ORDINANCE NO. 1395-16

AN ORDINANCE RELATING TO THE ROAD UTILITY AND AMENDING TUALATIN MUNICIPAL CODE CHAPTER 3-4.

WHEREAS, the City of Tualatin has a road utility dedicated to street maintenance , sidewalks, right-of-way landscaping, street tree replacement, and street lighting; and

WHEREAS, the road utility fee has not been raised since implemented, but the costs of reconstruction and maintenance increase yearly due to inflation; and

WHEREAS, Council wants to account for inflationary impacts by indexing the road utility fee in the same manner as other fees and charges to stabilize funding for street maintenance, sidewalks, right-of-way landscaping, street tree replacement, and street lighting;

THE CITY OF TUALATIN ORDAINS AS FOLLOWS:

Section 1. TMC 3-4-080 is amended to read as follows:

3-4-080 Determination of Road Utility Fee.

(1) The Road Utility Fee shall be based on the following factors:

(a) The developed use of the property which includes the amount of vehicular traffic generated by the property, as determined by the City Engineer.

(b) For nonresidential uses the developed square footage on the property or parcel.

(c) The traffic generation factor for each use category of developed property.

(d) The base rate maintenance cost for each Customer Group, based on use category of the developed property.

(2) The City Engineer shall determine the category of use from the ITE Manual that shall apply to each developed lot or parcel within the City. In the absence of a specific use category from within the ITE Manual for a particular developed use, the City Engineer shall determine the appropriate category by interpreting the ITE Manual and assigning the category which most accurately reflects the traffic generated by the particular developed use. After determining the appropriate use category for a developed parcel, the City Engineer shall use the estimated vehicle trip generation figures for the assigned use

category from the ITE Manual and designate the developed property to a particular Customer Group. For nonresidential developed uses the applicable Road Utility fee shall be based on the area of developed use measured in thousands of square feet or fractions of thousand square feet. The Customer Groups are as follows:

(a) Single family residential;

(b) Multi-family residential; and

(c) Non-residential uses. Trip generation rates per thousand square feet of developed area shall be assigned to one of the following four non-residential groups:

(i) Group 1 with 7 or fewer average daily vehicle trips per thousand square feet of developed area;

(ii) Group 2 with more than 7 but less than 21 average daily vehicle trips per thousand square feet of developed area;

(iii) Group 3 with 21 or more but less than 53 average daily vehicle trips per thousand square feet of developed area;

(iv) Group 4 with 53 or more but less than 151 average daily vehicle trips per thousand square feet of developed area;

(v) Group 5 with 151 or more but less than 400 average daily vehicle trips per thousand square feet of developed area;

(vi) Group 6 with 400 or more average daily vehicle trips per thousand square feet of developed area; and

(vii) Group 7 for specially assigned trip generation figures.

(3) For purposes of examining uses not explicitly listed in the ITE manual and thereby determining the appropriate Category of Use, the City Engineer shall consider at least the following factors as well as any other relevant information:

(a) the size of the site and the building;

(b) the number of employees;

(c) other developed sites operated by the same or an affiliated owner for a use generating comparable amounts of traffic;

(d) other developed sites operated by a different owner for a use generating comparable amounts of traffic;

(e) the number of work shifts;

(f) the number of hours of operation; and

(g) the planning district designation.

The City Engineer may require and consider the results of a traffic study, provided such study shall be conducted in conformance with the methodology outlined in the ITE Manual, and provided further such study shall include on site traffic counts not less than twice nor more than four times during the year immediately following the beginning of operation on site. In furtherance of this rule the City Engineer may assign a Use Category and Customer Group on an interim basis, provided it is not less than the lowest Customer Group among available residential or nonresidential groups. The determination of Use Category shall not be considered a land use decision as that term is defined in ORS 197.015.

(4) The monthly fee for each customer group is as follows:

(a) Single family residential, ~~$3.92~~ $3.99 per unit;

(b) Multifamily residential, ~~$3.36~~ $3.40 per unit;

(c) Non-residential Group 1, ~~$0.75~~ $0.79 per thousand square feet; plus an additional $2.50 flat fee;

(d) Non-residential Group 2, ~~$1.66~~ $1.74 per thousand square feet; plus an additional $2.50 flat fee;

(e) Non-residential Group 3, ~~$4.39~~ $4.60 per thousand square feet; plus an additional $2.50 flat fee;

(f) Non-residential Group 4, ~~$11.08~~ $11.61 per thousand square feet; plus an additional $2.50 flat fee;

(g) Non-residential Group 5, ~~$29.51~~ $30.93 per thousand square feet; plus an additional $2.50 flat fee;

(h) Non-residential Group 6, ~~$72.73~~ $76.24 per thousand square feet; plus an additional $2.50 flat fee; and

(i) Non-residential Group 7, ~~$0.53~~ $6.84 per thousand square feet, plus an additional $2.50 flat fee.

(5) Beginning on July 1, 2017 and each July 1 thereafter, the monthly fee for each customer group identified in subsection 4 of this Section will automatically increase by the most recently available rolling twelve month average change in the Engineering News Record Construction Cost Index for Seattle, Washington.

~~(5)~~ (6) The Council may revise the monthly fee to reflect actual revenues, anticipated maintenance and lighting requirements, improvements in the methods of calculating revenues or requirements and changes in conditions which the Council finds should be taken into consideration in rates.

Section 2. TMC 3-4-090 is amended to read as follows:

TMC 3-4-090 Billing and Collection of fee.

(1) The road utility fee shall be billed and collected with and as part of the monthly water and sewer bill for those lots or parcels utilizing City water and sewer, and billed and collected separately for those lots or parcels not utilizing City water and sewer. In cases where a developed property is subject to water and sewer utility charges, the Road Utility Fee bill shall be directed to the same person as the bill for water and sewer charges. In the case of those lots or parcels which are not occupied by the owner, the fee shall be billed with the monthly water and sewer bill, if any, which is billed to the resident of the property, unless the owner of the property requests that the combined utility bill be sent to another address. If a tenant in possession of any premises pays such fee, such payment shall relieve the owner from such obligation ~~and lien~~, but the City shall not be required to look to any person other than the owner for the payment of such fees. All such bills shall be rendered monthly by the Finance Director and shall become due and payable upon receipt.

(2) In the event funds received from City utility billings, as described in subsection (1) of this section, are inadequate to satisfy in full all of the water, sanitary sewer, storm sewer and road utility fees, credit shall be given first to the road utility fee, second to the sanitary and storm sewer service charges and third to the charges for water service.

Section 3. TMC 3-4-100 is amended to read as follows:

TMC 3-4-100 Delinquent Accounts ~~Road Utility Fee Lien~~.

When a person's account is delinquent, the person will be provided a notice of delinquency. If payment is not received, the City may discontinue City utility services and may collect the charges through any means authorized by law.

~~(1) When for any reason the road utility fee has not been paid, then the City Manager shall proceed to collect such charges in the manner provided by law. In addition~~

~~to any other remedies provided by law, the City Manager shall cause a report and request for lien to be prepared and forward a copy by certified mail re-turn receipt requested to the owner of record of the property. The property owner shall be notified that unless a hearing is requested to contest the City Manager's determination, the City will docket a lien against the property. Requests for hearing shall be made and determined in accordance with TMC 3-4.130.~~

~~(2) At the hearing to determine the validity of the lien, the City Council may accept, reject, or modify the determination of the City Manager as set forth in the report. If the City Council finds that road utility fees are payable by the owner as set forth in the report, unpaid and uncollected, it shall, by motion, direct the City Manager to docket the unpaid and uncollected water service charge in the City lien docket. Upon completion of the docketing, the City shall have a lien against the described property for the full amount of the unpaid charge, together with simple interest at the rate of 10% per annum and with the City's actual cost of providing notice to the owner. The lien shall be enforceable in any manner provided in ORS Chapter 223. The docketing of a lien against the property by the City shall not preclude the City from pursuing other available remedies to collect such charges, interest, penalties and costs.~~

Section 4. Severability. Each section of this ordinance, and any part thereof, is severable. If any part of this ordinance is held invalid by a court of competent jurisdiction, the remainder of this ordinance shall remain in full force and effect.

ADOPTED THIS 27 day of ~~July~~ June, 2016.

CITY OF TUALATIN, OREGON

BY _____
Mayor Pro Tem

APPROVED AS TO FORM

BY _____
City Attorney

ATTEST:

BY _____
City Recorder