



ORDINANCE NO. 19-682

AN ORDINANCE OF THE CITY OF WINSTON, OREGON, CITY COUNCIL, AMENDING TITLE III OF THE WINSTON MUNICIPAL CODE SECTION 35 BY ADDING SECTION 35.110 TITLED PUBLIC SAFETY FEE.

WHEREAS, the City of Winston operates a police department; and,

WHEREAS, the Winston police department owns, operates and maintains a fleet of police vehicles; and,

WHEREAS, the police department vehicles need replacement every 5 to 7 years; and,

WHEREAS, the City of Winston desires a long term funding mechanism to replace police vehicles before they become unsafe to operate; and,

WHEREAS, a Public Safety Fee will provide the funding for the long term replacement of police vehicles.

NOW, THEREFORE, THE CITY OF WINSTON, OREGON, CITY COUNCIL HEREBY ORDAINS AS FOLLOWS:

SECTION 1.

35.110. - Purpose

- (A) The principal purpose of this chapter is to safeguard, facilitate and encourage the health, safety, and welfare of the citizens and businesses of the City of Winston. The Council also finds that a continuous and consistent Public Safety Fee program provides a multitude of economic and social benefits to the public, including, but not limited to:
- (1) Improved response to disaster and emergency situations.
 - (2) Increased police protection.
 - (3) Prevention of crime.
 - (4) Enhanced protection of property.
 - (5) Promotion of business and industry.
 - (6) Promotion of community spirit and growth.
- (B) It is the intent of this chapter to provide a funding mechanism to help pay for the benefits conferred on City residents and businesses by the provision of an adequate program of Public Safety; and further to help bring the Police Department vehicles up to acceptable service levels.
- (C) The structure of this Public Safety Fee enacted in this chapter is intended to be a surcharge for service within the City Limits. However, it is not intended to provide full funding for the Police Department. In the event that Public Safety Fee revenues collected are insufficient to properly operate the Police Department, additional funding may be allocated by the City

Council from other non-dedicated City funds provided, however, the City Council may direct the reimbursement to such other non-dedicated City funds if additional Police Protection surcharge revenues are collected.

35.120. - Definitions

- (A) The following words and phrases, as used within this ordinance, have the following definitions and meanings:

Developed property means a parcel or portion of real property on which an improvement exists. Improvement on developed property includes, but is not limited to, buildings, parking lots, and outside storage.

Non-residential unit means a non-residential structure which is used primarily for a business or commercial enterprise and/or which provides facilities for one or more businesses including, but not limited to, permanent provisions for access to the public. Each distinct business facility is considered as a separate non-residential unit.

Person means a natural person; unincorporated association; tenancy in common; partnership; corporation; Limited Liability Company; cooperative; trust, any governmental agency, including the State of Oregon but excluding the City of Winston; and other entity in law or fact.

Residential unit means a residential structure which provides complete living facilities for one or more persons including, but not limited to, permanent provisions for living, sleeping, and sanitation. A home business in a residential zone will be regarded only as a residential unit, not as a non-residential unit. An Ancillary Unit on a single-family parcel shall be considered as a separate residential unit. Multi-family residential property consisting of two or more dwelling units, condominium units or individual mobile home units shall have each unit considered as a separate residential unit. Transient Lodging shall not be considered as a residential unit.

Responsible party means the person owing the Public Safety Fee.

35.130. - Imposition of Public Safety Fee

- (A) There is hereby created a Public Safety Fee to accomplish the above-stated purposes.
- (B) The Public Safety Fee is hereby established and shall be assessed to each residential unit and to each non-residential unit on the basis of **\$3.00 per unit per month**. Billing shall be as a line item on the City Service bill unless otherwise specified below.
- (C) Except as the fees may be reduced or eliminated under section 35.170(C), the obligation to pay a Public Safety Fee arises when a responsible party uses or otherwise benefits from police protection services. It is presumed that police protection services are used, and that a benefit arises, whenever the subject real property is a developed property.
- (D) All developed properties within the City Limits shall be charged the Public Safety Fee.
- (E) Undeveloped properties shall not be charged a Public Safety Fee.
- (F) Annually, as part of the budget review process, a determination shall be made as to whether a reduction in the fee would be appropriate or not.
- (G) The Public Safety Fee rate shall be set only through an ordinance. A schedule of such fees, fines and penalties is kept on file in the offices of the City. Notwithstanding the foregoing, such fee shall not be increased for the first five years following adoption of the Public Safety Fee.

35.140. - Dedication of Funds

All Public Safety Fee revenues derived shall be distinctly and clearly noted in both the revenue and expenditure sections of the City budget and shall be used for the replacement of vehicles and other associated police equipment and other costs incidental thereto and for no other purpose in order to help provide for a safe, well-functioning Public Safety program. The fees paid and collected by virtue of this chapter shall not be used for general or other governmental or proprietary purposes of the City.

35.150. - Collection

- (A) Public Safety Fee shall be collected monthly on the City Service Bill per section 35.130 (B).
- (B) Unless another person responsible has agreed in writing to pay, and a copy of that writing is filed with the City, the person(s) normally responsible for paying the City's sewer utility charges is responsible for paying the Public Safety Fee, if the property is located within the City limits.
- (C) In the event a developed property is not served by a domestic water meter or sewer hook-up, or if water and sewer service is discontinued, the Public Safety Fee shall be billed to the persons having the right to occupy the property.
- (D) A request for sewer service, a building permit, or the occupancy of an unserved building will automatically initiate appropriate billing for the Public Safety Fee.
- (E) There shall be no charge for an undeveloped property until such time as any permits are issued for that property.
- (F) The imposition of surcharges shall be calculated on the basis of the number of units supported, without regard to the number of water meters serving that property.
- (G) A late charge shall be attached to any Public Safety Fee not received within 30 days of billing. The charge is established under administrative fees by resolution.
- (H) Notwithstanding the above, if the Public Safety Fee is not paid for a period of three months, the fee, with any attendant late fees, shall be imposed on the responsible party.

35.160. - Program Administration

Except as provided below, the City Manager shall be responsible for the administration of the Public Safety Fee.

- (A) Fees under this chapter will be collected by the appropriate staff at the City Offices.
- (B) The City Manager is authorized and directed to review the operation of this chapter and, where appropriate, recommend changes thereto in the form of administrative procedures for adoption by the City Council by resolution. Such procedures if adopted by the Council shall be given full force and effect, and unless clearly inconsistent with this chapter shall apply uniformly throughout the City.

35.170. - Appeal Procedure

- (A) A Public Safety Fee may be appealed for change or relief upon filing a written notice of appeal with the City Manager/City Recorder in accordance with the following criteria.
 - (1) Any responsible party who disputes any interpretation given by the City as to property classification may appeal such interpretation. If the appeal is successful, relief will be granted by reassignment to a more appropriate billing category. In such instances, reimbursement will be given for any overpayment, retroactive to the filing date of the appeal. Factors to be taken into consideration include, but are not limited to: Availability of more accurate information; equity relative to billing classifications assigned to other developments of a similar nature; changed

circumstances; and situations uniquely affecting the party filing the appeal.

- (2) Any responsible party may claim a financial hardship. A staff member as directed by personnel policy is authorized to determine financial hardship on a case-by-case situation under guidelines submitted by the finance manager to, and approved by, the City Council.
- (B) Application for appeal shall state the reason for appeal, with supporting documentation to justify the requested change or relief. An annual review of recognized hardship cases will be conducted to determine validity for continuance.
- (C) The City's Public Safety Committee shall be responsible for delegating three members to evaluate and administer the appeal process. If the Public Safety Committee delegates decide information provided through the appeal process justifies a change, the Public Safety Committee delegates may authorize this change retroactive to the date the appeal was filed.
- (D) The Public Safety Committee delegates shall make all reasonable attempts to resolve appeals utilizing available existing information, including supporting documentation filed with the appeal, within 30 days of the date the appeal was filed. If, however, more detailed site-specific information is necessary, the delegates may request the applicant provide additional information.
- (E) In any event, the Public Safety Committee delegates shall provide a report to the appellant within 90 days of the date the appeal was filed explaining the disposition of the appeal, along with the rationale and supporting documentation for the decision reached.
- (F) Decisions of the Public Safety Committee delegates may be further appealed to the City Council, by filing a written notice of appeal with the City Recorder within ten days of receipt of the Public Safety Committee decision, and shall be heard at a public meeting. Upon such further appeal, the City Council shall at its first regular meeting thereafter set a hearing date. The matter shall be heard solely upon the record. In no event shall a final decision be made later than 90 days after the matter was formally appealed to the City Council.
- (G) There will be an initial filing fee for an appeal to the Public Safety Committee. An additional fee will be required for further appeal to the City Council. A schedule of fees, fines and penalties is kept on file in the offices of the City. These fees are fully refundable should the appellant adequately justify and secure the requested change or relief based on financial necessity.

35.180. - Enforcement

- (A) In the event funds received from City Service billings are inadequate to satisfy in full all of the Storm water, Sewer, Transportation, Plant Upgrade and Public Safety fee charges, credit shall be given first to the Police Protection surcharge, second to the sewer service charges, third to the charges for plant upgrade, fourth to the charges for the storm water fee and fifth to the charges for the transportation fee.
- (B) Notwithstanding any provision herein to the contrary, the City may institute any necessary legal proceedings to enforce the provisions of this chapter, including, but not limited to injunctive relief and collection of charges owing. The City's enforcement rights shall be cumulative.

35.190 – Attorney Fees

In any action pursuant to sections 35.110 to 35.190, the court may award attorney's fees to the prevailing party.

35.200 Enforcement Procedures for Violations

The City of Winston adopts and incorporates by reference herein the Oregon Revised Statutes

regarding procedures for processing violations as described in ORS 153.005 to 153.161. Therefore, the Winston Municipal Code hereby authorizes the City of Winston employees to process violations pursuant to state law per the above listed section.

SECTION 2. This Ordinance is effective on the thirtieth (30TH) day following its adoption.

FIRST READING BY THE CITY OF WINSTON, OREGON, CITY COUNCIL ON THIS 1ST DAY OF APRIL, 2019.

SECOND READING AND ADOPTION BY THE CITY OF WINSTON, OREGON, CITY COUNCIL ON THIS 15TH DAY OF APRIL, 2019.

APPROVED BY THE MAYOR ON THIS 15TH DAY OF APRIL, 2019.

Richard E. Hayes, Mayor

ATTEST:

Mark D. Bauer, City Manager/Recorder