

Introduced:

Adopted:

Effective:

CITY OF CHARLOTTE

ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHAPTER 2 -
ADMINISTRATION - OF THE CODE OF THE CITY OF
CHARLOTTE BY AMENDING ARTICLE V - FINANCE TO
ADD DIVISION 5 CHARGES FOR CERTAIN EMERGENCY
RESPONSE SERVICES.

Councilmember _____ moved that the following ordinance be passed to a second reading:

THE CITY OF CHARLOTTE ORDAINS:

SECTION 1. PURPOSE. The purpose of this ordinance is to clarify when charges for certain emergency response services are due, who is the responsible party, and exemptions and limitations on charges.

SECTION 2. Article V - Finance of Chapter 2 - Administration - of the Code of the City of Charlotte is hereby amended to read as follows:

Division 5. CHARGES FOR CERTAIN EMERGENCY RESPONSE SERVICES

Section 2-200 PURPOSE.

This division is adopted to defray some costs incurred in providing certain emergency response services. It is not the purpose of this division to provide complete reimbursement of funding for the Charlotte Police Department and/or the Charlotte Fire Department.

Section 2-201 DEFINITIONS.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) *Alarm system* means a fire detection system, intrusion or holdup device designed or arranged to signal the presence of any fire hazard, intrusion or holdup of any residential, commercial or business property. Excluded from this definition are single-family residence battery-operated smoke or heat detectors.
- (2) *Alarm user* means any person on whose premises an alarm system is maintained except for alarm systems on motor vehicles. If, however, an alarm system on a motor vehicle is connected with an alarm system at a premises, the person using such system is an alarm user. Also excluded from this definition and

from the coverage of this article are persons who use alarm systems to alert or signal persons within the premises in which the alarm system is located; however, systems using a flashing light or beacon designed to signal persons outside the premises, shall be within the definition of an alarm system and shall be subject to this article.

(3) *Assessable costs* mean those charges and fees incurred by the city as a result of assistance provided by the police or fire department or by a third party on behalf of the city in connection with a fire department response to an incident including, but not limited to, the actual labor and material costs (including without limitation, employee wages, fringe benefits, administrative overhead, costs of equipment, costs of equipment operation, costs of materials, costs of transportation, costs of material disposal, and costs of contracted labor, legal fees, collection costs, etc.) provided.

(4) *Emergency response* means the following actions or services provided by the city, or by a private individual or corporation operating at the request or direction of the city:

- a. Extinguishing or fighting any fire occurring on or at a structure, vehicle, or any other fire occurring on public or private property.
- b. Any incident requiring a response by the city that involves any public or private utility property and requires city equipment or personnel to remain at the incident to protect health, safety, and welfare of the public until the utility provider responds to the incident and takes corrective measures, lasting greater than one hour.
- c. The extrication of an individual(s) from a vehicle involved in an accident.
- d. Extinguishing or fighting any vehicle fire.
- e. Any response to a false alarm at a property in excess of once in a calendar year. This includes, but is not limited to: fire, medical, burglary, panic, hold-up, and other types of alarms.

(5) *False alarm* means the activation of an alarm system through mechanical failure, malfunction, improper installation, negligence or the intentional activation of the alarm system without reasonable and legitimate need or cause by the person or their employees and agents using an alarm system. False alarm does not include an alarm caused by meteorological or geological conditions or by disruption or disturbance of telephone or other communication systems.

(6) *Person responsible* means the owner, operator, and/or person in charge of or person in possession of the structure, property or vehicle to which the emergency response is directed, including any private contractor, such as alarm companies requesting or initiating such a response. This also includes the person or persons

who require rescue of a technical nature, and/or who cause extrication, rescue, or hazardous materials response to be needed.

(7) *Vehicle* means all motor vehicles (including but not limited to, cars, trucks, semi tractors, motorcycles, and trailers), trains, aircraft, or watercraft.

Section 2-202 CHARGES IMPOSED UPON RESPONSIBLE PARTY.

(1) The assessable costs of an emergency response shall be charged against the person(s) responsible. If there is more than one person responsible, liability shall be joint and several and the city may bill any or all persons responsible, however the city may not collect more than the total amount owed. Liability for charges assessed under this article shall not be dependent upon fault or negligence. The charge constitutes a debt of the person(s) responsible and shall be collectible by the city in the same manner as an obligation under a contract.

(2) The assessable cost within the expense of an emergency response may not exceed an amount set forth by resolution of the city council.

Section 2-203 BILLING PROCEDURES.

Following the conclusion of the emergency incident, the Police Chief or Fire Chief shall submit a detailed listing of all known costs and expenses to the City Clerk, who shall prepare an invoice to the responsible party for payment. The Clerk's invoice shall demand full payment within 30 days of receipt of the bill. Any additional costs or expenses that become known following the transmittal of the bill to the responsible party shall be billed in the same manner on a subsequent bill to the responsible party. For any amounts due that remain unpaid after 30 days, the city shall impose a late charge of 1% per month, or fraction thereof.

Section 2-204 OTHER REMEDIES.

In case of default, the city may commence a civil suit to recover the costs and expenses of the response and court costs and attorney fees incurred in the collection of such debt. The statement submitted to the person responsible shall be prima facie evidence of the validity of such costs and the person responsible bears the burden of challenging said costs. The city may pursue any other remedy, or may institute any appropriate action or proceeding, in a court of competent jurisdiction to collect charges imposed under this article. The recovery of charges imposed under this article does not limit the liability of responsible parties under state or federal law, rule or regulation. In addition to any other court costs, the prevailing party shall be entitled to their reasonable attorney fees incurred in bringing or defending the action.

Section 2-205 EXEMPTIONS.

(1) The following persons responsible shall be exempt from the charges authorized by this division for an emergency response which does not involve hazardous material or a hazardous substance as defined under Chapter 30, Article IV:

- a. Fires caused by railroad trains which are the specific responsibility of railroad companies;
- b. Fire service provided outside the jurisdiction of the city under a mutual aid or similar contract with an adjoining municipality;
- c. Fire service to property owned by the United States of America, or the State of Michigan, or any political subdivision of the State of Michigan;
- d. Charges waived by the city council; and
- e. Persons responsible who require or necessitate an emergency response which does not exceed \$500.00.

Section 2-206 NON-EXCLUSIVE CHARGES.

All charges for services rendered pursuant to this article shall be in addition to any charges or taxes made by the department or the city pursuant to law for the maintenance or operation of the department.

Section 2-207 – DEFINITIONS FOR INCIDENTS INVOLVING DRIVERS OPERATING MOTOR VEHICLES UNDER THE INFLUENCE.

The following words, terms and phrases, when used in sections 2-208 through 2-214, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) *Emergency response* means:

- a. The providing, sending or utilizing of police, firefighting, emergency medical and rescue services by the city, or by a private individual or corporation operating at the request or direction of the city, to an incident resulting in an accident involving a motor vehicle where one or more of the drivers were operating the motor vehicle while under the influence of an alcoholic beverage or controlled substance or the combined influence of an alcoholic beverage and controlled substance; or
- b. An incident resulting in a traffic stop and arrest by a police officer when a driver was operating the motor vehicle while under the influence of an alcoholic beverage or controlled substance.

(2) *Expense of an emergency response* means the direct and reasonable costs incurred by the city, or to a private person or corporation operating at the request or direction of the city, when making an emergency response to the incident, including the costs of

providing police, firefighting and rescue services at the scene of the incident. These costs further include all of the salaries and wages of the city personnel responding to the incident, all salaries and wages of the city personnel engaged in investigation, supervision and report preparation, and all costs connected with the administration and provision of all chemical tests of driver's blood, and prosecution of the person causing the incident.

SECTION 2-208 PURPOSE AND INTENT.

The city finds that a significant number of traffic arrests and traffic accidents in the city involve drivers who operate a motor vehicle while under the influence of alcoholic beverages or controlled substances. In addition, the city finds that in traffic accidents involving drivers who were operating motor vehicles while under the influence of alcoholic beverages or controlled substances there is a greater likelihood of personal injury and property damage. As a result of these determinations, a greater operational and financial burden is placed upon the city's police, firefighting, rescue and other services by persons who are operating a motor vehicle while under the influence of alcoholic beverages or controlled substances.

SECTION 2-209 LIABILITY FOR EXPENSE.

Any person is liable for the expense of an emergency response if, while under the influence of an alcoholic beverage or controlled substance, or the combined influence of an alcoholic beverage and controlled substance, such person's operation of a motor vehicle proximately causes any incident resulting in an emergency response.

SECTION 2-210 PRESUMPTIONS.

For the purpose of this division, a person is under the influence of an alcoholic beverage or controlled substance, or the combined influences of an alcoholic beverage and controlled substance, when his/her physical or mental abilities are impaired to a degree that he/she no longer has the ability to operate a motor vehicle with the caution characteristic of a sober person of ordinary prudence. Further, it shall be presumed that a person was operating a motor vehicle while under the influence of an alcoholic beverage if a chemical analysis of his/her blood, urine or breath indicates that the amount of alcohol in his/her blood was in excess of 0.07 percent.

SECTION 2-211 RESPONSIBILITY FOR PAYMENT OF CHARGES.

The expense of an emergency response shall be a charge against the person liable for the expenses under this division. The charge constitutes a debt of that person and is collectible by the city for incurring those costs in the same manner as in the case of an obligation under a contract, expressed or implied.

SECTION 2-212 COST RECOVERY SCHEDULE

The city council shall, by resolution, adopt a schedule of the costs included within the expense of an emergency response. This schedule shall be available to the public from either the city clerk or the police department.

SECTION 2-213 BILLING.

The chief of police or city treasurer, or his/her designee, may, within ten days of receiving itemized costs, or any part thereof, incurred for an emergency response, submit a bill for these costs by first class mail or personal service to the person liable for the expenses as enumerated under this division. The bill shall require full payment in 30 days from the date of service.

SECTION 2-214 FAILURE TO PAY CHARGES.

Any failure by the person described in this division as liable for the expenses of an emergency response to pay the bill within 30 days of service shall be considered a default. In case of default, the city may commence a civil suit to recover the expenses and any costs allowed by law.

SECTION 2-215 MEDICAL TREATMENT OF THOSE IN CUSTODY.

Any person held in custody, confined or incarcerated by the city, including, but not limited to: individuals who are i) under arrest, ii) incarcerated, iii) imprisoned, iv) escaped from confinement, v) under supervised release, vi) on medical furlough, vii) residing in a mental health facility or halfway house, viii) living under home detention, ix) or confined completely or partially in any way under a state or local penal statute, ordinance or rule; shall be solely responsible for the payment of any medical services rendered to, and received by, that person during the course of his or her confinement with the city, or at the city's or court's direction, including without limitation, transportation to and from a medical treatment facility, and any treatment deemed necessary by his or her treating physician, whether or not requested by the prisoner; and shall be required to reimburse the city, in full for any fees or charges incurred for such services, if not paid directly to medical facility or practitioner by the prisoner or his or her insurance carrier.

SECTION 3. EFFECTIVE DATE. This ordinance shall become effective 20 days after adoption.

Second, _____ () Yeas. () Nays.

Dated:

Micheal Armitage, Mayor Pearl Tidwell,
Clerk/Treasurer



Memo

Date: May 14, 2021
To: Honorable Mayor Armitage; City Council
From: Erin LaPere, City Manager
Re: Proposed Ordinance for Cost Recovery

On the agenda for Council's consideration is an ordinance to allow for cost recovery of certain emergency response expenditures. Council asked administration to prepare this ordinance to outline parameters by which the city can recover costs for those responses which result in extraordinary costs to the city. Attached is a copy of the draft ordinance, which has been reviewed by Attorney Hitch for content and form.

Currently, Chapter 30 – Fire Prevention and Protection, Article IV Hazardous Waste outlines cost recovery for hazardous waste emergencies and that section will remain in effect. Additionally, Chapter 2 - Administration, Article V Finance, Division 2 Taxation, outlines generally that the city can obligate payment to residents or taxpayers when a statement is rendered to offset costs for certain activities. This amendment will add language clarifying the specific emergency responses that would be eligible for cost recovery and defines the person responsible to include other parties such as private contractors. This will include responses to multiple false alarms, intentionally activated false alarms, incidents involving drinking and driving. This also includes charges for medical treatment rendered to persons in custody.

There are exemptions for certain emergency responses, and Council has the authority to waive charges at its discretion. Council can remove that waiver provision or Council may want to consider whether to include standards for such a waiver. Alternatively, Council may consider designating a member of the administrative staff as first step for waiver requests, with an option to appeal the decision to Council. I suggest the addition of demonstration of financial hardship or demonstration of responsibility by another entity as two possible standards, regardless of who is reviewing the waiver request.

At the meeting held on May 3rd the question was posed as to whether an unpaid invoice could result in a lien against a person's property and Attorney Hitch confirmed that could only occur for persons who own property within the city and if such action was authorized in the ordinance language, which it is not.

Additionally, Council must pass a resolution with a maximum amount to be charged irrespective of the actual costs incurred. If this language is adopted, I can prepare a resolution for Council to consider at the next Council meeting.

Procedurally, ordinances except for those related to Zoning are adopted pursuant to the Home Rule City Act, City Charter, and Council Policy 2021-03. A first reading was held May 3rd and a public hearing and second reading is on the May 17th agenda. Upon Council adoption, the ordinance or a summary must be published and 20 days elapsed prior to the language taking effect.

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attachment