



# REPORT TO COUNCIL

## City of Sacramento

915 I Street, Sacramento, CA 95814-2604  
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Consent Report  
**November 9, 2010**

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

**Title: Pass for Publication: Ordinance: Adding City Code Chapter 8.128 Relating to  
Fire Cost Recovery**

**Location/Council District: Citywide**

**Recommendation:** 1) Review an **Ordinance** adding City Code Chapter 8.128 Relating to Fire Cost Recovery; and 2) pass for publication the Ordinance title as required by Sacramento City Charter section 32(c), to be adopted on November 16, 2010

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

**Presenter:** Not applicable

**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 sufficient 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.

**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 involved in motor vehicle accidents. 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: M. H. A. T. I.  
Lloyd Ogan, Operations Deputy Chief

Reviewed By:

Cassandra H.B. Jones  
Ray Jones, Fire Chief

APPROVED AS TO FORM:

John Adams  
CITY ATTORNEY

Recommendation Approved:

Gus Vina  
Gus Vina, City Manager

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## 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 have adopted ordinances authorizing cost recovery of fire related costs associated with providing services to at-fault drivers involved in motor vehicle accidents. More than 70 percent of these agencies seek cost recovery strictly from non-residents. Others seek recovery from at-fault drivers regardless of residency. A list of these agencies is provided in Attachment 4.

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, 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.

Prior to and following the July 2010 Law and Legislation meeting, the City Attorney's Office expressed concerns about the proposed application of this ordinance strictly to non-resident at-fault drivers, rather than all at-fault drivers. Although no litigation has occurred on this issue, the City Attorney's Office expressed concern the ordinance could be ruled unconstitutional unless factually and legally sufficient bases were identified to justify applying the ordinance strictly to non-residents.

In September 2010, the City hired Economic & Planning Systems, Inc., a land economics firm experienced in the financing of public services and familiar with the City's finances [EPS conducted financial modeling for the City's General Plan Update in 2008], to conduct a study to identify the revenues contributed by both residents and non-residents. The EPS study concluded residents contribute approximately 74 percent of revenues to the General Fund with visitors, non-resident employees and non-resident business owners contributing the remaining 26 percent.

The above study data did not mitigate the concerns of the City Attorney's Office because of the proportion of vehicle accidents involving non-residents. A review of 2009 accident data determined that 31.5 percent of the vehicle accident transports involved non-residents. Therefore, the percentage of revenue contributed to the City's General Fund by non-residents is roughly proportional to the percentage of non-residents involved in vehicle accidents in the City. Assuming the costs (i.e., General Fund burden) associated with non-resident-caused accidents is comparable to the costs associated with resident-

caused accidents, it thus appears potentially problematic to create a legal distinction between residents and non-residents.

The City Attorney's Office has not expressed concerns about enacting an ordinance authorizing cost recovery for emergency services that applies to all at-fault drivers, regardless of residency.

### Proposed Ordinance

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. While the ordinance has been drafted broadly to apply to a variety of emergency incidents, the fee resolution currently proposed only relates to 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 sufficient liability insurance coverage, which pays expenses related to accidents when the insured is at fault.

Staff has prepared a proposed Fee Schedule (see Attachment 3) summarizing the fees 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 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" non-resident 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 to the Fire Chief within 30 days.

### 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 personal injury and property damage 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.

**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 the cost of services provided by the Sacramento fire department in responding to the scene of any incident. The amount of a 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. The cost recovery fees shall only apply to persons who are at fault for the incident.

B. 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 billing dispute resolution.

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

### **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.

**Sacramento Fire Department**  
**Suppression Services**  
**For Motor Vehicle Accidents and Vehicle Fires**

Description	Proposed Amount
Level 1 –Scene stabilization and hazardous materials assessment <sup>(1)</sup>	\$435.00
Level 2 – Scene stabilization, hazardous materials assessment, clean up and material used (sorbents) for hazardous fluid clean up and disposal <sup>(2)</sup>	\$495.00
Level 3 (Vehicle Fire) – Scene safety, fire suppression, breathing air, rescue tools, hand tools, hose, tip use, foam, structure protection, and clean up gasoline or other automotive fluid	\$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.) <sup>(3)</sup>	\$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) <sup>(4)</sup>	\$2,275.00
<b>Miscellaneous</b>	
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**

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

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



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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 the Fire Chief within 30 days of the Division Manager's determination.

APPROVED:

**Fire Chief**