

**City Council Meeting
Agenda
April 01, 2024
7:00 p.m. Public Meeting
Hybrid Meeting in Person and Via Zoom
Phoenix Plaza Civic Center 220 N. Main St./Via Zoom**

*A complete agenda packet is available on the city's website. This meeting is being conducted in person and virtually to allow for public participation. A recording of the meeting in its entirety will be posted to www.phoenixoregon.gov. To comment on agenda items, please write your name on the sign-in sheet and include the item number, if attending via Zoom raise your hand when the topic is discussed by Council. **If you need special accommodations, please give the City Recorder 72-hours prior notice.***

Please click the link below to join the webinar:

<https://us06web.zoom.us/j/83021339155?pwd=kiO4MSmWEMVvJzJWbQ100zCY8B5SBA.C1Esu-z9wOoh6NI6> Passcode: 030992

Or One tap mobile: +1 719 359 4580, 83021339155#, *030992# US +1 253 205 0468, 83021339155#, *030992# US

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1. Call to Order / Roll Call / Confirmation of a Quorum

Except as provided in Section 33 of the City Charter, a minimum of four Council Members are needed for a quorum and to conduct city business. If the Mayor is needed to establish a quorum, then he/she may become a voting member for that meeting (Phoenix Municipal Code, Chap. 2.28.020.A.4).

2. Pledge of Allegiance

3. Presentations

- a. Earth Day, Sandy Wine

4. Public Comments

*This item is for persons wanting to present information or raise an issue, not on the agenda. Each person shall be limited to three minutes and may not allocate their time to others unless authorized by the Presiding Officer. To comment, please write your name on the sign-in sheet. When your name is called, step forward to the podium and state your name and address for the record. If attending virtually, please raise your hand and wait to be allowed to speak. When your name is called, please unmute yourself and state your name and address for the record. (In accordance with state law, a recording of the meeting will be available at city hall, but only your name will be included in the meeting minutes). While the Council or staff may briefly respond to your statement or question, **the law does not permit action on, or extended discussion of, any item not on the agenda** except under special circumstances.*

5. Consent Agenda

*Items on the Consent Agenda are considered routine and will be adopted by one motion. **There will be no separate discussion of these items unless it is requested by a member of the Council or staff.** If so requested, that item will be pulled from the Consent Agenda and considered separately immediately following approval of the remaining items.*

- a. Reports for Information & Possible Action:

- b. Minutes to Approve and File:

- 1. Minutes from Joint City Council/Planning Commission Study/Work Session Meeting March 18, 2024,.....5
- 2. Minutes from City Council Meeting March 18, 2024,.....7

6. Consent Agenda Items Pulled for Discussion

7. New Business

- a. Discussion of Streets and Parks Utility Billing Fees,..... 11

8. Public Hearing

- a. Ordinance No. 1038 – Parks Utility Billing Fees,..... 15
- b. Ordinance No. 1039 – Transportation Utility Billing Fees,.....24

9. Staff Reports

- a. City Attorney
- b. City Manager
- c. Deputy City Manager

10. Mayor and Council Comments / Reports

Any Councilor may make an announcement or raise any item of business that is not on the agenda. While other Councilors or city staff may briefly respond or comment, the law does not permit action on, or extended discussion of, any item not on the agenda except under special circumstances. If extended deliberation or potential action on a matter is desired, Council may direct staff to place the item on a future meeting agenda.

11. Adjournment



City of Phoenix

Heart of the Rogue Valley

Future agenda summary 04/01/24

To be scheduled: City Council

- Monument Policy – TBS

To be scheduled: PHURA

- Annual Report – TBS

Upcoming City of Phoenix Meetings:

April 08, 2024	Planning Commission Meeting 6:30 pm at 220 N. Main St.
April 15, 2024	City Council Meeting/Public Hearing 6:30 pm at 220 N. Main St.
April 18, 2024	Parks and Recreation Committee Meeting 6:00 pm at 220 N. Main St.
May 06, 2024	City Council Meeting 6:30 pm at 220 N. Main St.
May 09, 2024	PHURA Budget Meeting 2:00 pm at 220 N. Main St.
May 09, 2024	Budget Committee Meeting 2:30 pm at 220 N. Main St.
May 16, 2024	Parks and Recreation Committee 6:00 pm at 220 N. Main St.
May 17, 2024	Government & Public Safety Center Ribbon Cutting 1:30 pm 112 W. 2 nd St.
May 20, 2024	City Council Meeting 6:30 pm at 220 N. Main St.
May 27, 2024	Planning Commission Meeting 6:30 pm at 220 N. Main St.
June 03, 2024	City Council Meeting 6:30 pm at 220 N. Main St.

All of the above meetings are tentative and are subject to change.

City Council Study/Work Session Hybrid Meeting in Person and Via Zoom Monday, March 18, 2024

1. CALL TO ORDER:

Mayor Baker called the City Council's hybrid meeting to order on Monday, March 18, 2024, at 5:39 p.m.

ROLL CALL:

PRESENT: Terry Baker, Angie Vermillion, Karen Shrader, Krista Peterson, Jillian Shainholtz, and Larry Dickson

ABSENT: Scott Clauson (excused)

STAFF PRESENT: Eric Swanson, City Manager
Joe Slaughter, Deputy City Manager
Zac Moody, Community Development Manager
Bonnie Pickett, City Recorder
Chris Stephenson, PW Superintendent

2. DISCUSSION – PARKS FEES AND SDCS:

Eric Swanson, City Manager, introduced the topic and speakers to the City Council.

Zac Moody, Community Development Manager, presented his staff report to the Council regarding Park Fees and SDCs.

Catherine Hansford, Hansford Consulting, presented the Council with the history of the Parks Fees and SDCs and how the calculations have been made for the options presented.

Mr. Moody explained to the Council that the Parks Utility Fee was not based on a study, but rather a fair fee for all involved. He answered questions from the Council regarding the General Fund and where the monies in the fund come from.

Ms. Hansford noted that the Ordinance states that the fees are to be adjusted by the inflationary rate each year if the Council chooses to make the change.

Mr. Moody answered questions from the Council.

Mr. Swanson answered questions about the General Fund and what the fund funds in the City.

The Council discussed the fees and how they would affect the residents and contractors in Phoenix.

Mr. Swanson spoke about how he looks at the City's finances holistically and how the fees help keep the proper staff in place to keep the parks in amazing shape for the use of all Phoenix citizens.

Mr. Swanson noted the Ordinances will be brought to the Council with a space to fill in the amount they choose to increase fees or not.

3. ADJOURNMENT:

The meeting adjourned at 6:47 p.m.

Respectfully submitted by,

Bonnie Pickett
City Recorder

DRAFT

City Council Meeting Hybrid Meeting in Person and Via Zoom Monday, March 18, 2024

1. CALL TO ORDER:

Mayor Baker called the City Council's hybrid meeting to order on Monday, March 18, 2024, at 7:03 p.m.

ROLL CALL:

PRESENT: Terry Baker, Angie Vermillion, Karen Shrader, Krista Peterson, Jillian Shainholtz, and Larry Dickson

ABSENT: Scott Clauson (excused)

STAFF PRESENT: Eric Swanson, City Manager
Joe Slaughter, Deputy City Manager
Doug McGeary, City Attorney
Bonnie Pickett, City Recorder
Derek Bowker, Chief of Police
Chris Stephenson, PW Superintendent
Zac Moody, Community Development Manager

2. PLEDGE OF ALLEGIANCE:

3. PRESENTATION:

a. South Stage Road Extension Plan Overview/Update

Eric Swanson introduced Marc Butorac, Kittelson, and Lisa Cornutt, ODOT, to the Council.

Marc Butorac gave an overview of the project and the future transportation needs of the Cities of Phoenix and Medford.

Mr. Swanson noted that the current annexation has increased the population by more than 500. He noted that the presentation didn't consider the industrial area and the employment lands that will use the South Stage Interchange.

Mr. Butorac responded to Mr. Swansons' concerns, which must be addressed in the presentation.

b. OR99 Glenwood/Coleman Creek Project

Mr. Swanson introduces Jerry Marmon, ODOT Rogue Valley Area Manager, noting we wouldn't be where we are today without him and his team. He spoke about the Oregon

Transportation Commission bus tour last week, where they stopped at Harley Davidson to discuss how well the evacuation went with the assistance of ODOT and the other entities involved. Mr. Swanson spoke about the sidewalk repairs that are occurring in the area.

Jerry Marmon, ODOT Rogue Valley Area Manager, gave a brief background on how the project came about. He briefly spoke about the Glenwood to Coleman Creek project on Hwy 99. Mr. Marmon also spoke about a few other projects occurring in the area and answered questions from the Council about the projects.

c. Government and Public Safety Center Update

David McKay, HMK, gave an update on the progress of the Government and Public Safety Center. He spoke about the new ESCO programming, which will provide valuable information for firefighters and police. Mr. McKay advised that the estimated move-in date is May 13, 2024.

4. PUBLIC COMMENT:

Terry Helfrich, Phoenix, spoke about pedestrian lighting in the downtown area. He stated that the Council needs to consider the area's future needs.

5. CONSENT AGENDA:

a. Reports for Information & Possible Action:

1. None

b. Minutes to Approve and File:

1. Minutes from Joint City Council/Planning Commission Study/Work Session Meeting March 04, 2024.
2. Minutes from City Council Meeting March 04, 2024

Motion: I Move to Approve the Consent Agenda. **MOVED BY SHAINHOLTZ, SECONDED BY VERMILLION.** No further discussion.

ROLL CALL VOTE AS FOLLOWS:

Ayes: Shainholtz, Vermillion, Shrader, Dickson, Peterson
MOTION APPROVED WITH FIVE AYES

6. CONSENT AGENDA ITEMS PULLED FOR DISCUSSION:

7. NEW BUSINESS:

- a. Public Art Application.

Mr. Swanson noted the application is a renewal proposal.

Zac Moody, Community Development Manager presented his staff report regarding the extension for the art piece. He answered questions from the Council.

The Council deliberated allowing the public art piece to remain in place for additional time.

Lynn Cohen and Phoenix spoke about how the art piece was treated to preserve it from the elements. She spoke about the reason for the length of time in the request.

Councilors spoke in favor of allowing the art piece to stay in place for a shorter time than requested.

Motion: I Move to Approve the Request to Allow the Art Piece to Remain for Two Years.
MOVED BY VERMILLION, SECONDED BY DICKSON. No further discussion.

ROLL CALL VOTE AS FOLLOWS:

Ayes: Vermillion, Dickson, Shainholtz, Shrader

Nays: Peterson

MOTION APPROVED WITH FOUR AYES

8. STAFF REPORTS:

City Attorney Doug McGeary spoke about working with staff on a new monument policy to be presented to the Council. He advised that the Oregon State Bar has asked him to give a presentation on difficult employees.

City Manager Eric Swanson spoke about his presentation to Business Oregon and how well it was received. He thanked the Council for their support in recovering the City of Phoenix. Mr. Swanson spoke about the work Public Works has been doing to keep businesses and residents in water along Hwy 99, where the water line is being moved. He thanked Chris Stephenson and the crew for all their hard work.

9. MAYOR AND COUNCIL COMMENT / REPORTS:

Councilor Dickson spoke about attending the Rogue Valley Area Commission (RVACT) on Transportation meeting and the topics that were discussed.

Councilor Shrader spoke about the topics at the RVACT meeting. She highlighted funding concerns for the Rogue Valley.

Councilor Vermillion thanked Mr. Swanson, Mr. Slaughter, and Mr. Moody for all their hard work for the residents of Phoenix.

Councilor Peterson spoke about the Easter Egg Hunt on March 30, 2024 at 10:00 a.m. She spoke about the great job Code Enforcement is doing for the City of Phoenix.

Councilor Shainholtz noted she is excited about the beautiful weather. She expressed her excitement for spring break.

Mayor Baker thanked the Council for the great teamwork in rebuilding the City of Phoenix. He spoke about the sacrifices and hard work made by all involved in Phoenix's rise.

10. ADJOURNMENT

The meeting adjourned at 8:30 p.m.

Respectfully submitted by,

Bonnie Pickett
City Recorder

DRAFT



Agenda Report to Mayor and Council

Agenda item title: Discussion of Streets and Parks Utility Billing Fees

Meeting Date: April 1, 2024

From: Zac Moody, Community Development Manager

Action: Motion, Ordinance, Resolution, Study Session, Other

SUMMARY

Discussion of the City of Phoenix Park and Street Maintenance Fees.

BACKGROUND AND DISCUSSION

Utility Fees are typically updated upon the completion of a masterplan, however, in the case of Phoenix's fees, neither were updated using a comprehensive financial analysis when the plans were updated. Fees are typically updated based on the projects proposed by the plans and reports such as the ones presented during the past two study sessions. These financial reviews help to determine the level of fees necessary to maintain the park and transportation systems.

As discussed during the past two study sessions, the city found a need to update its billing system and rectify the count of residential and non-residential units charged the fee. This update, while it will generate additional revenue based on corrected billing information is not sufficient to maintain each facility without supplemental revenue from property taxes, general fund or a combination of both (for the Parks Fund).

The Parks Fund has required an additional subsidy from the city's discretionary revenues. Without additional evaluation, the Park Fund is projected to need the subsidy again in 2024 and beyond. The City contracted with Hansford Economics to commission a study of both parks and transportation fees. The reports were broken down into two areas of discussion; Parks and Streets (Transportation) and provided an introduction and summary of findings and utility fee calculations. The financial analysis for streets fees includes an additional section that details the methodology for calculating the trip generation for non-residential uses and summarizes both short-term (Tier 1) and long-term (Tier 2) capital improvement costs.

The City of Phoenix completed a Transportation System Plan (TSP) in September 2016, which was amended February 2019. The TSP provides recommended improvements to city streets and the transportation network for a 20-year period based on compliance with the state Transportation Planning Rule, and consistency with the Rogue Valley Metropolitan Planning Organization's 2038 Regional Transportation Plan and Fern Valley Interchange Area Management Plan. The TSP incorporates a community-supported vision for the short- and long-term transportation needs of the city's residents and businesses.

Stable and reliable finance and funding policies, evaluations and budget planning are key to the successful implementation of the plan. The current TSP reflects the city's commitment to responsible stewardship of public funds, recognizing that the plan is only as effective as the community's ability to fund it based on existing and potential sources and accurate utility billing systems.

The Street Utility Fees Study was commissioned to determine the level of street utility fees necessary to sufficiently fund the operating and capital activities of the funds over the next three years; and to update the fees based on more accurate parcel by parcel geographic

information systems (GIS) analysis of trip generation calculated using land use and building size (or other unit type).

Successful implementation of a TSP requires a commitment by the city to ensure funding is available now and well into the future, both for infrastructure improvements and for the operation and maintenance funds necessary to sustain the transportation system once development is complete.

What Will It Cost?

During the two study sessions in February and March, the Council requested more detailed information on each option presented and a breakdown of costs as they would be on a typical residential utility bill.

The information below was provided as part of the original study session staff reports and is provided again here for reference. In addition, staff has prepared a comparison of proposed fees by option for Year 1 through Year 3. This is provided as an attachment to this report.

Street Utility Fee

The Street Utility Fee is paid monthly by current residential and non-residential customers in the city based on total number of PM Peak Hour Trips. Using the best estimate of peak hour trips generated based on the 11th Institute of Transportation Engineers (ITE) Manual. Three funding strategies, scenarios A, B, and C, were developed to consider different fees based on funding levels.

Scenario A

- Street Utility Fund keeps a cash balance of approximately \$1.5 million each year
- Issues bonds to pay for a portion of the CIP costs estimated in the next three years
- Increase fee from \$2.60 to \$4.28 per PM peak hour trip by Fiscal Year 2027 (2025 - \$2.90; 2026 - \$3.86; and 2027 - \$4.28).

Scenario B

- Street Utility Fund keeps a cash balance of approximately \$1.0 million each year
- Issues bonds to pay for a portion of the CIP costs estimated in the next three years
- Increase fee from \$2.60 to \$6.62 per PM peak hour trip by Fiscal Year 2027 (2025 - \$4.21; 2026 - \$5.41; and 2027 - \$6.62).

Scenario C

- Street Utility Fund keeps a cash balance of approximately \$1.0 million each year
- No bonds issued to pay for CIP costs estimated in the next three years
- Increase fee from \$2.60 to \$8.50 per PM peak hour trip by Fiscal Year 2027 (2025 - \$5.52; 2026 - \$7.74; and 2027 - \$8.50).

Non-Residential Example: Under the current fee schedule, a new automobile parts shop (such as an O'Reilly or Napa Auto Parts) with 5,000 square feet of gross floor area would pay a transportation fee of \$76.44. Under Scenario B, the fee increases incrementally to \$194.63 by 2027.

Park Utility Fee

In FY2024 it is projected that the City will have to provide a General Fund subsidy to the Parks Fund, beyond its current budgeted property taxes and franchise fees, in the amount of approximately \$55,000. After accounting for the increase in fees generated by the corrected park units count, there remains a funding gap each year for the next three years that must be filled with an increase to the fee, a continued General Fund subsidy, or some combination of the two. This study provides three different funding scenarios for filling the Parks Fund projected funding gap.

Scenario A

- \$55,000 subsidy from General Fund is gradually reduced to \$0 by 2027

Scenario B

- \$55,000 subsidy from General Fund is removed in 2024.

Scenario C

- \$55,000 subsidy from General Fund is removed in 2024
- Commitment of property taxes to the Park Fund is reduced from \$55,000 to \$20,000 by 2027.

COUNCIL GOALS SUPPORTED

Goal 7: Increase sidewalks and controlled intersections and improve road conditions.

Goal 11: Build, create and maintain the best, safest and most family-friendly park system in the Rogue Valley. Enhance opportunities for recreation, functionality and civic engagement in public spaces.

Goal 15: Live within our means. Prioritize resources. Encourage savings for future investment. Reduce debt when possible.

FISCAL IMPACT

See Hansford Economic Reports

RECOMMENDATION

Staff recommends adopting a new resolution that prescribes an appropriate utility billing fee for both Parks Utility and Transportation Utility.

PROPOSED MOTION

"I move to direct staff to prepare a resolution based on Option (provide option) for parks and Option (provide option) for transportation utility fees."

ATTACHMENTS

- Single Family Dwelling Billing Estimate

Typical Single-Family Dwelling

Current Fiscal Year (2023-2024)

Water	Street	Hwy 99	Parks	Police	Total Montly Bill
\$ 40.61	\$ 2.40	\$ 0.75	\$ 2.00	\$ 3.00	\$ 48.76

YEAR 1

Fiscal Year 2024-2025 (No Change)

Water	Street	Hwy 99	Parks	Police	Total Montly Bill	From 2023/2024
\$ 45.68	\$ 2.40	\$ 0.75	\$ 2.00	\$ 3.00	\$ 53.83	Monthly Change \$ -

Fiscal Year 2024-2025 (Option A)

Water	Street	Hwy 99	Parks	Police	Total Montly Bill	Monthly Change
\$ 45.68	\$ 2.90		\$ 2.00	\$ 3.00	\$ 53.58	\$ (0.25)

Fiscal Year 2024-2025 (Option B)

Water	Street	Hwy 99	Parks	Police	Total Montly Bill	Monthly Change
\$ 45.68	\$ 4.21		\$ 3.13	\$ 3.00	\$ 56.02	\$ 2.19

Fiscal Year 2024-2025 (Option C)

Water	Street	Hwy 99	Parks	Police	Total Montly Bill	Monthly Change
\$ 45.68	\$ 5.52		\$ 3.37	\$ 3.00	\$ 57.57	\$ 3.74

Percent Change	
Over FY 23/24	
10.40%	
9.89%	
14.89%	
18.07%	

YEAR 2

Fiscal Year 2025-2026 (Option A)

Water	Street	Hwy 99	Parks	Police	Total Montly Bill	From 2023/2024
\$ 45.68	\$ 3.86		\$ 2.84	\$ 3.00	\$ 55.38	Monthly Change \$ 6.62

Fiscal Year 2024-2025 (Option B)

Water	Street	Hwy 99	Parks	Police	Total Montly Bill	Monthly Change
\$ 45.68	\$ 5.41		\$ 3.43	\$ 3.00	\$ 57.52	\$ 8.76

Fiscal Year 2024-2025 (Option C)

Water	Street	Hwy 99	Parks	Police	Total Montly Bill	Monthly Change
\$ 45.68	\$ 7.74		\$ 3.90	\$ 3.00	\$ 60.32	\$ 11.56

Percent Change	
Over FY 23/24	Over Year 1
13.58%	2.88%
17.97%	2.68%
23.71%	4.78%

YEAR 3

Fiscal Year 2025-2026 (Option A)

Water	Street	Hwy 99	Parks	Police	Total Montly Bill	From 2023/2024
\$ 45.68	\$ 4.28		\$ 3.61	\$ 3.00	\$ 56.57	Monthly Change \$ 7.81

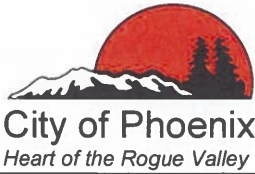
Fiscal Year 2024-2025 (Option B)

Water	Street	Hwy 99	Parks	Police	Total Montly Bill	Monthly Change
\$ 45.68	\$ 6.62		\$ 3.61	\$ 3.00	\$ 58.91	\$ 10.15

Fiscal Year 2024-2025 (Option C)

Water	Street	Hwy 99	Parks	Police	Total Montly Bill	Monthly Change
\$ 45.68	\$ 8.50		\$ 4.30	\$ 3.00	\$ 61.48	\$ 12.72

Percent Change	
Over FY 23/24	Over Year 2
16.02%	2.15%
20.82%	2.42%
26.09%	1.92%



Agenda Report to Mayor and Council

Agenda item title: Ordinance No.1038 - Parks Utility Billing Fees

Meeting Date: April 1, 2024

From: Zac Moody, Community Development Manager

Action: ___ Motion, X Ordinance, ___ Resolution, ___ Study Session, ___ Other

SUMMARY

City of Phoenix Park Utility Fees update.

BACKGROUND AND DISCUSSION

The City of Phoenix collects Utility Billing Fees to expand capacity and to maintain its infrastructure. The city uses its utility billing revenue as a way to balance the capital funding needed for improved park facilities as well as its transportation, water and stormwater infrastructure. It also uses these funds to offset the needs for funding from the general fund.

The City of Phoenix has not updated its Parks Utility Fee enabling ordinance since it was adopted in 2019. When these fees were updated, an analysis like the one presented during previous study sessions, was not completed.

Following the completion of the financial report for the park system and after reviewing the current ordinance, staff determined that an update to the Park Utility Fee enabling ordinance is necessary to update the calculation and collection methodology and to allow for periodic changes to the fees based on a financial analysis or on the most recent inflationary index.

Upon adoptions of this ordinance, future Park Utility fees will be adopted by resolution rather than making changes to the enabling ordinance. If adopted, a new resolution outlining the proposed fee will need to be drafted and approved by the City Council.

COUNCIL GOALS SUPPORTED

Goal 7: Increase sidewalks and controlled intersections and improve road conditions.

Goal 11: Build, create and maintain the best, safest and most family-friendly park system in the Rogue Valley. Enhance opportunities for recreation, functionality and civic engagement in public spaces.

FISCAL IMPACT

This ordinance carries no financial impact alone. As proposed, this enabling ordinance provides the regulations for assessing, collecting and modifying park utility billing fees. A fee schedule of the Council's choosing will need to be adopted by resolution.

RECOMMENDATION

Approval as proposed.

PROPOSED MOTION

"I move to adopt Ordinance No. 1038, an Ordinance repealing Ordinance 1003 and establishing a Park Utility Fee to fund parks maintenance".

ATTACHMENTS

- Draft Ordinance No. 1038

CITY OF PHOENIX, OREGON

ORDINANCE NO. 1038

**AN ORDINANCE OF THE CITY OF PHOENIX REPEALING
ORDINANCE 1003 AND ESTABLISHING A PARKS UTILITY FEE
FUNDING OF PARKS MAINTENANCE AND DECLARING AN
EFFECTIVE DATE**

WHEREAS, the City of Phoenix is in need of additional funding to help maintain an adequate, sustained funding base for its parks. Funding is required to help provide sufficient and effective programs, staffing, maintenance, administration, operation, equipment, supplies, fixed facilities and other costs associated with parks maintenance;

WHEREAS, the City Council finds that a fee is necessary and appropriate to provide additional funding for parks maintenance within the city, and that the methodology and distribution of the fee described in this ordinance is a reasonable and rational way to help provide the operations and maintenance of parks and facilities within the City of Phoenix;

NOW, THEREFORE, the City of Phoenix Ordains as follows:

SECTION 1. Chapter 3.26, Parks Utility Fee, is adopted herein to be incorporated into the Phoenix Municipal Code.

**Chapter 3.26
PARKS UTILITY FEE**

Sections:

- 3.26.010 Short Title
- 3.26.020 Purpose
- 3.26.030 Definitions
- 3.26.040 Establishment and Revision of Parks Utility Fee
- 3.26.050 Imposition of Parks Utility Fee
- 3.26.060 Dedication and Use of Funds
- 3.26.070 Billing and Collection of Parks Utility Fee
- 3.26.080 Exemptions
- 3.26.090 Appeal Process
- 3.26.100 Enforcement

3.26.010 Short Title

The provision of this Chapter shall be known and may be cited as the “City of Phoenix Parks Utility Fee Ordinance”.

3.26.020 Purpose

A. The principal purpose of this chapter is to safeguard, facilitate and encourage the health, safety, and welfare of the citizens and businesses of the City of Phoenix by helping to ensure the proper care and upkeep of Phoenix city parks. The council finds that a continuous and consistent parks maintenance and operations program provides important economic and social benefits to the public, including, but not limited to:

1. Provision of adequate resources for social and recreational opportunities.
2. Provision of adequate resources for the health, safety, and welfare of children.
3. Prevention of crime through the provision of healthy activities for Phoenix citizens.
4. Enhancement of the green spaces of the Phoenix community.
5. Promotion of community spirit and responsibly planned growth.

B. It is the intent of this chapter to provide a funding mechanism to help pay for the benefits conferred on city residents and businesses by the provision of an adequate program of parks maintenance and operations, and further to help bring the Phoenix parks program up to an acceptable service level.

C. It shall not be necessary that the maintenance and operations expenditures from this chapter specifically relate to any particular property from which the fees for said purposes were collected.

D. The structure of this chapter is intended to define a methodology for establishing fees for service within the city limits.

3.26.030 Definitions

As used within this ordinance, the words and phrases below have the following definitions and meanings:

Developed Property: A parcel or portion of real property on which an improvement exists. Improvements on developed property include, but are not limited to, buildings, parking lots, utilities infrastructure, and outside storage.

Dwelling unit: A building, or portion of a building, that has independent living facilities including provisions for sleeping, cooking and sanitation, and that is designed for

residential occupancy by a group of people. For the purpose of this code, the following types of dwelling units are defined:

Accessory dwelling: An interior, attached or detached residential structure that is used in connection with or that is accessory to a single-family dwelling. A lot or parcel developed with a single-family dwelling and an accessory dwelling is excluded from the definition of ‘duplex dwelling.’

Duplex: A building with two attached dwelling units on one lot or parcel.

Fourplex: A building with four attached dwelling units on one lot or parcel.

Group living structure: A structure that contains sleeping areas and at least one set of cooking and sanitary facilities, used as a residence for Group Living uses. See definitions for Residential facility and residential home.

Manufactured Dwelling: A residential trailer, mobile home or manufactured home.

Manufactured home: A structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction.

Mobile home: A structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.

Multi-family housing: Housing that allows five or more dwelling units on an individual site.

Single-family attached housing: A dwelling constructed in a row of two or more attached units where each dwelling unit is located on an individual lot or parcel and shares at least one common wall with an adjacent unit.

Single-family detached housing: One dwelling unit on one lot or parcel with no common walls attached to another dwelling unit.

Triplex: A building with three attached dwelling units on one lot or parcel.

Hotel/motel: A part of a structure that is occupied or designed for occupancy by transients for lodging or sleeping, including a hotel, inn, tourist home or house, a bed and breakfast, motel studio hotel, bachelor hotel, lodging house, rooming house, dormitory, public or private club (that provides lodging), trailer or recreational vehicles

providing transient housing.

Non-Residential Unit: A use of property such as a business or commercial enterprise that is primarily not for personal, domestic accommodations. A non-residential structure that provides facilities for one (1) or more businesses shall have each distinct business occupation considered as a separate non-residential unit. The conducting of a business or businesses at two or more locations shall, for the purposes of this chapter, be deemed to be separate businesses and each thereof shall be subject to the fee provided for in this chapter. If two or more differently classified but otherwise related businesses are carried on in the same premises by the same owners, then the business shall be considered one non-residential unit; provided however, any business activity leased under concession to or owned, wholly or in part, by a different person or persons on the same premises shall be considered a separate non-residential unit. In determining whether different activities on the same premises are related to the primary use within the meaning of this section, normal and ordinary customs and usages of businesses of like nature shall be considered.

In addition to a single unit charge per business, an additional fee shall be required based on the number of employees as reported in their Business License registration. Each increment of ten (10) employees shall constitute one (1) additional unit for the assessment of the fee, with no limit on the number of units. A part-time employee shall be considered a full-time employee for purposes of the calculation of the number of employees hereunder. Business License registration shall be reviewed annually in July to determine if there have been any changes to the number of employees. Adjustments shall be made as required to comply with this ordinance.

Person: A natural person; unincorporated association; tenancy in common; partnership; corporation; limited liability company; cooperative; trust; any governmental agency, including the State of Oregon but excluding the City of Phoenix; and any other entity in law or in fact.

Residential Unit: A residential structure that provides complete living facilities for one or more persons including, but not limited to, permanent provisions for living, sleeping, and sanitation. A home occupation business in a residential zone will be regarded only as a residential unit, not as a non-residential unit. An accessory dwelling unit on a single-family parcel shall be considered a separate residential unit. Multi-family residential property consisting of two or more dwelling units, condominium units or individual mobile home units shall have each unit considered as a separate residential unit.

Responsible Party: The person owing the Parks Utility Fee is considered to be the "Responsible Party." Two (2) or more persons may be jointly and severally liable for payment of this fee.

Transient Lodging: See Hotel/Motel definition.

3.26.040 Establishment and Revision of Parks Utility Fee

(1) The City Council hereby establishes a Parks Utility Fee to be paid by the Responsible Party for each developed property within the corporate limits of the City. Such fee shall not be imposed in amounts greater than that which is necessary, in the judgment of the City Council, to provide sufficient funds for parks maintenance. Collection of the fee for each property shall be made by a charge on the monthly utility bill.

(2) Unless a yearly fee schedule adjustment has already been established by resolution of the City Council, fees shall be adjusted by the inflationary cost impacts measured and calculated each March 1st by the City Manager or his/her designee and approved by the City Council. Such calculations will be based upon Pacific Northwest construction cost changes in the Engineering News-Record Construction Cost Index (ENR Index). All calculations shall be carried out to the hundredths place. A final product ending in \$0.49 or less shall be rounded down to the nearest dollar, \$0.50 or more up to the next dollar. Changes to the fee based on inflationary cost impacts shall be adopted by resolution of the City Council.

3.26.050 Imposition of Parks Utility Fee

(1) There is hereby created a Parks Utility Fee to accomplish the purposes described in this ordinance.

(2) There is hereby imposed upon the responsible party for each developed property in the City limits a public fee set by resolution of the City Council for each residential unit and non-residential unit existing on that property. This actual fee established shall help to maintain existing levels of service provided by the Phoenix Parks Department. Billing shall be as a line item on the City’s utility bill unless otherwise specified below.

(3) Except as the fees may be reduced or eliminated under Sections 3.26.080 and 3.26.090 below, the obligation to pay a Parks Utility Fee arises when a responsible party uses or otherwise benefits from the parks department located in Phoenix.

(4) Although this ordinance refers to “units” as a basis for calculating a Parks Utility Fee, the fees are not imposed *on* a property or on any portion thereof. The units are merely the measurement for determining the fee. The fee does not in any way create an *in-rem* obligation in respect of property. The obligation to pay the fee is a personal obligation of the responsible party.

3.26.060 Dedication and Use of Funds

All fee revenues collected pursuant to this chapter shall be distinctly and clearly noted in the revenue and section of the General Fund budget and shall be used only for the maintenance, operation and administration of Phoenix city parks and costs incidental thereto as well as recreation programming in order to help provide for a safe, well-

functioning parks maintenance and operations program. The City Council may adopt more restrictive uses of fee funds by resolution or by ordinance.

3.26.070 Billing and Collection of Parks Utility Fee

(1) Parks Utility Fees shall be collected monthly. Statements for the fee shall be included as an additional item on the City monthly water utility billing wherever feasible, unless otherwise specified below.

(2) Unless another person responsible has properly agreed in writing to pay, and a copy of that writing is properly filed with the City, the person(s) normally responsible for paying the City's water utility charges are responsible for paying the Parks Utility Fee.

(3) In the event a developed property is not served by a domestic water meter, or if water service is discontinued, the persons having the right to occupy the property shall pay the Parks Utility fee.

(4) The connection of a water meter or issuance of a building permit for a change of use will automatically initiate appropriate billing to the responsible party for fees under the Parks Utility Fee. There shall otherwise be no charge for persons who have the right to occupy an undeveloped property until such time as a structure is built and a water meter is connected on that property.

(5) The imposition of fees shall be calculated on the basis of the number of residential or non-residential units supported, without regard to the number of water meters serving that property.

(6) At those times that a property is not occupied no fee shall be assessed.

(7) When a tenant or property owner moves out mid-month the Parks Utility Fee shall be prorated based on the days of occupancy.

(8) The obligation to pay the Parks Utility Fee is personal to the responsible party. The City of Phoenix will not assess a subsequent owner of a property for uncollected amounts due from a previous owner (or responsible party under a lease or rental agreement), and will not withhold utility services to a subsequent owner.

3.26.080 Exemptions

(1) The only exemption to collection of the fee under this Ordinance shall be schools and water accounts where there are no structures (i.e. irrigation uses only). All other uses not defined above shall be subject to the fee.

(2) The City Council may, by ordinance, exempt any additional class of users when it determines that the public interest deems it necessary or that the contribution to the parks department use by such class is insignificant.

3.26.090 Appeal Process

(1) A Parks Utility fee may be appealed for change or relief in accordance with the following criteria.

(a) Classification of Property. Any responsible party who disputes any interpretation given by the City as to property classification may appeal such interpretation. If the appeal is successful, appropriate relief will be granted. In such instances, reimbursement will be given for any overpayment, retroactive to the filing date of the appeal. Factors to be taken into consideration include, but are not limited to availability of more accurate information; equity relative to billing classifications assigned to other developments of a similar nature; changed circumstances; and situations uniquely affecting the party filing the appeal.

(b) Financial Hardship. Any responsible party may claim a financial hardship. The City will determine financial hardship based on established guidelines. Any relief will be secondary to all other financial resources available to the responsible party. To be presumptively eligible for relief, the responsible party's total family assets must not exceed fifteen thousand dollars (\$15,000.00), and the responsible party's gross family income must not be more than the Federal Poverty Level. The City may request verification of income, including, but not necessarily limited to W-2 employment wage forms, payroll stubs, and tax returns. The City may also request verification of assets, including, but not limited to bank statements, mortgage statements, and other information useful to the City to determine net assets.

(2) An application for appeal shall state the reason(s) for appeal, and must include supporting documentation to justify the requested change or relief. An application will not be deemed complete until all information requested by the City has been provided.

(3) The City Manager or his/her designee shall be responsible for evaluating appeals.

(4) The City Manager his/her designee will make all reasonable attempts to resolve appeals utilizing available existing information, including supporting documentation filed with the appeal, within thirty (30) days of the date the appeal was filed. If, however, more detailed site-specific information is necessary, the City Manager or his/her designee may request the applicant to provide additional information.

(5) In any event, the City Manager or his/her designee will render a decision within ninety (90) days of the date the appeal was filed explaining the disposition of the appeal, along with the rationale and supporting documentation for the decision reached.

(6) Decisions of the City Manager or his/her designee may be appealed to the City Council, and shall be heard at a public meeting. Upon such appeal, the City Council shall at its first regular meeting thereafter set a hearing date. The matter shall be heard solely upon the record. In no event shall a final decision be made later than ninety (90) days after

the matter was formally appealed to the City Council.

(7) Appeals filed within one hundred twenty (120) days of the effective date of this Ordinance shall not be subject to a filing fee. For new residents the payment of a filing fee for an appeal will begin 120 days after establishing a water service account. A fee for an appeal shall be fifty dollars (\$50.00). Should the appellant adequately justify and secure the requested change or relief no fee will be assessed. If a decision is not in favor of the appellant a fee for an appeal shall be assessed and may be added to the utility bill.

3.26.100 Enforcement

(1) In addition to other lawful enforcement procedures, the City may enforce the collection of charges required by this ordinance by withholding delivery of water to any premises where Parks Utility Fees are delinquent or unpaid.

(3) Notwithstanding any provision herein to the contrary, the City may institute any necessary legal proceedings to enforce the provisions of this ordinance, including, but not limited to injunctive relief and collection of charges owing. The City's enforcement rights shall be cumulative.

SECTION 2. Effective Date of Fee Collection. The effective date for responsibility to pay fees under this ordinance is May 15, 2024. The currently adopted fee shall remain in effect until a new resolution is adopted.

PASSED AND ADOPTED by the City Council and signed by me in authentication of thereof on this 15th Day of May, 2024.

Terry Baker, Mayor

ATTEST:

Bonnie Pickett, City Recorder

Approved as to form:

Douglas McGeary, City Attorney



City of Phoenix
Heart of the Rogue Valley

Agenda Item #: 8b.

Agenda Report to Mayor and Council

Agenda item title: Ordinance No. 1039 - Transportation Utility Billing Fees

Meeting Date: April 1, 2024

From: Zac Moody, Community Development Manager

Action: ___ Motion, X Ordinance, ___ Resolution, ___ Study Session, ___ Other

SUMMARY

City of Phoenix Park Utility Fees update.

BACKGROUND AND DISCUSSION

The City of Phoenix collects Utility Billing Fees to expand capacity and to maintain its infrastructure. The city uses its utility billing revenue as a way to balance the capital funding needed to improve transportation facilities as well as its park, water and stormwater infrastructure. It also uses these funds to offset the needs for funding from the property tax revenue.

The City of Phoenix has not updated its Transportation Utility Fee enabling ordinance since 2001. When these fees were updated, an analysis like the one presented during previous study sessions, was not completed.

Following the completion of the financial report for the transportation system and after reviewing the current ordinance, staff determined that an update to the Transportation Utility Fee enabling ordinance is necessary to update the calculation and collection methodology and to allow for periodic changes to the fees based on a financial analysis or on the most recent inflationary index.

Upon adoptions of this ordinance, future Transportation Utility fees will be adopted by resolution rather than making changes to the enabling ordinance. If adopted, a new resolution outlining the proposed fee will need to be drafted and approved by the City Council.

COUNCIL GOALS SUPPORTED

Goal 7: Increase sidewalks and controlled intersections and improve road conditions.

Goal 11: Build, create and maintain the best, safest and most family-friendly park system in the Rogue Valley. Enhance opportunities for recreation, functionality and civic engagement in public spaces.

FISCAL IMPACT

This ordinance carries no financial impact alone. As proposed, this enabling ordinance provides the regulations for assessing, collecting and modifying transportation utility billing fees. A fee schedule of the Council's choosing will need to be adopted by resolution.

RECOMMENDATION

Approval as proposed.

PROPOSED MOTION

"I move to adopt Ordinance No. 1039, an Ordinance repealing Ordinance 746, Ordinance 750, Ordinance 930 and Ordinance No. 1039 assessing Highway 99 Transportation Fees and establishing a Transportation Utility Fee funding transportation maintenance."

ATTACHMENTS

- Draft Ordinance No. 1039

CITY OF PHOENIX, OREGON

ORDINANCE NO. 1039

**AN ORDINANCE OF THE CITY OF PHOENIX REPEALING
ORDINANCE 746, ORDINANCE 750 AND ORDINANCE 930 AND
ESTABLISHING A TRANSPORTATION UTILITY FEE FUNDING
TRANSPORTATION MAINTENANCE AND DECLARING AN
EFFECTIVE DATE**

WHEREAS, the City of Phoenix is in need of additional funding to help maintain an adequate, sustained funding base for its transportation system. Funding is required to help provide sufficient and effective, staffing, maintenance, administration, operation, equipment, supplies, fixed facilities and other costs associated with transportation maintenance;

WHEREAS, the City Council finds that a fee is necessary and appropriate to provide additional funding for transportation maintenance within the city, and that the methodology and distribution of the fee described in this ordinance is a reasonable and rational way to help provide the operations and maintenance of transportation facilities within the City of Phoenix;

NOW, THEREFORE, the City of Phoenix Ordains as follows:

SECTION 1. Chapter 3.27, Transportation Utility Fee, is adopted herein to be incorporated into the Phoenix Municipal Code.

**Chapter 3.27
TRANSPORTATION UTILITY FEE**

Sections:

- 3.27.010 Short Title
- 3.27.020 Purpose
- 3.27.030 Definitions
- 3.27.040 Establishment and Revision of Parks Maintenance Fee
- 3.27.050 Transportation Utility Fee - Dedicated
- 3.27.060 City to Maintain Local Streets; Exclusions
- 3.27.070 Billing and Collection of Parks Maintenance Fee
- 3.27.080 Administration; Review; Appeal Process
- 3.27.090 Enforcement
- 3.27.100 Disposition of Fees and Charges
- 3.27.110 Exemptions
- 3.27.120 Discounts for low-income elderly, and non-drivers

3.27.010 Short Title

The provision of this Chapter shall be known and may be cited as the “City of Phoenix Transportation Utility Fee Ordinance”.

3.27.020 Purpose

There is hereby created a transportation utility for the purpose of providing funds for the maintenance and improvement of local streets and related facilities under the jurisdiction of the City of Phoenix. The City Council hereby finds, determines, and declares the necessity of providing operation, maintenance and improvement of the city’s streets and related facilities within the right-of-way as a comprehensive transportation utility.

Operation, maintenance and improvement includes such activities as are necessary in order that streets and related facilities may be properly operated and maintained to safeguard the health, safety, and welfare of the city and its inhabitants and visitors. The following activities are to be funded by the transportation utility: costs of administering the transportation utility, patching, crack sealing, seal coating, pavement overlays including minor widening, repairing and installing sidewalks or curb cuts, street sweeping, repairing and installing curb and gutter, cleaning and installing storm drains, replacing and installing signs, striping, repairing and installing signals, illumination, rebasing or placing additional road base on local streets, street trees, miscellaneous repairs, and related operations of the Public Works Department on city streets and intersections with city streets.

The City Council further finds that non-motorized transportation (such as bicycle and pedestrian) facilities, including access for the disabled or handicapped, are an integral part of the transportation network. A portion of transportation utility funds may be used for maintenance of non-motorized transportation facilities whether within public streets or off-street right-of-way on other publicly-owned land or easements, provided the facilities are accepted by the city for maintenance.

3.27.030 Definitions

As used within this ordinance, the words and phrases below have the following definitions and meanings:

- (1) “Responsible Party” shall mean the person or persons who by usage, occupancy or contractual arrangement are responsible to pay the utility bill for an Improved Premises.
- (2) “Improved Premises” shall mean structures, landscaping, paved areas, and any area which has been altered such that runoff from the site is greater than that which could have historically been expected.
- (3) “PM Peak Hour Trip” means a trip to or from an origin or destination during the weekday afternoon peak hour of traffic generation.

3.27.040 Establishment and Revision of Parks Maintenance Fee

(1) The City Council hereby establishes, a transportation utility fee to be paid by the Responsible Party (whether owners or occupants) for each Improved Premises generating traffic in the city. The amount of the monthly transportation utility fee shall be set by this formula: Improved Premises Monthly Fee = Monthly Fee per PM Peak Hour Trip x Improved Premises count of PM Peak Hour Trips. PM Peak Hour Trips shall be determined using the 11th Edition of the Institution of Transportation Engineers (ITE) Manual. This fee is deemed reasonable and is necessary to pay for the operation and maintenance of local streets within the city. The transportation utility fee shall not be charged during any period when the Improved Premises is not receiving city water service or is shown to be vacant and not generating traffic.

(2) City Council may, from time to time, by resolution, change the transportation utility fee based upon revised estimates of the costs of maintaining streets city streets, revised priorities for local improvements that would reduce long-term maintenance costs, revised categories of use, revised trip generation or trip length factors or other relevant factors.

(3) Unless a yearly fee schedule adjustment has already been established by resolution of the City Council, the transportation utility fees shall be adjusted by the inflationary cost impacts measured and calculated each March 1st by the City Manager and approved by the City Council. Such calculations will be based upon cost changes in the Engineering News-Record Construction Cost Index (ENR Index) for Seattle, WA. The adjusted calculated transportation utility fee shall be rounded to the nearest cent. Changes to the fee based on inflationary cost impacts shall be adopted by resolution of the City Council.

(4) The transportation utility fee imposed by the City of Phoenix is classified as not subject to the limits of Section 11b of Article XI of the Oregon Constitution.

3.27.050 Transportation Utility Fee - Dedicated

(1) All transportation utility fees collected by the city shall be paid into the Street Fund. Such revenues shall be used for the purposes described in Section 1 of this ordinance. Transportation utility funds may be used to provide that portion of a capacity-increasing street improvement project within existing right-of-way that represents the cost of a pavement overlay as well as portions of the project for which system development charges have not been collected. It shall not be necessary that the expenditures from the Street Fund specifically relate to any particular use from which the transportation utility fees were collected.

(2) To the extent that the fees collected are insufficient to properly maintain local streets, the cost of the same may be paid from such other city funds as determined by the

City Council, but the City Council may order reimbursement to such fund as additional fees are thereafter collected. Transportation utility fees shall not be imposed in amounts greater than that which is necessary, in the judgement of the City Council, to provide sufficient funds to properly maintain and improve streets and related transportation facilities.

3.27.060 City to Maintain Local Streets; Exclusions

The city shall maintain all accepted local streets within city-owned land, city rights-of-way, and city easements. The city may maintain other accepted local streets, bicycle and pedestrian and other non-motorized vehicle facilities, and intersections with county roads or state highways within or adjacent to the city. Local streets to be maintained exclude private streets and streets or any other facilities not yet accepted by the city for maintenance.

3.27.070 Billing and Collection of Parks Maintenance Fee

(1) The Responsible Party for any Improved Premises within the City of Phoenix shall pay a transportation utility fee according to rates set forth in this Code. Unless another Responsible Party has agreed in writing to pay and a copy of the writing is filed with the city, the person(s) paying the city's water bill shall pay the transportation utility fees. In the event the Improved Premises does not receive city water service, the transportation utility fees shall be paid by the person(s) having the right to occupy the Improved Premises.

(2) Transportation utility bills shall be rendered monthly and shall become due and payable in accordance with the rules and regulations pertaining to the collection of utility fees. If the Improved Premises does not receive city water service, an annual bill shall be rendered and shall become due and payable within 90 days of issuance. Monthly transportation utility fees for new development shall commence upon completion, occupancy, or use of the improvements, whichever comes first. The Finance Director may use the date of connection to the water system to commence the transportation utility fee unless other evidence of the date of completion, occupancy or use is provided to the Finance Director in writing. Areas annexed to the City of Phoenix or under contract to annex shall become subject to the transportation utility fee on the date of annexation or the date of the annexation contract, whichever comes first.

(3) Transportation utility fees shall be deposited into the Street Fund to be separately kept and used for the purposes provided herein.

3.27.080 Administration; Review; Appeal Process

(1) The City Manager or his/her designee shall be responsible for determining fee amounts in accordance with usage, developing street maintenance and improvement programs, performing traffic counts, and establishing standards for the operation and

maintenance of streets and related facilities to the end that the transportation system shall be maintained, and that the city's investment therein kept available for the benefit of the public.

(2) Any Responsible Party of a nonresidential premises may request in writing a specific adjustment in the transportation utility fee for seasonal factors. The request shall provide a showing of evidence about seasonal patterns affecting the use. The petitioner shall have the burden of proof. An adjustment so that the high and low seasons do not differ by more than fifteen (15) percent may be approved by the City Manager or his/her designee. Variations greater than 15 percent shall require approval by the City Council.

(3) Any Responsible Party of a nonresidential premises may request in writing that a traffic count be made to demonstrate PM Peak Hour Trips generated by the Improved Premises for the transportation utility fee. The City Manager or his/her designee shall within 60 days cause such traffic count to take place. If the observed PM Peak Hour Trips are within five percent more or less of that in the 11th Edition of the ITE Manual, no adjustment in the transportation utility fee shall be made because this is within the expected margins for day-to-day variations. A downward adjustment in the transportation utility fee shall be made by the City Manager or his/her designee, if the traffic count results in chargeable trip ends less than ninety-five (95) percent of the level in 11th Edition of the ITE Manual. An upward adjustment in the transportation utility fee shall be made by the City Manager or his/her designee, if the traffic count results in chargeable trip ends more than one hundred five (105) percent of the level in 11th Edition of the ITE Manual. Any adjustment shall take effect in the month following completion of the traffic count and be reported in writing to the Finance Director by the City Manager or his/her designee. Results of traffic counts shall not be appealable to the City Council. Traffic counts for a specific nonresidential premises shall not be required to be made by the City more than once in each calendar year.

(4) For any issues not addressed in (2) or (3) above, any Responsible Party who disputes the amount of the fee made against such party's premises, or any party who disputes any determination made by or on behalf of the city pursuant to and by the authority of this ordinance may petition in writing for revision or modification of such fee or determination. Such petitions may be filed with the City Recorder only once in connection with any specific fee of determination, except upon a showing of such changed circumstances. The petitioner shall have the burden of proof.

(5) Petitions filed pursuant to (4) above shall be reviewed in a hearing before the City Council. Within 60 days of the filing of a petition under this section, the City shall make findings of fact based on relevant information, shall make a determination based upon such findings, and if found appropriate, modify such fee or determination accordingly. Such determination by the City shall be considered a final order.

(6) Every decision or determination of the City shall be in writing, and notice thereof shall be mailed or served upon the petitioner within a reasonable time from the date of such action. Service by certified mail, return receipt requested, shall be conclusive evidence of service for the purpose of this ordinance.

3.27.090 Enforcement

Any charge due hereunder which is not paid when due may be recovered from the Responsible Party in an action at law by the city. In addition to any other remedies or penalties provided by this or any other ordinance of the city, failure of any user of city utilities within the city to pay said charges promptly when due shall subject such user to discontinuance of any utility services provided by the city. The Finance Director is hereby empowered and directed to enforce this provision against such delinquent users. The employees of the city shall, at all reasonable times, have access to any Improved Premises served by the city for inspection and enforcement of the provisions of this ordinance.

3.27.100 Disposition of Fees and Charges

The fees paid and collected pursuant to this ordinance shall not be used for general or other governmental proprietary purposes of the city, except to pay for the equitable share of the cost of operation, administration including administration of the transportation utility, maintenance, repair, improvement, renewal, replacement, and reconstruction of the local street network and related facilities for which the city has maintenance responsibility.

3.27.110 Exemptions

The City Council may, by resolution, exempt any class of user when they determine that the public interest deems it necessary and that the contribution to street use by said class is insignificant.

3.27.120 Discounts for low-income elderly, and non-drivers

(1) Discounts applying to low-income elderly persons for water fees shall also apply to transportation utility fees.

(2) Responsible Parties occupying single family homes, multi-family dwelling units or mobile homes within the city may apply in writing for a discounted fee for the households for which they are responsible to pay transportation utility fees without a motor vehicle. Upon confirming the filing that no occupant of the household owns or is using a motor vehicle, the Improved Premises shall be charged the rate for affordable housing which considered comparable to the share of transportation utility expenses that relate to non-motorized vehicles.

SECTION 2. Effective Date of Fee Collection. The effective date for responsibility to pay fees under this ordinance is May 15, 2024. The currently adopted fee shall remain in effect until a new resolution is adopted.

PASSED AND ADOPTED by the City Council and signed by me in authentication of thereof on this 15th Day of May, 2024.

Terry Baker, Mayor

ATTEST:

Bonnie Pickett, City Recorder

Approved as to form:

Douglas McGeary, City Attorney