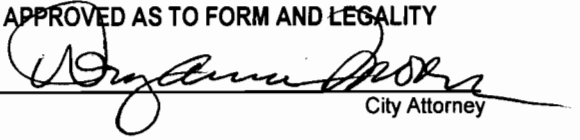


APPROVED AS TO FORM AND LEGALITY


City Attorney

INTRODUCED BY COUNCILMEMBER _____

OAKLAND CITY COUNCIL
ORDINANCE No. 13029 e.M.S.

ORDINANCE ADDING TITLE 8, *HEALTH AND SAFETY*, CHAPTER 8.56, *EMERGENCY RESPONSE SERVICES FEES PROGRAM*, TO THE OAKLAND MUNICIPAL CODE TO ESTABLISH AND IMPLEMENT A PROGRAM TO CHARGE USER FEES FOR THE EMERGENCY RESPONSE SERVICES RENDERED BY THE CITY OF OAKLAND IN CONNECTION WITH MOTOR VEHICLE ACCIDENTS CAUSED BY ANY AND ALL NON-RESIDENT DRIVERS DEEMED TO BE AT-FAULT AND ANY AND ALL CRIMINALLY NEGLIGENT DRIVERS, REGARDLESS OF RESIDENCE, AND AMENDING THE MASTER FEE SCHEDULE TO INCLUDE THE NEW USER FEES

WHEREAS, the City of Oakland's emergency services response to incidents on streets and highways continues to increase each year and environmental protection requirements involving equipment and training, and Homeland Security regulations involving equipment and training, create additional demands on all operational aspects of Oakland's fire and rescue services; and

WHEREAS, the increased demands for City of Oakland Fire Department ("OFD") emergency services, training and equipment create significant costs for the City of Oakland; and

WHEREAS, the OFD has investigated different methods to maintain a high level of quality of emergency service capability throughout times of constantly increasing service demands, where maintaining an effective response by OFD decreases the costs of incidents to insurance carriers through timely and effective management of emergency situations, saves lives and reduces property damage; and

WHEREAS, raising real property tax to meet the increasing costs associated with increased service demands irrespective of the jurisdiction in which the vehicle owner resides places a significant burden upon the City of Oakland and the burden of increased costs falls upon the City of Oakland as well; and

WHEREAS, the burden of expense to provide these services only continues to escalate along with the calls for service, the expense of staffing, purchasing, maintaining, and the cost of operations as well, only increase; and

WHEREAS, it is not fair to City of Oakland property owners because property owners already subsidize emergency response costs provided by the City of Oakland in connection with motor vehicle accidents through payment of property taxes and staff has determined that the majority of motor vehicle accidents to which OFD responds involve individuals not owning property or paying taxes in the City of Oakland; and

WHEREAS, state law authorizes public entities to seek reimbursement for their emergency response expenses from persons guilty of criminally negligent driving, that is driving under the influence of drugs and/or alcohol or driving with intentionally negligent operation of motor vehicles, that causes any incident requiring an emergency response, although insurance carriers of such criminally negligent drivers are barred from paying emergency response expense claims related to such incidents (Cal. Gov. Code §53150, et. Seq.); and

WHEREAS, state law otherwise permits local public entities to pursue collection of emergency response expenses from insurance carriers of non-criminally negligent drivers (Cal. Gov. Code §53158); and

WHEREAS, the Oakland City Council wishes to establish and implement a system for the billing and collection of emergency response user fees to pay for Oakland Fire Department emergency response costs generated by 1) any and all criminally negligent drivers, regardless of residence, including, but not limited to, drivers deemed to be under the influence of alcohol and/or drugs and drivers whose intentionally negligent conduct , and 2) drivers, regardless of residence, who are guilty of criminally negligent driving such as driving under the influence of alcohol and/or drugs or drivers whose intentionally negligent operation of a vehicle causes an accident, and 2) any and all at-fault, non-resident drivers; now, therefore,

THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. Emergency Response User Fees. Oakland Municipal Code Title 8, *Health and Safety*, is amended to add new Chapter 8.56, *Emergency Response Services Fees Program*, as follows:

Chapter 8.56, Emergency Response Services Fees Program

Section 8.56.010. Purpose. The City of Oakland shall establish user fees for the delivery of Oakland Fire Department fire and rescue services, personnel, supplies and equipment to the scene of motor vehicle accidents and other incidents on the highways (“Emergency Response User Fees”), to be charged as permitted under Government Code Sections 53150, et seq. and this Ordinance.

Section 8.56.020. Fees; Master Fee Schedule. The rate of Emergency Response User Fees shall be that which is usual, customary and reasonable (UCR) as shown in “EXHIBIT A”, which may include any services, personnel, supplies and equipment, with baselines established by addendum to this document. The City Administrator may adjust such fees

periodically to reflect changes in actual costs for such services. The Master Fee Schedule shall be amended to include Emergency Response User Fees and amended periodically to update said fees.

Section 8.56.030. Alcohol and Drug Intoxicated Drivers; Criminally Negligent Drivers. Emergency Response User Fees will apply and be charged to:

- 1) Drivers who are non-residents and deemed “at-fault” by investigators at the accident scene, or otherwise determined to be responsible, for a motor vehicle accident requiring an Oakland Fire Department emergency response; and
- 2) Drivers who are under the influence of alcohol and/or drugs, and/or who engage in intentionally wrongful conduct, regardless of residency, that are liable for emergency response expenses under Government Code Section 53150, et seq.; and
- 3) Drivers who operate a motor vehicle in any criminally negligent manner, regardless of residency, who may not be liable for emergency response expenses under Government Code Section 53150, et seq.; and
- 4) Utilities causing safety problems to highway areas in the event services are required relating to equipment problems of a utility that are/were the cause for an emergency services response, and if the area is deemed unsafe by emergency responders.

Section 8.56.040. Collection. The user fee shall be charged to persons or entities identified in section 8.56.030 above. The fees shall represent an add-on cost of the City’s claim for damages of the vehicles, property and/or injuries. In the event services are required relating to utilities causing safety problems to highway areas, and if the area is deemed unsafe by emergency responders, the same billing process shall apply to said utility, whose equipment related problems are/were the cause for an emergency services response. For persons chargeable with expenses under Government Code Sections 53150, et seq., the City will, at its discretion, pursue collection of claim costs through all legal means. The claim costs against all other persons liable for charges under this Ordinance shall be submitted to the insurer of the owner of a vehicle, owner of property, or responsible parties.

Section 8.56.050. Revisions. The City of Oakland may make rules or regulations and from time to time may amend, revoke, or add rules and regulations, not consistent with this Section, as they may deem necessary or expedient with respect to billing for emergency response user fees or the collection thereof.

SECTION 2. Master Fee Schedule. The City of Oakland 2010-2011 Master Fee Schedule shall be amended to include the fees to recover Oakland Fire Department emergency response expenses set forth in Exhibit A, attached hereto.

SECTION 3. Severability. If any section, subsection, subpart or provision of this Ordinance, or the application thereof to any person or circumstances, is held invalid, the remainder of the provisions of this Ordinance and the application of such to other persons or circumstances shall not be affected thereby.

SECTION 4. Effective Date. This ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes on final adoption; otherwise it shall become effective upon the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA, JUL 20 2010

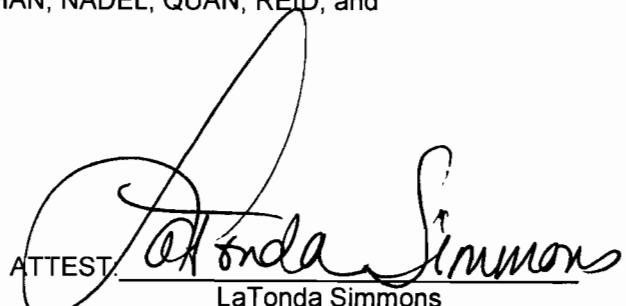
PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, and
PRESIDENT BRUNNER 8

NOES- 0

ABSENT- 0

ABSTENTION- 0

ATTEST 

LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

Introduction Date JUL 6 2010

DATE OF ATTESTATION: 8/2/10

EXHIBIT A

MOTOR VEHICLE ACCIDENTS

Level 1 - \$450.00

This includes scene safety and investigation (including traffic control, patient contact, and hazard control). This will be the most common billing level. This occurs almost every time a Fire Department responds to an accident.

Level 2 - \$470.00

This includes Level 1 services as well as clean-up and material used (sorbents used, hazardous clean-up and disposal). We will bill at this level if the Department has to clean-up any gasoline or other automotive fluids that are spilled as a result of the accident.

Level 3 – CAR FIRE - \$720.00

This includes Scene Safety, Fire Suppression, Breathing Air, Rescue Tools, Hand Tools, Hose, Tip Use, Foam, Structure Protection, and clean-up of gasoline or other automotive fluids that are spilled as a result of the accident.

Level 4 - \$1,220.00

This includes Level 1 & 2 services as well as Extrication (heavy rescue tools, ropes, airbags, cribbing etc.). We will bill at this level if the Department has to free/remove anyone from the vehicle(s) using any equipment. We will not bill at this level if the patient is simply unconscious and Department is able to open the door to access the patient. This level is to be billed only if equipment is deployed.

HAZARDOUS MATERIAL

Level 1 - \$450.00

Basic Response - billing will include engine response, first response team, perimeter establishment, evacuations, first responder set-up and command.

Level 2 - \$1,514.00

Intermediate Response - billing will include engine response, first response team, Haz-Mat certified team and appropriate equipment, perimeter establishment, evacuations, first responder set-up and command, Level A or B suit donning, breathing air and detection equipment. Set-up and removal of DECON center and wash down.

Level 3 – \$2,780.00 plus disposal fees (see below)

Advanced Response - billing will include engine response, first response team, Haz-Mat certified team and appropriate equipment, perimeter establishment, evacuations, first responder set-up and command, Level A or B suit donning, breathing air and detection equipment and robot deployment. Set-up and removal of DECON center and wash down. The detection, recovery and identification of materials; disposal and environment clean-up. This includes above in addition to any disposal fees of material and contaminated equipment and material used at scene. This

includes 3 hours of on scene time - **each additional hour @ \$727.00 per Haz-Mat team.**

STRUCTURE FIRES

Structure Fire Team - \$450.00 per hour, per engine and/or \$600.00 per hour, per truck

Includes:

- Scene Safety
- Investigation
- Traffic Control
- Patient Contact
- Hazard Control

This will be the most common billing level. This occurs almost every time a Fire Department responds to an

NOTICE AND DIGEST

ORDINANCE ADDING TITLE 8, *HEALTH AND SAFETY*, CHAPTER 8.56, *EMERGENCY RESPONSE SERVICES FEES PROGRAM*, TO THE OAKLAND MUNICIPAL CODE TO ESTABLISH AND IMPLEMENT A PROGRAM TO CHARGE USER FEES FOR THE EMERGENCY RESPONSE SERVICES RENDERED BY THE CITY OF OAKLAND IN CONNECTION WITH MOTOR VEHICLE ACCIDENTS CAUSED BY ANY AND ALL NON-RESIDENT DRIVERS DEEMED TO BE AT-FAULT AND ANY AND ALL CRIMINALLY NEGLIGENT DRIVERS, REGARDLESS OF RESIDENCE, AND AMENDING THE MASTER FEE SCHEDULE TO INCLUDE THE NEW USER FEES

This ordinance would amend the Oakland Municipal Code to add Chapter 8.56, *Emergency Response Services Fees Program*, which would authorize the billing and collection of fees for Oakland Fire Department emergency response services rendered at the scene of a motor vehicle accident. Public entities can pursue collection of claims for such emergency response fees under state and local laws. Under this Chapter fees would be billed to and collected from non-resident drivers who are responsible for motor vehicle accidents and from criminally negligent drivers responsible for an accident regardless of residence. Claims would be submitted to driver insurance carriers as permitted under state law or other pursued directly from drivers.