

ORDINANCE 31

AN ORDINANCE PROVIDING FOR A MUNICIPAL FIRE FEE FOR THE PURPOSE OF CONTINUING, MAINTAINING AND IMPROVING FIRE PROTECTION SERVICES WITHIN THE CITY OF PLEASANT VALLEY AND PROVIDING FOR THE FEE RATES AND THE COLLECTION AND DISBURSEMENT THEREOF

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLEASANT VALLEY:

SECTION ONE. AUTHORITY

This Ordinance is enacted under the authority granted to municipalities under W. VA. CODE § 8-13-13.

SECTION TWO. PURPOSE

The City of Pleasant Valley is empowered by the West Virginia Code, Chapter 8, Article 13, Section 13 to impose by ordinance, upon the users of any special or essential services, including fire protection, reasonable rates, fees and charges to be collected in the manner specified in the ordinance for services.

Fire protection is a special and essential service and it shall be continued, maintained and improved partially by the City and also at the charge and expense of the owners of buildings and structures, of every kind and nature within the City, the occupiers or tenants of such buildings and structures, and the owners of vehicles within the City, which owners and occupiers are declared to be the users and beneficiaries of such fire protection service. Moreover, it is the intention of the Council of the City of Pleasant Valley, to provide a reasonable fee and expenditure thereof for the purpose of promoting, enhancing, and providing for modern and state of the art equipment, manpower and facilities for fire protection within the City of Pleasant Valley, West Virginia.

The charges and expenses paid by said users, as set out in this ordinance, shall be based and imposed, in part, upon recognition of the following legislative findings:

- (a) The size of a building, as reflected by the total square feet, is a factor that affects the cost of providing fire protection; and therefore, the fees imposed hereunder are related in part to the size of the building.
- (b) The use of a building is a factor which affects the cost of providing fire protection and accordingly nonresidential property as compared to residential property requires different equipment and manpower to provide effective fire protection; and therefore, it is the intent of this article that owners and occupiers of residential buildings and the owners and occupiers of commercial and similar buildings pay appropriate fees for fire protection to reflect the cost of the applicable protection. The charges imposed, assessed and levied herein are in accordance with this intent.
- (c) The cost of protection of motor vehicles can be partially defrayed by means of the fees upon owners and occupiers of property structures as each generally will have possession of or use of motor vehicles. Further, the actual costs will be recovered, partially, by assessing the cost of said protection on an as needed basis against mandatory insurance providers or vehicle owners.

SECTION THREE. DEFINITIONS

For the purposes of this article, the following terms shall have the meanings respectively designated unless it is clear from the context that a different meaning is intended:

- (a) “Residential unit structure” means any structure or unit whether or not occupied which is used or intended by the nature of its construction to be used as a single-family dwelling by persons for living or sleeping quarters, but shall not include unit structures intended primarily for transient lodging, including, but not limited to, hotels, motels, rest homes, and hospital rooms.
- (b) “Multi-family residential unit structure” means a residential unit structure having two or more family dwellings or units within one such structure, whether or not occupied. Such structure shall include but not be limited to apartment buildings, condominiums, townhouses or boarding houses. A “unit” therein shall be comprised of each and every apartment, sleeping room, unit, townhouse, condominium unit, or separately billed unit. Such residential structures shall exclude hotels, motels, tourist homes, rest homes, hospitals or similar businesses wherein occupancy is generally for less than a thirty-day period.
- (c) “Nonresidential unit structure.” All other buildings not included within the definition of residential unit structure or multi-family residential unit structure shall be deemed to be within the classification of nonresidential unit structure for purposes of this article. Such structures shall include tourist homes, hotels, motels, churches, rest homes, schools, government buildings, commercial entities, etc. Structures owned by the City of Pleasant Valley are exempt from this ordinance as is any structure of the Valley Volunteer Fire Department.
- (d) “Total square feet” means that sum as measured by the exterior dimensions of the structure multiplied by the number of stories, but shall not included any part of a structure encompassed by the following:
 - i. Porches
 - ii. Basements (when not generally utilized or finished)
 - iii. Attics (when not generally utilized or finished)
- (e) “Owner” and “user” shall be synonymous and shall mean the record owner as found in the records of the Clerk of the Marion County Commission or as determined under the laws of the State. A part or fractional owner is an owner under this article. A tenant is also a “user” herein.
- (f) “Treasurer” means the Treasurer of the City of Pleasant Valley.

SECTION FOUR. ADMINISTRATION

- (a) The Treasurer or his or her duly authorized designee is hereby empowered to make such rules and regulations not in conflict with the provisions of this article relative to the offering and providing fire protection services as are necessary to protect public property or the safety or health, and no person shall fail to comply with any such rule or regulation so promulgated.

- (b) The Treasurer shall administer all sections of this ordinance dealing with financing, billing, collection, disbursement and similar activities and is authorized to promulgate and enforce rules and regulations as are necessary and reasonable to carry out the provisions of all sections of this ordinance dealing with said activities.

SECTION FIVE. RATES, FEES, CHARGES ESTABLISHED FOR STRUCTURES

There is hereby imposed and shall be collected a charge upon the users of fire service for residential unit structures, multi-family unit structures, and nonresidential unit structures which use the Fire Service Provider and Services of the City of Pleasant Valley, including the Valley Volunteer Fire Department and any similarly situated organization including, but not limited to, mutual aid departments or providers.

The charge for such service per each “residential unit structure” and per each unit contained within a “multi-family residential unit structure”, whether or not occupied, shall be forty dollars (\$40.00) per year.

The charge for such service per each and every “nonresidential unit structure” shall be three cents (3¢ or \$0.03) per square foot but not less than forty dollars (\$40.00) per year per structure.

SECTION SIX. BILLING AND COLLECTION OF FEES

- (a) All fees and charges for fire service protection or use pertaining to residential unit structures, multi-family unit structures, and nonresidential unit structures shall be billed and collected by the Treasurer.
- (b) Charges for fire service protection and use will be billed on an annual basis upon the enactment of this ordinance by January 1st of each calendar year thereafter, in a manner to be determined by the Treasurer. Provided, however, any single owner, as defined by the Treasurer, that is required to pay greater than five hundred dollars (\$500.00) per year, may be billed on a semi-annual basis, or more frequently as determined appropriate by the Treasurer. Failure to receive a timely billing does not relieve the user of the responsibility to pay said annual fee.
- (c) The Treasurer shall send an additional bill not later than the first week of April to all who are delinquent in the payment of the fire fee.
- (d) Bills and statements are presumed to have been received within five (5) days after bills are deposited in the United States mails, provided each is properly addressed and correct postage is affixed.
- (e) To avoid delinquent charges, payment for the fire service protection is to be made to the City no later than March 31.
- (f) Delinquency Charges or Penalties. Any charges for service or use remaining unpaid after March 31 shall be deemed delinquent and a delinquency fee of five percent (5%) of the unpaid balance shall be applied. For payments remaining unpaid after May 31, an additional delinquency fee of five percent (5%) shall be applied to the unpaid total.

- (g) The Treasurer of the City of Pleasant Valley, or his or her designee, is hereby authorized to use all legal means to collect said fire fee and delinquent payments, including seeking relief in a court of competent jurisdiction.

SECTION SEVEN. MOTOR VEHICLE ACCIDENTS, NON-STRUCTURAL FIRES, HAZARDOUS CLEANUPS AND SIMILAR ACTIVITIES

The City of Pleasant Valley directly or any Fire Service Provider including the Valley Volunteer Fire Department any similarly situated organizations including, but not limited to, mutual aid departments or providers are hereby authorized to collect a fee equivalent to the actual costs for providing services at any non-structural type accident or incident, including, but not limited to, any motor vehicle accident, emergency hazardous material cleanup, brush or forest fire, environmental incident, safety and rescue incident or similar occurrence. These costs may include, but are not limited to the actual costs of fire fighting materials and equipment, personnel hours, hazardous or environmental abatement materials and chemicals, safety, rescue, or medical supplies and equipment. Any person engaging in any act, whether negligently or intentionally, which causes the aforementioned incidents is a user of said services and is liable for payment of said costs and fees. Further, any insurance provider for said persons shall be directly responsible for the payment of these costs or fees. Said costs and fees may be collected by either the City of Pleasant Valley or the actual service provider and the collection of said fees shall be enforced in the same manner as other fees set out herein.

SECTION EIGHT. FEES, CHARGES, AND PENALTIES ARE COLLECTIBLE DEBTS DUE AND OWED

The fees or charges provided for by this ordinance shall be a debt due and owed to the City of Pleasant Valley beginning on January 1st of each year. The City may collect any such fee or charge and all accrued penalties and collection costs, including attorney fees, from the user against whom the service charges have been assessed. Said collection can be accomplished by commencing an action in the Magistrate Court of Marion County, West Virginia or by appropriate proceedings in the Circuit Court of Marion County West Virginia, or in any other court of law wherein appropriate jurisdiction can be accomplished.

SECTION NINE. PROPERTY OWNER RESPONSIBLE FOR PAYMENT

Each and every property owner of residential unit structures, multi-family residential unit structures, and nonresidential unit structures shall be primarily responsible for the payment of the fire service protection user fee charges assessed, imposed and levied under this article. Provided, however, that nothing herein shall prevent an owner of a structure from obtaining an agreement, by lease or any other agreement, requiring a tenant to reimburse or pay the property owner said user fees and charges or penalties. However, said lease or agreement shall not release the owner from his or her responsibility to pay said user fees, charges or penalties to the City of Pleasant Valley.

Further, all billings under this article shall be made to the property owner notwithstanding any provisions of this article to the contrary.

SECTION TEN. PENALTIES FOR VIOLATIONS

Whoever violates any provisions of this article, for which no other penalty is provided shall be fined not more than five hundred dollars (\$500.00).

SECTION ELEVEN. EXPENDITURE OF FUNDS

The revenues derived from the collection of these municipal fire protection fees shall be appropriated or distributed by means of the City’s budget to the City’s fire protection service provider, the Valley Volunteer Fire Department, in a manner set forth by City Council and only upon presentation of proper invoice or statement from the Valley Volunteer Fire Department. Provided, however, that the City of Pleasant Valley shall, for the first fiscal year of operation, retain ten percent (10%) of the fire protection user fee revenues, and the entirety of all delinquency charges, penalties, collection costs, including attorney fees, collected by the City of Pleasant Valley for expenditure by the City of Pleasant Valley in a manner related to fire or safety services, including, but not limited to, administrative and collection costs. For future years of operation, the Council of the City of Pleasant Valley may adjust the percentage of the fire protection user fee revenues to be retained in a manner acceptable under and prescribed by the laws of the State of West Virginia.

SECTION TWELVE. SEVERABILITY AND SAVINGS CLAUSE

Should any section, phrase or word of this Ordinance be deemed unenforceable or ineffective or otherwise illegal, the remaining portions of the Ordinance shall be separately construed and remain saved and effective and enforceable.

Passed by the City Council this 16th day of February, 2011.

signed by Barbara Metcalfe
Mayor

Attest:

signed by Rebecca Teets
City Clerk