

ORDINANCE NO. 08-1007

AN ORDINANCE ESTABLISHING A TRANSPORTATION UTILITY FEE

OREGON CITY MAKES THE FOLLOWING FINDINGS:

WHEREAS, it is the intent of the City Commission to create a utility with all lawful powers to plan, manage, construct, maintain, use and, where necessary, alter the transportation system in the City of Oregon City, create a permanent funding mechanism that provides the resources necessary to carry out the objectives of a Transportation Utility, create a permanent funding mechanism which is equitable for all citizens in the City of Oregon City to fund the maintenance and operation of the transportation system in the City of Oregon City; and,

WHEREAS, all citizens in the City of Oregon City will be served by the program and receive the long-term benefits of such service.

NOW, THEREFORE, OREGON CITY ORDAINS AS FOLLOWS:

Section 1. A new Chapter, 13.30, is hereby added to Title 13 of the Oregon City Municipal Code, to read as follows:

Chapter 13.30 TRANSPORTATION UTILITY FEES

- 13.30.010 Purpose
- 13.30.020 Applicability
- 13.30.030 Definitions
- 13.30.040 Rate Structure
- 13.30.050 Unit Rate Established
- 13.30.060 Service Charge Adjustment and Appeals
- 13.30.070 Transportation Utility Fee Discounts for Hardship
- 13.30.080 Use of Funds
- 13.30.090 Commencement of Charges
- 13.30.100 Delinquent Charges

13.30.010 Purpose.

The purpose of this chapter is to provide cost recovery for maintaining and operating the City of Oregon City transportation system. There is hereby created an enterprise fund known as the "City of Oregon City Transportation Maintenance Fund". All fees and charges imposed herein shall be placed in said fund for the purpose of paying expenses related to the replacement, repair, maintenance, operation, or administration of the Transportation System as described in this chapter.

13.30.020 Applicability.

The requirements of this Chapter shall apply to all parcels of real property in the City of Oregon City, including publicly and privately owned property.

13.30.030 Definitions.

- A. City means the City of Oregon City, Oregon, or as indicated by the context, may mean any official, officer, employee or agency representing the City in the discharge of his or her duties.
- B. City roads means all roads, public and private, excluding State and County roads, within the city limits of Oregon City.
- C. Developed parcel means a parcel of real property that has been altered by development coverage.
- D. Gross square footage shall mean the calculated area of all structures, located on a site, measured along the exterior walls of such structures, including but not limited to enclosed courtyards, stairwells, and square footage on each level of multi-story structures, but not including fences and parking areas which are not enclosed within a building.
- E. ITE Manual means the Institute of Transportation Engineers Trip Generation Manual, 7th edition.
- F. Manager shall mean the City Manager or his or her designee.
- G. Multi-family residence shall mean a residential structure accommodating two or more dwelling units.
- H. Parcel shall mean the smallest separately segregated unit or plot of land having an identified owner, boundaries, and surface area which constitutes a separate lot or tract capable of being conveyed without further subdivision.
- I. Schools shall mean all schools, kindergarten through grade twelve, providing busing and located within the city limits of Oregon City.
- J. Service charges shall mean the amount owed after applying the appropriate rate to a particular parcel of real property based upon factors established by this ordinance.
- K. Single-family residence shall mean a residential structure accommodating one dwelling unit.
- L. Unit rate means the dollar amount charged per adjusted average daily trip. There shall be a unit rate applied to residential land uses, identified as the residential unit rate, and a unit rate applied to all other land uses, identified as the non-residential unit rate.

13.30.040 Rate Structure.

- A. Service charges for the Transportation Utility Fee are hereby authorized and imposed in amounts and on terms consistent with this Chapter.
- B. The rates and service charges shall be based on the service provided and the relative usage of the City Transportation System for a given parcel. The estimated or measured trip generated will be used to determine the relative usage of the parcel. The rate shall be calculated by multiplying the unit rate by the assigned average daily trip estimate. Average Daily Trip Estimates shall be as follows:
1. Undeveloped Parcels – Undeveloped parcels shall not be charged.
 2. City Roads – City roads shall not be charged.
 3. Single-Family Residential Parcels – The monthly service charge for single-family residential parcels shall be computed by multiplying the unit rate times 9.57 trips per day.
 4. Multi-Family Residential Parcels – The monthly service charge for multi-family residential parcels shall be computed by multiplying the unit rate times 6.72 trips per day.
 5. Schools – The monthly service charge for schools shall be computed by multiplying the unit rate times the number of average daily trips applicable to the school, as delineated below:

Elementary schools	.76 ADTs per student
Middle schools	.96 ADTs per student

- High schools 1.01 ADTs per student
6. All Other Developed Parcels – The monthly service charge for all other developed parcels, including publicly-owned properties, shall be computed by multiplying the unit rate times the number of average daily trips assigned to the bin that is applicable to the parcel, as delineated in Appendix A. All parcels with uses not identified in Appendix A shall be assigned to a trip bin based on their trip generation as specified in the ITE Manual.
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|-------|-------------------------|
| Bin 1 | 2 average daily trips |
| Bin 2 | 10 average daily trips |
| Bin 3 | 25 average daily trips |
| Bin 4 | 40 average daily trips |
| Bin 5 | 100 average daily trips |

13.30.050 Unit Rate Established.

The residential unit rate, to be applied to residential land uses, is hereby established at \$1.15 per adjusted average daily trip. The non-residential unit rate, to be applied to all other land uses, is hereby established at \$0.189 per adjusted average daily trip. Either or both of the residential and the non-residential unit rates may be revised by resolution of the City Commission from time to time. The unit rates shall be adjusted annually to account for inflation in an amount of no more than 3 percent.

The residential and non-residential unit rates will be phased in over a five-year period according to the schedule below. The rates for fiscal years 2009/2010 through 2012/2013 include a 3% escalation factor.

Time Period	Residential Rate per Trip	Non-Residential Rate per Trip
July 1, 2008 through June 30, 2009	\$0.470	\$0.077
July 1, 2009 through June 30, 2010	\$0.627	\$0.103
July 1, 2010 through June 30, 2011	\$0.784	\$0.129
July 1, 2011 through June 30 2012	\$0.940	\$0.154
July 1, 2012 through June 30 2013	\$1.172	\$0.192

13.30.060 Service Charge Adjustments and Appeals.

A. Any person billed for service charges may file a "Request for Service Charge Adjustment" with the Manager within thirty (30) days of the date of the bill. However, submittal of such a request does not extend the period of payment for the charge.

B. A request for service charge adjustment may be granted or approved by the Manager only when one or more of the following conditions exist:

1. The amount charged is in error; or
2. The parcel is non-residential and the actual trips generated by that parcel, as established by an engineer at the expense of the owner, would result in inclusion in a trip bin characterized by greater than or less than the applied average daily trip estimate used in determining the charge; or
3. The parcel exists in its natural unimproved condition and will remain in its natural unimproved condition with no allowable human activities or manmade improvements that would generate trips to or from the parcel.

C. Service charge adjustments will only apply to the bill then due and payable, and bills subsequently issued. The property owner shall have the burden of proving that the service charge adjustment should be granted.

D. Decisions on requests for service charge adjustments shall be made by the Manager based on information submitted by the applicant and by the City within thirty (30) days of the adjustment request, except when additional information is needed. The applicant shall be notified in writing of the Manager's decision.

E. Decisions of the Manager on requests for service charge adjustments shall be final.

13.30.070 Transportation Utility Rate Waivers.

A. The principal residence of a person may qualify for a special user rate if the person meets certain income criteria as established by resolution of the City Commission.

1. Any person desiring to receive a transportation rate hardship waiver must submit an application to the City on forms to be provided by the City. Persons requesting transportation rate hardship waiver shall make annual written application for rate credits and shall certify as to meeting the income criteria established by the City Commission.

2. The amount of transportation utility hardship waivers for eligible persons provided under this chapter shall be established by resolution of the City Commission.

B. When any developed property within the City becomes vacant as described below, upon written application and approval by the Manager, the transportation rate shall thereafter not be billed and shall not be a charge against the property.

1. The Manager is authorized to cause an investigation of any property for which an application for determination of vacancy is submitted to verify any of the information contained in the application. The Manager is further authorized to develop and use a standard form of application, provided it shall contain a space for verification of the information and the person signing such form affirms under penalty for false swearing the accuracy of the information provided therein.

2. For purposes of this section, a unit of property is vacant when it has been continuously unoccupied and unused for at least ninety (90) days. Fees shall be waived in accordance with this section only while the property remains vacant. Any occupancy or use of the property terminates the waiver. The City may charge any property with the appropriate transportation rate, including charges for prior billing periods, upon determining by whatever means that the property did not qualify for waiver of charges during the relevant time. The decision of the Manager under this section shall be final.

C. It is unlawful for any person to make, assist in making or to derive the benefits from any false application for a waiver provided under this chapter. In addition to other penalties provided by law, the City shall be entitled to recover from any person or persons receiving the benefit of a waiver as a result of any false statement made in any application the amount therefore, including interest from the date the waiver was granted.

13.30.080 Use of Funds.

Service charges collected under this Chapter shall be deposited into the City of Oregon City Transportation Maintenance Fund for the purpose of paying all or any part of the cost and expense of maintaining the City's transportation system. In expending funds, the City shall endeavor to expend funds based on the following priorities:

A. Pavement management,

B. Maintaining and operating the transportation system.

13.30.090 Commencement of Charges and Collection.

A. For new construction, service charges will commence with the issuance of a building permit or installation of a water meter, whichever comes first. Real property annexed to the City shall begin paying the fee the first month following their annexation. For existing structures, service charges will commence on July 1, 2008.

B. The service charges imposed by this Chapter shall be collected with the monthly City utility bill for those parcels connected to water or billed alone as a transportation utility fee for those users not connected to or not otherwise charged for water service. The actual costs of billing, collecting and remitting the fees may be paid from the Transportation Maintenance Fund. The Transportation Utility Fee shall be calculated as a monthly charge; however, the fee may be billed on a schedule other than a monthly schedule.

C. The Manager may adopt and amend such rules and policies as are necessary for administration of this chapter.

13.30.100 Delinquent Charges.

Payment of a fee is delinquent if not paid within thirty (30) days of the date of the bill. Billing and collecting agents of the Transportation Utility Fee designated by the City may use any legal means available to collect delinquent service charges. Delinquent accounts shall be treated in the same manner as delinquent water service accounts under OCMC 13.04.220.

Section 2. Review of Fund and Annual Report. City staff shall perform a full rate review no less frequently than every five years. If other revenue sources become available for road maintenance, the City Commission shall review the Transportation Utility Fee.

The residential and non-residential unit rate shall be annually increased by no more than 3% to account for the effect of inflation on utility expenses.

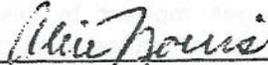
City staff shall prepare and annual report that presents how revenues were spent.

Section 3. Effective Date. This ordinance shall become effective July 1, 2008.

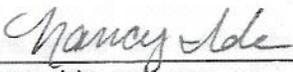
Section 4. Severability. If any provision of this ordinance, or its application to any person or circumstances is held to be unconstitutional or invalid for any reason, the remainder of this ordinance or the application of the provisions to other persons or circumstances shall not be affected.

Section 5. Classification of Charges. For purposes of ORS 310.145 (Classification of Taxes and Fees for Purposes of Measure 5 Limits), the Transportation Utility Fee is not intended to be a tax on property or a property owner as a direct consequence of ownership, but instead is a fee or charge not subject to the limits of Section 11(b), Article XI, of the Oregon Constitution.

Read for the first time at a regular meeting of the City Commission held on the 7th day of May 2008, and the City Commission finally enacted the foregoing ordinance this 21st day of May 2008.


ALICE NORRIS, Mayor

ATTESTED to this 21st day of May 2008:


Nancy Ide
City Recorder