penn Valley FPD	X	
38 Penryn FPD	X	
39 Petaluma FD	X	
40 Pinole FD		X
41 Pioneer FPD	X	
42 Placer County FD	X	
43 Placer Hills Fire District	X	
44 Rio Vista FD	X	
45 Rio Vista PD	X	
46 Ripon Fire District	X	
47 River Delta Fire District	X	
48 Roseville FD	X	
49 San Bernardino City FD		X
50 San Francisco FD		X
51 San Miguel Consolidated FPD	X	
52 Schell-Vista FPD	X	
53 South Lake Tahoe FD		X
54 South Placer Fire District		X
55 Sutter-Basin Fire District	X	
56 Tuolumne Fire District	X	
57 Upland FD		X
58 Waterloo Morada Rural County FPD	X	
59 Willow Creek FPD	X	
60 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