

ORDINANCE NO. 731

**AN ORDINANCE ESTABLISHING AN
INSTALLMENT PAYMENT FEE**

WHEREAS, ORS 1.202 permits State Courts to add a fee of not less than \$25.00 and not more than \$50.00 to any judgment that includes a monetary obligation to cover the cost of establishing and administering an installment account; and

WHEREAS, the City of Scappoose Municipal Court, permits misdemeanants and other offenders to pay fines and assessments for misdemeanors and violations on an installment basis without a charge for the set up of an account; and

WHEREAS, like State Courts, the City of Scappoose Municipal Court incurs direct costs associated with the establishment and administration of an installment account, including materials and mailing costs for monthly statements; and

WHEREAS, Section 4 of the Scappoose Municipal Charter provides:

Section. 4. Powers of the City. The City shall have all powers which the constitution, statutes, and common law of the United States and of this State expressly or impliedly grant or allow municipalities as fully as though this Charter enumerated each of those powers.

WHEREAS, the above-referenced grant of power has been interpreted as affording all the legislative powers home rule constitutional provisions reserve to Oregon Cities. City of Beaverton v. International Ass'n of Fire Fighters, Local 1660, Beaverton Shop 20 Or. App. 293, 531 P.2d 730, 734 (1975);

WHEREAS, those who commit offenses, including violations, traffic violations and misdemeanor offenses should pay for the cost of the installment payment program;

WHEREAS, the City of Scappoose deems it necessary and appropriate to exercise its municipal legislative power to adopt an installment payment fee to recover the cost of the establishment and administration of an installment payment program.

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

Section 1. Fee Established

A. Except as provided in this section, whenever the Scappoose Municipal Court imposes a fine, assessment, default or other such judgment including any monetary obligation as a result of a violation of a City Ordinance provision, including Oregon Statutes adopted by reference, concerning a criminal action as defined in ORS 131.005, and the Court gives the debtor a period of time to pay after the financial obligation is imposed, an installment payment fee in addition to

such fine, default, or other such judgment including any monetary obligation shall be collected and credited to the City general fund. The fee schedule shall be established by Resolution of the City Council and may be revised by Resolution.

B. If the Municipal Court determines that the person issued the citation did not commit the offense or has established an affirmative defense, or the charge is dismissed for whatever reason, or the person pays the amount owed within five business days, no fee shall be imposed. No fee shall be imposed if no fine, other assessment, or other monetary obligation is imposed for the offense. The fee does not apply to citations for violation of parking limitations established by City Ordinance, Resolution or Order.

C. After imposition of the fee for one judgment including a monetary obligation as described herein, the Scappoose Municipal Court Judge may waive the fee prescribed for subsequent judgments including a monetary obligation imposed on the same day as the first offense. Notwithstanding the above, multiple violations on the same citation resolved on the same day shall have only one fee imposed if an installment payment plan is established.

D. The fee prescribed pursuant to this Ordinance shall be imposed upon an admission of an allegation or determination of guilt on a probation violation, when a suspended monetary obligation is imposed or when the allegation is for failure to pay and a new pay agreement is permitted by the Court.

E. If bail is forfeited or applied, the fee prescribed pursuant to this Ordinance shall be deducted only if there is a balance remaining to be paid on an installment basis.

Section 2: The City Council determines that the installment payment fee imposed by this ordinance is not a tax subject to the property tax limitations of Article XI, Section 11(b) of the Oregon Constitution.

Section 3. Nothing in this ordinance shall be interpreted to limit or restrict the power of the Municipal Court to impose a collection fee as per ORS 137.118.


Glenn E Dorschler, Mayor

First Reading: January 21, 2003
Second Reading: February 3, 2003

Attested by:


Susan M Pentecost, City Recorder