

**AGENDA FOR THE REGULAR MEETING OF PARKERSBURG
CITY COUNCIL FOR TUESDAY, NOVEMBER 9, 2010, 7:30 PM
SECOND FLOOR, COUNCIL CHAMBERS, MUNICIPAL BUILDING**

- I. CALL TO ORDER – Council President, John W. Rockhold III
- II. PRAYER
- III. PLEDGE OF ALLEGIANCE
- IV. ROLL CALL – City Clerk
- V. MINUTES – Council meeting held October 26, 2010
- VI. REPORTS FROM STANDING OR SPECIAL COMMITTEES
- VII. MESSAGE FROM THE EXECUTIVE
- VIII. PUBLIC FORUM
- IX. RESOLUTIONS
 1. Resolution authorizing the Finance Director to request approval for a budget revision in the amount of \$112,784.02 as incoming grants for the Police Department overtime. (Finance Committee of City Council)
 2. Resolution stating that City Council meetings in December shall be December 14th and December 21st, 2010. (Councilmen Reed, Kimes, Lynch, Wilcox, and Joyce.)
 3. Resolution authorizing Mayor Robert Newell to apply for a \$10,000.00 Flex-E-Grant on behalf of the Parkersburg Downtown Taskforce, with \$2,000.00 in unencumbered matching funds in the form of support staff for the project, and to administer the funds if awarded. (Sponsored by Councilmen Rockhold, Lynch, Reed, and Reynolds.)
- X. ORDINANCE, FIRST READING:
 4. An ordinance adopting Article 780, City Service User Fee, in the amount of \$3.00 per week. (Committee of the Whole).
- XI. ADJOURNMENT

NEXT COUNCIL MEETING NOVEMBER 16, 2010

The Council of the City of Parkersburg met Tuesday, October 26, 2010, at 7:30 PM in the Council Chambers on the second floor of the Municipal Building at One Government Square, Parkersburg, WV 26101.

The meeting was called to order by Council President, John W. Rockhold III, who presided over the meeting. Councilwoman Nancy Wilcox led the Lord's Prayer and the Pledge of Allegiance. The Clerk noted the attendance and those present included Councilmen Nancy Wilcox, Sharon Lynch, Brad Kimes, John Sandy, Sharyn Tallman, Mike Reynolds, Tom Joyce, Jim Reed, and John Rockhold.

MINUTES – Mr. Kimes moved, seconded by Mr. Reed, to approve the minutes from the meeting held October 12, 2010, and the motion was adopted by unanimous vote.

REPORTS FROM STANDING OR SPECIAL COMMITTEES – Mr. Kimes reported that the Finance Committee met this evening and moved one budget revision for the police department on to City Council.

Mr. Sandy invited anyone interested to attend the Downtown Façade Committee meeting scheduled for October 27th.

Mr. Rockhold reported on a recent Area Roundtable meeting he attended and said they discussed our proposed skateboard park, the replacement of our National Guard Armory, and an expansion at WVU-P. The On-Trac program is being restructured, he said.

MESSAGE FROM THE EXECUTIVE – Mayor Robert Newell commended our Police Department for their work during a funeral for Private David Hess who died in Afghanistan recently. The funeral was this past week-end, and it was reported that a few thousand people lined the streets and roads in honor of Private Hess. He also commended our Fire Department for going to Belpre, Ohio, to a residential fire to offer assistance.

Mayor Newell also said there were some misleading stories in the newspaper lately concerning the National Guard Armory and hopefully an event center combination. He said it could be paid for by revenue bonds and economic development. The resolution on the agenda this evening says this is still our mission, and we are hopeful they will build on Fort Boreman Hill. The federal government has already spent \$2.3 million dollars, and they began talking to us a few years ago. The Mayor took this opportunity to invite Wood County to join us with this project, and said if it couldn't be paid for by the economy, it wouldn't happen.

PUBLIC FORUM – Ms. Carole Hanna, 2515 Vaughan Avenue, stated she was in favor of the ordinance this evening concerning banning texting while driving; as was Mr. Terry Hunley, 2605 Vaughan Avenue, who told Council there have been 38 states that have banned two way radios and five states where you can't use hands free. Mr. Hunley also mentioned people running stop signs on Lakeview Avenue, at Emerson and Lakeview and the four way stops on Liberty Street.

RESOLUTION

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PARKERSBURG that the Finance Director be authorized to request approval from the State Tax Commissioner for the following budget revision within the General Fund for fiscal year 2010-11 prior to the expenditure or obligation of funds for which no appropriation or insufficient appropriation currently exists:

GENERAL FUND

REVENUES

FUND	ACCT	DESCRIPTION	DEBIT	CREDIT
001	365	Federal grants	\$100,000.00	
001	366	state grants	45,500.00	
001	368	contributions	154,500.00	

EXPENDITURES

001	421-230	Development, contr. Services		\$300,000.00
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MOTION – Mr. Reed moved, seconded by Mr. Joyce, to adopt the resolution, and the motion was adopted by majority vote with all members voting "yes" with the exception of Ms. Wilcox, who voted "no".

RESOLUTION

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PARKERSBURG that the Finance Director be authorized to request approval from the State Tax Commissioner for the following budget revision within the General Fund for fiscal year 2010-11 prior to the expenditure or obligation of funds for which no appropriation or insufficient appropriation currently exists:

GENERAL FUND

REVENUES

FUND	ACCT	DESCRIPTION	DECREASE	INCREASE
001	381	Reimbursements	\$5,000.00	

JOURNAL OF THE CITY COUNCIL, NO. 53

PARKERSBURG, W. VA., October 26, 2010

CASTO & HARRIS, INC., SPENCER, WV RE-ORDER NO. 1035-08

EXPENDITURES

FUND	ACCT	DESCRIPTION	DECREASE	INCREASE
001	436 101 008	Code Dept, overtime		\$5,000.00
001	416 212 000	Court – outside printing		1,200.00
001	416 341 000	court – supplies	\$300.00	
001	422 103 000	personnel, salary, dept. head	900.00	

MOTION – Mr. Reed moved, seconded by Mr. Joyce, to adopt the resolution, and the motion was adopted by unanimous vote.

RESOLUTION

WHEREAS, the West Virginia National Guard is developing plans to construct a new armory to replace their current facility on Blizzard Drive in south Parkersburg; and

WHEREAS, the Guard contacted the City of Parkersburg to solicit the City's participation in this project by creating a multi-use facility that would serve the needs of the West Virginia National Guard and while serving the City of Parkersburg and the surrounding communities and Wood County as a civic event center that would provide space to handle larger community events; and

WHEREAS, the Guard is currently reviewing possible sites for this facility including property known as the Fort Boreman site; and

WHEREAS, the City and the Wood County Commission have expressed interest in participating in this effort; and

WHEREAS, the City of Parkersburg believes that the only way the City can afford the costs that would be associated with their participation is to generate enough new economic development, within the City, to off-set the costs that might be associated with construction of the facilities that would operate for community use; and

WHEREAS, the Area Roundtable has provided assistance to the project at the request of the City of Parkersburg and has a mission of promoting economic development in Wood County; and

WHEREAS, the Area Roundtable has undertaken a thorough review of the Fort Boreman property and has sought grants and spent funds to analyze that site and other sites along Corridor D and determined that the Fort Boreman site is highly developable with the opportunity to encourage economic development on property adjacent to a potential site for the proposed National Guard Armory;

THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PARKERSBURG that we encourage the development of a replacement armory for the West Virginia National Guard at a site within the City of Parkersburg, and

BE IT RESOLVED that, we encourage the West Virginia National Guard and the Wood County Commission to work cooperatively with the City to explore every opportunity to construct a facility that would serve the needs of the National Guard and operate with a dual purpose as a civic event center of a size and nature that would serve appropriately the third largest city in the State of West Virginia, Wood County and the surrounding area, and

BE IT FURTHER RESOLVED *that*, we encourage the West Virginia National Guard give every consideration to the Fort Boreman site in order to provide easy access to citizens that might use the facility for a civic event center and because the adjacent property is adequate and accessible to encourage public and private development that would assist in defraying the costs to the local community associated with construction of the civic event center component.

MOTION – Mr. Joyce moved, seconded by Mr. Sandy, to adopt the resolution, and the motion was adopted by unanimous vote.

ORDINANCE, FIRST READING:

AN ORDINANCE PROHIBITING THE NON-VOICE USE OF 2-WAY WIRELESS ELECTRONIC COMMUNICATION DEVICES

MOTION – Mr. Joyce moved, seconded by Ms. Tallman, to adopt the ordinance on first reading.

Councilman Reed said he understood this ordinance coming to Council, but he has a problem legislating common sense and good parenting. He said it would be difficult to enforce, and the problem should fall back on the parents.

Mr. Joyce said there had been a lot of studies that point to a possibility that banning the devices could encourage users to try to obscure them and the problem could be worse. It should be common sense, but people will text even if it is against an ordinance. It is not good practice, and it is dangerous. He said the studies show that accidents occur when there is a third person in the car, and this may be better tackled in the WV legislature, he said.

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JOURNAL OF THE CITY COUNCIL, NO. 53

PARKERSBURG, W. VA., October 26, 2010

Ms. Tallman said she wanted to be proactive on this topic. This is an issue with younger drivers, and it should be taught as driver's etiquette, but she wanted to put our citizens first.

Councilman Sandy asked the Police Chief if we could enforce this ordinance, and Chief Joe Martin said it would be difficult if someone disputes it, then you would have to get a search warrant to prove it. It would be difficult to enforce, and he stated that simply dialing a telephone would be a violation also. Mr. Sandy agreed.

MOTION TO REFER – Mr. Kimes moved, seconded by Mr. Sandy, to refer the ordinance to the Public Works Committee of City Council. The motion was defeated by majority vote with all members voting "no" with the exception of Mr. Kimes and Mr. Sandy, who voted "yes".

VOTE – the motion to adopt the ordinance was defeated with all members voting "no" with the exception of Mr. Kimes and Ms. Tallman who voted "yes".

MISCELLANEOUS – The Clerk presented a communication from The Parkersburg News and Sentinel, whose officials are stating that their average circulation is 22,287 during the preceding calendar year.

MOTION – Mr. Reed moved, seconded by Mr. Sandy, that Council resolve into the Committee of the Whole and recess until Saturday, October 30, 2010, at 9:00 AM to discuss the City's \$2,500,000.00 deficit, expenditures and fees.

The time was 7:55 PM.

Cora Stapp
City Clerk

Council President

RESOLUTION

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PARKERSBURG that the Finance Director be authorized to request approval from the State Tax Commissioner for the following budget revision within the General Fund for fiscal year 2010-11 prior to the expenditure or obligation of funds for which no appropriation or insufficient appropriation currently exists:

GENERAL FUND

Expenditures

<u>Fund</u>	<u>Dept</u>	<u>Acct</u>	<u>Description</u>	<u>Increase</u>	<u>Decrease</u>
001	700	103-009	Grant OT (CUFFS)	1,172.81	
001	700	103-009	Grant OT (DUI)	4,201.85	
001	700	103-009	Grant OT (School)	493.37	
001	700	103-009	Grant OT (Seatbelt)	916.70	
001	700	103-009	Grant OT (GHSP)	106,000	
			TOTALS	<u>\$112,784.02</u>	

Revenues

<u>Fund</u>	<u>Dept</u>	<u>Acct</u>	<u>Description</u>	<u>Increase</u>	<u>Decrease</u>
001		365-000	Federal Grants	112,784.02	
			TOTALS	<u>\$112,784.02</u>	

RESOLUTION

P. J. K.
BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PARKERSBURG
that City Council meetings in December, 2010 shall be December 14th and
December 21st, 2010.

Sponsored by Councilmen Reed, Kimes, Lynch, Wilcox, and Joyce

RESOLUTION AUTHORIZING ROBERT D. NEWELL, MAYOR
TO APPLY FOR A FLEX-E-GRANT FROM
THE WEST VIRGINIA DEVELOPMENT OFFICE

Park
Be it resolved that the City Council of the City of Parkersburg, West Virginia hereby authorizes Robert D. Newell, Mayor of the City of Parkersburg to apply for Flex-E-Grant funds in the amount of \$10,000.00 with a local match of \$2,000.00 for the leadership and/or capacity building activities, on behalf of the Parkersburg Downtown Taskforce.

Be it also resolved that the City Council of the City of Parkersburg hereby authorizes Robert D. Newell, Mayor of the City of Parkersburg to act on its behalf to enter into a contractual agreement with the West Virginia Development Office to receive and administer grant funds pursuant to provisions of the Flex-E-Grant Program, if awarded.

Be it further resolved that the governing body of the City of Parkersburg, in cooperation with the Parkersburg Downtown Taskforces pledges \$2,000 in unencumbered matching funds in the form of staff support for the project.

Sponsored by Councilmen Rockhold, Lynch, Reed, and Reynolds

**An Ordinance Adopting Article 780, City Service User Fee,
Of Chapter Three, Taxation and Service Charges
Of Part Seven, Business and Taxation Code of the Codified
Ordinances of the City of Parkersburg**

Be It Ordained By The Council Of The City of Parkersburg That Article 780, City Service User Fee of Chapter Three of Part Seven, Business and Taxation Code of The Codified Ordinances of the City of Parkersburg be adopted as follows:

ARTICLE 780

CITY SERVICE USER FEE.

780.01 **STATEMENT OF POLICY AND FINDINGS.**

Council finds that the City of Parkersburg provides to all person in its borders certain services, whether they be residents employed within the City, or persons living outside the City and employed within the corporate boundaries of the City or persons visiting within the City. Such services include police and fire protection and traffic and street maintenance and other valuable services associated with the police and fire departments and public works department. Such services are within the authority and are the responsibility of the municipal government as provided under the general laws of the State of West Virginia and, since such services are essential to the creation and maintenance of those jobs which provide livelihood to all person employed within the City as well as to the property interests of residents and visitors to the City, it is therefore, reasonable to derive a portion of the cost of providing and maintaining such services from said individuals. Additionally, the Council finds that an individual who is a resident and employed within the City has a greater interest and direct benefit from such municipal services. West Virginia Code Section 8-13-13 provides that every municipality has the plenary power and authority to provide by ordinance for the installation, continuance, maintenance or improvement of such services, to make reasonable regulations with respect thereto, and to impose by ordinance upon the users of such services reasonable rates, fees and charges to be collected in the manner specified in the ordinance.

Council further finds that all of those who actually use, enjoy and benefit from these services should bear an equitable share of the cost thereof. Council acknowledges that the Supreme Court of Appeals of West Virginia has recognized that no system of assessing the cost to all users will be absolutely perfect, and that municipalities are only required to install a reasonable system of distributing the costs to all of the users that it can reach through a reasonable and prudent means and legislation.

Council further acknowledges that the Legislature of the State of West Virginia has conferred upon municipalities that plenary power to enact reasonable administrative provisions to ensure the efficient, orderly and equitable, implementation and collection of the service fees from all possible users.

Council further finds that it has determined that it is in the best interests of the citizens of the City of Parkersburg and the users of all City services to enact this Article to impose a city service user fee.

Council further finds that there are thousands of person who use and benefit from municipal services who are not owners of property or residents of the City of Parkersburg, but who are employed within the City.

Council further finds that employers located within the City of Parkersburg possess important employment information necessary to properly enforce certain aspects and provisions of the Article. Therefore, reasonable regulations concerning obtaining certain information from such employers shall be a necessary and important part of the administration of the City service user fee.

780.02 **DEFINITIONS.**

- (a) "User" mean any person who is self-employed or who is employed within the City by an employer located within the City and whose conduct is consistent with that of an employee benefiting from the use of municipal services as stated in Section 780.03 of this Article.
- (b) "Municipal service or municipal services" shall mean any valuable service provided by the City of Parkersburg, its departments, boards, commissions and agents, which shall include, but not limited to, fire protection, flood protection, police protection, street

maintenance and improvement, street lighting, and other valuable City services.

- (c) "User of municipal services" shall mean any person, as defined in this section, who uses any municipal service, as defined in this section, and who is found or declared to be such a user in section 780.03 of this Article.
- (d) "Fee" shall mean the city service user fee to be imposed by the provisions of this Article.
- (e) "Director" shall mean the Director of Finance as designated and defined in section 4.3, Chapter 3, Article IV of the Official Charter of the City of Parkersburg as amended.
- (f) "Business" shall mean all activities engaged in or caused to be engaged in with the object of gain or economic benefit, either direct or indirect.
- (g) "City" shall mean the City of Parkersburg.
- (h) "Employer" shall mean any person, partnership, limited partnership, limited liability company, association (unincorporated or otherwise), corporation, institution, trust, governmental body or unit or agency, or any other entity (whether its principal activity is for-profit or not-for-profit) situated, doing business, or conducting its principal activity in the city and who employs an employee, as defined herein.
- (i) "Employee" shall mean any individual who is employed at or physically reports to one or more locations within the City and is on the payroll of an employer, on a full-time or part-time basis, in exchange for salary, wages or other compensation.
- (j) "Employed" shall include an employee working for an employer so as to be subject to any federal or state employment or wage withholding requirement and a self-employed individual working as a sole proprietor or member of a firm so as to be subject to self-employment tax. An employee shall be considered employed in a

calendar week so long as the employee remains on the current payroll of an employer deriving compensation for such week and the employee has not been permanently assigned to an office or place of business outside the City. A self-employed individual shall be considered employed in a calendar week so long as such individual has not permanently discontinued employment within the City.

- (k) "Self Employed Individual" shall mean an individual who regularly maintains an office or place of business for conducting any livelihood, job, trade, profession, occupation, business or enterprise of any kind within the City's geographical boundaries over the course of four or more calendar weeks, which need not be consecutive, in any given calendar year.

780.03 **DECLARATION AS TO CONDUCT EVIDENCING THE USE OF A MUNICIPAL SERVICE**

Council finds that being employed or holding employment with an employer with a place of business located within the City of Parkersburg during a calendar year is legal and valid proof of the use of one or more municipal services sufficient to assess and collect a city service user fee from the person engaging in the activity stated.

780.04 **IMPOSITION OF CITY SERVICE USER FEE.**

(a) Effective **12:00 a.m., January 31, 2011**, and thereafter, there is hereby imposed a city service user fee to help defray the cost of providing and maintaining City services within the City. The fee is hereby imposed upon any person who is employed within the City and meets the requirements of a user of municipal services as defined in section 780.02 (a) of this Article. Such person or persons shall be required to pay a city service user fee of **THREE DOLLARS (\$3.00) PER CALENDAR WEEK.**

780.05

ADMINISTRATIVE REGULATIONS: INVESTIGATIONS AND POWER TO AUDIT.

- (a) Pursuant to West Virginia Code Section 8-13-13, the Director shall have the authority and responsibility to promulgate reasonable regulations for the collection of the fees imposed by this Article. Said regulations shall include, but not limited to: 1) regulations setting due dates for all fees; 2) regulations setting forth guidelines for the orderly collection of the fees; 3) regulations requiring employers employing persons within the City of Parkersburg to collect and remit said fees and supply to the Director any and all information which may include the following; the number of total employees; the number of full-time/part-time employees; hire dates and termination dates for new employees or those who have left employment; names, social security numbers and addresses; 4) regulations requiring employers to collect from their employees and to remit to the Department of Finance the fee imposed herein. Such rules, regulations and procedures shall be reduced to writing and shall take effect upon being filed in the Office of the City Clerk; 5) the Director of Finance may, upon his discretion, allow employers to submit information on an annual basis, however, payment of fees shall be made on or before the designated due date; and 6) the method of reporting can be done by any means found to be acceptable by the Director of Finance.
- (b) For the purpose of ascertaining the correctness of any information submitted to the Director as required by subsection (1) of this section, the Director, or his designee, shall have the power to examine or cause to be examined, any book, papers, records, memoranda, documents and any other payroll data and information, and may take testimony and require material proof with power to administer oaths to any person or persons from whom testimony may be taken. The Director of Finance shall

further have the power to issue subpoenas and subpoenas duces tecum_in the name of the City of Parkersburg to compel the attendance of witnesses and the production of books, papers, records, memoranda, documents and testimony at the time and place specified. Every such subpoena and subpoena duces tecum shall be served at least five (5) days before the return date thereof by either personal service made by any credible person over eighteen (18) years of age, or by registered or certified mail, return receipt requested. A return receipt shall be required to prove service by registered or certified mail. The Director of Finance shall have plenary power and authority to further enforce the provisions of this Article by instituting the appropriate civil action in any court of competent jurisdiction pursuant to West Virginia Code Section 8-13-15.

780.06 **DELINQUENT ACCOUNTS.**

Each installment of the city service user fee shall be due within thirty (30) days from the last day of the reporting period. Fees not received within thirty (30) days of said due date shall be considered delinquent. There shall be added to each delinquent account a penalty of five percent (5%) of the balance thereof on the thirty-first day after the bill has been sent. Thereafter, a penalty of two percent (2%) shall be added to the total outstanding balance at the end of each quarter. The Director of Finance may waive or abate the penalty hereunder for reasonable cause.

780.07 **ENFORCEMENT.**

The Director of Finance is charged with enforcement of this Article and may institute appropriate legal proceedings in the corporate name of the City and against any self employed individual or employer who fails to collect, pay or remit the fee imposed herein pursuant to West Virginia Code Section 8-13-15.

780.08 **PROTEST; ADMINISTRATIVE DECISION; APPEAL**

(a) Anyone one who has paid the fee imposed by this article shall file a claim for a refund no later than thirty (30) days after the fee is paid over to the City by written notice of such claim with the Director of Finance setting forth with particularity all objections thereto. The burden of proof shall be upon the aggrieved party to show that the fee was paid and is incorrect and contrary to law, in whole or in part. The Director of Finance shall review the refund claim and provide for any necessary hearing, render a decision on the claim and forthwith either notify the protesting party of such decision in writing or direct that a refund be issued, all within a reasonable time. Said decision shall be issued by certified mail, return receipt requested.

(b) If aggrieved by the decision of the Director of Finance, the protesting party may appeal the decision of the Director of Finance to the Circuit Court of Wood County within thirty (30) days after service of the Director of Finance's decision.

(1). The appeal shall be taken by the filing of a petition and notice, which petition and notice shall be served upon or accepted by the Director of Finance as an original notice. When the petition and notice is so served it shall, with the return or acceptance thereon, be filed in the Office of the Clerk of the Wood County Circuit Court and docketed as other cases, with the aggrieved party as plaintiff and the Director of Finance as defendant.

(2). The filing of the appeal shall not stay the collection of the fee unless the plaintiff shall file with such clerk a bond for the use of the defendant, with sureties approved by the Clerk of the Circuit Court of Wood County, the penalty of the bond to be not less than the total amount of the fee, and accumulated penalties to the date of the appeal, and conditioned that the plaintiff shall perform the orders of the Wood County Circuit Court; provided, that the judge of the Wood County Circuit Court may stay the collection of the fee, and accumulated penalties without the requirement of a bond, upon a proper showing by the plaintiff that the properties of the plaintiff are sufficient to secure performance of the Wood County Circuit Court's orders or that the ends of justice will be served thereby.

(3). The Wood County Circuit Court shall hear the appeal and determine anew all questions submitted to it on appeal from the decision of the Director of

Finance. In such appeal a certified copy of the Director of Finance's fee assessment shall be admissible and shall constitute prima facie evidence of the fee due under the provisions of this article.

(c). The administrative remedies set forth in this section 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 prior to the claim. If no appeal is taken pursuant to this section with thirty (30) days after service of the Director of Finance's decision, said decision shall become final and conclusive and not subject to administrative or judicial review. The amount of the fee and accumulated penalties, if any, due the city under such decision shall be due and payable on the day following the date upon which such decision becomes final.

780.09 **EMPLOYER RESPONSIBILITY; WITHHOLDING; REPORTING; PAYMENT.**

It shall be the responsibility of all persons or firms employing persons subject to the city service user fee pursuant to section 780.04(a) of this Article to make payments and complete reports when required to the Director pursuant to regulations promulgated by the Director and pursuant to the provisions set forth in this Article.

- (a) Every employer shall deduct and withhold from any compensation or income paid to an employee in its employ an amount equal to the fee imposed herein upon said employee; provided, that an employer shall not deduct or withhold the fees as to any employee who executes and delivers a proper form prescribed by the Director of Finance evidencing prior payment of the fee either directly or by collection through another employer in the City; provided further, that the employer shall maintain adequate records concerning any such employees. Every employer is deemed to be a trustee for the city in collecting and holding the fee required to be withheld and the funds so collected by such withholding are deemed to be trust funds. The failure of any employer to deduct the fee shall not relieve the employee from the duty to pay the fee. Any employer who fails to deduct the fee as required by this section, or

who fails to pay the trust funds to the Director of Finance pursuant to this section and the regulations promulgated pursuant thereto, shall be liable for such fee in full, along with an penalties or interest accrued thereon, as though the fee had originally been assessed against the employer notwithstanding any provisions herein to the contrary.

- (b) Every self-employed individual who is not employed by an employer and who has not had the fee deducted or withheld by an employer shall file a form prescribed by the Director of Finance and pay to the Director of Finance all such fees that are due and owing according to and in the manner prescribed by the regulations promulgated pursuant hereto.

780.10 **SEVERABILITY.**

If any section, subsection, subdivision, paragraph, provision, sentence, clause or word of this Article is for any reason held invalid or unconstitutional, such holding shall not affect the validity, constitutionality, legality or application of any other portion of this Article.

780.11 **DEDICATION TO REVENUES.**

All revenues generated by the city service user fee imposed herein are hereby dedicated to and shall be utilized for fire and police protection, flood protection, traffic and street maintenance and public works projects related thereto, and any costs attendant or related to the imposition and processing of this fee.

780.12 **FEE IMPOSED IN ADDITION TO MUNICIPAL SERVICE USER FEE IN ARTICLE 781, 783, and 789.**

The fee imposed herein shall be in addition to and independent and exclusive of the Municipal Service User Fee for police, fire and flood protection service imposed under Article 781, Article 783 and Article 789, Chapter Three of Part Seven of these Ordinances.