

ORDINANCE NO. 469

AN ORDINANCE ESTABLISHING A ROAD UTILITY TO PROVIDE FOR THE SAFE USE AND MAINTENANCE OF CITY STREETS AND ROADS; AND DECLARING AN EMERGENCY.

WHEREAS, street and road deterioration as evidenced by cracks, potholes, crumbling pavement edges, etc., create traffic hazards to the motoring users; and

WHEREAS, in calendar year 1995 there were 64 claims filed in unincorporated Clackamas County and five claims filed in the City of Wilsonville for alleged damages related to inadequate street maintenance; and

WHEREAS, street and road deterioration, if not managed through a program of prevention, early detection, and repair, can lead to large-scale disrepair and destruction of City streets and roads with serious traffic safety consequences as well as the sustained interruption of residential, industrial and commercial flow of traffic and the blighting of residential, industrial and commercial neighborhoods and areas of the City; and

WHEREAS, street deterioration bears a proportionate relationship to the amount of motoring use and standards for trip generation by classifications for residential, industrial and commercial trip generators have been established in the nationally recognized Institute of Transportation Engineers (ITE) Trip Generation Manual, 5th Edition; and

WHEREAS, current revenue sources available to the City, such as System Development Charges to meet capital needs and the City's share of fuel taxes to meet operational needs, have been duly applied for expansion of capacity, pavement markings, street signs and traffic signals, seasonal maintenance of roadside rights-of-way, street sanding during cold weather, minor repairs, and other operational responsibilities, but are insufficient to keep up with the increased growth in the City and the resulting increased use and deterioration of City streets and roads; and

WHEREAS, in the absence of a more progressive regulatory road maintenance program it is anticipated the City's aging street system will jeopardize the public health, safety and welfare of the motoring public who use the City's streets and roads; and

WHEREAS, a City of Wilsonville report entitled Pavement Management Program (February, 1995), on record herein, contains a street-by-street analysis of the pavement condition throughout the City, with an analysis of preventive maintenance actions needed to sustain the desired safe functioning of the street system and the costs thereof; and

WHEREAS, the City's traffic engineering consultant, DKS Associates, has conducted an analysis estimating the amount of traffic generated by each developed property in the City; and

WHEREAS, a Task Force comprised of Wilsonville residents and businesses met eight times during a seven-month period to discuss the need for preventive maintenance of the City's streets, and to advise the City on how such expenses may be allocated to local developments in a manner reasonably related to the amount of traffic generated;

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

ARTICLE I

Definitions

Section 1. The following words and phrases, as used within this ordinance, 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.

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.

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 Utility

Section 1. There is hereby created a road utility for the purpose of maintaining a safe, functioning City street system measured at an overall average pavement condition index (PCI) rating in the 70 - 75 range.

Section 2. Funds collected pursuant to this ordinance shall be dedicated and used exclusively for street maintenance/reconstruction to provide for a safe, functioning street system. A small but reasonable portion of these funds may be allotted for pavement management program contingencies and for direct program administrative costs. To the extent that road utility fees collected are insufficient to properly maintain City streets, the cost may be paid from such other nondedicated City funds as may be allocated by the

City Council, but the City Council may direct the reimbursement to such fund if additional road utility fees are collected.

ARTICLE III

Road Utility Fee

Section 1. The degree of road usage is the proportional basis for charging road utility fees.

Section 2. Undeveloped properties will not be charged a road utility fee.

Section 3. Each developed property within the city limits will be assigned to a road usage category, based on estimated average daily trips determined in accordance with the Institute of Transportation Engineers (ITE) Trip Generation Manual, 5th Edition.

Section 4. The cost of the road utility will be distributed to the road usage categories in proportion to the aggregate number of trips represented by each category. The resulting cost apportionment for each category will then be divided by the number of users assigned to that category, thereby establishing a user fee unique to each category. Thus the amount of revenues generated may vary from category to category (based on the number of trips associated with each category), but users within a given category will share equally in the cost of that category.

Section 5. The amount of the road utility fee will be initially established by resolution. Changes will also be adopted by resolution.

ARTICLE IV

Administrative Policies

Section 1. Each year's budget preparation for the road utility shall include a year-by-year forecast of needed road maintenance/reconstruction during the upcoming 5-year period. Road utility fees shall be based on average annualized cost during this 5-year period, to avoid significant fluctuation in billing rates.

Section 2. SMART Transit is exempt from paying road utility fees because the operation of this service has the net effect of reducing vehicle traffic on the Wilsonville street system. There are no further exemptions for public, non-profit, or other organizations. Therefore, all developed properties (other than SMART Transit) shall be included in the road utility and shall pay a fee commensurate with the assigned road usage category.

Section 3. In the event the City receives new sources of funds from federal, state or county programs earmarked for road maintenance/reconstruction, then Wilsonville's

road utility fees will be reduced proportionately to reflect a dollar-for-dollar offset in local road utility program costs.

Section 4. The City's Public Works Director is authorized and directed to review the operation of this ordinance and where appropriate recommend changes thereto in the form of administrative procedures for adoption by the City Council by resolution. Such procedures if adopted by the Council shall be given full force and effect, and unless clearly inconsistent with this ordinance shall apply uniformly throughout the City.

Section 5. A road utility billing rate may be appealed in accordance with the criteria and procedures specified in the resolution which implements this ordinance.

ARTICLE V

Enforcement

Section 1. In the event funds received from City utility billings are inadequate to satisfy in full all of the water, sewer, stormwater, streetlight, and road utility fees, credit shall be given first to the road utility fee, second to the sewer service charges, third to the stormwater charges, fourth to the streetlight charges, and fifth to the charges for water service.

Section 2. 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 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.

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

ARTICLE VI

Severability

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

Section 2. Nothing contained herein shall be construed as limiting the City's authority to levy special assessments in connection with public improvements pursuant to applicable law.

Section 3. The fees and charges herein are not intended to be taxes, nor are they subject to the property tax limitations of Article XI, Section 11(b), of the Oregon Constitution.

ARTICLE VII
Emergency Declared

Section 1. In that these matters concern the welfare and safety of the public, and that it is not in the public interest to further delay needed road maintenance, an emergency is hereby declared to exist and this Ordinance shall become immediately effective upon its passage by the City Council.

SUBMITTED to the Wilsonville City Council and read the first time at a regular meeting thereof on the 4th day of November, 1996, and scheduled for a second reading at a regular Council meeting on the 18th day of November, 1996, commencing at the hour of 7 p.m. at the Wilsonville City Hall.




SANDRA C. KING, City Recorder

ENACTED by the City Council on the 18th day of November, 1996, by the following votes: YEAS: 3 NAYS: 1



SANDRA C. KING, City Recorder

DATED and signed by the Mayor this 20 day of November, 1996.



GERALD A. KRUMMEL, Mayor

SUMMARY OF VOTES:

Mayor Krummel	Yes
Councilor Lehan	Yes
Councilor Hawkins	No
Councilor MacDonald	Yes