



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Robert Sapien, Jr.

SUBJECT: Fire Department First
Responder Fee Program
Ordinance

DATE: May 19, 2025

Approved

Date:

5/30/25

COUNCIL DISTRICT: Citywide

RECOMMENDATION

Approve an ordinance amending Title 10 of the San José Municipal Code to add Chapter 10.44 to establish the First Responder Fee Program effective January 1, 2026, and provide procedures for its operation and management.

SUMMARY AND OUTCOME

Approval of this ordinance will enable the Fire Department (Department) to implement policies and regulations for the First Responder Fee Program that will position the City of San José to recuperate the cost-of-service for delivering emergency medical services.

BACKGROUND

The Department's mission is to protect life, property, and the environment through prevention and response through an "All-Hazards" response strategy for the San José community. The Department's Emergency Medical Services (EMS) delivery, specifically, has evolved into providing a standard level of care akin to pre-hospital EMS care providers throughout the nation. The Department provides Emergency Medical Dispatch, Advanced Life Support, Basic Life Support, and in limited circumstances, Advanced Life Support ambulance transport EMS to protect lives in the community against illness, disease, and traumatic injury. With this increasing demand for emergency medical care and evolving standard of care, there is a resulting increase in cost for providing services.

On March 25, 2025¹, the Department provided a status report on its critical role in the emergency medical segment and providing medical care in the community. The City Council approved the Department's recommendation to implement a First Responder Fee Program and it is anticipated to go into effect on January 1, 2026. Pursuant to the City Council's approval, the Department developed an initial fee of \$427 that was submitted through the 2025-2026 Proposed Fees and Charges process; and is seeking to establish an ordinance that will codify the policies and regulations of fully implementing the First Responder Fee Program and the associated cost-recovery fee mechanism for emergency medical care by first responders that are not covered by taxes. Revenues received through this cost-recovery mechanism will help to partially offset the Department's operational costs, including equipment replacement, emergency apparatus replacement, and expansion of emergency services once the program matures and revenue stabilizes.

California Lawful Billing Legislations

It has become a common practice for fire agencies across California to fund the enhanced paramedic level of service through a user fee. The demand for specialized emergency medical care is steadily increasing and State of California legislation authorizes jurisdictions, such as the City of San José, to impose a fee for emergency medical care:

- 1) **California Constitution, Article XI, Section 7²**: Grants charter cities the authority to have "police powers" to create and enforce local ordinances and regulations, such as police, sanitary, and medical response, so long as they do not conflict with general laws.
- 2) **California Health & Safety Code Section 13916(a)³**: Jurisdictions are permitted to charge a fee to cover the cost of any provided service or enforcing any regulation for which the fee is charged.
- 3) **Proposition 26 amended California Constitution, Article 13A, Section 3(b)(2)⁴**: Allows for a fee to be imposed for a specific government service provided directly to the payor that is not provided to those not charged and does not exceed reasonable costs for providing the service. Examples include user fees for utilities, public records copying fees, emergency medical care and ambulance transport service fees, recreation classes, and transit fees to name a few.

¹ <https://sanjose.legistar.com/View.ashx?M=F&ID=13929499&GUID=18C7F637-4CB3-4A71-8904-B0C3D5439EE4>

² https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=CONS§ionNum=SEC.%207.&article=XI

³ https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=HSC§ionNum=13916

⁴ https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=CONS§ionNum=SEC.%203.&article=XIII%20A

The Department reported to the City Council on the common practice for fire agencies across California to implement First Responder Fee Programs, with a specific emphasis of collecting from commercial and private payer medical insurance and automobile insurance. Commercial and private insurance companies have already established billing policies to cover this fee type on behalf of their insured party. As such, the Department's recommendation to implement the First Responder Fee Program will allow the City of San José to recoup specific costs under a cost-recovery program for medical care provided to a specific individual that is differentiated from a general service.

ANALYSIS

Through lawfully billable services, as authorized by California Constitution, Article XI, Section 7, California Health & Safety Code Section 13916(a), California Constitution, Article 13A, Section 3(b)(2), establishing an ordinance in the San José Municipal Code will codify operational parameters of the First Responder Fee Program. This proposed ordinance establishes definitions and couples delegation of authority to the City Manager, Fire Chief, and Finance Director that is necessary to implement robust and thoughtful financial safeguards, as well as fiduciary reporting requirements.

Compassionate Billing Policy

To address the financial hardships that these fees can impose, the Department will implement a compassionate billing policy. This policy aims to balance cost-recovery with sensitivity to individuals' financial circumstances. Many of the agencies have used the following methods to relieve the uninsured, at-risk, and vulnerable members of the community:

- 1) **Hardship Waivers:** Individuals experiencing financial difficulties may apply for hardship waivers, which can reduce or eliminate fees based on income thresholds and specific hardship criteria.
- 2) **Flexible Payment Plans:** Payment plans with extended timelines and reduced installment amounts help make fees more manageable for those facing economic challenges.
- 3) **Fee Forgiveness Programs:** In cases involving extraordinary circumstances, such as natural disasters or severe medical emergencies, full or partial fee forgiveness may be granted.
- 4) **Proactive Outreach:** Billing departments may engage in proactive outreach to identify individuals who could benefit from these programs, ensuring that assistance is accessible and well-publicized.

Estimated Revenue

It is assumed revenue will primarily be collected through commercial and private pay medical insurance and automobile insurance. As reported to the City Council, the collection rate for commercial insurance is about 80%, 3% for private pay medical insurance, and roughly 80% from automobile insurance, yielding a projected annual revenue of \$4 million. It should be noted that in year one, the projected revenue estimated is prorated for 6-months as the fees will be implemented starting January 1, 2026. The 2025-2026 Proposed Operating Budget estimates collection of \$2 million in revenue from these fees.

Table 1: Estimated Revenue based on Primary Fee Type

Fee Types	Payer	Qty. of EMS Responses	Billing Rate	Potential Annual Revenue	Anticipated Collection Rate	Estimated Annual Revenue
First Responder Fee	Commercial Medical Insurance	7,725	\$427	\$3,298,575	80%	\$2,638,860
	Private Pay	6,695	\$427	\$2,858,765	3%	\$85,763
Vehicle Collision Response Fee	Commercial Automobile Insurance	3,968	\$427	\$1,694,336	80%	\$1,355,469
Estimated Annual Revenue						\$4,080,092
Year One Prorated starting January 1, 2026						\$2,040,046

Billing and Collections

The Department has entered into an agreement with Wittman Enterprises, LLC, to perform billing and collection of revenue for the First Responder Fee Program. Effective on January 1, 2024, Assembly Bill 716⁵ was codified in Health and Safety Code Section 1371.56⁶ and may apply in certain instances when services are provided to a person who is an enrollee of a covered insured plan and receives care that fits within the limitations that are enumerated under this section. The First Responder Fee Program billing and collection process must comply with this law, which establishes parameters for billing rates and collection practices for ambulance services.

Should a customer have an unpaid bill beyond the established due date, the City of San José Finance Department's Revenue Collections Procedures would be followed in alignment with the San José City Charter Section 806(b)⁷. The approach to compassionate billing policies varies among agencies that have implemented a First

⁵ https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB716

⁶ [https://www.dmhc.ca.gov/Portals/0/Docs/OPL/APL24-](https://www.dmhc.ca.gov/Portals/0/Docs/OPL/APL24-010CoverageofGroundAmbulanceServicesProvidedbyaNoncontractedProvider(6_13_2024).pdf)

[010CoverageofGroundAmbulanceServicesProvidedbyaNoncontractedProvider\(6_13_2024\).pdf](https://www.dmhc.ca.gov/Portals/0/Docs/OPL/APL24-010CoverageofGroundAmbulanceServicesProvidedbyaNoncontractedProvider(6_13_2024).pdf)

⁷ <https://www.sanjoseca.gov/home/showpublisheddocument/95973/638574336991130000>

Responder Fee Program. Some have adopted the widely used approach of applying principles of a “financial hardship” type waiver process, where the billed party is able to request a fee waiver based on the inability to pay. The fire chiefs and administrations of several of the municipalities waive the fee whenever requested. Others require financial documentation to justify the waivers. The Center for Medicare Services (CMS) has established guidelines that influence compassionate billing practices, particularly concerning Medicare and Medicaid beneficiaries:

- 1) **Financial Hardship Criteria:** CMS requires that providers offering financial assistance programs clearly define the criteria for financial hardship, ensuring consistent and equitable application.
- 2) **Charity Care Policies:** Providers receiving Medicare and Medicaid funds are encouraged to implement charity care policies that align with CMS standards, promoting access to emergency services regardless of an individual's ability to pay.
- 3) **Transparency Requirements:** CMS mandates transparency in billing practices, including clear communication about the availability of financial assistance programs and the process for applying.
- 4) **Prohibition of Discriminatory Practices:** Compassionate billing policies must be applied equitably, without discrimination based on race, ethnicity, gender, disability, or other protected characteristics.
- 5) **Patient Rights and Protections:** CMS enforces patient rights regarding billing, including the right to receive information about financial assistance and to appeal billing decisions related to compassionate billing policies.

Racial and Social Equity Impacts

The First Responder Fee Program can raise significant concerns regarding healthcare equity, as they can disproportionately affect vulnerable populations including the aging, low-income, and unhoused populations:

- 1) **Disparities in Access:** Individuals from low-income communities, racial and ethnic minorities, and uninsured populations are more likely to face barriers in accessing emergency services due to the fear of incurring high fees.
- 2) **Exacerbation of Health Inequities:** High fees can discourage timely medical intervention, leading to worse health outcomes for disadvantaged groups, thereby deepening existing health disparities.

- 3) **Geographic Inequities:** Underserved areas and populations may experience higher first responder fees due to limited funding, compounding inequities in access to emergency care.
- 4) **Impact on Chronic Conditions:** People with chronic health conditions, who may require frequent emergency services, are at greater financial risk, creating a cycle of debt and poor health outcomes.

The development and delivery of these fees will carefully address these concerns as the Department moves forward in executing its First Responder Fee Program along with its related procedures and policies. Measures for addressing these potential disparities will be reflected in the Department's compassionate billing policy.

Status on Implementation Timeline

The Department has started to make progress towards key milestones approved by City Council to ensure effective appropriate action items are addressed in a timely manner. Information dispersal will be the foundation of the timeline over the next several months, devoting significant time towards providing online, print, and in-person, platforms for community education and information sharing; and delivering hands-on and computer-based training for frontline Department personnel. Additionally, the Department has worked collaboratively with the City Manager's Budget Office to align with the established annual budget process, submitting the recommended staffing needs through the Fiscal Year 2025-2026 Proposed Operating Budget and recommended fees through the Fiscal Year 2025-2026 Proposed Fees and Charges, and with the City Attorney's Office to establish an ordinance to collect fees for first responder emergency medical care for City Council approval.

Table 2: Status of the First Responder Fee Program Implementation Timeline

Action Item	Completion Timeframe	Status
City Council Approval of First Responder Fee Program and Implementation and Public Communications Plan	March 25, 2025	Complete
Communications Plan (Phase 1): Public Announcement and Information Dissemination	March – April 2025	In Progress
City Council Approval: FY 2025-2026 Operating Budget and Fees and Charges	June 2025	Pending
City Council Approval: Medical Emergency First Responder Services and Fee Collection Ordinance	June 2025	Pending
Communications Plan (Phase 2): Community Education and Internal Training	July – October 2025	Not Started

Action Item	Completion Timeframe	Status
Communications Plan (Phase 3): Final Preparations	December 2025	Not Started
First Responder Fee Program Implementation (First Responder Fee and Vehicle Collision Response Fee)	January 2026	Not Started
Communications Plan (Phase 4): Implementation of the First Responder Fee Program	January 2026	Not Started

Status of the First Responder Fee Program Public Communications Plan

Following City Council approval in March 2025, the Department has executed its comprehensive communications plan to inform the community, address potential misconceptions, and build public trust through a combination of digital communications and direct community engagement.

- 1) **Phase One (March - April 2025):** Formally introduces the fee with a media advisory and provides transparent, accessible information through a dedicated website, multilingual brochures, and a robust FAQ page. **(In Progress)**
- 2) **Phase Two (July - October 2025):** Focuses on public education and internal readiness, including in-person community information sessions, distributing brochures, and equipping firefighters with guides to address public inquiries. **(Not Started)**
- 3) **Phase Three (December 2025):** Prepares for the fees' implementation by reminding residents of the impending changes via social media, finalizing personnel training, and ensuring website information is accurate. **(Not Started)**
- 4) **Phase Four (January 2026):** Officially launches the fees, monitors community feedback to address concerns promptly, and evaluates the communications plan's effectiveness for future improvements. **(Not Started)**

COST SUMMARY/IMPLICATIONS

Upon adoption of the ordinance and the 2025-2026 Fees and Charges schedule, the Department will administer a primary fee amount of \$427 that is expected to yield annual revenue of approximately \$4 million. The 2025-2026 Proposed Operating Budget estimates collection of \$2 million in revenue from these fees. The fee will be adjusted each year as part of the annual fees and charges budget process, and the actual collected amount will vary based on activity levels and collection rates.

EVALUATION AND FOLLOW-UP

No further follow-up with City Council related to this action is anticipated at this time. Should the City Council approve the proposed ordinance, the Department will incorporate the status of the First Responder Fee Program activities into its Emergency Medical Services Annual Report to the Public Safety, Finance and Strategic Support Committee.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office, City Manager's Budget Office, and Finance Department.

PUBLIC OUTREACH

This memorandum, along with the proposed ordinance, will be posted on the City's Council Agenda website for the June 10, 2025, City Council meeting.

COMMISSION RECOMMENDATION AND INPUT

No commission recommendation or input is associated with this action.

CEQA

Not a Project, Public Project File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment.

PUBLIC SUBSIDY REPORTING

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.



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For questions, please contact Robert Sapien, Jr., Fire Chief, at robert.sapien@sanjoseca.gov or (408) 794-6952.