

Ordinance No. 00449

[City Council meeting minutes of May 7 2007](#)

ORDINANCE NO. 449

AN ORDINANCE of the City Council of the City of Lakewood, Washington, amending Title 3 of the Lakewood Municipal Code to establish Chapter 3.70 to authorize recovery of emergency response costs caused by a person's intoxication.

WHEREAS, Lakewood Police officers spend an average of four hours per incident processing a person arrested for Driving Under the Influence ; and

WHEREAS, the officers involved in processing people arrested for Driving Under the Influence are unavailable to respond to other calls for assistance; and

WHEREAS, the City Council recognizes the need to recover the costs incurred by the City during the period of time when the average citizen is not being served; and

WHEREAS, Revised Code of Washington Chapter 38.52.430 authorizes public agencies to recover DUI Emergency response expenses; and

WHEREAS, funds recovered from DUI shall be used for additional DUI emphasis patrols to keep Lakewood streets safer,

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKEWOOD, WASHINGTON, DO ORDAIN as follows:

Section 1. That a new Chapter 3.70 of the Lakewood Municipal Code be, and the same hereby is, created related to Emergency Response Costs caused by intoxication to read as follows:

Sections:

3.70.010 Definitions

3.70.020 Emergency response caused by person's intoxication ? Recovery of costs from convicted person.

3.70.030 Collection - Use

3.70.010 Definitions

As used in this chapter:

A. "Emergency" means an incident that requires a **normal** police, coroner, fire, rescue emergency medical services, or utility response as a result of a violation of one of the statutes enumerated in LMC 3.70.020.

B. "Emergency response" means a public agency's use of emergency services during any emergency or disaster as defined in subsection A of this section.

C. "Expense of an emergency response" means reasonable costs incurred by a public agency in reasonably making an appropriate emergency response to the incident, but shall only include those costs directly arising from the response to the particular incident. ? Reasonable costs? shall include the costs of providing normal police, coroner, firefighting, rescue, emergency medical services, or utility response at the scene of the incident, as well as the portion of personnel salaries related to responding to the incident.

D. "Public agency" means the state, and a city, county, municipal corporation, district, town, or public authority located, in whole or in part, within this state which provides or may provide firefighting, police, ambulance, medical, or other emergency services.

3.07.020 Emergency response caused by person's intoxication ? Recovery of costs from convicted person.

A. A person whose intoxication causes an incident resulting in an appropriate emergency response, and who, in connection with the incident, has been found guilty of or has had their prosecution deferred for (1) driving while under the influence of intoxicating liquor or any drug, RCW 46.61.502; (2) being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug, RCW 46.61.504; (3) driving or being in actual physical control of a motor vehicle after consuming liquor and being under 21, RCW 46.61.504; (4) negligent driving in the first degree, RCW 46.61.5249; (5) operating an aircraft under the influence of intoxicants or drugs, RCW 47.68.220; (6) use of a vessel while under the influence of alcohol or drugs, RCW 88.12.025; (7) vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a); or (8) vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), is liable for the expense of an emergency response by a public agency to the incident.

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

C. In no event shall a person's liability under this section for the expense of an emergency response exceed \$,1000.00 per incident. If more than one public agency makes a claim for payment from an individual for an emergency response to a single incident under the provisions of this section, and the sum of the claims exceeds the amount recovered, the division of the amount recovered shall be determined by an interlocal agreement consistent with the requirements of Chapter 39.34 RCW.

3.07.030 Collection- Use

A. The public agency may submit a notice of liability for the expense of an emergency response. The notice shall set forth the name of

the responsible person, the date of the emergency response, the date of conviction or deferred prosecution, and the amount owing to the city. The total emergency response cost may be ordered by the court as restitution. Where the total emergency response cost has not been ordered by the court, the public agency may collect the expense of the emergency response in the same manner as a contract by sending notice to the person responsible via certified mail with a return receipt. Notice, sent to the last known address, shall be deemed delivered three days after mailing. Any fees not collected within 60 days of the court order or within 60 days of the date of issuance of the notice of liability will be referred to a collection agency. The cost of collection shall be added to the bill.

The amounts collected will be primarily devoted to enhancing DUI enforcement emphases. The City Manager or his designee may expend up to 15% of collections per year for other traffic safety requirements. The City Manager may by exception request approval from Council to expend an additional 15% of collections per year for any unanticipated public safety issues. Costs and effectiveness of the program will be presented to the Council by staff within year end reports.

Section 2. Severability. If any portion of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or the application of the provision to other persons or circumstances shall not be affected.

Section 3. Effective Date. That this Ordinance shall be in full force and effect five (5) days after publication of the Ordinance Summary.

ADOPTED by the City Council this 7th day of May, 2007.

CITY OF LAKEWOOD

Claudia B. Thomas, Mayor

Attest:

Alice M. Bush, MMC, City Clerk

Approved as to Form:

Heidi Ann Wachter, City Attorney