

ORDINANCE # 397

AN ORDINANCE TO AMEND AND READOPT ORDINANCE NO. 363 THAT PROVIDED FOR THE IMPOSITION AND COLLECTION OF A MUNICIPAL SERVICE CHARGE UPON THE USERS OF FIRE PROTECTION, POLICE PROTECTION AND THE STREETS AND STREET LIGHTING WITHIN THE CITY OF MANNINGTON.

WHEREAS, The City Council of the City of Mannington is empowered by West Virginia code, Chapter 8, Article 13, Section 13, to impose, by ordinance, upon the users of certain essential municipal services reasonable rates, fees, and charges for those services and to collect from those users in the manner as set out in the ordinance for those services; and

WHEREAS, the City Council of the City of Mannington, by Ordinance #363, which amended Ordinance #274, that imposed such a Municipal Service Fee upon the users of municipal services; and

WHEREAS, it is the intention of the City Council of the City of Mannington to amend and readopt the Municipal Service Fee ordinance of said City.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Mannington, West Virginia:

SECTION 1: IMPOSITION AND RATE: COLLECTION DIRECTED.

A. There is hereby levied and shall be collected a charge against users of any municipal services, including police protection, fire protection, street lighting, street maintenance, street cleaning and street improvements (excluding those essential services of Parks & Recreational facilities, sewage and sewage disposal and the collection and disposal of garbage, refuse, waste, ashes, trash and other essential municipal services). The charge for such service shall be at the following rates for each single family unit residence, per unit, and for each multiple-family dwelling or apartment house, per each residential unit or apartment, whether or not occupied, and for each business establishment.

1 year	\$ 144.00
1 month	12.00

This charge is not based on any tap fee, water meter or the specific provision of any service, but is based solely upon the location inside of the city limits of Mannington.

Provided, however, that any building that is not used as a residence is exempt from this charge. If an existing building is converted to a non residential structure, upon confirmation by the code enforcement officer and application by the owner, the charge may be removed.

B. The City Clerk shall be charge with the duty of mailing a statement on a monthly, quarterly, or yearly basis to each person or business establishment to be charged with the municipal fee hereby imposed for the fee due for the preceding month or quarter as the case may be, but failure to mail any statements of monthly, quarterly, or yearly charges shall not be grounds for avoiding payment.

A Statement shall be mailed by the Clerk at least as frequently as once each year, but at the discretion of the Clerk, a statement may be mailed each month or quarter and any such statement may be consolidated by the Clerk with statements for other municipal services due from such person or business establishment. If a monthly statement is mailed by the Clerk it may be mailed each month on a date selected by the Clerk but the Clerk shall render the monthly billing to such person or business establishment in a uniform manner so that each monthly bill is mailed at intervals of approximately thirty (30) days. The Clerk may yearly or otherwise mail books for monthly payment or similar payment books or bills.

C. The City Clerk is hereby authorized to collect the municipal service fee herein imposed on a yearly basis and if such fee is paid in advance and paid on or before July 20 of each year, the Clerk is authorized to allow a discount of Six Dollars (\$6.00) on the yearly fee. The City Clerk is hereby directed to collect from any person or business establishment failing or refusing or neglecting to pay the fees herein imposed for a period of twenty (20) days after the date of a statement whether it be a monthly or quarterly statement as herein provided, a penalty of ten percent (10%) of the amount of the fee shown upon the statement. Any fee paid to the City of Mannington pursuant to the terms of this section of the City Code shall be deemed paid upon the date payment was mailed to the City Clerk, in a properly addressed and stamped envelope. The postmark appearing on the envelope containing such fee shall be deemed conclusive evidence of the date such payment was made.

D. The breakdown of the fees collected shall be as follows:

Fire Department	\$ 4.50
Street lighting	\$ 2.50

The Fire Department is guaranteed at least \$ 54,000 annually. The balance of fees collected shall be budgeted between the Police Department and Street Department in accordance with established needs.

E. Subject to such reasonable regulations as may be promulgated by the City Clerk, the rates and charges specified by section "A" herein shall be billed to the owners of each and every single family residence, multiple-family dwelling or apartment house, or business establishment located within the City, provided: that upon application by the occupant of any such residential or business unit, filed with the Clerk upon a form provided by the said Clerk, showing the occupants status as such, such bills may be rendered to the said occupant and become the occupant's responsibility.

SECTION 2: DEFINITIONS

A. The USERS of municipal services shall be deemed to be all residents of and/or property owners in the City of Mannington.

B. OWNERS of single-family residential, multi-family residential or business property shall be defined as the record or taxable owner as of July first of each year as appears in the records kept by the clerk of the County Commission of Marion County, West Virginia, or by the Sheriff of Marion County, West Virginia.

C. OCCUPANTS for residential property shall be defined as the adult head of each household or family unit or as one adult member of an unrelated household sharing one residential unit.

D. OCCUPANTS for business property shall be defined as the lessee or tenant of the business property, whether or not said lessee or tenant resides within the City of Mannington.

E. BUSINESS ESTABLISHMENT shall mean any entity chargeable for business and occupation taxes or a business license within the City of Mannington with a place of business within the City limits. Business Establishments located within the City on a temporary or transitory basis shall be chargeable a pro-rate share of the total fee for one year, with a minimum of \$12.00 for each month or part thereof in which the Business Establishment does business within the City.

SECTION 3: REPORT BY CITY CLERK TO COUNCIL.

The City Clerk shall within sixty (60) days after the end of each fiscal year report to the City Council a list of all person and business establishments who are delinquent in the payment of the municipal service fee or any portion thereof for the preceding fiscal year and the City Council shall by resolution direct the City Clerk and other municipal employees to take such action as the Council deems advisable and necessary in regard to the payment of such delinquent fees.

SECTION 4: PROVISIONS SEVERABLE.

The provisions of this ordinance shall be construed as severable and should any section or part thereof be held unconstitutional or for any reason invalid or unenforceable by a court of competent jurisdiction hereto the unaffected portions thereof shall remain valid and shall be given full force and effect.

This ordinance shall become effective on the first day of February, 2010.

Mayor

ATTEST: _____
City Clerk

First Reading: December 20, 2010

Second Reading: January 4, 2011

Public hearing held: January 4, 2011