



CITY of NOVI CITY COUNCIL

**Agenda Item F
January 11, 2016**

SUBJECT: Approval of adoption of a Resolution of amended OWI Cost Recovery Fee Schedule.

SUBMITTING DEPARTMENT: Public Safety – Police *DEM*

CITY MANAGER APPROVAL: *[Signature]*

BACKGROUND INFORMATION:

The City of Novi, by and through the Police and Fire Departments, provides emergency response services arising out of drivers operating motor vehicles while intoxicated due to the consumption of alcoholic liquor, or a controlled substance, or a combination of both. The Novi Police Department has been processing OWI cost recovery fees since 2004 with varying levels of success. The collection services of American Profit Recovery (APR) have been contracted to collect the debt that we are unable to collect. If APR is unable to collect the debt in 120 days, they list the debt as unrecoverable. APR's historical collection rate is between 7 and 12 percent.

It has been determined that it would be more efficient for the Novi Police Department to allow the 52-1 District Court to collect these fees on our behalf, however, the fee schedule resolution from 2004 needs to be adjusted.

The amended resolution has been reviewed and revised by the City Attorney's Office. This change will allow the 52-1 District Court to collect a fee of \$200 on our behalf, of which they will keep \$25 and the balance of \$175 will be remitted to the City of Novi. All persons arrested and convicted of an alcohol related driving offense will be required to pay the \$200 as a condition of their probation, thus we will be collecting this fee from everyone.

RECOMMENDED ACTION: Approval of adoption of a Resolution of amended OWI Cost Recovery Fee Schedule.

	1	2	Y	N
Mayor Gatt				
Mayor Pro Tem Staudt				
Council Member Burke				
Council Member Casey				

	1	2	Y	N
Council Member Markham				
Council Member Mulch				
Council Member Wrobel				



MEMORANDUM

TO: JERROD S. HART
ASSISTANT CHIEF OF POLICE – SUPPORT SERVICES

FROM: KEVIN E. RHEA *KER*
TRAINING AND STANDARDS SERGEANT

SUBJECT: OWI COST RECOVERY

DATE: DECEMBER 23, 2015

The Novi Police Department has been processing OWI cost recovery fees since 2004 with varying levels of success. Since that time, we have elicited the assistance of American Profit Recovery (APR) out of Farmington Hills to assist with collection efforts of past due accounts.

In our current cost recovery model, upon arrest we generate an invoice in the City's financial management software (BS&A) and bill the arrested subject for \$450 (or \$600 if blood was drawn) as enumerated in the 2004 cost recovery fee schedule resolution. If not paid after 30 days, the account is transferred to APR for collection efforts. APR attempts to collect the debt for approximately 120 days before they write off the account as uncollectable. This is a civil action and absent a small claims court filing, we have no recourse to collect these fees as it is not tied to any term of probation. In years past, APR would file a negative action on the individual's credit but a May 2015 court ruling now prohibits this practice.

During the first nine months of 2015, we have billed 144 arrestees for OWI cost recovery. Of that, we have collected 38% of the fees which are returned to the City of Novi general fund and 62.2% are outstanding. A review of APR's collection rate reveals a 7-12% success rate on accounts turned over to them. On each account, their fee is 50% of whatever is collected and the remaining 50% is sent back to the City of Novi. Year to Date, APR has only collected 7.35% of the accounts assigned to them.

The Novi Code of Ordinances allows the 52nd District – 1st Division Court to collect this fee on behalf of the City of Novi (§33-814 (3)). The District Court Administrator, Alex Black, has offered this service on the city's behalf; however, the Court would charge a maximum of \$200 and would retain a \$25 service fee. The balance of \$175 would be returned to the City of Novi. Based upon this model, with the same 144 cases, the City of Novi would collect 100% of OWI cost recovery fees under court order.

The attached fee schedule resolution was reviewed and revised by David Gillam from Tom Schultz' office and they recommend moving forward to council on the amended fee schedule resolution. This change will allow the 52nd District – 1st Division Court to collect a fee of \$200 on our behalf. After numerous staff hours investigating OWI cost recovery fees, it was determined this method would be more efficient and revenue neutral for the City of Novi.

Rhea, Kevin

From: David W. Gillam <dgillam@jrsjlaw.com>
Sent: Thursday, December 17, 2015 3:44 PM
To: Rhea, Kevin
Cc: Place, Melissa; Schultz, Thomas
Subject: FW: Attorney Transmittal - OWI Cost Recovery Fee Schedule Resolution
Attachments: Emergency Response Fee Resolution.docx

Kevin,

Here is a resolution to adopt an amended OWI cost recovery fee schedule for your review and approval.

The resolution would set the fee at \$200. I talked to Alex Black at Court this Tuesday. She confirmed that the Court will charge each defendant \$200, of which the Court will keep \$25 as an administrative fee.

If you have any questions, let me know. Otherwise, the resolution can be scheduled for consideration by City Council.

If I don't talk to you before then, Merry Christmas and Happy New Year –

David W. Gillam



Johnson, Rosati, Schultz & Joppich, P.C.
27555 Executive Drive, Suite 250
Farmington Hills, MI 48331-3550
Phone: (248) 489-4100; Fax: (248) 489-1726
Email: dgillam@jrsjlaw.com
Website: www.jrsjlaw.com

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From: Tom Schultz
Sent: Wednesday, December 09, 2015 9:40 AM
To: David W. Gillam <dgillam@jrsjlaw.com>
Subject: Fwd: Attorney Transmittal - OWI Cost Recovery Fee Schedule Resolution

Sent from my iPhone

Begin forwarded message:

From: "Place, Melissa" <mplace@cityofnovi.org>
Date: December 9, 2015 at 9:26:20 AM EST
To: "Schultz, Thomas" <tschultz@jrsjlaw.com>

STATE OF MICHIGAN
COUNTY OF OAKLAND
CITY OF NOVI

RESOLUTION ADOPTING
UPDATED EMERGENCY RESPONSE FEE SCHEDULE

At a regular meeting of the City Council of the City of Novi, Oakland County, Michigan, held in the Council Chambers at 45175 W. Ten Mile, Novi, Michigan 48375, on _____, 2016, the following Resolution was adopted.

RECITALS:

The City of Novi, by and through its Police and Fire Departments, provides emergency response services arising out of persons operating motor vehicles while intoxicated due to the consumption of alcoholic liquor, or a controlled substance, or a combination thereof,

The City incurs significant expenses related to the provision of said emergency response services,

The City has adopted an Emergency Response Cost Recovery Ordinance providing for the recovery of said emergency response costs from persons who operate motor vehicles within the City of Novi while intoxicated,

Said Emergency Response Cost Recovery Ordinance requires the adoption of a resolution setting forth a schedule of fees,

On January 4, 2004, City Council adopted a resolution setting forth a schedule of fees, and

The City has determined that the schedule of fees should be updated, to more accurately reflect the amount of the fees currently charged to persons who operate motor vehicles within the City while intoxicated;

IT IS THEREFORE RESOLVED THAT:

1. A person who is convicted of Operating While Intoxicated, Operating While Visibly Impaired, or any other offense proximately causing any incident resulting in an Emergency Response where the person was under the influence of or impaired by intoxicating liquor or a controlled substance, or the combined influence of an intoxicating liquor and a controlled substance, shall be charged an emergency response cost recovery fee of two hundred dollars (\$200.00), or the actual expense of the Emergency Response as defined by Section 33-813 of the Novi Code of ordinances, whichever is less.

YEAS:

NAYS:

ABSENTS:

ABSTENTIONS:

STATE OF MICHIGAN
COUNTY OF OAKLAND

I hereby certify that this Resolution was adopted at a regular meeting of the Novi City Council on _____, 2016. IN WITNESS WHEREOF, I have affixed my official signature on this ____ day of _____, 2016.

Maryanne Cornelius, City Clerk

2004

OWI Cost Recovery

Fee Schedule

STATE OF MICHIGAN
COUNTY OF OAKLAND
CITY OF NOVI

RESOLUTION ADOPTING EMERGENCY RESPONSE FEE SCHEDULE

At a regular meeting of the City Council of the City of Novi, Oakland County, Michigan, held in the Council Chambers at 45175 W. Ten Mile, Novi, Michigan 48375, on January 5, 2004, the following Resolution was adopted.

RECITALS:

The City of Novi, by and through its Police and Fire Departments, provides emergency response services arising out of drivers operating motor vehicles while intoxicated due to the consumption of alcoholic liquor, or a controlled substance, or a combination thereof;

The City incurs significant expenses related to the provision of said emergency response services;

The City having adopted an Emergency Response Cost Recovery Ordinance providing for the recovery of said emergency response costs from persons who operate motor vehicles within the City of Novi while intoxicated;

Said Emergency Response Cost Recovery Ordinance requiring the adoption of a resolution setting forth a schedule of fees;


IT IS THEREFORE RESOLVED THAT:

1. A person who is convicted of Operating While Intoxicated, Operating While Visibly Impaired, or any other offense proximately causing any incident resulting in an Emergency Response where the person was under the influence of or impaired by intoxicating liquor or a controlled substance, or the combined influence of an intoxicating liquor and a controlled substance, shall be charged an emergency response cost recovery fee of \$450.00 or the actual expense of the Emergency Response as defined by Section 33-813 of the Novi Code of ordinances, which ever is less.
2. A person shall be charged a cost recovery fee of \$150.00 for the taking of the person's blood sample if convicted of Operating While Intoxicated, Operating While Visibly Impaired, or any other offense proximately causing any incident resulting in an Emergency Response where the person was under the influence of or impaired by intoxicating liquor or a controlled substance, or the combined influence of an intoxicating liquor and a controlled substance.

YEAS: Csordas, Landry, Capello, Gatt, Lorenzo, Nagy, Paul
NAYS: None
ABSENTS: None
ABSTENTIONS: None

STATE OF MICHIGAN
COUNTY OF OAKLAND

I hereby certify that this Resolution was adopted at a regular meeting of the Novi City Council on January 5, 2004. IN WITNESS WHEREOF, I have affixed my official signature on this 12 day of January, 2004.



Maryanne Cornelius, Clerk