

ORDINANCE NO. NS-2965

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA ANA AMENDING SECTIONS 10-196 TO 10-199 TO CHAPTER 10, ARTICLE III OF THE SANTA ANA MUNICIPAL CODE AND RE-CLASSIFYING ARTICLE III TO INCLUDE A SECTION FOR THE RECOVERY OF EMERGENCY RESPONSE COSTS FOR DRIVING UNDER THE INFLUENCE INCIDENTS

THE CITY COUNCIL OF THE CITY OF SANTA ANA DOES ORDAIN AS FOLLOWS:

Section 1. The City Council of the City of Santa Ana hereby finds, determines and declares as follows:

- A. It is the policy of the City to encourage careful and responsible conduct by persons operating motor vehicles within our city limits.
- B. It is also the policy of the City to discourage the operation of motor vehicles while under the influence of alcohol and/or drugs.
- C. The City has further determined that people who negligently operate motor vehicles while under the influence of alcohol and/or drugs impose a burden upon City services above and beyond the regular services normally required for traffic law enforcement.
- D. The City has further determined that persons who negligently operate motor vehicles while under the influence of alcohol and/or drugs should bear a share of the extraordinary burden on the public risk they create.
- E. In furtherance of these policies and in light of these findings, the City has implemented a program for the recovery of emergency response costs for driving under the influence incidents. The program is expressly authorized by California Government Code Sections 53150 through 53158. Those statutory sections set forth some of the procedures for the recovery of emergency response costs. The sections, however, leave open for interpretation certain procedures and definitions. It is the intent of the City in adopting this ordinance to supplement the statutory provisions found in the Government Code and to specify precise definitions and procedures for the implementation of the City's emergency response cost recovery program as it applies to driving under the influence incidents.

Section 2. Sections 10-196 through 10-199 are hereby amended to add the following to the Santa Ana Municipal Code to read as follows:

ARTICLE III. EMERGENCY RESPONSE COST RECOVERY

Section 10-196 - DUI Cost Recovery Program

(a) Definitions and procedures for implementation of costs recovery program

- (1) For purposes of this chapter, a person is under the influence of an alcoholic beverage or any drug, or combined influence of an alcoholic beverage and any drug, when as a result of drinking an alcoholic beverage or using a drug, or both, 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 and characteristic of a sober person of ordinary prudence under the same or similar circumstances. For the purposes of this chapter, the presumptions described in provisions of Section 23152 of the California Vehicle Code shall apply.
- (2) For purposes of this chapter, an "emergency response" is one for which police personnel and equipment respond to an "incident" beyond the police response required for a mere traffic stop leading to an arrest.
- (3) For purposes of this chapter, an "incident" is an event involving any person who is under the influence of an alcoholic beverage or any drug, or the combined influence of an alcoholic beverage and any drug, whose negligent operation of a motor vehicle due to the influence proximately causes an event requiring an emergency response as defined in Section 10-196(a)(2). Although a collision is not necessary to create an "incident", an ordinary arrest for driving under the influence is insufficient.

Section 10-197 - Emergency Cost Recovery

Calculation of the amount due for an "emergency response" shall include all actual costs incurred by the City in responding to the incident, including salary, benefits and overhead as established by resolution of the City Council, for each member of police responding to the incident, the cost of equipment on scene, and the cost of repairing and replacing equipment damaged at the scene. This also includes the cost of obtaining medical assistance, removing vehicles, investigating the cause of the accident, conducting field sobriety tests, arrest and booking of suspect, performing chemical tests, writing customary reports and follow up investigation needed to complete reports.

Section 10-198 - Collection of Charges

- (a) The Chief of Police or his/her designee shall calculate the charges payable under this section and shall forward the information that is required to invoice the person responsible for the incident to the Finance and Management Services Agency.
- (b) If the person responsible for the incident is a minor, then the parents or guardian of such minor shall be liable for the cost of the emergency response as defined in this chapter.

- (c) If the invoice remains unpaid within thirty (30) days after it is mailed, and no arrangements have been made for payments, at its discretion, the City may pursue any and all legal and equitable remedies to collect the unpaid invoice pursuant to this chapter, including the commencement of a collections action. Pursuit of one remedy does not preclude the pursuit of another remedy.

Section 10-199 – Appeal

Any person who wishes to file an appeal of an invoice issued pursuant to this chapter, may do so pursuant to Chapter 1 (Section 21.8) within fifteen (15) days from the issuance of the invoice.


Section 3. Severability

If any section, subsection, sentence, clause, phrase or portion of this chapter is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter. The City Council declares that it would have adopted each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

Section 4. Enforcement of other laws: Changes in State law

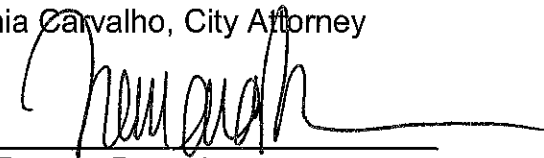
Nothing in this chapter prevents the City from enforcing other laws pertaining to the recovery of emergency response costs, including recovery pursuant to Government Code Sections 53150 through 53158, or pursuant to any subsequently enacted laws or amendments to existing laws.

ADOPTED this 21st day of May, 2019.



Miguel A. Pulido
Mayor

APPROVED AS TO FORM:
Sonia Carvalho, City Attorney

By: 


Tamara Bogosian
Assistant City Attorney

AYES: Councilmembers: Iglesias, Penaloza, Sarmiento, Solorio, Villegas (5)
NOES: Councilmembers: None (0)
ABSTAIN: Councilmembers: None (0)
ABSENT: Councilmembers: Pulido (1)

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, Norma Mitre, Clerk of the Council, do hereby attest to and certify that the attached Ordinance No. NS-2965 to be the original ordinance adopted by the City Council of the City of Santa Ana on May 21, 2019, and that said ordinance was published in accordance with the Charter of the City of Santa Ana.

Date: May 28, 2019



Norma Mitre
Acting Clerk of the Council
City of Santa Ana