

ORDINANCE NO. 07-829-O

AN ORDINANCE AMENDING #99-678 ESTABLISHING A TRANSPORTATION UTILITY, SETTING TRANSPORTATION UTILITY FEE AMOUNTS, AND DECLARING AN EFFECTIVE DATE.

(New language is in bold and underlined and deleted is contained in brackets.)

THE CITY OF TALENT ORDAINS AS FOLLOWS:

SECTION 1. Purpose. There is hereby created a transportation utility fee for the purpose of providing funds for the maintenance and expansion of the transportation system, including but not limited to local streets and related facilities under the jurisdiction of the City of Talent. The Council hereby finds, determines and declares the necessity of providing operation, maintenance and minor improvement of the city's streets and related assets and facilities operating 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 curb cuts, street sweeping, repairing and installing curb and gutter, replacing and installing signs, striping, repairing and installing signals, illumination, rebasing or placing additional road base on local streets, street trees, miscellaneous repairs, plus related operations of the Public Works Department on City streets and intersections with City streets.

The Council further finds that bicycle, pedestrian, and transit 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, pedestrian, and transit facilities and services whether within public streets or off of street right-of-way on other publicly-owned land or easements, provided the facilities are accepted by the City or a public entity recognized by the City for operations and maintenance.

SECTION 2. Establishment of Transportation Utility Fee; Revisions.

A. The City Council hereby establishes, [and may by ordinance amend,] a transportation utility fee to be paid by the responsible party (whether owners or occupants). Payments due for each improved premises shall be based upon traffic generation and developed use of the premises. The amount of the

monthly transportation utility fee shall be **adopted by resolution**. [[insert amount per trip or EDU]]. This fee is deemed reasonable and is necessary to pay for the operation and maintenance of the transportation system within the City. The transportation utility fee shall not be charged during any period when the premises is not receiving City water service, or is proven to be vacant and not generating traffic.

B. Collection of the fee for previously unimproved premises shall commence [from the day of issuance of a building permit] **at the time a water meter is installed** for said premises.

C. 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.

D. The transportation utility fee imposed by the City of Talent is classified as not subject to the limits of Section 11b of Article XI of the Oregon Constitution. **The transportation utility 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.**

SECTION 3. Transportation Utility Fee -- Dedicated.

A. All transportation utility fees collected by the City shall be paid into the Transportation Utility Fund. **All revenues** [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 Fund specifically relate to any particular use from which the transportation utility fees were collected.]

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

SECTION 4. City to Maintain Local Streets; Exclusions.

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

SECTION 5. Billing and Collection for Transportation Utility Fee.

A. The responsible party for any improved premises within the City of Talent shall pay a transportation utility fee **according to the formula [rates]** set forth in this Code **in Exhibit "A"**. 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. **When the bill remains unpaid by the name of record on the utility bill then the property owner becomes responsible for the bill.** [In the event the premises do not receive City water service then the person(s) paying the City's water bill shall pay the transportation utility fees. If there is neither City water nor any sewer service to the improved premises, the transportation utility fees shall be paid by the person(s) having the right to occupy the premises.]**The obligation to pay the transportation utility fee is personal to the responsible party. The City of Talent 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.**

B. Transportation utility fees shall be billed monthly by the City [Administrator] **Manager** and shall become due and payable in accordance with the rules and regulations pertaining to the collection of water service fees. [If there is neither city water nor any 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 **the date the water meter is installed** [from the day of issuance of a building permit for said premises]. Areas annexed to the City of Talent or under contract to annex shall become subject to the transportation utility fee, **if there is a building on the property being annexed,** on the date of annexation or the date of the annexation contract, whichever comes first; **as long as there is a water hook up to City water. When that is not the case, then the applicant shall be required to connect to the City water system as soon as reasonably possible, but no later than one year from the date of annexation.**

C. The City [Administrator] **Manager** shall deposit all such fees so collected into the Transportation Utility Fund to be [separately kept and] used for the purposes provided herein. Partial payments on utility bills shall be allocated [on a pro rata basis] **first to streets, parks and then the remainder to water.** [to the balances

due on the various charges on the bill.] The customer shall not be allowed to specify [a different allocation] **the allocation of the payment.**

D. When the tenant or property owner moves out mid month the Transportation utility fee shall be prorated based on the days of occupancy.

SECTION 6. 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 City **Manager** [Administrator] 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 premises served by the City for inspection, repair, and enforcement of the provisions of this ordinance.

SECTION 7. Administration; Review; Appeals.

A. The City **Manager** [Administrator] shall be responsible for administration of this ordinance in regards to utility billings, accounting for revenues collected, and general administrative tasks. In addition, the City **Manager** [Administrator] shall be responsible for determining fee amounts in accordance with usage, developing street maintenance and improvement programs, measuring areas, 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.

B. Any responsible party of nonresidential premises may request in writing a specific adjustment in the transportation utility fee **based on the application of the formulas.** [for seasonal factors]. The request shall **be in writing and submitted to the City Manager.** [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 Administrator. Greater variations than 15 percent shall require approval by the City Council.]

C. 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. The City [Administrator] **Manager** also make findings

about any use not specifically listed in Exhibit "A", since all improved premises for which a building permit is required are subject to a review and determination of fee amount.

[Section 8. Notice of Decision.]

D. Every decision or determination of the City [Administrator] **Manager** or City Council 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.

SECTION [9] 8.. Definitions.

A. "Responsible party" shall mean the person or persons who by usage, occupancy or contractual arrangement are responsible to pay the utility bill for improved premises.

B. "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.

C. "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 "pass by trips" at the destinations between the beginning and end of the trip.

D. "Chargeable Daily Trip-End" is a figure that represents adjustments of the Institute of Transportation Engineers trip generation rates to: 1) remove pass by trips from various nonresidential uses; and 2) multiply trip generation rates by a trip length ratio to better estimate usage.

SECTION [10] 9. Methodology.

A. The City **Manager** [Administrator] may, upon appropriate findings, recalculate a nonresidential utility fee based on a demonstration of a permanent change in transportation system use.

B. Any adjustment shall take effect in the month following the completion of the demonstration of permanent change.

SECTION [11] 10. Effective date.

This ordinance amendment shall be effective on July 20, 2007 [March 1, 2000]

Adopted by title and PASSED by the Council by the following vote:

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 1



Betty Wheeler
Betty Wheeler, City Manager/Recorder and Custodian of City record

EXHIBIT "A"

Notes for Schedule of Chargeable Trip Ends for Transportation Utility

Definitions: SF = square foot GFA = Gross floor area

1. Chargeable Daily Trip-Ends are determined by adjusting average weekday trip generation rates for pass by trips and trip-ends. Pass by reductions are to be 53% for High Volume Commercial (median value of Table VII-3 in ITE 7th Ed.) and some 35% for Low-Volume Commercial (median value of Table VII-1 in ITE 7th Ed.)
2. Seasonal factors or results of a traffic count can be substituted for qualifying nonresidential uses pursuant to Section 7. Administration- Review- Appeals.
3. The Church/Institution category includes churches and government service or civic centers.
4. No transportation fee will be charged for storage yards until City Council directs staff to count traffic for these uses.
5. High Volume Commercial includes other financial institutions, restaurants, and convenience markets.
6. Medium Volume Commercial includes markets and freestanding discount stores.
7. Low Volume Commercial includes and service other than gasoline service stations, retail centers, retailing combined with services and shops to services, building materials sales, nurseries
8. Trip length adjustment ratios to multiple categories are:

0.67	.....	for commercial
0.70	.....	institution and schools
0.85	.....	for other personal (business parks and offices)
1.08	.....	for residential other than senior housing (adjustment for senior housing)
1.08	.....	for industry
1.23	.....	for medical clinic/office
1.33	.....	for lodging and R.V. Parks
9. Square footage of buildings or leasable area shall be determined from either records of Jackson County or directly measuring building exterior dimensions.
10. The number of students would be the average daily membership.

This exhibit should have been deleted because it was part of the orig. and 678-...
 ... The ref. in paragraph 1 are meaningless. Tables VII-3 and VII-1 don't exist in the 7th ed. of ITE
 John Adams

TALENT ORDINANCE #829
EXHIBIT "A"

Schedule of Chargeable Trip Ends for Transportation Utility

Formula for Transportation Utility Fee

Number of Units X Chargeable Daily Trip-Ends X Rate = Monthly Fee
(Chargeable daily trip-ends adjust for pass by trips and trip length.)

Category of Use	ITE LU Code No.	Chargeable Daily Trip End	Unit of Measure
Single Family	210	10.336	Dwelling Unit
Multi-Family	220	7.160	Dwelling Unit
Mobile Home Park	240	5.195	Dwelling Unit
Senior housing	252	2.150	Dwelling Unit
Church/Institution	560	6.377	1,000 sq.ft. gfa
Lodging/Motel	320	5.630	Rooms
R.V. Parks	416	0.426	Occupied site
Industry	110	6.970	1,000 sq.ft. gfa
Mini Warehouse	151	2.500	1,000 sq.ft. gfa
Warehouse/Furniture	150	4.960	1,000 sq.ft. gfa
Business Park	770	10.846	1,000 sq.ft. gfa
Offices	710	9.359	1,000 sq.ft. gfa
Low Volume Commercial			
A. 0-10,000 sq. ft.	814	17.711	1,000 sq.ft.gfa
B. 10,001 - 20,000 sq. ft.	814	12.000	1,000 sq.ft.gfa
C. 20,001 + sq. ft.	814	10.000	1,000 sq.ft.gfa
Medium Volume Commercial	815	24.662	1,000 sq.ft.gfa
High Volume Commercial	815	83.514	1,000 sq.ft.gfa
Restaurants serving			
1 meal/day	912	27.838	1,000 sq.ft.gfa
Restaurants serving			
2 meals/day	912	55.676	1,000 sq.ft.gfa
Restaurants serving			
3 meals/day	912	83.514	1,000 sq.ft.gfa
Medial Clinic/Office	630	38.684	1,000 sq.ft.gfa
Vehicle Sales	841	31.875	1,000 sq.ft.gfa
Elementary School	520	0.714	Student
Middle School	522	1.015	Student