

Sec. 70-226. - Definitions.

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

Emergency response means:

- (1) Providing, sending and/or utilizing public works, police, firefighting and/or rescue services by the city to 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.
- (2) The making of a traffic stop and arrest by a public safety officer when the driver was 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.
- (3) Providing, sending and/or utilizing public works, police, firefighting and/or rescue services by the city to an accident involving a motor vehicle.

Expense of emergency response means:

- (1) "Direct costs or expense of an emergency response," which shall consist of, but not be limited to, the following, and shall be established by the city manager/clerk, who, from time to time, may adjust for the direct fees as deemed to be necessary or expedient in respect to billing for said fees or the collection thereof.
 - a. Personnel costs associated with the response.
 - b. Transportation costs associated with the response.
 - c. Equipment costs associated with the response.
 - d. Administrative costs associated with the response.
 - e. Legal costs associated with the response.
- (2) The direct costs associated with the occurrence of an emergency response as set forth in this division. The expenses of making an emergency response as set forth in this division shall include the costs connected with the administration and provision of a breathalyzer test and the videotaping of the driver if applicable. These costs shall be set from time-to-time by the city manager as deemed necessary.
- (3) The direct cost of an emergency response for a motor vehicle accident in the city shall be a cost charged to the motor vehicle insurance company of the responsible or at fault party, or in the case of uninsured motorists, the responsible or at fault party individually, for the accident as determined by the police department.

(Code 1962, § 3-301; Ord. No. 325, § 1, 5-26-92; Ord. No. 378, 2-19-09)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 70-227. - Findings.

The city finds that a significant number of traffic arrests and traffic accidents in the city involve drivers who were operating a motor vehicle while under the influence of alcoholic beverages and/or a controlled substance. In addition, the city finds that in traffic accidents involving drivers who were operating a motor vehicle while under the influence of alcoholic beverages and/or a controlled substance there is a greater likelihood of personal injury and property damage. As a result of these determinations, a greater operational and/or financial burden is placed upon the public safety department, including police, fire and rescue services, as well as public works services, by persons who are operating a motor vehicle while under the influence of alcoholic beverages and/or a controlled substance, or who have been found at fault in any accident.

The city also finds that emergency public safety department services, as well as department of public works services for vehicular accidents continues to increase resulting in increased demands on all areas of city services. The city further finds that the public safety department response to motor vehicle accidents decreases costs to insurance companies by providing various safety services. The city finds that using property tax increases to provide for the increase in service demands is not appropriate since many of the motor vehicle accidents involve individuals not owning property or paying taxes within the city. As a result, the city finds that it is necessary to institute a system of cost recovery for emergency department of public safety response to motor vehicle accidents, as well as department of public works response.

(Code 1962, § 3-301(B); Ord. No. 325, § 1, 5-26-92; Ord. No. 378, 2-19-09)

Sec. 70-228. - Liability for expenses.

- (a) Any person who, while under the influence of an alcoholic beverage or any controlled substances or the combined influence of an alcoholic beverage and any controlled substance, operates a motor vehicle which results in an emergency response as defined in this division shall be responsible and/or liable for the expenses of the emergency response.
- (b) For purposes of this division, it shall be presumed that a person was operating a motor vehicle under the influence of an alcoholic beverage if chemical analysis of the driver's blood, urine or breath indicates that the amount of alcohol in the driver's blood was in excess of the limits established by the state motor vehicle code adopted by reference.
- (c) Any person who is the responsible or at fault party in any motor vehicle accident shall be responsible and/or liable for the expenses of the emergency response. The cost of an emergency response for a motor vehicle accident in the city shall be a cost charged to the motor vehicle insurance company of the responsible or at fault party, or in the case of uninsured motorists, the responsible or at fault party individually, for the accident as determined by the public safety department.
- (d) For the purpose of this division, claims for costs shall be initially filed with the motor vehicle insurance company of the responsible party as add on costs for the claim for damages to the vehicle, property or injuries. The claims shall be filed with the insurance company of the responsible or at fault party, and in the case of an uninsured motorist, the responsible or at fault party individually, the owner of the vehicle or other responsible parties.
- (e) The city manager and the director of public safety shall prepare rules for collection and billing and establishing the cost of the emergency response costs as provided in this division.
- (f) All amounts collected pursuant to this division shall be placed in a specific account established by the city and deposited in the general fund.

(Code 1962, § 3-101; Ord. No. 325, § 1, 5-26-92; Ord. No. 378, 2-19-09)