

ORDINANCE NO. 562

**AN ORDINANCE ADOPTING A PUBLIC SAFETY FEE
FOR THE CITY OF VENETA**

WHEREAS, the City contracts for police services from the Lane County Sheriff's Office; and

WHEREAS, the City established a Law Enforcement Fund to track expenses for public safety including police services, and to prudently budget for an Ending Fund Balance as an emergency reserve to pay for such services and related activities until property tax revenues are received later in the fiscal year from Lane County, Oregon; and

WHEREAS, the City each year allocates revenue resources to the Law Enforcement Fund mostly from local property taxes, and supplemented by State and City Marijuana Sales taxes, and the telecommunications franchise fee, among other resources; and

WHEREAS, over the last five years revenues available to be allocated to the Law Enforcement Fund from the telecommunications franchise fee have declined by more than 50%; and

WHEREAS, the shared revenue allocated to the Law Enforcement Fund from the State's Marijuana Sales tax is estimated to decline by more than 70% in Fiscal Year 2021-2022 and beyond due to Measure 110 passing, which diverts a significant amount of those funds to other programs; and

WHEREAS, over the last five years the Law Enforcement Fund's Ending Fund Balance has not met the City Council's emergency reserve prudent target of four months' operating expenses plus \$100,000; and

WHEREAS, the Veneta City Council has deemed it a priority to adequately and sustainably fund law enforcement activities; and

WHEREAS, in order to stabilize a sustainable level of funding, the Veneta City Council has determined that funding from a public safety fee is required in addition to existing sources of law enforcement funding.

NOW, THEREFORE, THE CITY OF VENETA ORDAINS AS FOLLOWS:

Section 1. Creation and Purpose.

A. The principal purpose of the public safety fee adopted under this chapter is to safeguard, facilitate and encourage the health, safety and welfare of the residents and businesses of the city. The city council 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:

1. Increased police protection.
2. Prevention of crime.
3. Enhanced protection of property.
4. Promotion of business and industry.
5. 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 level of police protection and public safety within the city.

C. This chapter is intended to create a fee for service within the corporate limits of the City of Veneta. However, it is not intended to provide full funding for police services. In the event that the public safety fee revenues collected are insufficient to offset the costs of police services, additional funding may be allocated by the city council from other nondedicated city funds; provided, however, the city council may direct the reimbursement to such other nondedicated city funds if additional public safety fee revenues are collected.

Section 2. Definitions. Unless otherwise defined herein, terms used in this Ordinance have the meaning ascribed by Veneta Municipal Code (VMC) 3.25.005. As used in this chapter, the following terms shall mean:

COUNCIL: The City Council for the City of Veneta.

DEVELOPED PROPERTY: A parcel or legal portion of real property, on which an improvement exists or has been constructed. Improvement on developed property includes, but is not limited to buildings, parking lots, landscaping and outside storage. A presumption shall exist that a property is a Developed Property under this chapter when a property receives water service, receives sewer service, is under lease, is issued a building permit, or receives an occupancy permit. Thereafter, to avoid the public service fee, the responsible person for the property shall have the burden to show that the property is not a Developed Property

LAW ENFORCEMENT: Any action or activity to provide police services or public safety programming, including code enforcement, public safety communications, and community safety programming like Neighborhood Watch, and any other related activities that fosters public safety.

NON-RESIDENTIAL UNIT: A Developed Property that is primarily not for personal domestic use or accommodation, including but not limited to business or commercial enterprise. A non-residential structure which provides accommodation 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 non-residential 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.

RESIDENTIAL UNIT: A Developed Property primarily used for personal domestic use or 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 non-residential unit. An accessory dwelling unit on a parcel is a separate residential unit. Each individual dwelling unit within a multi-family 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 non-residential unit, not separate residential units. Transient lodging is not a residential unit.

RESPONSIBLE PARTY: The person or persons who by occupancy or contractual arrangement are responsible to pay for utility and other services provided to an Residential or Non-Residential Unit. Unless another party has agreed in writing to pay and a copy of the writing is filed with the City, the person(s) paying the City's water or sewer bill for an Residential or Non-Residential Unit shall be deemed the Responsible Party as to that Residential or Non-Residential Unit. For any Residential or Non-Residential Unit not otherwise required to pay a City utility bill, "Responsible Party" shall mean the person or persons legally entitled to use or occupancy of the Residential or Non-Residential Unit.

TRANSIENT LODGING: A hotel, motel or inn dwelling unit that is used for temporary overnight human occupancy; a space used for parking a recreational vehicle or erecting a tent during temporary periods of human occupancy; or other dwelling units, or portions of dwelling units that are used for temporary human occupancy. For the purposes of this Chapter, "temporary" means less than thirty (30) consecutive days.

Section 3. Administrative Officers Designated.

A. Except as provided in subsections (B) and (C) of this section, the City Administrator shall be responsible for the administration of this chapter. The City Administrator shall be responsible for developing administrative procedures for this chapter, administration of fees, and for the purposes of establishing the fee for a specific Residential or Non-Residential Unit, and the consideration and assignment of categories of use subject to appeal in accordance with this chapter.

B. The City Administrator shall be responsible for administering Law Enforcement services for the City of Veneta and, subject to City Budget Committee review and City Council approval, allocating and expending budget resources for Law Enforcement services in accordance with this chapter.

C. The Finance Director shall be responsible for the collection and calculation of fees.

Section 4. Public Safety Fees Allocated to the Law Enforcement Fund.

A. All public safety fees received shall be deposited into the Law Enforcement Fund or other fund dedicated to the operation and maintenance of City Law Enforcement services. Other revenue sources may also be used for Law Enforcement services. Amounts in the Law Enforcement Fund may be invested by the Finance Director in accordance with State law. Earnings from such investments shall be dedicated to the Law Enforcement Fund.

B. The Law Enforcement Fund shall not be used for other governmental or proprietary purposes of the City, except to pay for an equitable share of the City's overhead costs including accounting, management and other costs related to management and operation of the Law Enforcement services program.

Section 5. Determination of Public Safety Fee.

A. A public safety fee is hereby established for each developed property within the City, and shall further be based upon the following:

1. The City's Law Enforcement service level and City emergency reserves policy.
2. For Residential and Non-residential Property, the fee shall be charged on a per Residential or Non-Residential Unit basis.

B. The amount of the public safety fee shall be set by Council resolution.

C. The public safety fee program shall be reviewed annually as part of the City's budget process.

D. Following each review of the program, the Finance Director shall review the revenue received from the new rates after a full year of collection to determine if the annual revenues meet the annual funding level needed for Law Enforcement services. The Finance Director shall report the findings of that review to City Council and may make recommendations on any potential fee increases or decreases based on that review. Any unspent funds will be carried over to the following budget year's beginning fund balance for the Law Enforcement Fund.

Section 6. Determination of Amount, Billing and Collection of Fee.

A. Based upon the fees set by Council resolution, the Finance Director shall charge a per unit public safety fee to the Responsible Party for each Billing Unit with an Active Utility Account or, for Residential or Non-Residential Units not connected to City water and/or sewer, to the Responsible Party for each Residential or Non-Residential

Unit of Developed Property. The amount payable shall be re-determined if there is a change in use or development. All redeterminations based on a change in use or development shall be prospective only.

B. The public safety fee shall be billed to and collected from the Responsible Party identified in Section 6.A., above. Public safety fees shall be included as part of the water and sewer bill for Billing Units with Active Utility Accounts, and included on an "Other Utility" bill for Residential or Non-Residential Units not connected to City water or sewer services. All such bills shall be rendered regularly by the Finance Director and shall become due and payable upon receipt.

C. Collections from Responsible Parties will be applied first to interest and penalties, second to public safety fees, third to transportation utility fees, fourth to storm water drainage fees, fifth to sanitary sewer service utilities, and last to water utilities.

D. An account is delinquent if the public safety fee is not paid by the due date shown on the utility bill. The City may follow the procedures for collection of delinquent accounts as outlined in VMC 3.20 and 3.25, including termination of water and sanitary sewer service.

E. For newly developed properties, the fees imposed under this chapter shall become due and payable from and after the earlier of the date when the Developed Property is usable or occupiable or when City water or sanitary sewer system service is initiated.

Section 7. Exemption. Public safety fees imposed under this chapter shall apply to all Developed Property per Section 5.A. of this Ordinance, including property which may be entitled to exemption from or deferral of ad valorem property taxation. Such property or Units owned or used by local, state and federal governments are exempt from the public safety fee.

Section 8. Reduction of Fees for Low Income Households. Upon written application by the Responsible Party and approval by the Finance Director, Residential or Non-Residential Units receiving or otherwise eligible for a reduction in water and sewer base fees per the City's low-income eligibility policy shall receive a commensurate reduction in the public safety fee charged. The Finance Director's decision under this Section is final.

Section 9. Appeals.

A. The City Administrator shall have the initial authority and responsibility to interpret all terms, provisions and requirements of this chapter and to determine the appropriate charges thereunder. A Responsible Party may request reconsideration of the Finance Director's determination of the amount of the fee by submission of a written application to the City Administrator. The application shall be supported with sufficient factual details to enable the City Administrator to render a decision.

B. Within thirty (30) days of the submission of a complete application requesting reconsideration of the amount of the public safety fee to be charged to a Responsible Party, the City Administrator shall render a decision on the application. The decision shall be written and shall include findings of fact and conclusions for the particular aspects of the decision, based upon applicable criteria. A copy of the decision shall be mailed to the person submitting the request.

C. For the purpose of reviewing the fee, the City Administrator may determine that the land use category is proper and that the fee charged is appropriate. However, if the decision of the City Administrator results in a change in the category of land use, the City Administrator shall, for the purpose of establishing the fee, assign a new use category, and notify the Finance Director so that the appropriate change may be made in the applicable fee to be charged in the future. No back charges or refunds are required.

D. The Responsible Party may appeal the City Administrator's determination to the Council. The notice of appeal must be filed in writing within ten (10) days of the date notice of change of category of land use and determination of fee is sent and must be filed with the office of the City Administrator in writing, stating:

1. The name and address of the appellant.
2. The address of the affected premises.
3. The nature of the determination being appealed.
4. The reason the determination is incorrect.
5. What the correct determination of the appeal should be.

A Responsible Party who fails to file such a statement within the time permitted waives his or her objections and the appeal shall be dismissed. If notice of appeal is properly filed, except in an emergency, the City shall take no enforcement action regarding the Responsible Party's failure to pay the public safety fee until the Council renders a final determination on the appeal.

E. At its next available meeting, the Council shall hear and determine the appeal on the basis of the written statement and such additional evidence as the Council deems appropriate. The appellant shall be allowed at least ten (10) days' written notice of the hearing on appeal. At the hearing the appellant may present testimony and oral argument personally or by counsel, and additional evidence. The rules of evidence as used by courts of law do not apply. 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.

F. The decision of the Council shall be in writing and shall contain findings of fact that substantiate the Council's decision. The decision shall be mailed to the appellant within ten (10) days of the completion of the appeal hearing. The decision of the Council

shall be final. If the appeal is successful, any refund of fees will be limited to any overpayment, retroactive to the filing date of the appeal.

Section 10. Penalty.

A. In addition to any other remedy, violation of any provision of this chapter shall, upon conviction, constitute a violation punishable by a maximum fine of \$360.00. Each day of delinquency in paying the public safety fee constitutes a separate violation.

B. In addition to other lawful enforcement procedures, using the procedures under VMC Chapter 3.25, the City may enforce the collection of charges required by this chapter by withholding delivery of water to any premises where the public safety fee is delinquent.

Section 11. Severability.

A. In the event any section, subsection, paragraph, sentence or phrase of this chapter or any administrative policy adopted herein is determined by a court of competent jurisdiction to be invalid or unenforceable, the validity of the remainder of the Chapter shall continue to be effective. If a court of competent jurisdiction determines that this Chapter imposes a tax or charge, which is therefore unlawful as to certain but not all affected parties, then as to those certain properties, an exception or exceptions from the imposition of the public safety fee shall thereby be created and the remainder of the chapter and the fees imposed thereunder shall continue to apply to the remaining properties without interruption.

B. 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.

Section 12. Codification. Provisions of this Ordinance shall be incorporated into the City Code, and the words "ordinance" or "section" may be changed to "code," "article," "chapter," "division," or another word, and the sections of this Ordinance may be renumbered or re-lettered, and the City Recorder is authorized to correct any cross-references and any typographical errors.

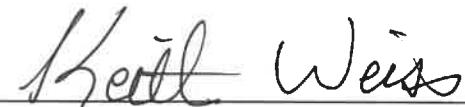
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Section 13. Effective Date. This ordinance will go into full force and effect on the 1st day of January, 2022.

READ FOR A FIRST TIME, BY TITLE ONLY, this 14th day of June, 2021, no Council person in attendance having requested that it be read in full.

READ FOR A SECOND TIME, BY TITLE ONLY, AND FOR FINAL ADOPTION, this 12 day of July, 2021 no Council person present having requested that it be read in full.

PASSES AND ADOPTED by a 5 vote for and a 0 vote against by the Veneta City Council this 12 day of July, 2021.


Keith Weiss, Mayor
Executed on 7/12/21

ATTEST:



David Grabicki, City Recorder
Executed on 7/12/2021