

CODIFIED ORDINANCES OF GLEN DALE
PART SEVEN – BUSINESS AND TAXATION CODE

CHAPTER THREE – TAXATION AND SERVICE CHARGES

ART. 752 WORKER CITY SERVICE/USER FEE

752.01 Legislative Intent and Findings

- a.) The City Council finds that the City provides significant municipal services to all individuals acting within its municipal limits, and such services are provided at a higher rate to those employed within the City than others. These services are provided to employees whether they are residents of the City, who have paid taxes or other service fees, or individuals living outside of the City and only working within the municipal limits.
- b.) The City Council further finds that the City is further impacted as the two largest employers in the City are nonprofit entities.
- c.) The City Council finds that such municipal services include, but are not limited to, police protection, fire protection, other emergency services, traffic and street infrastructure, maintenance, and improvement, water utilities, sewer utilities, stormwater control, curbing, sidewalks, street and other lighting, and parking, among others.
- d.) The provision of these municipal services are within the authority of the City and the City has a duty to provide these municipal services to individuals within its municipal limits, regardless of their residence status, under the laws of the State of West Virginia.
- e.) The City Council further finds that the provision of these municipal services are essential and necessary for the creation and maintenance of business, and the jobs which provide livelihoods to individuals working within the municipal limits.
- f.) All individuals who share in the benefits of these municipal services, particularly on a continuous, repetitive basis, should bear an equitable share in the cost of such services.
- g.) The City Council finds that the imposition of this worker city service/user fee is a reasonable system for fairly distributing the costs and burdens to all users, not simply residents, of the municipal services.
- h.) The City Council finds that the imposition of this fee is in the best interest of both citizens of the City and all other users of the municipal services.

- i.) The City Council finds that employers within the City's limits possess important information necessary to properly enforce aspects and provisions of this Ordinance, and that reasonable regulations obtaining information directly from such employers shall be a necessary and important part of the administration of the fee.

752.02 Authority

The City is granted the plenary power, authority, and responsibility to provide and enforce ordinances for the installation, continuance, maintenance, and improvement of municipal services; to make reasonable regulations to support and continue such municipal services; and to impose ordinances on the user of such municipal services rates, fees, or charges to be collected to support such municipal services under West Virginia Code § 8-13-13.

752.03 Definitions

- a.) "City" shall mean the City of Glen Dale, West Virginia.
- b.) "Employee" shall mean any individual who is employed at one or more locations within the City and is on the payroll of such employer(s), on a full-time or part-time basis, for at least thirty (30) days per calendar year, in exchange for salary, wages, benefits, or other compensation.
- c.) "Employer" shall mean any person or entity maintaining at least one regular office or place of business within the City, for whom employees work within the City, and whom pays employees compensation of any type for their labor. This includes all for-profit and non-for-profit persons or entities, and all local, municipal, county, state, and federal governmental entities.
- d.) "Employed" shall mean an employee working for an employer or a self-employed individual operating a sole proprietorship or as a member of a firm. An Employee shall be considered employed in a calendar week so long as the employee remains on the current payroll of an employer, derived compensation for such week, and the employee has not been permanently assigned to an office or place of business outside the City. Any self-employed individual shall be considered employed in a calendar week as long as such individual has not permanently ceased business operations within the City.
- e.) "Fee" shall mean the worker city service/user fee being imposed by this Ordinance.
- f.) "Municipal service(s)" shall mean any and all valuable services provided by the City, its departments, boards, commissions, or agents.
- g.) "User" shall mean any person who is employed within the City by and employer located within the City and who is benefiting from the use of the City's municipal services.

752.04 Evidence of Use of City Service

The holding of employment for at least thirty (30) days per calendar year at any regular office or place of business located within the City is legal and valid proof of the use of one or more municipal services sufficient to assess and collect this fee from and individual.

752.05 Fee and Rate

The City hereby imposes a worker city service/user fee on all employee and self-employed individuals at the rate of one dollar (\$1.00) per calendar week of employment within the City. No individual shall pay such fee more than once for the same week regardless of having multiple employers.

752.06 Effective Date

This Ordinance and the imposition of the worker city service/user fee shall take effect on January 1, 2025.

752.07 Administrative Regulations

The City, through its officers and officials, shall promulgate reasonable regulations for the effective collection of the fees imposed under this Ordinance, with such regulations including, but not being limited to:

- a.) Setting the due dates for the remittance of fees collected and to be paid, with the intent of the City Council being that such due dates be in coordination with other withholdings and payment obligations of employers to the extent possible.
- b.) Setting forth guidelines for the orderly collection and payment of the fees by employers, employees, and self-employed individuals outside of simply the date.
- c.) Regulations requiring employers within the City to withhold, collect, and remit fees for their employees and to supply the City with any and all information which may include the number of full-time/part-time employees, hire dates, termination dates, names, social security numbers, addresses, and other information which may identify employees as subject to this Ordinance.
- d.) Any other needful regulations explaining, clarifying, or otherwise supporting the provisions of this Ordinance.

Such regulations will be reduced to writing, promulgated to employers, and shall become effective upon the date of being filed in the Office of the City Clerk. With such administrative regulations being attached to this Ordinance.

752.08 Investigation/Audit

For the purposes of ascertaining the correctness of any information submitted to the City, the City, through its employees or officers, shall have the authority to:

- a.) Examine or cause to be examined any books, papers, records, memoranda, documents, and any other payroll data or information; and may take testimony under oath of any such person.
- b.) Issues subpoenas and subpoenas duces tecum in the name of the City to compel the attendance of witnesses and the production of the above mentioned items at a time and place specified.
- c.) To enforce the provisions of this Ordinance by instituting appropriate civil actions in any court of competent jurisdiction.

752.09 Delinquent Accounts and Penalties

Payment of fees not received on the due date shall be considered delinquent and past-due. Such delinquent and past-due fees shall be assessed a five percent (5%) penalty on the balance of such delinquent fees. If delinquency exceeds a month an additional penalty of two percent (2%) of the total delinquent balance shall be added each additional month thereafter. Such delinquency fee may be assessed directly against any employer who is responsible for collecting, withholding, and remitting the fee of employees covered this Ordinance. The City may waive or reduce these penalties after review and for reasonable cause.

752.10 Lien Creation

Any fees and penalties due and payable under this Ordinance shall be considered a debt due to the City. It shall be the personal obligation of the fee payer and if unpaid a lien shall be created against the real and personal property of the fee payer. Such lien shall hold priority except for liabilities to the State of West Virginia and the United States of America. Such lien shall continue until the underlying liability for the fees and penalties is satisfied. Once satisfied the City shall issue a certificate of release for the lien upon the request of the fee payer. The liens created under this ordinance shall be subject to the conditions and restrictions of West Virginia Code Chapter 38, Article 10C.

752.11 Employer Responsibility

- a.) It shall be the responsibility of all employers employing employees subject to the worker city service/user fee to withhold fee amounts, make all scheduled payments, and make all reports as required pursuant to this Ordinance. Any employer who willfully fails to withhold and remit fees it is required to collect under this Ordinance shall be liable to the City for the amount of fees it fails to withhold along with any penalties under 752.09 above.

- b.) All withheld fee amounts shall be paid by the employer to the City on a quarterly basis. With such quarters being as followed: 1st quarter January through March, 2nd quarter April through June, 3rd quarter July through September, and 4th quarter October through December. Such quarterly amount shall be due within thirty (30) days of the end of the quarter for which it is due or be subject to the penalties 752.09 as delinquent.

752.12 Challenge and Appeal

- a.) Any individual who paid a fee imposed by this Ordinance may file a claim for refund. Such claim shall be filed no later than thirty (30) days after such fee has been paid and be made in writing to the City setting out with particularity all the objections and reasons for refund. The burden of proof shall rest with the individual challenging the fee to prove that the fee paid was incorrect and was contrary to the law. The City shall then appoint a representative to review such challenge, provide for any necessary hearing, render a decision on such claim, and notify the individual of such decision in writing. Such decision and actions shall occur within a reasonable time. Any decision issues shall be issued by certified mail, return receipt requested.
- b.) If aggrieved by the decision of the City the individual challenging the fee may appeal the decision of the City within thirty (30) days after receipt of the City's decision.
1. The appeal shall be taken by the filing of a petition and notice with such petition and notice being served upon the City as an original notice. When the petition and notice is so served upon the City it shall also be filed in the Office of the Clerk of the Marshall County Circuit Court and docketed as other cases with the challenger as the plaintiff and the City as the defendant.
 2. The filing of the appeal shall not stay the collection of the fee unless the plaintiff shall file with the clerk a bond for the use of the defendant, with sureties approved by the clerk of the Circuit Court of Marshall County, the penalty of the bond to be not less than the total amount of the fee and penalties that are the question of the appeal and conditioned that the plaintiff shall perform the orders of the Marshall County Circuit Court. Provided that the Judge of the Marshall County Circuit Court may stay the collection of the fees and penalties without the requirement of a bond upon a proper showing by the plaintiff that its resources and properties are sufficient to secure the same or that justice would be best served by such.
- c.) The remedies set forth in this Ordinance are exclusive. Failure to timely file a refund claim in accordance with this Section shall preclude any right to refund with respect to any fee paid to the City. If no appeal to the Marshall County Circuit Court is made within thirty (30) days after service of the City's decision, said decision shall become final and conclusive and not subject to other administrative or judicial review. The amount of the fee and penalties, if any, shall be due and payable the day following the date such decision becomes final.

752.13 Dedication of Revenue

All revenues generated by this Ordinance are dedicated to and to be exclusively utilized for police protection, fire protection, other emergency services, traffic and street infrastructure, maintenance, and improvement, water utilities, sewer utilities, stormwater control, curbing, sidewalks, street and other lighting, parking, and other related public works projects. Revenues generated may also be used to assist in the cost of imposing and processing this Ordinance.

752.14 Severability

If any section, subsection, subdivision, paragraph, provision, sentence, clause, or word in this Ordinance is found invalid, illegal, or unconstitutional such shall not affect any other portion of this Ordinance.

752.15 Fee is in Addition to Municipal Service Fee

The fee imposed herein shall be in addition to and independent and exclusive of any other municipal service fees for police and/or fire protection, street and lighting maintenance, or other municipal service fees imposed under other Ordinances of the City, including that imposed under Article 751.