

RESOLUTION NO. 1336

A RESOLUTION ESTABLISHING AND IMPOSING A ROAD UTILITY FEE FOR STREET MAINTENANCE SERVICES AND ESTABLISHING CORRESPONDING ADMINISTRATIVE PROCEDURES.

WHEREAS, Ordinance No. 469 creates a road utility for the purpose of maintaining a safe, functioning City street system;

NOW, THEREFORE, THE CITY OF WILSONVILLE RESOLVES AS FOLLOWS:

ARTICLE I

Definitions

Section 1. The following words and phrases, as used within this resolution, have the following definitions and meanings:

Developed Property. A parcel or portion of real property on which an improvement exists. Improvement on developed property includes, but is not limited to, buildings, parking lots, and outside storage.

Single Family Residential. A Residential structure which is occupied by one or more persons of which there shall be only one dwelling unit per lot and which provides complete, independent living facilities for one or more persons including, but not limited to, permanent provisions for living, sleeping, eating, cooking and sanitation. A granny flat shall be considered as part of a single family residence.

Multi-Family Residential. Residential property consisting of two or more dwelling units. For purposes of this ordinance, condominiums and individual mobile home units are also classified as a multi-family residences.

Non-Residential. A use of property which is primarily not for personal, domestic accommodation.

Pavement Condition Index (PCI). A uniform way to measure pavement distress, with a rating scale from 1 to 100 with higher values indicating better condition.

Residential Property. A use of property which is primarily for personal, domestic accommodation, but not including hotels and motels.

Road Usage Category. A level of street usage to be assigned to each developed property.

Street or Road. A public road or right-of-way within the City, which is under the jurisdiction or control of the City. For purposes of this ordinance, county, state and federal roads are excluded.

Trip. Each motor vehicle arrival or each motor vehicle departure associated with a developed property.

ARTICLE II

Road Usage

Section 1. Road usage for purposes of this utility is categorized in terms of the 11 service levels identified in Section 2 of this Article.

Section 2. Undeveloped properties are presumed to generate virtually no trips. Developed properties within the city limits will be assigned to one of the following road usage categories, based on estimated average daily traffic determined in accordance with the Institute of Transportation Engineers (ITE) Trip Generation Manual, 5th Edition.

Category 1: Single Family Residential

Category 2: Multi-Family Residential

Non-Residential Developments

Category 3: 1 - 19 average trips per day
Category 4: 20 - 49 average trips per day
Category 5: 50 - 150 average trips per day
Category 6: 151 - 300 average trips per day
Category 7: 301 - 550 average trips per day
Category 8: 551 - 1000 average trips per day
Category 9: 1001 - 2500 average trips per day
Category 10: 2501 - 4500 average trips per day
Category 11: 4501 - above

Section 3. For commercial and industrial activities, information reported on the proprietor's business license shall be used to determine the appropriate ITE code, which in turn establishes a trip generation rate per employee. To determine the estimated number of trips for a given development, the corresponding ITE trip generation rate is multiplied by the reported number of employees.

Section 4. When determining road usage categories for activities not explicitly listed in the ITE manual or for which business license data is insufficient, the following factors may be considered along with any other relevant information: developed square footage; number of employees; number of business patrons; volume of business activity;

other developed sites with comparable activity and/or comparable amounts of traffic. Published trip generation data from other jurisdictions in Oregon may also be used.

Section 5. In estimating the number of trips, a 27% "linked trip reduction" shall be calculated for commercial businesses in areas of the City where a patron's trip is often associated with a visit to more than one business. This 27% reduction shall be applied in situations where five or more businesses are located in a configuration whereby a patron would not traverse a public street to go from one commercial business establishment to another. This 27% reduction factor is based on research reflected in the ITE Trip Generation Manual, 5th Edition.

ARTICLE III

Fee Methodology

Section 1. The City shall annually review the road utility fee to determine whether additional revenues should be generated to address increases in the cost of needed street maintenance and/or to ensure that revenues do not exceed estimated demands.

Section 2. On a biennial basis the City shall field verify its comprehensive street-by-street survey of pavement condition. This information shall be used to update the City's 5-year street maintenance work plan. Road utility fees shall be based on average annualized cost during this 5-year period. The intent is to avoid significant fluctuation in billing rates, and to keep program costs below \$500,000 per year. This cap on program costs may be increased in proportion to the consumers price index (CPI) for the Portland metropolitan tri-county area, and is the amount of funding estimated to cover the costs for the safe and proper functioning of City streets after utilization of other earmarked revenue sources.

Section 3. The average annualized cost of the road utility program for the coming 5-year period is estimated to be \$436,000. This total cost shall be apportioned to the road usage categories according to the percentage of trips generated by each category.

Section 4. Analysis of all currently developed properties in Wilsonville indicates the following breakdown of daily trips, and the corresponding share of total program cost by road usage category:

TABLE I

	Number of Development Units	Daily Trips (All units combined)	Percentage of Total Trips*	Share of Annual Program Cost*
Category 1	2,441	24,410	17.6%	\$76,693
Category 2	3,008	19,552	14.1%	\$61,430
Category 3	209	2,206	1.6%	\$6,933
Category 4	129	4,024	2.9%	\$12,642
Category 5	121	9,840	7.1%	\$30,915
Category 6	43	9,524	6.8%	\$29,923
Category 7	21	8,706	6.3%	\$27,352
Category 8	25	19,964	14.4%	\$62,724
Category 9	13	20,539	14.8%	\$64,531
Category 10	4	13,602	9.8%	\$42,736
Category 11	1	6,404	4.6%	\$20,121
TOTAL	6,015	138,771	100%	\$436,000
*Figures are approximate due to decimal point rounding procedures.				
For Categories 1 and 2, a Development unit is defined as a dwelling unit. For Categories 3 through 11, a development unit is defined as a proprietary unit (e.g., business or institution) physically located within the City of Wilsonville.				

Section 5. The fee corresponding to each road usage category shall be calculated by dividing that category's share of total program cost by the number of development units in that category. Hence the monthly fee for the road utility is as follows:

TABLE II

	Annual Cost Per Development Unit*	Monthly Fee Per Development Unit
Category 1	\$31.41	\$2.62
Category 2	\$20.42	\$1.70
Category 3	\$33.16	\$2.76
Category 4	\$97.97	\$8.17
Category 5	\$256.44	\$21.29
Category 6	\$695.69	\$57.99
Category 7	\$1,302.11	\$108.54
Category 8	\$2,508.26	\$209.08
Category 9	\$4,962.52	\$413.66
Category 10	\$10,681.05	\$890.34
Category 11	\$20,115.08	\$1,676.73
*Figures are approximate due to decimal point rounding procedures.		

Section 6. Road utility bills shall be sent to the owner/manager of the property. The total road utility fee for a property shall be the sum of the applicable road utility fees for each development unit located on the property.

Section 7. Upon learning of a change in use and determining that a different use category applies to a development unit, the City's Public Works Director in consultation with the City Engineer and/or the City's traffic engineering consultant shall determine and assign the appropriate use category. Thereafter, the road utility fee shall be charged and collected in accordance with correct information concerning the developed property.

Section 8. The City Council may annually increase fees in proportion to increases in the consumers price index (CPI) for the Portland metropolitan tri-county area.

Section 9. The City Council may further revise the monthly fee to reflect actual revenues, anticipated maintenance, improvements in the methods of calculating revenues or requirements, and/or changes in conditions which the Council finds should be taken into consideration in rates.

ARTICLE IV

Program Administration

Section 1. Except as provided in Sections 2 and 3 of this Article, the City's Public Works Director shall be responsible for the administration of the Road Utility Program.

Section 2. The City's Finance Director shall be responsible for the collection of fees under this resolution.

Section 3. The City's Director of Community Development shall be responsible for administering the appeal process under Article V of this resolution.

Section 4. Road utility fees shall be added as an additional item on the bi-monthly utility billing.

Section 5. On a semi-annual basis the City shall update its road utility billing list. If it is discovered that a business activity is occurring without benefit of a valid business license, the proprietor will be required to submit a business license application (and may be subject to enforcement pursuant to other City regulations). Until a business license application is returned, a "best guess" estimate will be made regarding which road usage category is appropriate for purposes of road utility billing. Upon issuance of a business license, the account may be reassigned to another road usage category based on more complete/accurate information contained in the business license application.

Section 6. There should not be duplicate billings. Home businesses will be billed only as a residential development (Category 1 or 2), not as a non-residential development.

Section 7. Funds collected pursuant to this resolution shall be dedicated and used exclusively for street maintenance/reconstruction to provide for a safe, functioning street system. A 4% funding allotment shall be included for directly related administrative costs, and 5% shall be included for program contingencies.

Section 8. The Public Works Director is hereby instructed to further analyze the feasibility of and mechanism for establishing a higher road utility fee for trucks versus automobiles. Said analysis is to be completed in an expeditious manner to allow any resulting adjustments to be reflected in road utility fees at the earliest practical date, but not later than six months after enactment of this resolution.

Section 9. The City recognizes that upcoming reconstruction of the freeway interchange at Wilsonville Road, coupled with the reconfiguration of Wilsonville Road itself between the interchange and the railroad track, will significantly impact vehicle access to numerous adjacent properties for an extended period of time. Accordingly, the City shall conduct an analysis to estimate the overall percent reduction in trips to/from business properties which front on Wilsonville Road (between the freeway and the railroad track) and on Boones Ferry Road (north 500 feet of Wilsonville Road/Boones Ferry Road intersection and south to Fourth Avenue). The monthly bill shall be adjusted by the percentage of the trip reduction for the period of time that these businesses are impacted by the construction of these road projects.

Section 10. Any increase in fees shall occur only after a public hearing for public input is conducted in accordance with the public meetings law.

ARTICLE V

Appeal Process

Section 1. A road utility billing rate may be appealed in accordance with the following criteria and procedures.

- a) Any property owner/manager, or any proprietor of a business licensed to conduct business in the City of Wilsonville, who disputes any interpretation given by the City as to the road usage category assigned to such owner's property or business pursuant to this resolution may appeal such interpretation. If the appeal is successful, relief will be granted by reassignment to a more appropriate road usage category. 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 road usage category assigned to other developments of a similar nature and/or developments having comparable amounts of traffic; changed circumstances; situations uniquely affecting road usage by the party filing the appeal.

b) Application for appeal shall state the reason(s) for appeal, with supporting documentation to justify the requested change.

c) The Community Development Director will be responsible for evaluating appeals. If the Community Development Director decides information provided through the appeal process justifies a change, the Community Development Director may authorize this change (up or down) retroactive to the date the appeal was filed.

d) The Community Development Director will make all reasonable attempts to resolve appeals utilizing available existing information, including supporting documentation filed with the appeal, within 30 days of the date the appeal was filed. If, however, more detailed site-specific information is necessary, the Community Development Director may request the applicant provide information regarding: size of the development, number of employees, number of business patrons, and/or volume of business activity. The Community Development Director may also require a traffic study be conducted by the City's traffic engineering consultant. The cost of such a study would be paid by the party filing the appeal, but would be refunded if the study results justify the appellant's requested change.

e) In any event the Community Development Director shall file a report within 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.

f) Decisions of the Community Development Director may be further appealed to the City Council, and shall be heard at a public meeting. Upon such further appeal, the City Council shall at its first regular meeting thereafter set a hearing date and determine if the matter shall be heard solely upon the record, partially on the record, or with the record and with a denovo hearing. In no event shall a final decision be made later than 90 days after the matter was formally appealed to the City Council.

g) The initial filing fee for an appeal shall be \$50 commencing 90 days from the first billing date. An additional \$50 fee is required for further appeal to the City Council. Appeals filed within the 90 day period shall not be subject to

paying the filing fee. These fees are fully refundable should the appellant adequately justify and secure the requested reassignment in road usage category.

Section 2. The billing process may be appealed as follows. Upon written request by the owner/manager of non-residential property, the City shall furnish a listing which identifies what portion of the total road utility fee for that development is attributable to each business or tenant within that development. If a property owner/manager demonstrates that, as of the adoption date of this resolution, lease arrangements preclude recovery of road utility expenses from tenants in the affected development, then in such cases the City shall make special arrangements to temporarily bill tenants directly for road utility fees until such time as the lease is up for renewal. At that point the road utility bill will be sent to the property owner/manager. These special arrangements shall be handled administratively, and no filing fee is required for this purpose.

ARTICLE VI

Enforcement

Section 1. As provided in Ordinance No. 469 the City may enforce the collection of road utility fees by withholding delivery of water to any premises where road utility fees are delinquent or unpaid and/or by revoking the business license of industrial or commercial enterprises where road utility fees are delinquent or unpaid. These remedies shall be in addition to other lawful enforcement procedures for collection of delinquent or unpaid fees.

ARTICLE VII

Severability

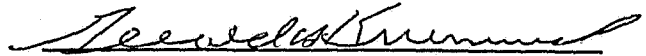
Section 1. In the event any section, subsection, paragraph, sentence or phrase of this resolution or any administrative procedure adopted herein is determined by a court of competent jurisdiction to be invalid or unenforceable, the validity of the remainder of the resolution shall continue to be effective.

ARTICLE VIII

Effective Date

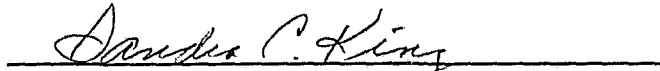
Section 1. The fees imposed under this resolution shall not begin until the Budget Committee has had the opportunity to evaluate the implications of Ballot Measure 47 and report back to City Council.

ADOPTED by the City Council of the City of Wilsonville at a regular meeting thereof this 18th day of November, 1996, and filed with the Wilsonville City Recorder this date.



GERALD A. KRUMMEL, Mayor

ATTEST:



SANDRA C. KING, City Recorder

SUMMARY OF VOTES:

Mayor Krummel	Yes
Councilor Lehan	Yes
Councilor Hawkins	Yes
Councilor MacDonald	Yes