

ORDINANCE NO. 662

AN ORDINANCE AUTHORIZING THE ESTABLISHMENT OF A POLICE SERVICES SURCHARGE; DETERMINING USE OF FUNDS; SETTING UP BILLING AND COLLECTION PROCEDURES; CREATING AN APPEALS PROCESS; ESTABLISHING ENFORCEMENT

WHEREAS, the Aumsville City Council is responsible for maintaining a sound financial basis for ongoing City operations and,

WHEREAS, after extensive review the City Council has determined that reductions in the police department revenue, as well as continual increases in the police departments cost, has created a significant budget deficit, and,

WHEREAS, after survey and meetings requesting public input on this problem, the Council has determined that the majority of the citizens of Aumsville do not want to see service or staff cuts in the Police Department to alleviate this deficit and,

WHEREAS, The City Council has determined it is in the best interests of the citizens of Aumsville to retain the Police Department and to establish a Police Services Surcharge to achieve that end;

NOW, THEREFORE, THE COMMON COUNCIL FOR THE CITY OF AUMSVILLE ORDAINS AS FOLLOWS:

Section 1. TITLE.

Sections 1 to 8 shall be known as the Police Services Act.

Section 2. PURPOSE AND INTENT.

- (A) The principal purpose of this Police Services Act is to safeguard, facilitate and encourage the health, safety, and welfare of the citizens and businesses of the city. The Council also finds that a continuous and consistent Police Services program provides a multitude of economic and social benefits to the public, including, but not limited to:
 - 1. Police protection;
 - 2. Prevention of crime;
 - 3. Protection of property;
 - 4. Promotion of business and industry;
 - 5. Promotion of community spirit and growth.
- (B) It is the intent of this act 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 Police Services; and further to help maintain the Police Department at acceptable service levels.
- (C) The structure of this Police Services Act 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.

Section 3. DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (1) 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.
- (2) Nonresidential unit. A nonresidential unit is a developed property which is primarily not for personal domestic accommodation, including but not limited to business or commercial enterprise. A nonresidential structure which provides facilities for one or more businesses or tenants, including, but not limited to, permanent provisions for access to the public, shall have each distinct unit or tenancy considered as a separate nonresidential unit. A business that leases storage space does not create separate units for each storage space so long as the lease does not provide for general public access to the storage space from which the lessee runs a business.
- (3) Person. Person means a natural person, unincorporated association, tenancy in common, partnership, corporation, limited liability company, cooperative, trust, governmental agency or other entity in law or in fact.
- (4) Person Responsible. The Person Responsible is the person owing the public safety fee. Unless another responsible party has agreed in writing to pay the public safety fee, and a copy of that writing is filed with the city, the person(s) responsible for paying the city's utility charges is the Person Responsible.
- (5) Residential unit. A residential unit is a developed property primarily used for personal domestic accommodation which provides complete individual living facilities for one or more persons including but not limited to permanent provisions for living, sleeping, and sanitation. A home business within a residential unit is not a separate nonresidential unit. An accessory dwelling unit on a parcel is a separate residential unit. Each individual dwelling unit within a multifamily residential property, condominium, or mobile home park is a separate residential unit. A business that provides long-term assisted living care, including but not limited to a long-term care facility, but that does not provide full individualized living facilities for each dwelling unit is a single nonresidential unit, not separate residential units.

Section 4. IMPOSITION OF POLICE SERVICES SURCHARGE.

- (A) There is hereby created a Police Services surcharge to accomplish the above stated purposes. The Police Services surcharge is imposed by the city monthly on all utility accounts connected to city utilities.
- (B) The Police Services surcharge amount will be set by a resolution of the Council. The city council may, in its surcharge resolution, provide for penalties for delinquency of payments to ensure prompt payment of Police Services surcharge billings. Billing shall be as a line item on the City's utility bill unless otherwise specified below.
- (C) Except as the fees may be reduced or eliminated under Section 7, the obligation to pay a Police Services surcharge arises when a Person Responsible uses or otherwise benefits from Police Services. It is presumed that Police Services are used, and that a benefit arises, whenever the subject real property is a developed property within the City limits.
- (D) All developed properties within the city limits shall be charged the Police Services

surcharge.

- (E) Undeveloped properties shall not be charged a Police Services surcharge.
- (F) It is the Council's intention to review the Police Services surcharge annually, as part of the budget review process.

Section 5. DEDICATION OF FUNDS.

All Police Services surcharge revenues derived shall be distinctly and clearly noted as revenue in the City budget and shall be expended on the improvement, maintenance, administration and operation of the Police Department and for no other purpose in order to help provide for a safe, well-functioning Police Services program.

Section 6. COLLECTION.

- (A) Police Services surcharges shall be collected monthly. Statements for the surcharge shall be included as an item on the city monthly utility billing.
- (B) The Person Responsible shall pay the Police Services surcharge at the same time and in the same manner as payment is made for city utility services. The Police Services surcharge shall be prorated based on utility billing cycles and, for utility accounts that are opened or closed during the period the Police Service surcharge is in effect, the date the utility account is opened or closed.
- (C) Charges for water, sewer and the Police Services surcharge may be billed on the same utility bill. In the event funds received for payments on a monthly utility bill are inadequate to satisfy in full all of the water, sewer, and Police Services charges; credit shall be given first to the sewer service charges, second to charges for water service and third to police service fee. Any future payment will be applied first to any previous unpaid balances before this priority payment schedule will apply in any given month.
- (D) There shall be no charge for an undeveloped property until such time as a certificate of occupancy permit has been issued for the property by Marion County.
- (E) The imposition of surcharges shall be calculated on the basis of one surcharge per utility account with the exception of developed properties that have more than one residential or nonresidential unit, which are billed as one utility account or combined utility accounts. In this circumstance the charges are based on individual residential or nonresidential units as the case may be.
- (F) Creation of a city utility account is the basis for imposing the Police Services surcharge. The Police Services surcharge does not in any way create an obligation of the real property. Rather, the obligation to pay the Police Services surcharge is a personal obligation of the customer responsible for payment of the city utility account. No lien will attach to the real property at which the account is located because of the nonpayment of the general service fee.

Section 7. APPEAL PROCESS.

- (A) A Police Services surcharge may be appealed for change or relief in accordance with the following criteria:
 - (1) Any utility customer 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.

- (B) Application for appeal shall state the reason for appeal, with supporting documentation to justify the requested change or relief.
- (C) The customer will first file the appeal with the City Administrator. The CA will investigate and determine if an error has been made, if an error exists the CA will authorize the appropriate correction to the customer's account. If the customer is not satisfied with the CA decision he/she may appeal to the city council.
- (D) The City Council shall hear all appeals at a scheduled public meeting. Such appeal shall occur at the first regular meeting held subsequent to the appeal filing including the standard notification period. 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.

Section 8. ENFORCEMENT.

- (A) In addition to other lawful enforcement procedures, the city may enforce the collection of charges required by this chapter by withholding delivery of water or sewer services to any premises where Police Services surcharges are delinquent or unpaid.
- (B) Notwithstanding any provision herein to the contrary, the city may institute any necessary legal proceedings, other than foreclosure proceedings, to enforce the provisions of this chapter, including but not limited to collection of charges owing. The city's enforcement rights shall be cumulative.

PASSED by the council December 11, 2017 and signed by the mayor December 17, 2017. (Amended by Ord. No. 667 adopted January 14, 2019)