

DRAFT ORDINANCE

ORDINANCE NO. _____

AN ORDINANCE ADOPTING A TRANSPORTATION UTILITY FEE FOR THE CITY OF COBURG

WHEREAS, The City has completed its Pavement Condition Survey of the City of Coburg's Street Network (Plan), dated January, 2018; and

WHEREAS, a Council appointed Street Funding Committee has reviewed this report and researched recommended funding mechanisms for increasing revenues to the Street Fund; and

WHEREAS, The Street Funding Committee has recommended a Transportation Utility Fee be considered for a funding option; and

WHEREAS, The Coburg City Council has deemed it a priority to commence pavement preservation and street improvements outlined in the Plan as identified by the City Council; and

WHEREAS, in order to finance City of Coburg Street Improvements, the Coburg City Council has determined that funding from a Transportation Utility Fee is required in addition to existing funding sources to the Street Fund.

NOW, THEREFORE, THE CITY OF COBURG ORDAINS THE FOLLOWING:

SECTION 1. Creation and Purpose.

This transportation utility fee is created and imposed for the purpose of operating and administering the pavement system maintenance and capital improvement program. This program will manage, plan, design, construct, preserve and maintain the street pavement system of the City of Coburg.

- A. Responsible Party.** The transportation utility fee shall be paid by the Responsible Party for each billing Unit or Occupied Unit of real property per the terms of this Ordinance.
- B. Purpose.** The purpose of the transportation utility fee is to charge users for the service the City provides in repair and maintenance of public streets, and to be available to retire bonds purchased for the repair and maintenance of public streets. It is also to ensure the repair and maintenance occurs in a timely fashion, thereby reducing increased costs that result when maintenance is deferred.

SECTION 2. Definitions. Unless otherwise defined herein, terms used in this Ordinance have the meaning as described in Coburg Transportation Plan. As used in this ordinance, the following terms shall mean:

- A. APPEAL.** An appeal shall be the process for which a property owner may challenge the use code, associated trips, business square footage and assignment of a TUF Fee.
- B. BOND PURCHASE.** The purchase of bonds in order to fund street repairs & maintenance with the intention of utilizing the Street Utility Fee revenue to pay back/retire the bond.
- C. CITY.** City of Coburg
- D. CITY ADMINISTRATOR.** The City's Administrator or the City Administrator's designee.
- E. CLASS.** Class means a billing group of similar trip generating uses that the individual categories are assigned.
- F. COUNCIL.** The City Council for the City of Coburg.
- G. DEVELOPED PROPERTY.** A parcel or legal portion of real property, on which an improvement exists or has been constructed. Improvement on Developed Property includes, but is not limited to buildings, parking lots, landscaping and outside storage.
- H. FEES.** Fees shall mean the amount owed after applying the appropriate rate to a particular ~~developed property of real property~~ based upon factors as established by this ordinance.
- I. FINANCE DIRECTOR.** The City Finance Director or the Finance Director's designee
- J. GROSS SQUARE FOOTAGE.** Gross Square footage shall mean the calculated area of all non-residential 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.
- K. ITE MANUAL.** ITE Manual means the Institute of Transportation Engineers Trip Generation Manual.
- L. LOW INCOME ASSISTANCE.** Low Income Assistance means reduction in the fees associated with the Transportation Fee as it pertains to a resident qualifying application for utility rate adjustments in the water and sewer funds.
- M. MULTI-FAMILY.** Multi-Family residence shall mean a residential structure accommodating two or more dwelling units.

Commented [AH1]: Blain – No, I don't think we should offer an appeal
Bell – Yes
Lehman – Yes
Mcconnel - No

An Appeal Form will need to be designed. Appeals should only be offered to appeal the assigned associated trips – no because you don't like the fee

Commented [AH2]: Blain – Is there more work in creating Classes? What is the upside?
Bell - Classes
Lehman – Business Code and Associated Trips
Mcconnel – Individual Business Codes

Commented [AH3]: Inclusion of this would depend of the Council's decision to create billing classes rather than individual trip rates for each business. Setting Business Classes does not reduce the work of the staff in the beginning. However, it does streamline the management of the charges for the long run and may work better with our accounting software. Staff is looking at this. Business class also creates a maximum for large businesses. This is by far the most uncomplicated form of establishing the TUF. However, staff would still need to figure out the business class and square footage of each business in order to place them in a class, so it does not save on the front-end work.

Commented [AH4]:
City Council will need to decide if they will allow for low income assistance. And, will it match the utility policy for granting low-income assistance.
Blain – I believe it should be available
Bell – Yes
Lehman – Yes – Based on low income status
Mcconnel - Yes

Low income assistance policy already applies to utility bill so no new policy or forms need to be created. It is an annual process that already has a SOP designed.

- N. NON-RESIDENTIAL PROPERTY.** Property that is not primarily used for personal domestic accommodation. Non-residential Property includes industrial, commercial, institutional, hotel and motel, group homes, and other non-residential uses.
- O. SCHOOL.** School shall mean all schools, kindergarten through grade twelve, providing busing or parent delivery of students and located within the city limits of City of Coburg.
- P. OCCUPIED UNIT.** Any structure or any portion of any structure occupied for residential, commercial, industrial, or other purposes. For example, in a multi-family residential development, each dwelling unit shall be considered a separate Occupied Unit. An Occupied Unit may include more than one structure if all structures are part of the same dwelling unit or commercial or industrial operation. For example, an industrial site with several structures that form an integrated manufacturing process operated by a single manufacturer constitutes an Occupied Unit. An industrial site that shares a common entry and parking areas, and where there are several businesses on the site which all have different uses, each business will be considered a separate occupied unit.
- Q. PUBLIC RIGHT OF WAY (PROWAG).** Prowag means the Public Right-of-Way Accessibility Guidelines as published by the United States Access Board. These guidelines cover pedestrian access to sidewalks and streets, including crosswalks, curb ramps, street furnishing, pedestrian signals, parking and other components of Public Right-of Ways.
- R. PUBLIC WORKS DIRECTOR.** The City Public Works Director or the Public Works Director's designee
- S. RESIDENTIAL PROPERTY.** Property that is used primarily for personal domestic accommodation, including single-family, multi-family residential property and home occupations, but not including group homes, hotels and motels.
- T. RESPONSIBLE PARTY.** The person or persons who by occupancy or contractual arrangement are responsible to pay for utility and other services provided to an Occupied Unit. Unless another 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 or sewer bill for an Occupied Unit shall be deemed the Responsible Party as to that Occupied Unit. For any Occupied Unit not otherwise required to pay a City Utility Bill, "Responsible Party" shall mean the person or persons legally entitled to occupancy of the Occupied Unit, unless another Responsible Party has agreed in writing to pay and a copy of

Commented [AH5]: This describes Coburg North Condominium Development where there are several different businesses operating in a shared space.

Blain – No comment

Bell - Fee/Unit

Lehman – Per Unit Basis

Because in a condominium environment there can be multiple different kinds of businesses with different associated trips. They should be considered per individual unit. Even if one bill goes to the landlord to sort it out.

the writing is filed with the City. Any person who has agreed in writing to pay is considered the Responsible Party if a copy of the writing is filed with the City. In the case of a multi-use building in which one landlord receives one utility bill for several units representing different uses, the Owner/Landlord who receives the utility bill for the entire property will be the Responsible Party.

U. SINGLE FAMILY RESIDENCE. Single Family Residence shall mean a residential structure accommodating one dwelling unit.

V. STREET REPAIR, RECONSTRUCTION, AND MAINTENANCE. Any action to repair, reconstruct, resurface, replace, or maintain the roads within the City of Coburg. Street Maintenance does not include work that increases the capacity of a street such as a street widening, adding bike lanes or sidewalks, or the construction of new streets or street lighting. It does not include the maintenance or removal of trees within in the right-of-way of any City Street.

Street maintenance shall include the resurfacing of existing streets; the repair, replacement or addition of curb and gutters, installation and maintenance of storm drainage; updates to ADA access; repair or replacement of the entire existing street structural section; repair or replacement of existing street shoulders, pavement markers, striping and other street markings; repair or replacement of existing channelization devices; adjustment of existing utilities to match finish grades; and any other related work within existing streets.

W. UNIT RATE. Dollar amount charged per average daily trip. There shall be a unit rate applied to residential land uses, identified as the residential unit rate, and a unit rate schedule applied to all other land uses, identified as the non-residential rates.

X. UNOCCUPIED UNIT. Property that is undeveloped, or if developed, is not in current use or is not considered an Occupied Unit.

Y. USE CATEGORY. Use category or **Category of Use** means the business code and resulting trip generation estimate determined with reference to the ITE manual, and applicable to a developed property.

Z. VACANT. Vacant means that the entire developed property, building, or unit has no occupant for more than 30 continuous days; when the property use is suspended for a seasonal closure lasting more than 30 days, or property remodel, repair, or reconstruction

AA. WAIVER. Waiver means partial or full waiving of the Transportation of the Utility Fee.

Commented [AH6]: This is a decision for the City Council as to how we will handle mixed use buildings with one water meter, and is being billed as one unit per EDU's utilized by use.
Blain – I would like to see the landlord be the responsible party
Bell – Fee/Unit
Lehman – Based on Per Trip Basis

See above not on condominium

Commented [AH7]: If we were to include trees in the right-of-way as part of this ordinance, then the tree fee ordinance could be discontinued allowing for \$2 to be returned to taxpayers. **New Question/Concept**

Commented [AH8]: Channelization consists of any device used by Public Works to create directional indicators, barriers, or lane division. An example would be a barrier across one lane of traffic on a street in order to create a one-way lane for a portion of the length of the road.

Blain – No Comment
Bell – Yes
Lehman – yes

Commented [AH9]: Council will need to decide how many days a property needs to be vacant before they can apply for a fee waiver or if they will even allow for a waiver on a vacant property

Commented [AH10]: Council will need to decide if they will allow for waivers, and who/how waivers will be granted to.

Blain – I don't see the need for a full waiver
Bell – Yes, with application process
Lehman – Yes, what will the policy be?

Waivers would be established for non-profits, other government agencies, the school, or fraternal organizations. This would need to be thought out carefully. Perhaps creating a class with a minimum fee is a better choice than a waiver.. Serenity Lane is a non-profit

Commented [AH11]: Not all definitions may be needed in the final ordinance depending on decisions of the City Council.

SECTION 3. TRANSPORTATION UTILITY FEES ALLOCATED TO THE STREET FUND

- A. Collection of Fees.** All Transportation Utility Fees received shall be deposited into the Street Fund in a Department dedicated to the operation of the City street system. Other revenue sources may also be used for street maintenance. Amounts in the Street Fund may be invested by the Finance Director in accordance with State law. Earnings from such investments shall be dedicated to the Street Fund.
- B. Designation of Use.** The Street Fund shall not be used for other governmental or proprietary purposes of the City, except to pay for an equitable share of the city's overhead costs including accounting, management and other costs related to management and operation of the Street Fund. Engineering design, pavement evaluation, construction management, and other related costs, including project advertisements for bid, in the implementation of street maintenance projects shall also be considered as being use for street maintenance.

SECTION 4. ADMINISTRATION

- A. Implementation.** Except as provided in subsections (B), (C) and (D) of this section, the City Administrator shall be responsible for the implementation of the Transportation Utility Fee created by this title when administratively feasible, but not sooner than 30 days. The City Administrator shall be responsible for developing or delegating the development of administrative procedures, administration of fees, and for the purposes of establishing the fee for the specific Occupied Unit, and the consideration and assignment for categories of use subject to appeal.
- B. Street Maintenance Program.** The Public Works Director shall be responsible for developing and maintaining Street Maintenance programs for the maintenance of City streets and, subject to the review of the City Budget Committee review and City Council approval, allocation and expenditure of budget resources for street system maintenance in accordance with this chapter.
- C. Review/Oversite.** An oversight committee/commission appointed by the City Council will review the Public Works reports, and be given periodic updates to the street maintenance programs.
- D. Collection.** The Finance Director will be responsible for the collection and calculation of the fees.

SECTION 5. CATEGORIES OF USE

Commented [AH12]: Must provide time for notice to be sent to residents per ORS (30 days)
Blain – 30 days seems fair
Bell – No comment
Lehman – No comment

Commented [AH13]: Council may want to be more specific as to what oversight committee, or do they want to create one. Perhaps the Utility Committee or Commission.
Blain – I like the idea of the committee but worried on the ability to fill another committee
Bell – Yes on annual report – possibly on committee
Lehman – Yes, existing street committee with annual reports to City Council

This can be sorted out after the passing of the ordinance.
Could be the public works committee

The City Administrator may interpret all terms, provisions and requirements of this chapter and determine the appropriate TUF categories for use subject to appeal.

A. Assignment. The City Administrator will establish the assignment of categories of use for each non-residential property utilizing the ITE Manual.

SECTION 6. DETERMINATION OF TRANSPORTATION UTILITY FEE

A. Establishment of Fee. A Transportation Utility Fee is hereby established and shall be based upon the following.

1. The City's priority corrective and preventative street maintenance projects.
2. For Residential Property, the fee shall ~~be charged on a per unit basis set by the City Council by resolution.~~
3. For non-residential property, the fee shall be charged according to the following formula: the number of daily trips calculated by ~~to~~ per associated trips per business class as recorded in the ITE Manual for that use category divided by the number of daily vehicle trips calculated by the ITE Manual for ~~equal to the residential trips use~~ (9.44) ~~and times multiplied by the gross square footage of the non-residential use, in increments of 1,000 square feet, times a unit rate set by a resolution of the City Council. per thousand square feet of business space. A fee will be charge per number of units assigned.~~ For example, if the unit rate for a non-residential use is \$7 per equitable unit then the fee would ~~and the~~ ITE Manual has 156 trips for a business ~~that is 1500 square feet, the calculation will be as follows: 156/9.44 x 1.5 = 24 x \$7 = \$168, 156 is divided by 9.44 (associated residential trips) resulting in 16.52 units time 1000 square feet of business space.~~

~~2-~~ The non-residential fee will be applied to each unit.

~~ALTERNATIVE CLASSES OF ASSIGNMENT FOR NON-RESIDENTIAL PROPERTIES~~

CLASS 1.	10-40 TRIPS
CLASS 2.	41-80 TRIPS
CLASS 3.	81-150 TRIPS
CLASS 4.	151-300 TRIPS

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Commented [AH14]: This has been recommended at \$10 per month. However, Council may want to consider stepping into it by providing for planned increases with a starting rate. Blain – I like the idea of stepping into the rate but if other council and staff need to start at \$10, I would support it. Bell - \$10
Lehman – I support a \$10 Fee for Residents

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Commented [AH15]: Recommended unit charge for non-residential units is \$7 to \$10

Blain – Why would we have a lower starting fee for equitable units?

Bell - \$7

Lehman - \$7

If Council decides to choose a fee based upon associated trips per square feet then I suggest the equitable unit be the same as the residential fee. Otherwise, how do we call it an equitable unit?

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- CLASS 5 — 301-500 TRIPS
 - CLASS 6 — OVER 500 TRIPS
 - CLASS 7 — Special categories that do not fit in the trip
- TTE

4. The amount of the Transportation Utility Fee shall be set by Council resolution.
5. The Transportation Utility Fee program shall be reviewed annually as part of the City Budget Process.

B. Unit Fee. Based upon the fees set by Council resolution, the Finance Director shall direct the charge of a per unit transportation utility fee to the responsible party for each billing unit with an active utility account, or for occupied units not connected to City water and/or sewer, to the responsible party of each occupied unit of residential or non-residential property. The amount payable shall be adjusted if there is a change of use or development. All adjustments based on a change in use or development shall be determined by a building modification permit.

C. Billing. The Transportation Utility Fee shall be billed to and collected from the Responsible Party identified in Section 6 above. Transportation Utility Fees shall be included as part of the water and sewer bill for billing units with active utility accounts, and included on an "Other Utility" bill for Occupied Units not connected to City water or sewer services. All such bills shall be rendered regularly through the utility billing system and shall become due and payable upon receipt. If an owner has applied for and been approved for a fee waiver for an unoccupied unit, then billing payments shall be credited to the tree fee first, and the water bill last, and shall not be credited to the transportation utility fee.

D. Collections. Collections from responsible parties shall be applied first to interest and penalties, second to the transportation utility Fee, third to the tree Fee, fourth to the sewer utility, and last to the water fee.

SECTION 7. EXEMPTIONS

A. Transportation Utility Fees imposed under this chapter shall apply to all Billing Units and Occupied Units per Section 6A. of this ordinance, including property which may be entitled to exemption from or deferral or ad valorem taxes. Such units in this case will be units owned and occupied by local and state governments are exempt from the Transportation Utility Fee.

Commented [AH16]: This is an example of an alternative of charging non-residential classes of business uses. This is simply an example of a breakdown. If this alternative was chosen there would be an analysis done to find the natural separation in business uses to develop the classes

Again, this will be the easiest methodology to implement. While the upfront work will still need to be done for each business, the follow up will be far more simple. Also, it is likely that classes may be more acceptable for businesses especially if there is a cap on the largest businesses who could face huge charges at the standard calculation.

Commented [AH17]: For mixed use, when there are more than one units combined onto a utility bill, will the unit charges be billed to the property owner/landlord, or will they be billed individually?

Currently, one bill for water and wastewater is sent to the landlord and then they bill their tenants for charges.

Blain – One bill to property owner

Bell – Fee-Unit

Lehman – Per trip Formula charged

Commented [AH18]: What triggers an adjustment? Is it a permit being submitted to the City?

Blain – New Build or Permitted modification

Bell – Permit/If Class Changes

Lehman – No comment

Commented [AH19]: Currently utility bill payments are applied to the tree fee first and the water bill last. This allows for the City to act when a citizen chooses to not pay one or more charges on their bill. The result is a delinquent water bill that may result in a shut off. Does the Council want this fee applied in this order.

Blain – I'm happy with that

Bell – Yes

Lehman – Follow existing policy

Commented [AH20]: Does the City want to charge itself and other governments, or does it want to make governments operating in the City Limits exempt. This may mean the Fire District,

Blain – I don't see the need for exemptions

Bell – No

Lehman - Yes

B. Property owned and occupied by other entities that may receive partial or full exemption from deferral of ad valorem taxes will not be exempted from this fee.

Commented [AH21]: An example of this would be Serenity Lane.

SECTION 8. WAIVERS OR REDUCTION OF FEES

A. **Low Income Assistance.** A principal residence of a person may qualify for a special user rate if the person meets certain income criteria as established in Low Income Assistance Program established at the City of Coburg.

1. Any person desiring to receive a transportation rate waiver or reduction of fees must submit an application to the City on established forms provided for all utilities.
2. The amount of rate waiver will be established by the same policies that govern the application process for Low Income Assistance on utility bills.

B. **Vacancy.** When a developed property within the City becomes vacant as described below, upon written application and approval by the City Administrator, the transportation rate shall thereafter not be billed and shall not be a charge against the property until the property once again occupied.

1. The City Administrator is further authorized to develop and use a standard form of application ~~cause an investigation of any property for which an application~~ for determination of vacancy is submitted to verify any of the information contained on the application. The City Administrator 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 therein.

Commented [AH22]: Does the Council wish to waive fees for temporarily unoccupied properties? An example would be a home rental that is unrented for a couple of months. Does the bill shift to the owner/landlord when occupied and then they must submit a request for waiver? Or, is it billed to the owner/landlord and there is no waiver allowed for unoccupied units.

Blain – How do other cities handle this? No waiver unless water is shut off.
Bell – Vacant 30 days
Lehman – I support a reduced fee on vacant rental properties

We need to follow our policy already established for water and sewer shut-offs. Otherwise it gets too confusing.

2. ~~For the 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 a property did not qualify for a waiver or changes during the relevant time. The decision of the City Administrator under this section shall be final.

Commented [AH23]: Council will need to decide on how many days they think is reasonable for establishing a property unoccupied.

Blain – 90 days seems reasonable
Bell – Vacant – 30 days
Lehman – I support a reduced fee but not a waiver

C. **False Applications.** It is unlawful for any person to make, assist in making or to derive the benefits from any false application of fee reduction or 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

Commented [AH24]: What laws. Can we site under ordinances?

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 is granted.

SECTION 9. COMMENCEMENT OF CHARGES AND COLLECTION

- A. New Construction.** For new construction, fees charges shall commence with the issuance of a building permit or installation of a water meter, whichever comes first.
- B. Annexation.** Occupied and developed property annexed to the City shall begin paying the fee the first month following their annexation. Properties annexing into the City that contains empty land shall begin paying when the first utility bill is established for the property
- C. Monthly Collection.** The fees 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.

SECTION 10 APPEALS

- A. Authority.** The City Administrator shall have the initial authority and responsibility to interpret all terms, provisions and requirements of this chapter and to determine the appropriate charges thereunder. The responsible party for an Occupied Unit may request reconsideration of the determination of the amount of the fee by submission of a written application to the City Administrator. The application shall be supported with sufficient factual details to enable the City Administrator to render an informed decision.
- B. Decision.** Within thirty (30) days of the submission of a complete application requesting reconsideration of the amount of the Transportation Utility Fee to be charged to an Occupied Unit, the City Administrator shall render a decision on the application. The decision shall be ~~providing~~ provided in written form and shall include findings of fact and conclusions for the particular aspects of the decision, based upon available criteria. A copy of the decision shall be mailed to the person submitting the request.
- C. Use Categories.** For the purpose of reviewing the fee, the City Administrator may determine that the land use category is proper and that the fee charged is appropriate. However, if the decision of the City Administrator results in a change in category of land use, the City Administrator shall, for the purpose of establishing the fee, assign a new use category and notify the Finance

Director so that the appropriate change may be made in the applicable fee to be charged in the future.

- D. Refunds or Credits.** If the City Administrator determines that there is a change in category of land use necessary, and that the client has been overcharged for the Transportation Utility Fee, the City shall issue a credit or refund to the responsible party of the Occupied Unit who pays the utility billing.
- E. Appeal of City Administrator Decision.** The Responsible Party may appeal the City Administrator's determination to the City Council. The notice of appeal must be filed in writing within ten (10) days of the date of notice of change of category of land use and the determination of fee is sent and must be filed with the office of the City Recorder in writing, stating:
1. The name and address of the appellant
 2. The address of the affected premises
 3. The nature of the determination being appealed
 4. The reason the determination is incorrect
 5. What the correct determination of the appeal should be.

A responsible party who fails to file such a statement within the time permitted waives his or her objections and the appeal shall be dismissed. If notice of appeal is properly filed, except in an emergency, the City shall continue to bill the property at the initial fee during the appeal process. After a determination is made on the appeal, the City will refund or credit the customer if such fee has been reduced through the appeal process

The appellant shall be allowed at least ten (10) days' written notice of the hearing on the appeal. At its next available meeting, the City council shall hear and determine the appeal on the basis of the written statement and such additional evidence as the Council deems appropriate. ~~The appellant shall be allowed at least ten (10) days' written notice of the hearing on the appeal.~~ At the hearing the appellant may present testimony and oral argument personally or by counsel, and additional evidence. The rules of evidence as used by courts of law do not apply. The decision of the Council shall be in writing and shall contain findings of fact and conclusions of law that substantiates the Council's decision. The decision shall be mailed to the appellant within ten (10) days of the completion of the appeal hearing. The decision of the Council shall be final.

SECTION 11. PENALTY.

Commented [AH25]: Does the City want to issue a refund in this case, or would it just change in the next billing cycle?

Blain – I think a credit is fair

Bell – No comment

Lehman No comment

Commented [AH26]: If the City Council denies the appeal, will the appellant then be back billed for the months during the appeal process?

Blain – If the client is not back billed they may use this to get out of paying.

Bell – No comment

Lehman – if an appeal is granted then no retroactive

There is no way to back bill. It is best to charge the customer and if they are granted the appeal, then grant a credit on the account.

In addition to any other remedy, violation of any provision of this chapter shall upon conviction, constitute a Class _____ violation punishable by a maximum fine of \$ _____. Each day of delinquency in paying the Transportation Utility Fee constitutes a separate violation.

Commented [AH27]: This is alternative option to the current practice of crediting the water fund last in a utility payment which leads to delinquency and shut-off.

SECTION 12. REVIEW OF FUND AND ANNUAL REPORT.

The Public Works Director or other City Staff as delegated by the City Administrator shall perform a full rate review no less frequently than every 12 months which shall be reviewed by the City Council. If other revenue sources become available for road maintenance that decreases the City's cost of repairs and maintenance of the road, the City Council may change the fee accordingly.

SECTION 13. SEVERABILITY

A. In the event any section, subsection, paragraph, sentence or phrase of this chapter 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. If a court of competent jurisdiction determines that this ordinance imposes a tax or ~~changecharge~~, which is therefore unlawful as to certain but not all affected parties, then as to those certain parties, an exception or exceptions from the imposition of the transportation utility fee shall thereby be created and the remainder of the ordinance and the fees imposed thereunder shall continue to apply to the remaining properties without interruption.

~~B.~~ 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.

Commented [AH28]: If the Council determined that one or more areas of the community cost the city more in road maintenance then this allows for the implementation of a special assessment to that area.

Blain – yes
Bell – No sure, need more information
Lehman – I need more information on this

Legal Comment – This may result in double charging a property if they are paying a TUF fee and then are charged a Special Assessment as well.

This is not recommended as there is no way to fairly charge customers based on coverage of land. Some customers have vacant land with no traffic to it, and some have a ton of traffic. If being charged for use of the roadway, then the LID is not an appropriate way to charge. However, other cities have it in their ordinance to keep the door open.

SECTION 14. 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 on subject to the limits of Section 11(b), Article XI, of the Oregon Constitution.

SECTION 15. EFFECTIVE DATE.

This ordinance shall become effective _____.

ADOPTED by the **City Council** of the **City of Coburg** this ____ day of _____, _____, by a vote of ____ for and ____ against.

APPROVED by the Mayor of the City of Coburg this ____th day of _____, _____.

Ray Smith, Mayor

ATTEST:

Sammy L. Egbert, City Recorder

ATTACHMENT B. COUNCIL DECISION LIST

1. What will be the standard fee for residential single family dwelling?
2. Will the council consider stepping the fee up over several years?
3. What will be the fee charged per equitable unit to commercial?
4. Will an appeal process be allowed and how will it be designed?
 - a. If an appeal is denied is the customer charged back for the unpaid months?
 - b. If an appeal is granted is the customer refunded for months paid?
5. Will we apply fees by classes, or by individual business codes?
6. Will we limit charges to occupied properties? Or will we charge developable lots?
7. What is the equitable unit that will be used to figure commercial fees?
8. Will we allow for low income assistance?
9. How will business condominium units be charged?
10. How will mixed use properties be charged?
11. Will we include bike lanes, sidewalks, accessibility ramps, or other street features in the allowable use of fees collected? When a project is completed and these elements are part of it, will the street fund need to come up with the funds for these separate from the actual reconstruction or repair of the roads?
12. Will we allow for waivers? If we allow waivers, what will be the policy for granting them?
13. What triggers an adjustment to an assigned fee?
 - a. Change in square footage through expansion?
 - b. Change in business use?
14. How will this fee be applied to the utility bill as a whole? Will non-payment of this bill result in a water shut-off?
15. Will the City charge itself TUF Fees on all of our properties, parks, etc.
16. Will the City charge other governmental units such as the Fire District?
17. Will the City charge entities receiving exemption or deferral from ad valorem taxes? Example would be Serenity Lane.
18. Will we charge vacant properties such as rentals. What will trigger the granting of an exemption for vacant properties (vacant more than three months)?
19. How will fees be updated? Will we update them according to the CPI index annually, or will it be a permanent fee with periodic reviews?
20. What kind of reporting, or reporting entities would be required through the ordinance?
 - a. Annual Report?
 - b. Oversight Committee?
21. Does the City wish to state that there could still be a LID established for an area of town based on use? Or do we say that there will not be an LID established and this will be the only fee a commercial business may face?
22. Will the Council implement the fee based on a City Council vote or will the put the question to the voters?
23. What kind of public outreach would the Council like to see happen in the near future? Ongoing? Etc.