

City Council Meeting/Public Hearing  
Agenda

April 15, 2024

6:30 p.m. Public Meeting

**Hybrid Meeting in Person and Via Zoom**

Phoenix Plaza Civic Center 220 N. Main St./Via Zoom

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*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](http://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.***

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

**2. Pledge of Allegiance**

**3. Presentations**

- a. Jackson County Animal Control Service District – Joel Benton Senior Deputy County Administrator/County Counsel
- b. Government and Public Safety Center Update,.....4

**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. Minutes to Approve and File:

- 1. Minutes from City Council Study/Work Session Meeting April 01, 2024,.....18
- 2. Minutes from City Council Meeting April 01, 2024,.....20

**6. Consent Agenda Items Pulled for Discussion**

**7. Public Hearing**

- a. Ordinance No. 1038 – Parks Utility Billing Fees,.....24
- b. Ordinance No. 1039 – Transportation Utility Billing Fees,.....45

**8. Staff Reports**

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

**9. 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.*

**10. Adjournment**



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**To be scheduled: City Council**

- Monument Policy – TBS

**To be scheduled: PHURA**

- Annual Report – TBS

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**Upcoming City of Phoenix Meetings:**

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 13, 2024	Planning Commission Meeting 6:30 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 <sup>nd</sup> St.
May 20, 2024	City Council Meeting 6:30 pm at 220 N. Main St.
June 03, 2024	City Council Meeting 6:30 pm at 220 N. Main St.
June 10, 2024	Planning Commission Meeting 6:30 pm at 220 N. Main St.
June 17, 2024	City Council Meeting 6:30 pm at 220 N. Main St.

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



# GOVERNMENT AND PUBLIC SAFETY CENTER PROJECT

March 2024



[HMKCO.ORG](http://HMKCO.ORG)





## PROJECT END OF MONTH REPORT

### PROJECT

GOVERNMENT AND PUBLIC SAFETY CENTER

### PROJECT DESCRIPTION

- Construct a new combined city facility, replacing the Phoenix Fire Station (JCFD 5 Station 3)
- The new building incorporates the footprint of the City Hall, Fire Station, and Police Station
- The 2-story building efficiently collocates and stretches resources to enhance public safety

SCHEDULE & KEY MILESTONES	START	COMPLETION	% CPL	COMMENT
Windows Sector A/B	09/27/23	10/31/23	100%	
Electrical Rough A/B first floor	08/07/23	10/20/23	100%	
Drywall Sector A	10/17/23	10/27/23	100%	
Weather Barrier Sector C	10/02/23	10/20/23	100%	
Building Construction	03/02/23	05/16/24	84%	
Substantial Completion - Building	12/06/22	05/16/24	92%	

## CURRENT ACTIVITIES

### Construction

The contractor continued to make progress during the month of March. The concrete apron/approach to the facility has been poured, together with other exterior finishes the south entrance to the facility is near complete. They were able to receive the elevator cab and the subcontractor has begun installation activities. Efforts on finishes has increased, which include shower accessories, setting toilets, completing flooring throughout, closing up ceiling panels, attaching hand rails to the stair columns, and energizing secondary panels throughout. The contractor completed pouring the concrete apparatus bay floor and are working on finishes in this area, which include lockers in the turn out, floor drains and mechanical and electrical equipment. The completion of these activities edges the project closer to completion ahead of the May 17<sup>th</sup> open house.

South view of the exterior façade



North view of the exterior façade, steel erected for police canopy



Police Dept shower fixtures installation





Fire Department Apparatus bay



Fire Department railing installation



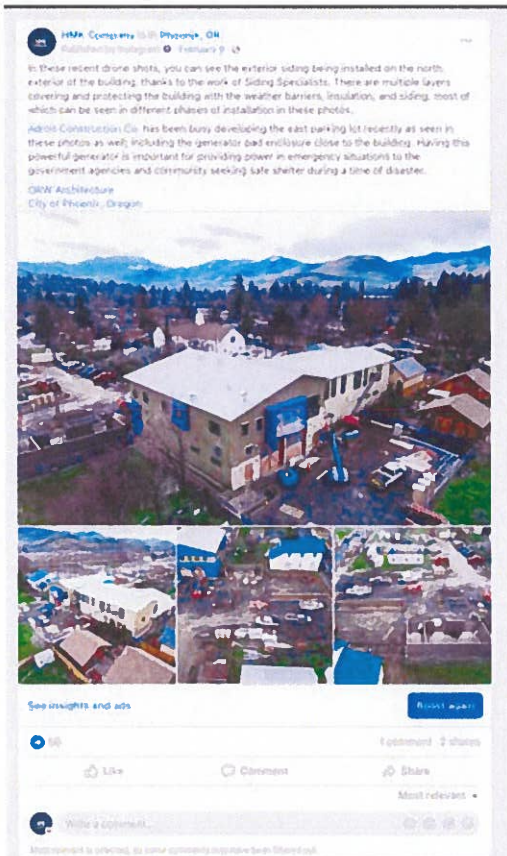
Work at the Police lobby elevator



Social Media

In the month of February, the project had 839 engagements, 8,294 people reached, 18,831 impressions in the Phoenix (+25 mile radius) community. There were 2 sponsored posts and six posts total between Facebook, Instagram, LinkedIn.

Ad	Results	Reach	Frequency	Cost per result	Impressions	CPM (cost per 1,000 impressions)
Post: "In these recent drone shots, you can see the exterior siding being installed on the north exterior of the building, thanks to the work of Siding Specialists. There are multiple layers covering and protecting the building with the weather barriers, insulation, and siding, most of which can be seen in different phases of installation in these photos."	624	7,067	1.75	\$0.08	12,361	\$4.04
Post: "Check out the incredible teamwork between our construction crew and the City of Phoenix staff. The project is well on its way to completion, and we're excited to see the finished building in action. Stay tuned for more updates as we continue to progress through the project. #Phoenix #Construction #Teamwork #ProjectUpdate #CityOfPhoenix"	215	2,949	2.19	\$0.23	6,470	\$7.73
<b>Results from 2 ads</b>	<b>839</b>	<b>8,294</b>	<b>2.27</b>	<b>\$0.12</b>	<b>18,831</b>	<b>\$5.31</b>



**HMK Company is in Phoenix, OR**  
Published by Christensen-McKay J Lyndsey · February 7, 2024

Check out the incredible teamwork behind the scenes at the City of Phoenix, Oregon Government and Public Safety Building!

Our dedicated partners have been hard at work ensuring that the building stays cozy, dry, and structurally sound in any weather.

The exterior wood framing is wrapped in a blue vapor barrier. Then, it's covered in rain screen insulation. The rain screen assembly, in particular, is essential because it acts as a secondary protective barrier. It helps to manage moisture, improve insulation, and enhance the overall durability of the building.

Finally, the exterior siding adds the finishing touch. All these components come together to create the building's essential exterior envelope, providing an airtight and watertight barrier.


A big shoutout to our amazing trade partners and the high quality work they are doing assembling the exterior envelope:

- Adroy Construction Co.** - the general contractor
- Arrol Sheet Metal** - for exterior insulation, furring, and metal siding
- Siding Specialists** - handling the weather barrier and wood siding
- Black Line Glazing** - providing those exterior storefront doors and windows

And let's not forget the thorough testing by **GED Lab Inc.** and **Build Certs** to ensure the system's integrity and prevent any leaks.

Stay tuned for more exciting updates on the City of Phoenix Government and Public Safety Building project!

Soderstrom Architects Ltd  
ORW Architecture



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Total Insights

Post Impressions	Post Reach	Engagement
6,209	2,855	331

Posted on Feb 7, 2024

Performance

Post Reach	Post Impressions
2,049	215

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David McKay · You  
CEO at HMK Company  
Share

Check out the incredible teamwork behind the scenes at the City of Phoenix Government and Public Safety Building!

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#EDMAYDAY  
#PhoenixOregon #OregonPhoenix #ORWArchitecture  
#SiderstromArchitects #BlackLineGlazing #AdroyConstruction  
#Construction #PublicSafetyBuilding #Architecture



See insights and ads

2 comments 2 shares

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1,508 impressions

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## Budget

Budget has been updated with February information.

## HIGHLIGHTS, CHALLENGES, SOLUTIONS

### Highlights / Challenges:

- ✓ Completion of siding
- ✓ Completion of the roof
- ✓ Delivery of the elevator
- ✓ Site improvements continue
- ✓ Continue working through the schedule impact with Adroit due to labor strike delaying exterior rockwool insulation. While allowing furniture move into to begin on April 22<sup>nd</sup>.

## ACTIVITIES SCHEDULED FOR NEXT PERIOD

- ✓ Continue installation of finishes throughout the building.
- ✓ Completion of the elevator and lobby finishes
- ✓ Completion of the police lobby stair column
- ✓ Installation of apparatus bay doors
- ✓ Start-up of equipment
- ✓ Commissioning of equipment

## REVENUE / PROJECT BUDGET REPORTS

See attached reports.

## ADDITIONAL INFORMATION

For questions, comments or additional information, please contact:

David McKay, CEO  
david.mckay@hmkco.org | <https://hmkco.org/cityofphoenix/> | 503-453-2836



**CITY OF PHOENIX  
CITY GOVERNMENT BUILDING PROJECT  
REVENUE BUDGET  
FEBRUARY 29, 2024**

<b>Program Revenue <sup>1</sup></b>	<b>Original Budget</b>	<b>Received to Date</b>	<b>Allocated to Date</b>	<b>Unallocated Balance</b>	<b>Revised Budget</b>
<b>Bond and Other Proceeds</b>					
House Bill 5006	\$ 13,804,000	\$ 10,819,969	\$ 13,600,000	\$ -	\$ 13,600,000
House Bill 5202	\$ 2,534,000	\$ 2,534,000	\$ 2,534,000	\$ -	\$ 2,534,000
FEMA - Public Assistance	\$ 200,000	\$ -	\$ 319,322	\$ -	\$ 319,322
	\$ -	\$ -	\$ -	\$ -	\$ -
Other Revenue Sources ( Federal, State, ETO)	\$ -	\$ -	\$ 3,292,861	\$ 119,322	\$ 3,412,183
<b>Total Revenue</b>	<b>\$ 16,538,000</b>	<b>\$ 13,353,969</b>	<b>\$ 19,746,183</b>	<b>\$ 119,322</b>	<b>\$ 19,865,505</b>

1. Program Revenue Budgets are an estimate. Accuracy should be verified by City personnel.



**CITY OF PHOENIX  
PUBLIC SAFETY BUILDING  
PROJECT BUDGET  
FEBRUARY 29, 2024**

Program Expense		Original Budget		Paid to Date		Remaining Balance		Revised Budget
<b>Hard Cost</b>								
Maximum Allowable Construction Cost (MACC)	3	\$ 13,421,067	\$	9,919,514	\$	5,404,329	\$	15,323,843
1.5% Solar Requirement (1.5% of Total Project Budget)		\$ 270,325	\$	2,737	\$	225,996	\$	228,733.0
Construction Contingency	3	\$ 671,053	\$	-	\$	679,759	\$	679,759
<b>Construction Sub Total</b>		<b>\$ 14,362,445</b>	<b>\$</b>	<b>9,922,251</b>	<b>\$</b>	<b>6,310,085</b>	<b>\$</b>	<b>16,232,335</b>
<b>Soft Cost</b>								
<b>Administrative Cost</b>								
Legal Fees	1	\$ 15,000	\$	23,559	\$	1,441	\$	25,000
Builders Risk Insurance	2	\$ 100,000	\$	-	\$	67,275	\$	67,275
Project Management	3	\$ 608,575	\$	693,535	\$	65,040	\$	758,575
Reimbursable Expenses		\$ 15,000	\$	14,768	\$	232	\$	15,000
Other Administrative Charges		\$ -	\$	-	\$	-	\$	-
<b>Site Cost</b>								
Site Survey	2	\$ 24,280	\$	11,030	\$	-	\$	11,030
Geo-Tech Report		\$ 48,560	\$	30,999	\$	-	\$	30,999
<b>Planning Cost</b>								
Design Fees	3	\$ 1,214,005	\$	1,055,513	\$	84,487	\$	1,140,000
A & E Reimbursable Expenses		\$ 15,000	\$	1,702	\$	13,298	\$	15,000
Commissioning	2	\$ 60,700	\$	22,340	\$	28,547	\$	50,887
Printing & Plan Distribution		\$ 2,500	\$	-	\$	2,500	\$	2,500
Hazardous Materials Consultant	2	\$ 36,420	\$	16,152	\$	6,148	\$	22,300
Building Envelope Consultant		\$ 60,700	\$	54,982	\$	8,818	\$	63,800
Constructability Review	2	\$ 48,560	\$	-	\$	-	\$	-
Plan Review & Building Permits		\$ 121,400	\$	3,241	\$	118,159	\$	121,400
Special Inspection and Testing		\$ 60,700	\$	55,202	\$	5,498	\$	60,700
Miscellaneous Fees	3,4	\$ 63,560	\$	66,090	\$	27,470	\$	93,560
Relocation Cost		\$ -	\$	28,941	\$	71,059	\$	100,000
Kitchen		\$ 24,280	\$	-	\$	-	\$	-
<b>Miscellaneous</b>								
Legal Advertisements		\$ 2,500	\$	433	\$	2,067	\$	2,500
Furniture, Fixtures, and Equipment (FF&E)	1	\$ -	\$	145,352	\$	604,648	\$	750,000
Technology		\$ -	\$	39,614	\$	(39,614)	\$	-
Technology (Design)		\$ 24,280	\$	-	\$	24,280	\$	24,280
Acoustics		\$ 24,280	\$	-	\$	-	\$	-
Criminal Background Checks		\$ 2,500	\$	-	\$	-	\$	-
System Development Charges		\$ 121,400	\$	-	\$	121,400	\$	121,400
Value Engineering		\$ -	\$	-	\$	-	\$	-
Utility Connection Fee		\$ 121,400	\$	14,963	\$	106,437	\$	121,400
Unallocated Owner Contingency	1,2,3,4	\$ 843,633	\$	-	\$	16,241	\$	16,241
Inflation		\$ -	\$	-	\$	-	\$	-
<b>Sub Total Soft Cost</b>		<b>\$ 3,659,233</b>	<b>\$</b>	<b>2,278,416</b>	<b>\$</b>	<b>1,335,431</b>	<b>\$</b>	<b>3,613,847</b>
<b>Total Project Cost</b>		<b>\$ 18,021,678</b>	<b>\$</b>	<b>12,200,666</b>	<b>\$</b>	<b>7,645,516</b>	<b>\$</b>	<b>19,846,182</b>

1. Reallocated funds within budget (09.30.22)
2. Reallocated funds within budget (12.31.22)
3. Reallocated funds within budget (10.31.23)
4. Reallocated funds within budget (11.30.23)



# HMK COMPANY



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# **City Council Study/Work Session Hybrid Meeting in Person and Via Zoom Monday, April 01, 2024**

## **1. CALL TO ORDER:**

Mayor Baker called the City Council's hybrid meeting to order on Monday, April 01, 2024, at 5:30 p.m.

## **ROLL CALL:**

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

**STAFF PRESENT:** Eric Swanson, City Manager  
Joe Slaughter, Deputy City Manager  
Bonnie Pickett, City Recorder  
Chris Stephenson, PW Superintendent  
Derek Bowker, Chief of Police

## **2. DISCUSSION – STRATEGIC PLAN:**

Eric Swanson, City Manager, noted that the staff is bringing a refreshed version of the 2021 Strategic Plan to the Council.

Mayor Baker spoke about the plan being updated when a new Council takes office in January 2025.

Mr. Swanson answered questions from the Council regarding the Strategic Plan.

Joe Slaughter, Deputy City Manager, noted that this is something fun to celebrate since so many goals have been accomplished. He noted that when establishing the FY 2024-2025 budget, staff wanted to confirm goals the Council would like to accomplish during this period. Mr. Slaughter presented the refreshed Strategic Plan to the Council, highlighting the changes. He answered questions from the Council regarding the Strategic Plan.

Mr. Swanson spoke about actionable items that staff works toward that are listed as goals in the Strategic Plan.

Mr. Slaughter spoke about how the goals in the Strategic plan guides the Council on where how to budget funds for the upcoming budget year.

The Council deliberated the need for a Strategic Plan and how it would guide the city staff in meeting the goals.

Mr. Slaughter went through the plan line by line to cover the updates to the Strategic Plan and answered questions about specific goals from the Council.

Some of the Councilors spoke in favor of the strategic plan presented, while others would like input from the Phoenix residents on what they feel is important for the city.

Mr. Swanson noted that staff will bring back the Strategic Plan for consideration at the next City Council meeting.

**3. ADJOURNMENT:**

The meeting adjourned at 6:54 p.m.

Respectfully submitted by,

Bonnie Pickett  
City Recorder

DRAFT

# **City Council Meeting Hybrid Meeting in Person and Via Zoom Monday, April 01, 2024**

## **1. CALL TO ORDER:**

Mayor Baker called the City Council's hybrid meeting to order on Monday, April 01, 2024, at 7:04 p.m.

## **ROLL CALL:**

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

**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. Earth Day, Sandy Wine spoke about the Earth Day Event at Blue Heron Park on Saturday, April 20. She invited the Council to attend the event with the Mayor to introduce the Council present. Ms. Wine spoke about the Alameda fire damage at Blue Heron Park and the Community Garden. She thanked the City for the publicity for the Earth Day Event and the Bear Creek Steward project. Ms. Wine spoke about the donations she received for event giveaways.

## **4. PUBLIC COMMENT:**

None.

## **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 VERMILLION, SECONDED BY SHAINHOLTZ.** No further discussion.

**ROLL CALL VOTE AS FOLLOWS:**

**Ayes: Vermillion, Shainholtz, Shrader, Clauson Dickson, Peterson**  
**MOTION APPROVED WITH SIX AYES**

**6. CONSENT AGENDA ITEMS PULLED FOR DISCUSSION:**

**7. NEW BUSINESS:**

a. Discussion of Streets and Parks Utility Billing Fees.

Mr. Swanson introduced the topic to the Council and how we arrived at the options presented.

Zac Moody, Community Development Manager presented his staff report to the Council regarding the Streets and Parks Utility Billing Fees. He spoke about the study that was completed and the conclusions that came from the study. Mr. Moody answered questions from the Council. He presented the increase in the gap between operations costs and revenue over the next three years. Mr. Moody spoke about how the three options would affect the fees on the water bills. He answered questions regarding the different scenarios presented.

Mr. Slaughter answered questions, noting the water fund is a separate fund from the funds for the utility fees for Parks and Streets.

Mr. Moody noted that his recommendation would be option three and asked the Council for direction.

Mr. Swanson answered questions about funds that the City receives yearly in the general fund.

The Council deliberated the information presented regarding the proposed utility fees.

Motion: I Move to Make a Motion that we Table the Parks and Transportation Fee Increase Until After We See and Approve the 2024/2025 Budget in May and Make Sure We Find Out if There is Going to be an Increase in the Police Fee. **MOVED BY PETERSON, SECONDED BY SHAINHOLTZ.** No further discussion.

**ROLL CALL VOTE AS FOLLOWS:**

**Ayes: Peterson, Shainholtz, Vermillion, Dickson, Clauson, Shrader**  
**MOTION APPROVED WITH SIX AYES**

**8. PUBLIC HEARING:**

a. Ordinance No. 1038 – Parks Utility Billing Fees

Mr. Moody advised that the ordinances do not change the fees but clarify how the fees are adopted. Mr. Moody answered questions from the Council.

Open Public Hearing at 8:26 p.m.

Public Comment – None

Close Public Hearing at 8:26 p.m.

Motion: I Move to Adopt Ordinance No. 1038, An Ordinance Repealing Ordinance 1003 and Establishing a Park Utility Fee to Fund Park Maintenance. **MOVED BY VERMILLION, SECONDED BY CLAUSON.** No further discussion.

**ROLL CALL VOTE AS FOLLOWS:**

**Ayes:**

**Nays: Vermillion, Clauson, Shrader, Dickson, Peterson, Shainholtz**

**MOTION FAILED WITH SIX AYES**

Motion: I Move to Bring this Back at the Next Meeting for Better Understanding. **MOVED BY VERMILLION, SECONDED BY CLAUSON.** No further discussion.

**ROLL CALL VOTE AS FOLLOWS:**

**Ayes: Vermillion, Clauson, Shrader, Dickson, Peterson, Shainholtz**

**MOTION APPROVED WITH SIX AYES**

b. Ordinance No. 1039 – Transportation Utility Billing Fees

Mr. Moody noted that he should have brought the Ordinance forward with the tract changes to the Ordinance. The Council requested that the Ordinances be brought back with the tract changes at the next meeting.

**9. STAFF REPORTS:**

City Attorney Doug McGeary, no comments.

City Manager Eric Swanson spoke about Jackson County's request to present to the Council a proposal for the Animal Shelter Special District.

Deputy City Manager Joe Slaughter has no comments.

**10. MAYOR AND COUNCIL COMMENT / REPORTS:**

Councilor Shainholtz had no comments.

Councilor Clauson had no comments.

Councilor Peterson spoke about the Easter Egg Event. She thanked the City for their help at the event.

Councilor Vermillion spoke about how fun the Easter Egg Event was to see and participate in. She advised of a conversation with a salesman who said things were going well in Phoenix.

Councilor Shrader spoke about the terrific Easter Egg Event.

Councilor Dickson had no comments.

Mayor Baker had no comments.

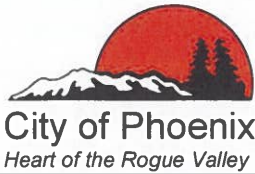
**11. ADJOURNMENT:**

The meeting adjourned at 8:30 p.m.

Respectfully submitted by,

Bonnie Pickett  
City Recorder

DRAFT



## Agenda Report to Mayor and Council

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

**Meeting Date:** April 15, 2024

**From:** Zac Moody, Community Development Manager

**Action:** \_\_\_Motion,  X Ordinance, \_\_\_Resolution, \_\_\_Study Session, \_\_\_Other

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### SUMMARY

City of Phoenix Park Utility Fees update.

### BACKGROUND

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 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 and property tax revenue.

The City of Phoenix has not updated its Park Utility Fee enabling ordinance since 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.

### DISCUSSION

After the initial review of the proposed Park Utility Billing Fee Ordinance, City Council requested a redlined version of the proposed ordinance outlining the recommended changes. Staff reviewed the original ordinance against the proposed and drafted the requested redlined version.

As shown in the draft redline version of the ordinance, there are three substantive changes proposed along with a number of general text, grammatical and formatting changes.

The first change recommended is to draft a form of the ordinance that is similar to other related ordinance (e.g., water and transportation).

The second recommended change can be found in Chapter 3.27.040 of the redline version. This section details how fees are established, the methodology for calculation and how fees are updated. The only change to this section was to draft language that was similar to the Transportation Utility Fee where the Council has two clear processes for updating the fees in the future. The first option for fee changes allows the Council to update the fees based on revised cost estimates for park maintenance. The second option for fee changes allows the Council to adjust the fees based on the Construction Cost Index.

The last change proposed is within the definition section and includes changes to how fees for ADUs, Apartments, and other multi-family development are calculated. Currently, the ordinance



prescribes a 20% reduction in park fees for these types of development based on the assumption that there is a 20% vacancy rate. The city hasn't had vacancy rates that high in many years, therefore this rate is outdated. Additionally, the residents of these types of dwellings often times are the largest users of the park system simply because of the lack of open space within the complexes.

#### **COUNCIL GOALS SUPPORTED**

**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 by itself does not change the base monthly fee. Financial impacts will be determined based on the adoption of the resolution setting the fee. 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. 1038, an Ordinance repealing Ordinance 1003 and establishing a Park Utility Fee funding parks maintenance."*

#### **ATTACHMENTS**

- Draft Ordinance No. 1038 (clean version)
- Draft Ordinance No. 1038 (redline version)

**CITY OF PHOENIX, OREGON**

**ORDINANCE NO. 1038**

**AN ORDINANCE OF THE CITY OF PHOENIX REPEALING  
ORDINANCE 1003 AND ESTABLISHING A PARKS UTILITY FEE  
FUNDING 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 Administration; Review; Appeal Process
- 3.26.090 Enforcement
- 3.26.100 Disposition of Fees and Charges
- 3.26.110 Exemptions

**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**

(1) 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:

- (b) Provision of adequate resources for social and recreational opportunities.
- (c) Provision of adequate resources for the health, safety, and welfare of children.
- (d) Prevention of crime through the provision of healthy activities for Phoenix citizens.
- (e) Enhancement of the green spaces of the Phoenix community.
- (f) Promotion of community spirit and responsibly planned growth.

(2) 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.

(3) 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.

(4) 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.

*Mobile Home Park:* Any lot on which two or more mobile homes are located and being used for residential purposes, other than as approved "guest house", and where the primary purpose of the property owner is to rent or lease the spaces and related or necessary facilities to the owners or occupants of the mobile homes, or to offer same in exchange for trade of services. Each space within the mobile home park is determined to represent a unit for assessment of the fee.

*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.

*Recreational Vehicle Park or Campground.* An area designated to accommodate recreational vehicles and/or tent campers and provide related and needed facilities and services. The fee assessed for such facilities shall be based on the number of spaces established for this purpose with each space equaling a unit for purposes of assessment of the 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) The City Council may, from time to time, by resolution, change the park utility fee based upon revised estimates of the costs of maintaining parks, revised priorities for local improvements that would reduce long-term maintenance costs, revised categories of use or other relevant factors.
- (3) Alternatively, by resolution of the City Council, the park utility fees may 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 shall 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.

### **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 Administration; Review; 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.

### **3.26.090 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.

(2) 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.

### **3.26.100 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 park maintenance, repair, improvement, renewal, replacement, and reconstruction of the parks and related facilities for which the city has maintenance responsibility.

### **3.26.110 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.

SECTION 2. Effective Date of Fee Collection. The effective date for responsibility to pay fees under this ordinance is May 29, 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 29<sup>th</sup> Day of May, 2024.

\_\_\_\_\_  
Terry Baker, Mayor

ATTEST:

Approved as to form:

\_\_\_\_\_  
Bonnie Pickett, City Recorder

\_\_\_\_\_  
Douglas McGeary, City Attorney

CITY OF PHOENIX, OREGON

ORDINANCE NO. ~~1003~~1038

AN ORDINANCE OF THE CITY OF PHOENIX  
~~TO ESTABLISH REPEALING ORDINANCE 1003 AND ESTABLISHING A~~  
~~PARKS MAINTENANCE UTILITY FEE FOR INCREASED FUNDING~~  
~~OF FUNDING 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 apportionment 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;

~~AND WHEREAS, it is important to the City of Phoenix to adopt this ordinance as soon as possible and with an effective date of July 1, 2019 in order to create certainty and to enable financial planning by the City, its residents and its businesses.~~

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

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

Chapter 3.26  
PARKS MAINTENANCE UTILITY FEE

Sections:

- 3.26.010 Short Title
- 3.26.020 Purpose
- 3.26.030 Definitions
- 3.26.040 Establishment and Revision of Parks Maintenance Utility Fee
- 3.26.050 Imposition of Parks Maintenance Utility Fee
- 3.26.060 Dedication and Use of Funds
- 3.26.070 Billing and Collection of Parks Maintenance Utility Fee
- 3.26.080 ~~Exemptions Administration; Review; Appeal Process~~
- 3.26.090 ~~Appeal Process Enforcement~~
- 3.26.100 Disposition of Fees and Charges
- ~~3.26.100-110~~ Enforcement Exemptions

Apartment House: Any building or portion thereof, which contains three or more individual dwelling units, regardless of the ownership arrangement. In determining the number of units to be assessed the fee an 80% rate of occupancy shall be used in the calculation. (Total units in complex times 80% = number of units assessed fee. Billable units shall be based on whole numbers therefore rounding up or down shall occur to achieve a whole number.)

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.

Duplex: Two family dwelling. In determining the number

Dwelling unit: A building, or portion of units to be assessed the fee an 80% rate of a building, that has independent living facilities including provisions for sleeping, cooking and sanitation, and that is designed for residential occupancy shall be 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 calculation. (Total 2 definition of 'duplex dwelling.')

Duplex: A building with two attached dwelling units times 80% = number of on one lot or parcel.

Fourplex: A building with four attached dwelling units assessed fee. Billable 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 shall be based on whole numbers only.) 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.

~~**Mobile Home Park:** Any lot on which two or more mobile homes are located and being used for residential purposes, other than as approved "guest house", and where the primary purpose of the property owner is to rent or lease the spaces and related or necessary facilities to the owners or occupants of the mobile homes, or to offer same in exchange for trade of services. Each space within the mobile home park is determined to represent a unit for assessment of the fee.~~

~~**Multiple Family:** A building or portion thereof, designed or used as a residence by two or more families or individual households, and containing two or more dwelling units. In determining the number of units to be assessed the fee of 80% rate of occupancy shall be used in the calculation. (Total units in complex time 80% = number of units assessed fee.) Billable units shall be based on whole numbers therefore rounding up or down shall occur to achieve a whole number.~~

~~**Multiple Family Complex:** A group of two or more detached buildings used for residential purposes and located on a single tax lot with yard areas shared as common areas for all dwelling group occupants.~~

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

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 May/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 MaintenanceUtility Fee is considered to be the "Responsible Party." Two (2) or more persons may be jointly and severally liable for payment of this fee.

***Recreational Vehicle Park or Campground.*** An area designated to accommodate recreational vehicles and/or tent campers and provide related and needed facilities and services. The fee assessed for such facilities shall be based on the number of spaces established for this purpose with each space equaling a unit for purposes of assessment of the fee.

*Transient Lodging:* See Hotel/Motel definition.

### **3.26.040 Establishment and Revision of Parks MaintenanceUtility Fee**

(1) The City Council hereby establishes a Parks MaintenanceUtility 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.

monthly charge which shall commence on the first day of July 2019. The City

~~Council may, from time to time, by resolution, change the fee based upon revised estimates of the costs, or other factors identified in the ordinance.~~

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

~~(3) Alternatively, by resolution of the City Council, the park utility fees may 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 shall 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.~~

### 3.26.050 ~~Imposition of Parks~~ MaintenanceUtility Fee

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

~~(2)~~ (2) There is hereby imposed upon the responsible party for each developed property in the City limits a Public fee ~~of up to Two dollars (\$2.00) per unit per month (as 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)~~ (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 MaintenanceUtility Fee arises when a responsible party uses or otherwise benefits from the parks department located in Phoenix.

~~(4)~~ (4) Although this ordinance refers to "units" as a basis for calculating a Parks MaintenanceUtility 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~~ MaintenanceUtility Fee

~~(1)~~ (1) Parks MaintenanceUtility 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)~~ (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 ~~Maintenance~~ Utility Fee.



~~(3)~~ (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 MaintenanceUtility 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 MaintenanceUtility 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)~~ (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)~~ (6) At those times that a property is not occupied no fee shall be assessed.

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

~~(8)~~ (8) The obligation to pay the Parks MaintenanceUtility 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 Administration; Review; 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.

### **3.26.090 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.

(2) 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.

### **3.26.100 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 park maintenance, repair, improvement, renewal, replacement, and reconstruction of the parks and related facilities for which the city has maintenance responsibility.

**3.26.080-110 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.

SECTION 2. Effective Date of Fee Collection. The effective date for responsibility to pay fees under ~~the~~this ordinance is ~~August 1, 2019.~~ Fees will be billed on the first City utility bills issued after that date, May 29, 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 ~~17th~~29th Day of ~~June, 2019~~May, 2024.

  
Chris Luz, Mayor 

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\_\_\_\_\_  
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Terry  
Baker,  
Mayor

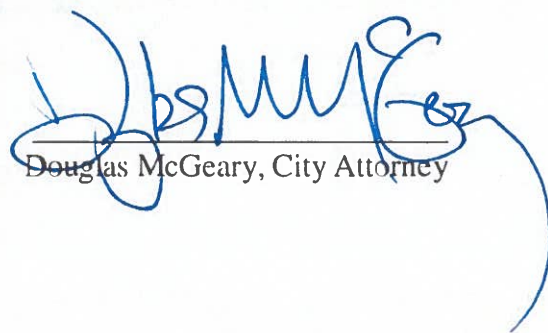
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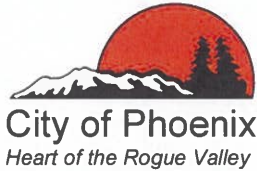
  
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Bonnie Pickett, City Recorder

Douglas McGeary, City Attorney



Douglas McGeary, City Attorney



## Agenda Report to Mayor and Council

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

**Meeting Date:** April 15, 2024

**From:** Zac Moody, Community Development Manager

**Action:** \_\_\_Motion,  X Ordinance, \_\_\_Resolution, \_\_\_Study Session, \_\_\_Other

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### SUMMARY

City of Phoenix Transportation Utility Fees update.

### BACKGROUND

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.

### DISCUSSION

After the initial review of the proposed Transportation Utility Billing Fee Ordinance, City Council requested a redlined version of the proposed ordinance outlining the recommended changes. Staff reviewed the original ordinance against the proposed and drafted the requested redlined version.

As shown in the draft redline version of the ordinance, there are two substantive changes proposed along with a number of general text, grammatical and formatting changes. Some other changes include removing the Public Works Director and City Recorder from being responsible for the collection of fees or administering any portion of the ordinance. As proposed, the City Manager or his/her designee or the Finance Director would be responsible for administering the ordinance.

The first change recommended is to draft a form of the ordinance that is similar to other related ordinance (e.g., water and parks). As currently written, Ordinance 930 (being repealed as part of this ordinance) is located in Chapter 13.28 of the Municipal Code and is in a simple paragraph form. As proposed, this ordinance would be adopted as Chapter 3.27 following Parks Maintenance in Chapter 3.26.

The second recommended change can be found in Chapter 3.27.040 of the redline version. This section details how fees are established, the methodology for calculation and how fees are updated. Section 1 of this chapter proposes to use PM Peak Hour Trips as the method for estimating trip

generation. This method is more commonly used to estimate vehicle trips and the impacts to the system than trips estimated using average daily trips (current method).

Currently, the monthly Street Utility Fee is \$0.2366 per trip, which is \$2.44 for a single-family detached home (under the current fee structure the home makes 10.314 daily trips). With the adoption of this ordinance and no change in the cost per trip, a home that now generates 9.43 Average Daily Trips will pay 0.94 PM peak hour trips, rather than the current rate of 1.01 PM peak hour trips (or 10.314 daily trips). The result is a base PM peak hour trip fee that is \$2.40 and a monthly fee of \$2.26 adjusted for the PM peak hour trips for a single-family dwelling.

#### **COUNCIL GOALS SUPPORTED**

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

#### **FISCAL IMPACT**

This ordinance by itself does not change the base monthly fee. Financial impacts will be determined based on the adoption of the resolution setting the fee. 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 (clean version)
- Draft Ordinance No. 1039 (redline version)

**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 Transportation Utility Fee
- 3.27.050 Transportation Utility Fee - Dedicated
- 3.27.060 City to Maintain Local Streets; Exclusions
- 3.27.070 Billing and Collection of Transportation Utility 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.



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 for Transportation Utility 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 11<sup>th</sup> 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 11<sup>th</sup> 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 11<sup>th</sup> 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 15<sup>th</sup> Day of May, 2024.

\_\_\_\_\_  
Terry Baker, Mayor

ATTEST:

Approved as to form:

\_\_\_\_\_  
Bonnie Pickett, City Recorder

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Douglas McGeary, City Attorney

**CITY OF PHOENIX, OREGON**

**ORDINANCE NO. 7461039**

**AN ORDINANCE OF THE CITY OF PHOENIX REPEALING  
ORDINANCE 746, ORDINANCE 750 AND ORDINANCE 930 AND  
ESTABLISHING A TRANSPORTATION UTILITY, ~~SETTING FEE~~  
FUNDING TRANSPORTATION UTILITY FEE  
AMOUNTS, ~~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 Transportation Utility Fee
- 3.27.050 Transportation Utility Fee - Dedicated
- 3.27.060 City to Maintain Local Streets; Exclusions
- 3.27.070 Billing and Collection of Transportation Utility 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 — ~~THE CITY OF PHOENIX ORDAINS AS FOLLOWS:~~

~~Section 1. Purpose.~~ 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 ~~minor~~ 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 ~~minor~~ improvement of the city’s streets and related facilities within the right-of-way as a comprehensive transportation utility. Operation, maintenance and ~~minor~~ 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 ~~curbs~~ 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 bicycle and pedestrian 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 Transportation Maintenance Fee; Revisions.

~~A.(1)~~ The City Council ~~herby~~hereby establishes, ~~and may by ordinance amend,~~ a transportation utility fee to be paid by the ~~responsible party~~Responsible Party (whether owners or occupants) for each ~~improved premises~~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 = Number of Units x Chargeable Daily Trip Ends x \$0.15. Chargeable Daily Monthly Fee per PM Peak Hour Trip Ends x Improved Premises count of PM Peak Hour Trips. PM Peak Hour Trips shall be determined according to the schedule set forth in Exhibit "A" of this ordinance using the 11<sup>th</sup> 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 ~~premises~~Improved Premises is not receiving city water ~~and sewer~~ service, or is shown to be vacant and not generating traffic.

~~B.(2)~~ The 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)~~ The \$0.15 rate in the formula adopted in this ordinance shall be increased to account for inflation annually on September 1<sup>st</sup>, based on the Consumers Price Index — All Urban Consumer Portland Index (CPI-U) December to December, provided that no other increases were implemented within the prior twelve months. The City Recorder will provide the City Council with a review of the rate and fee amounts annually. Alternatively, by resolution of the City Council, the transportation utility fees may 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 shall 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.

~~C.(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.

#### Section

### 3.-27.050 Transportation Utility Fee — Dedicated.

~~A.(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.

B.(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 ~~may~~ 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 ~~thenthan~~ 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.

Section 4. 3.27.060 City to Maintain Local Streets; Exclusions:

The city shall maintain all accepted local streets within city-owned land, city rights-of-~~watway~~, 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.

Section 5. 3.27.070 Billing and Collection for Transportation Utility Fee:

A.(1) The Responsible Party for any ~~improved premises~~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 ~~sewer bill shall pay the transportation utility fees. In the event the premises does not receive city sewer service then the person(s) paying the city's~~ water bill shall pay the transportation utility fees. ~~If there is neither city~~In the event the Improved Premises does not receive city water ~~nor city sewer~~ service ~~to the improved premises~~, the transportation utility fees shall be paid by the person(s) having the right to occupy the ~~premises~~Improved Premises.

B.(2) Transportation utility bills shall be rendered monthly ~~by the City Recorder~~ and shall become due and payable in accordance with the rules and regulations pertaining to the collection of utility fees. If ~~there is neither~~the Improved Premises does not receive city water ~~nor city sewer~~ service ~~to the improved premises~~, 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 ~~City Recorder~~Finance Director may use the date of connection to the water system ~~or~~



The ~~City Recorder~~ 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.

- ~~(1) Section 10. Definitions. 3.27.110~~ 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 means 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) "Trip End" means a trip to or from an origin or destination. A trip end is the standard unit of measure for trip generation and can be measured as one pass by a traffic counter. Two trip ends are involved in a simple round trip. Round trips with multiple stops include "passby trips" at the destinations between the beginning and the end of the trip.~~
- ~~(4) "Chargeable Daily Trip End" is a figure that represents adjustments of the Institute of Transportation Engineers trip generation rates to: 1) remove passby trips from various nonresidential uses; and 2) multiply trip generation rates by a trip length ratio to better estimate usage.~~

### **Section 11. 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.

### **Section 12. 3.27.120 Discounts for low-income elderly, and non-drivers:**

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

### **Section 12. (continued)**

~~E.(2)~~ (2) Responsible ~~parties~~ Parties occupying single family ~~houses~~ 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.

~~Vehicle, the premises shall be charged the rate for senior housing which considered comparable to the share of transportation utility expenses that relate to bicycles, pedestrians and delivery vehicles.~~

Section 13. Effective date.

~~\_\_\_\_\_ This ordinance shall be effective on September 1, 1994.~~

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 ~~its~~ passage thereof on this 1<sup>st</sup> day 15<sup>th</sup> Day of August, 1994 May, 2024.

\_\_\_\_\_  
Terry Baker, Mayor

ATTEST:

Approved as to form:

\_\_\_\_\_  
Bonnie Pickett, City Recorder

\_\_\_\_\_  
Douglas McGear, City Attorney