Moved by Council Member Moore, seconded by Council Member Humphreys to adopt an ordinance introduced June 19, 2017, entitled and reading as follows, be taken up and enacted:

O-190


The City of Saginaw ordains:

Section 1. An ordinance to amend Chapter 71, of Title VII, “Traffic Regulations,” by adding a new section titled, “Cost Recovery,” of the City of Saginaw Code of Ordinances, O-1, is hereby amended to read as follows:

§71.50 PURPOSE.
The City finds that a significant number of the traffic arrests and traffic accidents in the City involve drivers operating a motor vehicle while under the influence of intoxicants, such as alcoholic beverages or a controlled substance or a combination thereof. Furthermore, the City finds that there is a greater likelihood of personal injury or property damage in accidents involving a driver operating under the influence of intoxicants. As a result, the City finds that a greater operational and financial burden has been placed on the City’s public safety services by persons operating a motor vehicle under the influence of intoxicants, and that it is necessary to recover these increased costs of enforcement activities caused by such persons.

§71.51 DEFINITIONS.
For the purpose of this subchapter, the terms listed below shall have the following meanings:

(A) Emergency response shall mean:
    (1) The providing, sending, and/or utilizing of public services, police, firefighting, rescue services, and/or any other agents of the City to a motor vehicle accident, or an arrest, in which one or more drivers were operating a motor vehicle under the influence of one or more intoxicants; or
    (2) The providing, sending, and/or utilizing of public services, police, firefighting, rescue services, and/or any other agents of the City to any scene where a person and/or driver becomes helpless, endangered, or otherwise in need of assistance by reason, in whole or in part, of being under the influence of one or more intoxicants; or
    (3) The making of a traffic stop and arrest by a law enforcement officer when the driver is or was operating a motor vehicle while under the influence of one or more intoxicants.
(B) Expense of emergency response shall mean the direct and reasonable costs associated with the occurrence of an emergency response. These costs shall include, but are not limited to: all of the salaries, wages (including overtime pay), workers’ compensation benefits and fringe benefits of the city personnel responding to the incident or engaged in the investigation, supervision and report preparation associated with the incident; all costs connected with the administration and provision of breathalyzer or chemical tests related to any prosecution of the person involved in the incident; cost of equipment operation and supplies used in responding to the incident; cost of materials obtained directly by the City in relation to the incident; and cost of any contract labor or materials obtained by the City in relation to the incident.

(C) Operating under the influence of one or more intoxicants shall mean:
   (1) Operating a motor vehicle while under the influence of an alcoholic beverage, controlled substance, or a combination of intoxicants; or
   (2) Operating with an unlawful blood alcohol content as defined by the Michigan Vehicle Code; or
   (3) Operating while visibly impaired due to the consumption of alcoholic beverages, controlled substances, or a combination of intoxicants.

§71.52 LIABILITY FOR EXPENSE OF AN EMERGENCY RESPONSE.
   (A) Any person is liable for the expense of an emergency response if that person, while under the influence of intoxicating liquor or a controlled substance, or a combination of intoxicating liquor and a controlled substance, proximately causes any incident resulting in an emergency response as defined by this subchapter, and is convicted of a related criminal offense.

   (B) This subchapter shall be construed to impose a responsibility and liability of a civil nature on the part of the operator of the motor vehicle and shall not be construed to conflict, contravene, enlarge or reduce any criminal liability or responsibility, including fines and costs which may be imposed by a court on a person who is convicted of any criminal offense arising from the incident that resulted in an emergency response.

§71.53 COST RECOVERY SCHEDULE.
   (A) The Police Department, Fire Department, and City Managers shall periodically evaluate the actual costs incurred in making such emergency responses and determine an average cost during emergency responses. This amount shall be amended from time to time to reflect increases or decreases in the salaries of all personnel, along with the costs for vehicles and other necessary equipment.

   (B) The City Manager, or his or her designee, shall forward the average cost developed in subsection (A) of this section to the district court and circuit court having jurisdiction over the City. This cost, as restitution to the City, may be imposed by the court during the imposition of any sentence upon any person liable under this section.

§71.54 COLLECTION AND ENFORCEMENT.
(A) The amount ordered to be paid under this subchapter shall be paid to the clerk of the court who shall transmit the payment amount to the City Treasurer.

(B) If not otherwise ordered by the court, the reimbursement amount ordered shall be made immediately. The court may order that reimbursement be made within a specified period or in specified installments.

(C) If the person convicted is placed on probation, any reimbursement ordered under this section shall be a condition of that probation.

(D) A court order for reimbursement under this subchapter may be enforced in the same manner as a judgment in a civil action.

This ordinance shall become effective July 20, 2017.

Yeas: Seven
Nays: None
Absent: Two
Abstain: None

ORDINANCE DECLARED ADOPTED

Dennis D. Browning
Mayor

Janet Santos, CMMC/MMC
City Clerk

I, Janet Santos, City Clerk of the City of Saginaw, Michigan, do hereby certify that the foregoing is a true and complete copy of the ordinance adopted by the City of Saginaw, Saginaw County, State of Michigan, at a public meeting held on July 10, 2017; the original thereof is on file in the records of my office; the meeting was conducted and public notice of said meeting was given pursuant to Act No. 267, Public Acts of Michigan, 1976, as amended, and minutes of this meeting were kept and will be made available as required.

Janet Santos, CMMC/MMC
City Clerk