

ORDINANCE NO. 1354

AN ORDINANCE TO AMEND AND RE-ENACT A POLICE AND FIRE SERVICE FEE FOR THE CITY OF WEIRTON

WHEREAS, West Virginia legislature's language under West Virginia Code §8-13-13 is based on the premise that a municipality incurs some expense for furnishing, installing, maintaining, or improving a service it renders to its citizens; and

WHEREAS, existing West Virginia Supreme Court decisions indicate that the purpose of West Virginia Code §8-13-13 is to allow municipalities to enact fee ordinances to defray the cost of certain municipal services and to impose the fee on its citizens who are users of such services; and

WHEREAS, it is the intention of the Common Council of the City of Weirton that the Police and Fire services shall be continued, maintained, and improved by the City, in part, at the charge and expense of the owners, occupiers or tenants of such buildings and structures within the City and in addition at the charge and expense of owners of vacant buildings and structures, which occupiers of buildings and structures and owners of all buildings and structures be declared to be users and beneficiaries of such Police and Fire services as contemplated by West Virginia Code §8-13-13; and

WHEREAS, the charges and expenses, with respect to each of such users, as set out in this article shall be based and imposed, in part, upon recognition of the following;

- a) The size of the building, as reflected by the total square feet, is a factor which effects the cost of providing Police and Fire services, herein referred to as the Police and Fire Service Fee, and therefore the fees to be imposed hereunder are related in part to the size of the building.
- b) The use of the building or structure is a factor which affects the cost of providing Police and Fire services and in addition the type of business further affects the cost of providing services. Therefore, non-residential property as compared to residential property requires additional equipment and manpower to provide the above mentioned services, and therefore it is the intent of this article that owners and occupiers of residential buildings pay a lesser charge for Police and Fire service to reflect the reduced cost associated with providing said services.
- c) Churches and schools have had a lesser demand for Police and Fire services on a historical basis and their classification should reflect the reduced cost associated with providing said services.

I. DEFINITIONS

- a) “Residential building or structure” is defined to be: a building or structure that a family inhabits. This includes all buildings and structures or parts thereof, as outlined in the City of Weirton Code, Part XIII, Planning and Zoning Code, Section 703, Subsection “C”, Use Classes 1, 2 & 6. These lists are not to be considered all inclusive.
- b) “Nonresidential building or structure” are those structures or building or part(s) thereof, that are used for any purpose listed in the City of Weirton Code, Part XIII, Planning and Zoning Code, Section 703, Subsection “C” included titles/definitions generally related to the term “Business”.
- c) “Vehicle” includes automobiles, buses, recreational vehicles, trailers, boats, motorcycles which are licensed under State law.
- d) “Owner-occupant” includes any person, individual, firm, partnership, joint venture, association, corporation, trust or any other group within the City owning buildings or leasing/renting such buildings or structures and also includes the owner or lessee of vehicles.
- e) “Dwelling-Unit” one or more rooms, including a kitchen or kitchenette and sanitary facilities, in a dwelling structure, designed as a unit for occupancy by not more than one family.
- f) “Total square feet: means that sum as measured by the exterior dimensions of the structure multiplied by the number of stories, but shall not include any part of a structure encompassed by the following:
 - 1) Porches
 - 2) Basements (when not utilized)
 - 3) Attics

II. IMPOSITION OF POLICE AND FIRE PROTECTION CHARGE

- a) There is hereby imposed upon the respective owners of all buildings or structures in the City a Police and Fire protection fee or charge for the period beginning July 1, 2000, and for each year thereafter, in an amount equal to the total number of square feet contained in the building multiplied by \$.15.
- b) The respective owners of all churches and schools or structures in the City shall be exempt from the basic fee imposed in subsection (a) hereof, but shall pay a Police and Fire fee protection charge or fee in the amount equal to the total number of square feet contained in the building x \$.08.
- c) There is hereby imposed upon the respective owners or lessees of all vehicles in the City a Police and Fire protection fee or charge for the period beginning July 1, 2000, and for each year thereafter, a flat fee of \$0 per vehicle.
- d) The respective owners of all residential buildings or structures in the City shall be exempt from the basic fee imposed in subsection (a) hereof, but shall in lieu thereof pay a Police and Fire protection charge or fee for the period beginning July 1, 2000, and for each year thereafter, a flat fee of fifty dollars (\$50.00) per building or structure. However, in regard to residential buildings or structures with more than one dwelling unit a flat fee of fifty dollars (\$50.00) will apply for each dwelling unit.

III. PAYMENT

All municipal police and fire fees shall be paid in one installment. The payment will be due on September 30 of each year and become delinquent on October 1 of the same year. If the fee is not paid on or before the day on which it becomes delinquent, a penalty of two percent (2%) of the service charge shall be added and an additional one percent (1%) shall be added for each succeeding thirty days elapsing before payment is made.

IV. PROTESTS

The owner, occupier or lessee of any such building or vehicle feeling aggrieved by such charge or fee may protest the same by giving written notice to the City Clerk setting forth his objections on or before November 15 of each fiscal year. The Clerk shall forward such protest to the Police and Fire Service Fee Appeals Board who shall set a time for hearing within thirty days of the filing of such protest. The Appeals Board shall render its decision based on the record made at the hearing within a reasonable time, giving notice in writing of its decision to all parties concerned.

The amount, if any, due the City under such decision shall be due and payable thirty days after service of the decision. Any person aggrieved by such administrative decision may within thirty days from such decision file a petition, duly verified with the Circuit Court of Hancock and/or Brooke County, requesting review by certiorari; otherwise the decision becomes final and conclusive.

The Office of the Director of Finance of the City of Weirton is charged with the enforcement of this Ordinance and may institute appropriate legal proceedings in the corporate name for the City of Weirton. The service charge provided for by this Ordinance shall be a debt due to the City of Weirton. The City of Weirton may collect all service charges and all accrued penalties by action against the owner or occupier of property against whom the Police and Fire Service Fee has been assessed by action before the Magistrate Court of Hancock and/or Brooke County or by appropriate proceedings in the City Court of Hancock and/or Brooke County.

V. POLICE AND FIRE SERVICE FEE APPEALS BOARD

There shall be established a Police and Fire Service Fee Appeals Board consisting of three members, one a councilman appointed by the Mayor, one shall be the Fire Chief or Police Chief, and the third shall be a resident of the City appointed by Council. They shall serve at the will and pleasure of Council. Any vacancy for whatever cause shall be filled by an appointment made by the official that appointed the individual who is no longer on the Board.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Weirton, Brooke and Hancock Counties, West Virginia, that the Police and Fire Service Fee of the City of Weirton as revised shall become effective immediately upon passage of second reading.

First Reading: August 12, 2002

Publication Date: August 19, 2002 and August 28, 2002

Second Reading: September 9, 2002

Dean Harris (Mayor)

ATTEST:

Karen Orlor (Interim City Clerk)