

**CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2024-30**

AN ORDINANCE AMENDING CHAPTER 50 "FIRE PREVENTION AND PROTECTION" OF THE KERRVILLE CODE OF ORDINANCES BY ADDING A NEW ARTICLE III "COST RECOVERY PROGRAM AND MITIGATION RATES", WHICH WILL AUTHORIZE THE CITY TO APPLY FEES (MITIGATION RATES) FOR VARIOUS EMERGENCY SERVICES PROVIDED BY THE KERRVILLE FIRE DEPARTMENT; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING OTHER MATTERS RELATED TO THE SUBJECT

WHEREAS, the City of Kerrville, Texas (City) is a home-rule municipality acting under its Charter adopted, and amended, by the electorate pursuant to Article 11, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, as a home-rule municipality, the City has full power of local self-government pursuant to Section 51.072 of the Texas Local Government Code and Article I of the City Charter; and

WHEREAS, pursuant to Section 54.004 of the Texas Local Government Code, the City may adopt and enforce ordinances necessary to protect health, life, and property and to preserve good government, order, and security of the City and its inhabitants; and

WHEREAS, the Kerrville Fire Department (Fire Department) provides emergency and non-emergency services in connection with motor vehicle incidents and other emergencies; and

WHEREAS, the Fire Department's response to incidents continues to increase each year, while environmental protection requirements involving equipment and training also add additional demands on all operational aspects of the Fire Department's emergency and non-emergency services; and

WHEREAS, the Fire Department has investigated different methods to maintain a level of high quality of emergency service capabilities throughout times of constantly increasing service demands, where maintaining an effective response by the Fire Department decreases the overall cost of incidents to insurance carriers, businesses, and individuals through timely and effective management of emergency situations, saving lives and reducing property and environmental damage; and

WHEREAS, the City seeks to implement a fair and equitable policy by which to bill persons for mitigation rates and establish a cost recovery program in accordance with applicable laws, regulations, and guidelines; and

WHEREAS, the Fire Chief, along with City staff, recommends that City Council amend the City's Code of Ordinances for the purpose of authorizing a schedule of mitigation rates for Fire Department services and to implement a cost recovery program; and

WHEREAS, based upon information provided above, City Council finds it to be in the public interest to amend Chapter 50 of the City's Code of Ordinances by the adoption of a new Article III, as provided herein;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:

SECTION ONE. The facts and matters set forth in the preamble to this Ordinance are found to be true and correct.

SECTION TWO. Chapter 50 "Fire Prevention and Protection" of the City's Code of Ordinances is amended by adding a new Article III "Cost Recovery Program and Mitigation Rates", this new article indicated by underlined language (additions) as follows:

"Chapter 50 - FIRE PREVENTION AND PROTECTION

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ARTICLE III. – COST RECOVERY PROGRAM AND MITIGATION RATES

Sec. 50-40. – Cost recovery program.

(a) "Emergency fire services" means services provided by the City's Fire Department which are for providing adequate emergency rescue operations and fire protection services resulting from extraordinary and dangerous occurrences and hazardous materials incidents, to include responses to reports of natural gas pipeline leaks.

(b) The City may bill and collect mitigation rates (fees) for emergency fire services. Such fees may include reimbursement for all equipment, personnel, materials, maintenance, and overhead expenses and costs, which constitute full reimbursement to the City for services actually rendered.

(c) City Council may adopt mitigation rates for the costs that the City will charge in accordance with the provisions of this article, such rates to be included within the City's annual fee schedule (Fee Schedule). Council shall base the mitigation rates on actual costs to the City for providing the emergency fire services and that which is usual, customary, and reasonable (UCR), which may include any services, personnel, supplies, products, and equipment.

(d) Within 90 days of the date of providing emergency fire services, the Chief of the Fire Department or designee shall submit an invoice for all costs, fees, charges, and expenses related to the Fire Department's provisions of such services, and in the amount set forth in the Fee Schedule, to the owner, the owner's designated agent, representative, and/or insurance company(s).

(e) In addition, any bills, fines, or penalties, including clean-up costs, fees, or expenses that are imposed upon the City by the state or federal government and related to the same situation or occurrences, may be billed separately within 90 days of receipt and shall be paid as provided in subsection (d) above.

Sec. 50-41. – Mitigation rates.

(a) The City may initiate mitigation rates for the delivery of emergency fire services by the Fire Department for personnel, supplies and equipment called to the scene of an emergency fire incidents for persons that do not reside within:

(1) the City; or

(2) a district or area that the City has an interlocal agreement to provide emergency fire services by the Fire Department.

(b) The City shall not apply mitigation rates for the delivery of emergency fire services by the Fire Department for personnel, supplies, and equipment called to the scene of emergency incidents for persons that reside within:

(1) the City; or

(2) a district or area that the City has an interlocal aid agreement to provide emergency services by the Fire Department.

(c) An exception to (a) and (b) above shall occur for responses from the Fire Department for emergency fire services involving hazardous material spills and natural gas leaks caused by persons engaged in providing services or commercial activities.

(d) A claim shall be sent to the responsible party; that is, the owner, the owner's designated agent, representative, and/or insurance company(s) through their insurance carrier. In some circumstances, the responsible party(s) will be billed directly.

(e) The Fire Department may make rules or regulations and from time to time may amend such rules and regulations, not inconsistent with this article, as deemed necessary or expedient in respect to billing and collection for the mitigation rates."

SECTION THREE. The provisions of this Ordinance are to be cumulative of all other Ordinances or parts of Ordinances; provided, however, that all prior Ordinances or parts of Ordinances inconsistent with or in conflict with any of the provisions of this Ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION FOUR. If any section, subsection, sentence, clause, or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this Ordinance. City Council declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

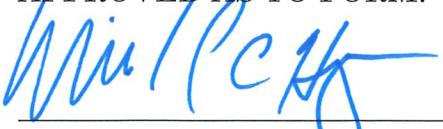
PASSED AND APPROVED ON FIRST READING, this the 12 day of November, A.D., 2024.

PASSED AND APPROVED ON SECOND AND FINAL READING, this the 10 day of December, A.D., 2024.



Joe Herring, Jr., Mayor

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

ATTEST:



Shelley McElhannon, City Secretary