

**ORDINANCE NO. 2018-006**

**AN ORDINANCE OF THE CITY OF ARLINGTON, WASHINGTON, CREATING A NEW TITLE 23 OF THE ARLINGTON MUNICIPAL CODE RELATING TO A NEWLY FORMED AMBULANCE UTILITY AND REGULATIONS PERTAINING THERETO**

WHEREAS, the City of Arlington (“the City”) has operated an emergency medical services (EMS) program through the City Fire Department; and

WHEREAS, the City Council has studied the cost of the provision of EMS services for over four years and exhaustively examined alternatives to provide a stable source of funding for EMS services; and

WHEREAS, revenues from ambulance fees have been declining due to reduced reimbursement through Medicaid and Medicare programs, while costs of service have been increasing; and

WHEREAS, the City hired the FCS Group to conduct a cost or service and ambulance utility rate study in 2016; and

WHEREAS, the Washington state legislature, by enacting RCW 35.21.766, has codified the City’s authority to establish a system of ambulance services to be operated as a public utility and provided statutory guidance in setting rates for such services and assessing a portion of the costs for those services to all the taxpayers of the City of Arlington; and

WHEREAS, the legislature has determined that ambulance and EMS services are essential services and the availability of those services are vital to preserving and promoting the health, safety and welfare of the citizens of Arlington, and the City Council finds that all medical services and survival rates can be increased when those services are available, adequately funded and appropriately regulated; and

WHEREAS, the City Council has determined it to be in the best interests of the citizens to implement an ambulance utility;

NOW, THEREFORE, the City Council of the City of Arlington does hereby ordain as follows:

Section 1. Findings. The City Council adopts the following findings in support of the adoption of this ordinance:

- a. The City of Arlington has operated a fire department which provides both fire and ambulance/emergency medical service (EMS) services.
- b. The City Council has examined alternatives for sustainable funding of EMS service through multiple studies over the last four years.
- c. The City does not have any existing licensed private ambulance services within the meaning of RCW 35.21.766.
- d. The City engaged the services of the FCS Group of Redmond, WA, to conduct a cost of service study dated March 3, 2016, to analyze the total costs of service to operate the ambulance utility, and to separate out the availability costs and demand related costs of the utility. The City finds the FCS cost of service study to be a fair and reasonable study of the costs of providing the ambulance service, and finds that the overall costs of providing ambulance services have only increased since the study was done in 2014-2015.
- e. Based on the FCS study, the city has concluded that annual demand costs (defined in RCW 35.21.766 as “those costs attributable to the burden placed on the ambulance service by individual calls for ambulance service”) are more than offset by demand revenues (transport fees), but that the availability costs of the system (defined in RCW 35.21.766 as “those costs attributable to the basic infrastructure needed to respond to a single call for service within the utility’s response area” and including dispatch, labor, training, equipment, patient care supplies, and equipment maintenance costs but excluding capital expenses) are not covered by offsetting revenues.
- f. The City mailed on May 30, 2018, a written notice to all taxpayers of the utility, notifying them of a public hearing to be held on July 2, 2018, to consider the establishment of an ambulance utility, as required by RCW 35.21.766.
- g. The City held a public hearing on July 2, 2018, and took public comment on the proposed utility, at which time the City staff presented:
  - a. The cost of service study;
  - b. A summary of the utility’s current revenue sources;
  - c. A proposed budget reflecting the reduced allocation of general fund services;
  - d. Any proposed changes to utility rates; and
  - e. Any anticipated impact to the utility’s level of service.
- h. Based on the information presented to the Council and the testimony taken at the public hearing, the City Council wishes to form an ambulance utility as set forth herein.

Section 2. New Chapter Added. A new Title 23 of the Arlington Municipal Code is hereby adopted, to read as follows:

TITLE 23     Ambulance Utility

AMC 23.04 Ambulance Utility Established.

- 23.04.010     Utility Established.
- 23.04.020     Definitions.
- 23.04.030     Purpose.

- 23.04.040 Operation.
- 23.04.050 Rules and regulations.
- 23.04.060 Establishment of utility fund.
- 23.04.070 Utility fee.
- 23.04.080 Private ambulance operation.
- 23.04.090 Collection of utility.
- 23.04.100 Individual service calls.
- 23.04.110 Allocation of revenue.
- 23.04.120 Medicare and Medicaid.

23.04.010 - Utility established.

Pursuant to the authority of RCW 35.21.766 and RCW 35.27.370(15), as now existing or hereafter amended, and the police powers of the City of Arlington to protect and preserve the public health, safety and welfare, an ambulance and emergency medical service utility is hereby established as a public utility of the City.

23.04.020 - Definitions.

For purposes of this chapter, the following terms shall have the following meanings:

- A. "Ambulance" means a ground vehicle designed and used to transport the ill and injured and to provide personnel, facilities, and equipment to treat patients before and during transportation.
- B. "Ambulance service" or "ambulance operator" means an agency, public or private, that operates one or more ambulances, responding to a 911 or aid call for service, including advanced life support, basic life support and transport services.
- C. "Commercial units" shall include each utility user of a commercial or business use, including commercial and industrial users. Each separate physical location or address to which the ambulance utility could respond and which has a municipal utility connection or account shall be considered a separate unit.
- D. "Emergency medical care" or "emergency medical service" or "EMS" means medical treatment and care which may be rendered at the scene of any medical emergency or while transporting any patient in an ambulance to an appropriate medical facility, including ambulance transportation between medical facilities.
- E. "Multifamily residential units" shall be defined as any residential unit in a classification of housing where multiple separate housing units designed and permitted for residential inhabitants are contained within one building, or several buildings within one complex. Each separate unit within a multifamily residential property shall be treated as a separate unit.
- F. "Municipal utility connection or account" shall mean any water, sewer, or stormwater utility account for property within the city limits of Arlington serviced or operated by the City of Arlington or the City of Marysville.
- G. "Person(s)" means any individual, firm, partnership, association, corporation, company, group of individuals acting together for a common purpose, or organization of any kind, including a government agency.

H. "Public and nonprofit units" shall include all Governmental units, including those of the City of Arlington, public utility districts, school districts, county and state agencies and other governmental and tribal entities; religious organizations such as churches and synagogues; and non-profit organizations. Each separate physical location or address to which the ambulance utility could respond for each entity and which has a municipal utility connection or account shall be considered as a separate unit.

I. "Utility fee" means the monthly fee levied by the city upon persons (as defined in this chapter) within the boundaries of the City.

J. "Single family residential unit" shall be defined as any single family dwelling unit which has a separate physical location or address to which the ambulance utility could respond and which has a municipal utility connection or account shall be considered as a separate unit.

K. "System" means the entire system of ambulance services provided by the utility.

L. "Unit" means the billing unit for each utility user classification.

M. "Utility" means the City of Arlington Ambulance and Emergency Medical Services Utility, including without limitation all equipment, employees, agents, supplies, overhead and other associated costs incurred to deliver all regulatory and ambulance services.

#### 23.04.030 - Purpose.

The purpose of the utility is to regulate users and providers of all ambulance and emergency medical services; to generate revenue to assist in paying for the regulatory scheme authorized by this chapter; to ensure twenty-four-hour emergency medical and occasional advanced life support service when a medic is on board the ambulance; to assist in paying for the particular benefits conferred upon residents and other occupants within the city; and to mitigate the burdens on the system by the different users of the system.

#### 23.04.040 - Operation.

The utility shall be operated by the City of Arlington Fire Department and the city finance director shall have the authority to collect utility fees. Expenditure of fee revenue shall be as authorized by the city council.

#### 23.04.050 - Rules and regulations.

The city administrator, or the city administrator's designee, in consultation with the fire chief and finance director, is hereby authorized to promulgate any and all regulations necessary to implement the provisions of this chapter for all ambulance and emergency medical services. Should any regulations be implemented, notice shall be given to each person required to follow said regulation.

#### 23.04.060 - Establishment of utility fund.

There is created a separate fund for the operation of the utility and all fees collected under the provisions of this chapter shall be deposited and placed in said fund and shall be

disbursed as the city council may from time to time direct. Expenditures from the fund shall be made only for the purpose of regulation, maintenance and operation of the utility.

23.04.070 - Utility fee.

A. Monthly Utility Fee Formula. A monthly utility fee for the operation of the Utility shall be established from time to time by ordinance or resolution of the city council in conformity with RCW 35.21.766, as now or hereafter amended. The amount of the fee shall be based upon cost of regulating ambulance service and the cost of providing utility services as determined by a cost-of-service study pursuant to RCW 35.21.766(3). Those costs shall be divided among City of Arlington residents and occupants based on a combined demand and availability calculation consistent with accepted principles of utility rate setting. The rate attributable to costs for availability of the utility shall be uniformly applied across user classifications within the utility. The rate attributable to demand costs shall be established and billed to each utility user classification based on each user classification's burden on the utility. The fee charged by the utility shall reflect a combination of the availability cost and the demand cost and may in the discretion of the city council be reduced or subsidized by other city funds as authorized by RCW 35.21.766, as amended. The resulting fee shall be assessed to identifiable use classifications. Fees will not exceed the revenue requirements to cover the costs of the utility, as authorized by the city council by adoption of an annual budget and subsequent amendments.

B. Classifications. The utility fee shall be collected on a monthly basis from each of the following utility user classifications within the City:

1. Single family residential units;
2. Multifamily residential units;
3. Commercial units; and
4. Public and nonprofit units.

C. Utility Fee Exemptions—Reductions.

1. Persons who are Medicaid eligible and who reside in a nursing facility, boarding home, adult family home or receive in-home services are exempt from the utility fee, pursuant to RCW 35.21.766 (4)(d)(i).
2. Any change in use of a dwelling unit, parcel or building, or any other change in circumstance that eliminates application of an exemption from the utility fee shall immediately make the affected property subject to applicable utility fees. The utility fee shall become due and payable as of the date of the change in use and shall continue until qualification for an exemption. It is the owner's or occupant's responsibility to notify the City of all use changes.
3. Monthly rates, and initial and final charges may be prorated in accordance with the City's standard utility prorating practices.
4. Any customer seeking an exemption from payment of the utility fee and/or conversion from covered to exempt status, must file a written petition with the city finance director seeking a determination as to whether a specific dwelling unit, parcel or building satisfies the exemption requirements set forth in this

section. The city finance director will issue a written decision and mail said decision to the customer. The city finance director's determination may be appealed to the city council by filing a written appeal with the city finance director within ten days of the date of mailing of the decision. Appeals filed after the ten day time period has lapsed will not be considered. The city council will conduct an open record hearing and review and make the final decision of the city on the appeal.

5. The utility fee charged may reflect an exemption or reduction for designated classes consistent with Article VIII, Section 7 of the State Constitution.

6. The amounts of exemption or reduction shall be a general expense of the utility, and designated as an availability cost, to be spread uniformly across the utility user classifications.

D. **Periodic Utility Fee Review.** The city finance director, or the city finance director's designee, in consultation with the city administrator shall periodically perform financial review and analysis of the utility's revenues, expenses, indebtedness, fees and accounting, and recommend budgets, fee adjustments and financial policy. Based on such review, the city finance director may recommend changes, amendments or additions for adoption by the city council.

E. **Limitation on Total Revenue.** The total revenue generated by the utility shall not exceed the total costs necessary to regulate, operate, and maintain the utility.

**23.04.080 - Private ambulance operation.**

No person shall operate, or cause to be operated, an ambulance in the city without authorization by the city administrator.

**23.04.090 - Collection of utility.**

The monthly utility fee for the utility shall be collected in the same manner as the city utility bills are currently or hereafter collected.

**23.04.100 - Individual service calls.**

All fees and charges for service calls of ambulances and emergency medical services operated by the utility shall be set by resolution and shall be in addition to the utility fee.

**23.04.110 - Allocation of revenue.**

All revenue received through direct billing to the person using the ambulance and emergency medical service collected under section 23.04.070 shall be allocated to demand-related costs of the utility.

**23.04.120 - Medicare and Medicaid.**

This chapter shall be construed and implemented to be consistent with applicable Medicare and Medicaid requirements. If any regulation or procedure adopted under this chapter for the purposes of establishing, implementing, imposing or collecting charges

for ambulance service is found or determined to be in conflict with Medicare or Medicaid requirements, the conflicting part of this chapter shall be inoperative to the extent of the conflict and such finding or determination shall not affect the operation of the remainder of this chapter.

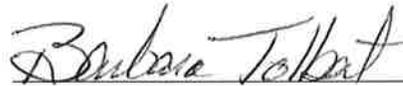
Section 3. The title of this ordinance which summarizes the contents shall be published in the official newspaper of the City. The ordinance shall take effect and be in full force five (5) days after the date of publication.

Section 4. Severability. If any provision, section, or part of this ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section 5. Effective Date. The title of this ordinance which summarizes the contents shall be published in the official newspaper of the City. The ordinance shall take effect and be in full force five (5) days after the date of publication.

PASSED by the City Council of the City of Arlington and APPROVED by the Mayor this 6th day of August, 2018.

CITY OF ARLINGTON



Barbara Tolbert, Mayor

ATTEST:



Kristin Banfield, City Clerk

APPROVED AS TO FORM:



Steven J. Peiffle, City Attorney

SUMMARY OF ORDINANCE ADOPTION

You are hereby notified that on August 6, 2018, the City Council of the City of Arlington, Washington, did adopt Ordinance No. 2018-006 entitled,

“AN ORDINANCE OF THE CITY OF ARLINGTON, WASHINGTON,  
CREATING A NEW TITLE 23 OF THE ARLINGTON MUNICIPAL CODE  
RELATING TO A NEWLY FORMED AMBULANCE UTILITY AND  
REGULATIONS PERTAINING THERETO”

And Ordinance No. 2018-007 entitled,

“AN ORDINANCE OF THE CITY OF ARLINGTON, WASHINGTON,  
CREATING A NEW CHAPTER 23.08 OF THE ARLINGTON MUNICIPAL  
CODE RELATING TO AMBULANCE UTILITY RATES”

These ordinances are effective five days from passage and publication, except as otherwise specified in the ordinances.

The full text of the ordinances are available to interested persons and will be mailed upon request.



Kristin Banfield  
City Clerk  
City of Arlington

CERTIFICATION OF ORDINANCE

I, Kristin Banfield, being the duly appointed and acting Clerk of the City of Arlington, Washington, a municipal corporation, do hereby certify that the following Ordinance No. 2018-006 was approved at the August 6, 2018 City Council meeting.

ORDINANCE NO. 2018-006

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A true and correct copy of the original ordinance is attached.

Dated this 7<sup>th</sup> day of August, 2018.



A handwritten signature in black ink that reads "Kristin Banfield". The signature is written in a cursive, flowing style.

Kristin Banfield  
City Clerk for the City of Arlington