

**CITY OF ROCKAWAY BEACH, OREGON
ORDINANCE NO. 19-438**

AN ORDINANCE RELATING TO EMERGENCY SERVICES FEES, ENACTING MUNICIPAL CODE SECTION 34.60 EMERGENCY SERVICES FEES AND STATING AN EFFECTIVE DATE.

RECITALS / FINDINGS.

R/F 1. The City Council finds that funding to maintain core city services and to address deficiencies in public safety services requires revenue generated from service fees that will be dedicated to law enforcement, fire protection and emergency preparedness services.

R/F 2. The City Council finds that deficiencies are caused by disproportional and increased needs of more intensively developed, real property as compared to single family residences. In general, more people occupying or using less space per person increases the burden on public safety and emergency services. As a consequence, The City Council finds that an emergency services fee based on real property taxes is insufficient and not equitable under these circumstances.

R/F 3. The City Council finds that the implementation of Emergency Service Fees provides a stable, long-term funding source ensuring resources are available to provide emergency services that are in addition to and supplement existing services and therefore directly benefit each member of the Rockaway Beach community based on the proportion of the need for the supplemental service that each community member directly generates and receives.

R/F 4. The City Council finds that the Residential Meter Equivalent (RME) is an equitable and accurate measure of the intensity of use of a property and the proportionately corresponding need for additional and/or supplemental emergency services throughout the City directly generated by the intensity of real property use. Public Emergency Services demands and risks are increased where the density of people is higher in multi-unit or multi-story buildings. For instance, multi-story structures operated by a Utility Account Owner with greater RME require specialized equipment (aerial ladder) and additional personnel per National Fire Protection Association (NFPA) standards, i.e. 16 personnel are required for residential structure fire, but 27 personnel are required for apartments and for high rises. Therefore, intensively developed real properties cause/require disproportionately higher emergency services response costs.

R/F 5. The City Council finds that Emergency Service Fees are in the general health, safety and welfare interests of the citizens of Rockaway Beach.

NOW, THEREFORE, THE CITY OF ROCKAWAY BEACH ORDAINS AS FOLLOWS:

Chapter 34.60 – EMERGENCY SERVICES FEES.

Section 1 – Purpose of Emergency Services Fees.

1.1. The purpose of this ordinance is to more fairly distribute the costs of emergency services, including without limitation police, fire and emergency preparedness services, among all citizens of Rockaway Beach. Where citizens live and/or work in more human-population dense areas, the needs and costs of emergency services' responses are disproportionately greater than those in less dense areas.

1.2. Another purpose of this ordinance is to maintain and grow emergency services to meet the residential and commerce needs of the citizens, real property owners, and visitors to Rockaway Beach as those needs may change through time.

1.3. The purpose of the Emergency Services Fees is to provide funding for Emergency Services. Emergency Services safeguard, facilitate, and encourage the health, safety, and welfare of the residents and enterprises of the City of Rockaway Beach. Stable and reliable Emergency Services provide a multitude of economic and social benefits to the public, including, but not limited to:

- A. Protection of life and property;
- B. Reduction in the incidence of crime;
- C. Dependable response by law enforcement.

The Rockaway Beach City Council finds and determines Emergency Service Fees are necessary to help pay for the benefits of Emergency Services and to provide an acceptable level of service.

Section 2 – Definitions.

As used in this chapter, the following means:

2.1. *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, outside storage, recreational vehicle storage and other uses.

2.2. *Undeveloped Property.* A parcel or legal portion of real property, on which no improvements exists or has been constructed.

2.3. *Utility account customer.* The person in whose name a water and/or wastewater account exists and who is responsible for payment of charges for said account. The Utility Account Customer is responsible for the demand for fire services generated by activity on the property served by the account.

2.4. *Utility Billing Office.* The City Office responsible for issuing City Services bills and collecting payment of monies due.

Section 3 – Establishment of Emergency Service Fees.

3.1 Emergency Service Fees are imposed jointly and severally upon (1) corresponding utility account holders of record, and/or (2) the owners of record, on all developed property within the City. All developed property receives a direct or indirect benefit from Emergency Services. Unless specifically exempted, Emergency Services Fees apply to all City of Rockaway Beach utility accounts, including those that serve local, state and federal governments, and to utility accounts that serve Premises that are entitled to an exemption from or deferral of ad valorem property taxes. The Emergency Service Fees shall also apply to premises not connected to utility services such as commercial storage units.

3.2. The entirety of the Emergency Service Fees are earned or assessed for all or any part of a calendar month as of the first of the month. City shall not be required to apportion Emergency Service Fees, in whole, part or by emergency service among multiple owners or ownerships in any month.

3.3. The obligation to pay the Emergency Services Fees is a personal obligation of the customer responsible for payment of the City utility account. Residential Units and Non-Residential Units that are the basis for calculating the Emergency Services Fees do not in any way create an obligation of the property or Premises. No lien will attach to any Premise because of the nonpayment of the Emergency Services Fees. The Emergency Service Fee may be paid by any person.

3.4. The fees shall be based on the Residential Meter Equivalent (RME), which corresponds to the direct and indirect demand for the use of emergency services generated by the utility account customer. The fees imposed under this chapter shall become due and payable from and after the effective date of this chapter, and for developed property after the effective date of this chapter, from and after the date the property becomes developed or water service provided.

3.5. The Emergency Services Fees described herein are not subject to the property tax limitations of Article IX, Sections 11b and 11(19) of the Oregon Constitution and is not a fee imposed on property or property owners by fact of ownership.

3.6. The fees imposed under this chapter shall begin with City Services bills issued on or after **January 10, 2020**.

Section 4 – Exceptions to the Emergency Service Fee.

The following properties shall not be subject to the Emergency Service Fees.

- 4.1.** City-owned parking lots, which are not associated with public services other than parking.
- 4.2.** Publicly owned parkland, open spaces, and greenways.
- 4.3.** Undeveloped properties.
- 4.4.** Premises owned by the City of Rockaway Beach, except premises or parts thereof leased to any other legal person or entity, are exempt from the payment of any Emergency Services Fee.

Section 5– Determination of Emergency Service Fees.

5.1. The Emergency Service Fees for each utility customer of each developed property shall be based on the Residential Meter Equivalent (RME) methodology adopted by the American Water Works Association, most recent edition of its model and as amended, reflecting differences in demand for water service based on the size of the meter.

5.2. For example, most single-family residential units have 5/8 or 3/4 inch meters. As a result, the RME treats this size of meter as a single RME (a.k.a RME = 1). The higher the RME, the corresponding and proportionately higher the demand for supplemental and additional fire services generated by the development served by the utility account. Multi-unit properties currently serviced by a single 5/8 or 3/4 meter will be billed at an RME equal to the Dwelling Unit value designated by the Tillamook County Assessor's Office.

5.3. Specific RME calculations are as expressed in the Table in this section.

Size of Meter	RME
No meter	1
5/8 inch to ¾ inch	1
1 inch	2
1.5 inch	4
2 inch	7
3 inch	16
4 inch	28
6 inch	64
10 inch	178

5.4. Each property’s monthly fee total shall be the product of that property’s RME calculated value multiplied by the sum of the service fees. Fee amounts to be subsequently set or updated by City Council resolution at the Council’s discretion. The initial monthly fee amounts are as follows:

Fire Service Fee (FSF).....	\$5.00
Police Service Fee (PSF).....	\$0.00
Emergency Preparedness Service Fee (ESF).....	\$0.00

Emergency Services Fees Total = (FSF + PSF + EPSF) x Utility Customer RME value.

Section 6 – Revenue.

6.1. The Emergency Service Fees revenue shall be used only for emergency services, including funding payroll costs for staff, equipment, and the materials necessary to operate police, fire and emergency preparedness services.

6.2. All funds collected pursuant to this chapter shall be deposited in an “Emergency Services Account” in the City’s General Fund.

6.3. Funds shall be allocated to the specific emergency service (Police, Fire and Emergency Preparedness), in proportion to the fee amount collected for each service.

6.4. City shall collect the Emergency Services Fee by adding the Emergency Services service fee to the utility bill of each customer in the City of Rockaway Beach. For non-utility accounts, the billing shall be mailed to the property owner’s address as set forth in the County property records, unless such owner requests the billing be sent to a different address.

Section 7. BILLING and COLLECTION.

7.1. The customer(s) responsible for paying the City utility account is responsible for payment of the Emergency Services Fees. For non-utility Premises, the property owner as set forth in the Tillamook County tax records shall be the responsible party.

7.2. City shall regularly collect the Emergency Services Fees by adding the Emergency Services service fees to the utility bill of each customer in the City of Rockaway Beach. For non-utility accounts, the billing shall be mailed to the property owner's address as set forth in the County property records, unless such owner requests the billing be sent to a different address.

7.3. If a Premise has more than one utility account, the Emergency Services Fees for the Premises shall be calculated based on the total number of Residential Units and Non-Residential Units on the Premise. For paragraph 5.4 RME calculations, the Residential Units and Non-Residential Units may be combined into one utility account or separately allocated to each utility account.

7.4. Charges for water, wastewater, and Emergency Services Fees may be billed on the same utility bill. If full payment of utility billing is not made, payment shall be applied in the following order:

- I.*** Water;
- ii.*** Wastewater / Sewer; and
- iii.*** Emergency Services Fees

7.5. Payment Due Date. The Emergency Service Fees shall be billed and collected every two months with and as part of the combined City Services billing which includes water and/or wastewater fees. The Emergency Services Fee shall be due the same date as the utility bill. For non-utility accounts, the due date shall be the 17th of the month the bill is received.

Section 8. ADJUSTMENT OF ACCOUNTS.

8.1. Review of Emergency Services Fee by Utility Clerk. Any Customers who believes their Emergency Services Fees, as applied to their Premise, are (1) not within the intent of this Ordinance, and/or (2) not correctly calculated or assessed, may request in writing a review of their Emergency Services Fees by the Utility Clerk. This request must be received within ten (10) days of the due date of the customers utility bill due date. The Utility Clerk may independently initiate a review of a customer's Emergency Services Fees formula and/or assessment for compliance with this ordinance.

8.1.1. If a customer's charge is reduced as a result of this review, the corrected Emergency Services Fees shall begin with the next billing and a credit or refund shall be made retroactively, not to exceed one year from the last billing.

8.1.2. If a customer's charge is increased as a result of this review, the corrected Emergency Services Fees shall begin with the next billing and the customer may be billed for the increase retroactively, not to exceed one year from the last billing. Retroactive assessment of the Emergency Services Fee shall not be for any month within one year following the effective date of this ordinance.

8.2. If an existing customer has not been billed for the Emergency Services Fees, the Emergency Services Fees shall begin with the next billing and the customer may be billed retroactively, not to exceed one year. Retroactive correction shall not be for any month for one year prior to the effective date.

8.3. Appeal of Utility Clerk’s Decision. Customers not satisfied with the results of the review by the Utility Clerk may appeal the Utility Clerk’s decision to the Rockaway Beach City Manager who shall determine, by preponderance of the evidence, whether the Utility Clerk’s decision is consistent with the intent of the ordinance, and whether the measurements and calculations supporting the Utility Clerk’s decision of the applicable Emergency Services Fee are correct. A Notice of Appeal must be in writing and physically delivered to the City Manager no later than fourteen (14) calendar days from the date of the Utility Clerk’s decision.

8.3.1. The hearing before the City Manager acting as the Rockaway Beach Hearings Officer shall be conducted no later than twenty (20) days from the date of the appeal, unless a different date is stipulated by the City and the customer, or good cause is shown for setting the matter forward. Testimony at the hearing shall be taken upon oath or affirmation of the witnesses. The Hearings Officer shall consider only the matters set forth in the Notice of Appeal. The Hearings Officer shall uphold, reverse, or uphold in part and reverse in part the Utility Clerk’s decision. The Findings and Decision of the Hearings Officer shall be served upon the customer by first class mail within ten (10) days after the hearing concludes. The Hearings Officer decision shall be effective ten (10) days following the date of the decision. The Findings and Decision of the Hearings Officer shall be City’s final decision, subject only to remedy by writ of review under ORS 34.010 to 34.100, which shall be the customer’s sole remedy.

8.4. The Utility Clerk may write off closed accounts and retroactive bills if it is in the best interest of the City.

Section 9. DELINQUENCY & COLLECTION.

9.1. An Emergency Services Fee is delinquent if payment in full is not received on or before the due date.

9.2. If a customer's utility account is delinquent for any Emergency Services Fee only, the City may not discontinue water services billed on that account. However, the City may refuse to restore water service to the Premise if: (1) service is lawfully shut off and (2) the delinquent charges and other costs incurred, including Emergency Services Fees, are not paid.

9.3. Delinquent amounts owing for Emergency Service Fees may be collected by all legal means, including, but not limited to the referral or assignment to a collection agency.

9.4. Initial collection of the Emergency Service Fees shall begin with the calendar month of the effective date of this ordinance.

Section 10. LANGUAGE. The headings of the contract paragraphs are intended for information only and shall not be used to interpret paragraph contents. All masculine, feminine and neuter genders are interchangeable. All singular and plural nouns are interchangeable, unless the context requires otherwise.

Section 11. SAVINGS. Should any clause or section of this ordinance and/or amendment be declared by a court to be void or voidable, the remainder of this ordinance and/or amendment shall remain in full force and effect.

Section 12. EFFECTIVE DATE.

This Ordinance shall take effect thirty (30) days

after its passage.

1st reading by the Rockaway Beach City Council _____.

2nd reading by the Rockaway Beach City Council _____.

Adopted and Approved by the Rockaway Beach City Council _____.

Sue Wilson, Mayor.

<u>City Council</u>	<u>Aye/Nay</u>
Nathan Beeman	___/___
Tom Martine	___/___
Kristine Hayes	___/___
Terry Walhood	___/___
James Doyle	___/___

Attest:

City Manager