

## ORDINANCE NO. 1156

### AN ORDINANCE ESTABLISHING A PUBLIC SAFETY ACT

The People of the City of Prineville ordain as follows:

#### A. Purpose and Intent.

(1) The principal purpose of this Ordinance is to safeguard, facilitate and encourage the health, safety, and welfare of the citizens and businesses of the City of Prineville. The City Council also finds that a continuous and consistent Public Safety program provides a multitude of economic and social benefits to the public, including, but not limited to:

- (a) Increased police protection.
- (b) Prevention of crime.
- (c) Enhanced protection of property.
- (d) Promotion of business and industry.
- (e) Promotion of community spirit and growth.

(2) It is the intent of this Ordinance 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 up to acceptable service levels.

(3) The structure of this Ordinance 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 surcharge 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 Public Safety surcharge revenues are collected.

#### B. Definitions.

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

*City.* The City of Prineville.

*Developed Property.* 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.* A use of property which is primarily not for personal, domestic accommodation, such as a business or commercial enterprise. A non-residential structure which provides facilities for one or more businesses including, but not limited to, permanent provisions for access to the public, shall have each distinct business facility considered as a separate non-residential unit.

*Person.* 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 Prineville; and other entity in law or in fact.

*Residential Unit.* 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.* The person owing the Public Safety surcharge.

*Transient Lodging.* The definition recognized in Prineville Code Chapter 37 shall be utilized herein.

**C. Imposition of Public Safety Surcharge.**

(1) There is hereby created a Public Safety surcharge to accomplish the above-stated purposes.

(2) The Public Safety surcharge is hereby established and shall be assessed to each residential unit and to each non-residential unit on the basis of Ten Dollars (\$10.00) per unit per month. Billing shall be as a separate item on the City services bill unless otherwise specified below.

(3) Except as the fees may be reduced or eliminated under Subsection G (3), the obligation to pay a Public Safety surcharge arises when a responsible party uses or otherwise benefits from Public Safety services. It is presumed that Public Safety services are used, and that a benefit arises, whenever the subject real property is a developed property.

(4) All developed properties within the City Limits shall be charged the Public Safety surcharge.

(5) Undeveloped properties shall not be charged a Public Safety surcharge.

(6) It is the City Council's intention to repeal the surcharge upon sustainable funding options being available for funding for public safety purposes or upon a 911 special district being formed to collect revenues to support the 911/Dispatch Center.

(7) The Public Safety billing rate shall not be increased through resolution, budgetary action, or administrative policy.

**D. Dedication of Funds.** All Public Safety surcharge revenues derived shall be distinctly and clearly noted in both the revenue and expenditure sections of the City budget and shall be used only for the improvement, maintenance, administration and operation of the Police Department and costs

incidental thereto and for no other purpose in order to help provide for a safe, well-functioning Public Safety program. The surcharges paid and collected by virtue of this Ordinance shall not be used for general or other governmental or proprietary purposes of the City.

**E. Collection.**

(1) Public Safety surcharges shall be collected monthly. Statements for the surcharge shall be included as an additional item on the City monthly service bill wherever feasible, unless otherwise specified below.

(2) Unless another person 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 water and sewer utility charges are responsible for paying the Public Safety surcharge, if the property is located within the City Limits.

(3) In the event a developed property is not served by a City water meter or sewer hook-up, or if water and sewer service is discontinued, the Public Safety Surcharge shall be paid by the person occupying the property or if there is none, by the person having the right to occupy the property.

(4) A request for water or sewer service, a building permit, or the occupancy of an unserviced building will automatically initiate appropriate billing for Public Safety services.

(5) There shall be no charge for an undeveloped property until such time as a building permit is issued for that property.

(6) The imposition of surcharges shall be calculated on the basis of the number of residential or non-residential units supported, without regard to the number of water meters serving that property.

(7) Late charges in the amount of \$5.00 per month shall be attached to any Public Safety surcharges not received within 30 days of billing.

(8) Notwithstanding the above, if the Public Safety surcharge is not paid for a period of three months, the surcharge, with any attendant late fees, shall be imposed on the responsible party.

**F. Program Administration.**

(1) Except as provided below, the City Manager shall be responsible for the administration of the Public Safety program.

(2) The City Manager shall be responsible for the collection of fees under this Ordinance.

(3) The City's Public Safety Committee shall be responsible for delegating three members to administer the appeal process under Section G.

(4) The City Manager is authorized and directed to review the operation of this Ordinance and, where appropriate, recommend changes thereto in the form of administrative

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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 Ordinance shall apply uniformly throughout the City.

## **G. Appeal Process.**

(1) A Public Safety surcharge may be appealed for change or relief in accordance with the following criteria.

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) Application for appeal shall state the reason(s) for appeal, with supporting documentation to justify the requested change or relief.

(3) The Public Safety Committee delegates shall be responsible for evaluating appeals. 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 (up or down) retroactive to the date the appeal was filed.

(4) 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 Public Safety Committee delegates may request the applicant provide information.

(5) In any event, the Public Safety Committee delegates shall file a report 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.

(6) Decisions of the Public Safety Committee delegates may be further appealed to the City Council, 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.

(7) Appeals filed within 120 days of the effective date of this Ordinance shall not be subject to paying a filing fee. After this 120-day period, the initial filing fee for an appeal shall be \$50. An additional \$50 fee is required for further appeal to the City Council. These fees are fully refundable should the appellant adequately justify and secure the requested change or relief.

## **H. Discount.**

Any responsible party may apply for the senior/disabled discount allowed by the City. Upon approval of such application by the City the responsible party will receive a credit toward the public safety fee in the amount of such discount.

**I. Enforcement.**

(1) In the event funds received for payments on a City monthly service bill are inadequate to satisfy in full all of the water, sewer, and Public Safety charges, credit shall be given first to the Public Safety surcharge, second to the sewer service charges, third to the charges for water service.

(2) In addition to other lawful enforcement procedures, the City may enforce the collection of charges required by this Ordinance by withholding delivery of water to any premises where Public Safety surcharges are delinquent or unpaid.

(3) Notwithstanding any provision herein to the contrary, the City may institute any necessary legal proceedings to enforce the provisions of this Ordinance, including, but not limited to injunctive relief and collection of charges owing. The City's enforcement rights shall be cumulative.

**J. Miscellaneous**

(1) In the event any section, subsection, paragraph, sentence, or phrase of this Ordinance or any administrative policy adopted herein as determined by a court of competent jurisdiction to be invalid or unenforceable, the validity of the remainder of the Ordinance shall continue to be effective.

(2) Nothing contained herein shall be construed as limiting the City's authority to levy special assessments in connection with public improvements pursuant to applicable law.

(3) The fees and charges herein are not intended to be taxes, nor are they subject to the property tax limitations of Article XI, Section 11 (B) of the Oregon Constitution.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

Signed by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

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Mike Wendel, Mayor

ATTEST:

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