

## Chapter 33

### INTOXICATING LIQUOR AND/OR CONTROLLED SUBSTANCE EMERGENCY RESPONSE

#### Sec. 33-1. Purpose.

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 an intoxicating liquor or a controlled substance, or a combination of an intoxicating liquor and a controlled substance. In addition, the city finds that there is a greater likelihood of personal injury and property damage in traffic accidents involving drivers who were operating a motor vehicle while under the influence of an intoxicating liquor or a controlled substance, or a combination of an intoxicating liquor and a controlled substance. As a result, an additional operational and financial burden is placed upon the city's police, fire fighting and rescue services by persons who violate a city ordinance and/or state law while under the influence of an intoxicating liquor or a controlled substance, or a combination of an intoxicating liquor and a controlled substance, and that it is necessary to recover these increased emergency response costs.

(Ord. No. 1350, § 1, 6-24-96)

#### Sec. 33-2. Definitions.

When used in this chapter, the following terms shall have the following meanings:

Emergency response:

(1) The providing, sending and/or utilizing of police, fire fighting, emergency medical and/or rescue services by the city to an incident resulting in an accident involving one (1) or more motor vehicles operated by one (1) or more drivers who were under the influence of an intoxicating liquor or a controlled substance, or a combination of an intoxicating liquor and a controlled substance; or

(2) The providing, sending and/or utilizing of police, fire fighting, emergency medical and/or rescue services by the city to an incident resulting in a traffic stop and arrest by a police officer of a driver who was operating a motor vehicle while under the influence of an intoxicating liquor and/or controlled substance, or a combination of an intoxicating liquor and a controlled substance.

(Ord. No. 1350, § 1, 6-24-96; Ord. No. 1646, 12-17-07)

#### Sec. 33-3. Liability for expense for emergency response.

(a) Person responsible. A person is liable for an emergency response fee if, while under the influence of an intoxicating liquor or a controlled substance, or a combination of an intoxicating liquor and a controlled substance, such person's operation of a motor vehicle proximately causes any incident resulting in an emergency response.

(b) Presumptions.

(1) For the purposes of this chapter, a person is under the influence of an intoxicating liquor or a controlled substance, or a combination of an intoxicating liquor and a controlled substance, when his or her physical or mental abilities are impaired to a degree that he or 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 intoxicating liquor if a chemical analysis of his or her blood, urine or breath indicates that the amount of alcohol in his or her blood was in excess of seven one hundredths (0.07) of one percent.

(2) For the purposes of this chapter, it shall be presumed that a person was operating a commercial motor vehicle while under the influence of an intoxicating liquor if a chemical analysis of his or her blood, urine or breath indicates that the amount of alcohol in his or her blood was in excess of four one hundredths (0.04) of one percent.

(3) For the purposes of this chapter, it shall be presumed that a person who is less than twenty-one (21) years of age and or who operates a motor vehicle was under the influence of an intoxicating liquor if a chemical analysis of his or her blood, urine or breath indicates that the amount of alcohol in his or her blood was in excess of two one hundredths (0.02) of one percent.

(c) Charge against person. An emergency response fee shall be a charge against the person responsible for the emergency response under this chapter and shall be construed as a civil liability only. The charge constitutes a debt owed by that person to the city and is due to and collectible by the city in the same manner as in the case of an obligation under an express or implied contract. This chapter shall not be construed to conflict, contravene, enlarge or reduce criminal liability or responsibility.

(d) Emergency response fee. The city council shall, by ordinance, adopt an emergency response fee.

(e) Billing. The director of fiscal services, or his or her designee, shall, within ten (10) days of receiving notice of the disposition of the case from the court, submit a bill for these costs by first class mail or personal service to the person liable for the emergency response fee as enumerated under this chapter. The bill(s) shall require full payment within thirty (30) days from the date of billing.

(f) Failure to pay. Any failure by the person responsible to pay an emergency response fee within thirty (30) days of the service of a bill shall be considered a default. In case of default, the city may commence a civil suit to recover such expense plus any costs allowed by law.

(Ord. No. 1350, § 1, 6-24-96; Ord. No. 1656, 12-17-07)