

ORDINANCE NO. 07-18

AN ORDINANCE AMENDING CHAPTER 62, "UTILITIES" OF THE CODE OF ORDINANCES OF THE CITY OF HAMILTON, TEXAS, BY ADDING A NEW SECTION; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE. SECTION 3 ESTABLISHING A ROADWAY MAINTENANCE FEE AS SET OUT BELOW:

RECITALS:

WHEREAS, the Hamilton City Council finds, determines, and declares that in order to protect the citizenry from the deterioration of the quality and safety of the Road System that they rely upon and use on a regular basis, it is necessary and in the best interest of the public health and safety to establish a Roadway Maintenance Fee in order to provide a properly maintained Road System; and

WHEREAS, the Hamilton City Council finds, determines, and declares that it is fair and reasonable for all developed real property within City Limits using the Road System (Benefitted Properties) to pay an equitable and pro rata portion of the costs to maintain the Road System; and

WHEREAS, the Hamilton City Council will establish a Roadway Maintenance Fee, subject to the limitations of the state law, and the City shall provide an efficient, reliable Road System within the City Limits on the payment of such fees; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HAMILTON, TEXAS:

- PART 1: That Chapter 62, "Utilities", of the Code of Ordinances of the City of Hamilton, Texas, be amended by adding a new Section 3 as set out in Exhibit "A", attached hereto and made a part of this Ordinance for all purposes.
- PART 2: That the facts and recitations contained in the preamble of this Ordinance are hereby declared to be true and correct and are incorporated by reference herein and made a part hereof, as if copied verbatim.
- PART3: That if any provisions of any section of this Ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this Ordinance, which shall remain in full force and effect.
- PART4: That any person, firm, corporation or entity violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall

be punishable by a fine of not less than Twenty-five Dollars (\$25.00) nor more than Five Hundred Dollars (\$500.00). Each day such violation shall continue, shall be deemed a separate offense. Said Ordinance becomes effective January 1, 2019.

PASSED, ADOPTED and APPROVED this 13th day of November 2018.

ATTEST:

APPROVED:

Ryan Ploster, City Secretary

Jim Mcinnis, Mayor

Approved:

Connie White, City Attorney

EXHIBIT "A"

That Chapter 62, "Utilities", of the Code of Ordinances of the City of Hamilton, Texas, is hereby amended by adding a new Section 3 as set hereafter to read as follows:

SECTION 3. Roadway Maintenance Fee.**A. Definitions.**

- (1) **City limits** shall mean the city limits of the City of Hamilton as they exist on the effective date of this Ordinance and as they may be amended from time to time.
- (2) **Category or Categories** means one (1) of sixty-five (65) categories recognized in Table 1: Land Use Codes of the ITE Trip Generation Handbook 3rd Edition determined from the land uses of the nonresidential customers.
- (3) **Roadway Maintenance Fee** shall mean the fee that is established by this Ordinance which is assessed against, and collected from owners or occupants of Benefitted Property within City Limits for the purpose of planning, constructing, operating, monitoring and maintaining the Transportation System of the City.
- (4) **Transportation System or Road System** shall mean the structures, traffic controls, streets and other facilities in the public right-of-way, such as bridges, sidewalks and alleys which are dedicated to the use of motor vehicles, transit, bicycles and pedestrians, all of which are owned and/or controlled in whole by the City and which are dedicated to the Transportation System service of the City, including provisions for additions, improvements and extensions to such System.
- (5) **Utility Customer** shall mean the holder of a City utility account or the person, firm, partnership, joint venture, association, corporation, governmental entity or other entity responsible for the payment of the Road Maintenance Fee.

B. ESTABLISHMENT AND REVISION OF ROADWAY MAINTENANCE FEE.

- (1) The City Council hereby establishes a Roadway Maintenance Fee to be paid by Utility Customers within the City Limits of Hamilton, Texas. Such Roadway Maintenance Fee shall be set in amounts which will provide sufficient funds to properly maintain the Transportation System.
- (2) Collection of the Roadway Maintenance Fee against each Benefitted Property shall be made by a monthly charge to be added to the Utility Customer's utility bill for such property.
- (3) The City Council has established a fee schedule based upon the cost of maintaining the City Transportation System as shown in the City of Hamilton Planning and Capacity Study 2018-2018 incorporated by reference herein. Such fee schedule may be amended by the City Council based upon changes in the cost of maintaining the City Transportation System.

C. TRANSPORTATION FUND.

- (1) A separate fund shall be created effective January 1, 2019, known as the Roadway Maintenance Fund. All Roadway Maintenance Fees shall be deposited in the Roadway Maintenance Fund. It shall not be necessary for the expenditures from the Roadway Maintenance Fund to specifically relate to any particular property from which the Roadway Maintenance Fees were collected.
- (2) An annual report of the Roadway Maintenance Fund and the Roadway Maintenance Fee program will be provided to the City Council.

D. FINDINGS.

- (1) The number of motor vehicle trips and the average length of those trips generated by a Benefitted Property may reasonably be used to estimate the apportioned cost of the Transportation System attributable to a Benefitted Property.
- (2) The characteristics and use of a Benefitted Property may reasonably be used to estimate the number and length of motor vehicle trips generated by the Benefitted Property.
- (3) Based on the best available data, the method of imposing the Roadway Maintenance Fee reasonably apportions the cost of the Transportation System among the Benefitted Properties.
- (4) It is reasonable and equitable to impose a set monthly Road Maintenance Fee per each Benefitted Property.
- (5) It is reasonable and equitable to use trip generation rates for Benefitted Property from the Trip Generation Manual, 9th Edition, published by the Institute of Transportation Engineers. Further, it is reasonable and equitable to use trip lengths derived from travel model statistics of the area to yield a vehicle-mile service unit generation for specific land uses.

E. DETERMINATION OF FEE.

- (1) Collection of the Roadway Maintenance Fee shall be based on each Benefitted Property's reasonably equitable share in the total number of vehicle miles generated by all property within the City Limits. The reasonably equitable share depends on the type of land use and the calculated vehicle miles per development unit (also referred to as *Transportation Demand Factor*) provided in the Land Use/Vehicle-Mile Equivalency Table (LUVMET).
- (2) The trip generation rates listed in the LUVMET table are derived from the Trip Generation Manual, 9th Edition, published by the Institute of Transportation Engineers, and are the number of trips anticipated to and from a Benefitted Property per its land use and established units during the PM peak hour.
- (3) For applicable non-residential land uses, the Trip Generation Rate is reduced to account for "pass-by trips" to obtain Trip Rates.
- (4) Trip Rates are multiplied by the Average Trip Length (miles) specific to the land use category to obtain the Transportation Demand Factor expressed as Vehicle Miles per Development Unit for each land use category.

(5) Each Benefitted Property is assigned a land use category identified in the LUVMET, and the size of the Benefitted Property in terms of number of development units is obtained from appraisal district property tax records or other reliable sources, as applicable.

(6) For each Benefitted Property, the Transportation Demand Factor from the LUVMET is multiplied by the number of development units to calculate the transportation demand generated by that Benefitted Property in terms of vehicle miles.

(7) The reasonably equitable share of each Benefitted Property in the total Roadway Maintenance Fee per billing period is calculated as a function of the transportation demand generated by a Benefitted Property to the total transportation demand generated by all Benefitted Properties.

E. BILLING AND COLLECTION OF FEES. The Roadway Maintenance Fee shall be billed and collected with the monthly utility bill. All such bills shall be rendered monthly and shall be due upon receipt.

G. RECOVERY OF UNPAID FEE. Any Roadway Maintenance Fee due hereunder which is not paid when due may be recovered in action at law by the City. In addition to any other remedies or penalties provided by this Ordinance or the Code of Ordinances, City of Hamilton, Texas, failure of any Utility Customer to pay the Roadway Maintenance Fee promptly when due shall subject such Utility Customer to the discontinuance of utility services provided by the City.

H. ADMINISTRATION; RULES AND REGULATIONS. The City Administrator or designee shall be responsible for the administration of this Ordinance. The City Administrator or designee shall be responsible for developing rules, regulations and procedures for the administration of fees and the consideration of petitions for modification and appeals pertaining to the fees charged hereunder; developing maintenance programs; establishing Transportation System criteria and standards for the operation and maintenance of the Transportation System.

I. DISPOSITION OF FEES AND CHARGES.

(1) The Roadway Maintenance Fee shall not be used for the general government proprietary purposes of the City, except to pay for the equitable share of the cost of accounting, management and government thereof.

(2) Other than as described above, the Roadway Maintenance Fee shall be used solely to pay for the costs of operation, administration, planning, engineering, development of guidelines and controls, inspection, maintenance, repair, improvement, renewal, replacement and reconstruction of the Transportation System and costs incidental thereto.

J. EXEMPTION.

(1) The City reserves the right to exempt properties from provisions of this Ordinance through Council Action.

K. APPEALS.

(I) A Utility Customer may appeal the Roadway Maintenance Fee established herein pursuant

to the procedure set forth in this section and as set out in any process developed by the City Administrator pursuant to Section H herein.

- (2) An appeal shall be in writing and submitted to the City Administrator or his designee within fourteen (14) calendar days after the date of the public utility billing statement containing the matter to be disputed.
- (3) Appeals may be submitted for the following reasons:
 - (a) The Utility Customer's exempt property has been assessed a Roadway Maintenance Fee;
 - (b) a Roadway Maintenance Fee for the Utility Customer's Benefitted Property is assessed in duplicate on multiple utility accounts;
 - (c) a Roadway Maintenance Fee is assessed to the Utility Customer's property outside the City Limits;
 - (d) a Roadway Maintenance Fee assessed against the Utility Customer's Benefitted Property is incorrect due to improper property characterization, such as land use, building square footage or other relevant property characterization; or
 - (e) a Roadway Maintenance Fee is assessed for a Benefitted Property unaffiliated to the Utility Customer's utility account.
- (4) The City Administrator or his designee shall render a written decision on such appeals within a reasonable time after receipt of a timely written notice of appeal from the Utility Customer. This decision will be final.
- (5) During all periods of appeal the Utility Customer shall be responsible for payment of Roadway Maintenance Fee charges in full.
- (6) A Utility Customer appealing the Roadway Maintenance Fee may not receive a refund resulting from the appeal except for a Road Maintenance Fee paid within six months the date of the Utility Customer's notice of appeal.

L. **PERIODIC REVIEW OF RATES.** The City Council will periodically review this Ordinance and the Roadway Maintenance Fee and shall be obligated to review them no later than in the first month following the third anniversary date of this Ordinance.

ROADWAY MAINTENANCE FEE SCHEDULE

| | Vehicle Miles Traveled | Monthly Charge |
|-----------------------|------------------------|----------------|
| Nonresidential | | |
| Commercial | Flat Fee | \$10.00 |
| Residential | | |
| Single Family | Flat Fee/Dwelling Unit | \$7.78 |
| Multi-Family | Flat Fee/Dwelling Unit | \$6.10 |