

ORDINANCE 636

AN ORDINANCE ESTABLISHING A TRANSPORTATION UTILITY FEE AND SETTING TRANSPORTATION UTILITY FEE AMOUNTS AND PROVIDING FOR THE COLLECTION THEREOF

The City of Winston ordains as follows:

Section 1. Declaration of Purpose

There is hereby created a transportation utility fee for the purpose of providing funds for the maintenance and repair of local streets under the jurisdiction of the City of Winston. The Council hereby finds, determines and declares the necessity of providing maintenance and upkeep of the City's local streets and related facilities within the right-of-way as a comprehensive transportation utility with such maintenance to include, without limitation, the following activities: cost of administering the transportation utility fee, patching, crack sealing, seal coating, pavement overlays including minor widening, repairing and installing sidewalks or curb cuts, replacing and installing signs, striping streets, repairing and installing signals, rebasing or placing additional road base on local streets, and other activities as are necessary in order that local streets may be properly maintained to safeguard the health, safety and welfare of the City and its inhabitants. The Council further finds that transportation facilities, including public transit, dial a ride, handicap access, and pedestrian and bicycle facilities are an essential part of the transportation network within the City of Winston and that a portion of such funds may also be used to cover the costs of public transit, dial a ride, and the construction of pedestrian and bicycle facilities either within or adjacent to existing public streets, or off of public streets.

Section 2. Establishment of Transportation Utility Fee

- A. The City Council hereby establishes a transportation utility fee to be paid by the responsible party (whether owners or occupants). Such fee shall be established in such amounts which will provide sufficient funds to properly maintain local streets throughout the City. Residential occupants shall be charged a set fee assigned to each residential sewer account within the City. Commercial occupants shall be charged a fee based upon traffic generation and developed use of the premises. The transportation utility fee shall not be charged during any period when the premises is not receiving City sewer service, or is proven to be vacant and not generating traffic.
- B. City Council may from time to time, by Resolution, change the fees based upon revised estimates of the cost of properly maintaining local streets, revised categories of developed use, revised traffic generation or trip length factors or other relevant factors.

- C. Collection of the fee for previously unimproved premises shall commence at the time of connection to the City sewer system.
- D. The transportation utility fee imposed by the City of Winston 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

All fees collected pursuant to this ordinance shall be paid into the Transportation Utility Fee Fund. Such revenues shall be used for the purposes of the operation, administration, and maintenance of the local transportation network in the City of Winston. It shall not be necessary that the operations, administration, and maintenance expenditures from the street fund specifically relate to any particular property from which the fees for said purposes were collected. To the extent that the fees collected are insufficient to properly maintain or repair local streets, the cost of the same shall be paid from such other City funds as may be determined by the City Council, but the City Council may order the reimbursement to such fund if additional fees are thereafter collected.

Section 4. City to Maintain Local Streets – Exceptions

The City shall maintain all accepted local streets within City-owned land, City rights-of-way, and City easements and maintain other accepted local streets within or adjacent to the City. Such local streets specifically exclude private streets and streets not yet accepted by the City for maintenance.

Section 5. Billing and Collection of Fee

- A. The responsible party for any improved premises within the City of Winston shall pay a transportation utility fee according to the rate set forth in the ordinance in Exhibit "C". Commercial rates are based on the formula set forth in the ordinance in Exhibit "B". Unless another responsible party has agreed in writing to pay and a copy of the writing is filed with the City, the person paying the City's sewer bill shall pay the transportation utility fee. When the bill remains unpaid by the name of record on the utility bill then the property owner becomes responsible for the bill. The obligation to pay the transportation utility fee is personal to the responsible party.
- B. Transportation utility fees shall be billed monthly by the City Administrator and shall become due and payable in accordance with the rules and regulations pertaining to the collection of sewer service fees. If there is not City sewer service to 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 at the time of connection to the City sewer system. Areas annexed to the City of Winston 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 hook up to City sewer. When that is not the case, then the applicant shall be required to connect to the City sewer system as soon as reasonably possible, but no later than one year from the date of annexation.

- C. Fee implementation shall be adopted by City Council through the 2009-2010 budget process.

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. The City 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. Administrative Review – Appeals

- A. Any user or occupant who disputes the amount of the fee, or disputes any determination made by or on behalf of the City pursuant to and by the authority of this chapter may petition the City Council for a hearing on a revision or modification of such fee or determination. Such petitions may be filed only once in connection with any fee or determination, except upon a showing of changed circumstances sufficient to justify the filing of such additional petition.
- B. Such petitions shall be in writing, filed with the City Administrator, and the facts and figures shall be submitted in writing or orally at a hearing scheduled by the City Council. The petitioner shall have the burden of proof.
- C. Within 60 days of filing of the petition, City Council shall make findings of fact based on all relevant information, shall make a determination based upon such findings and, if appropriate, modify such fee or determination accordingly. Such determination by the City Council shall be considered a final order.

Section 8. Notice of Decision

Every decision or determination of the City Council shall be in writing, and notice thereof shall be mailed to 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 chapter.

Section 9. Disposition of Fees and Charges

The fees paid and collected by virtue of this ordinance shall not be used for general or other governmental propriety purposes of the City, except to pay for an equitable share of the City's accounting, management and other governing costs, incident to operation of the transportation utility fee program. Otherwise the fees and charges shall be used solely to pay for the cost of operation, administration, maintenance, repair, improvement, renewal, replacement and reconstruction of City transportation network related facilities.

Section 10. 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 an 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 passby trips from various non-residential uses; and
 - 2. Multiply trip generation rates by a trip length ratio to better estimate usage.

Section 11. Methodology

- A. The City Administrator may, upon appropriate findings, recalculate a non-residential 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 12. Exemptions

The City Council may, by resolution, exempt any class of user when they determine that the public interest deems it necessary or that the contribution to street use by said class to be insignificant.


Section 13. Adoption

First reading by title only by Winston City Council - December 1, 2008

Second reading by title only and adopted by the Winston City Council - December 15, 2008.

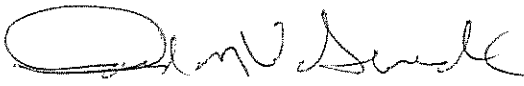
Ayes 3 Nays 0

Ordinance takes effect on January 14, 2009.



Rex A. Stevens, Mayor

Attest:



David M. Van Dermark
City Recorder

**EXHIBIT "A" CITY OF WINSTON ORDINANCE NO. 636
NOTES FOR SCHEDULE OF CHARGEABLE TRIP ENDS FOR TRANSPORTATION
UTILITY FEE**

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 to parks or storage yards until City Council directs staff to count traffic and assign a trip rate to these uses.
5. High Volume Commercial category includes banks and other financial institutions, restaurants, service stations of all sorts, and convenience markets.
6. Medium Volume Commercial category includes supermarkets and freestanding discount stores.
7. Low Volume Commercial includes uses such as vehicle care and service other than gasoline service stations, retailing including specialty retail centers, retailing combined with services and shops where retailing is incidental to services, building materials sales, nurseries and garden stores, etc.
8. Trip length adjustment ratios to multiply by trip-ends for various categories are:
0.67for commercial
0.70.....for church/institution and schools
0.85.....for other personal business (business parks and offices)
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 Douglas County or directly measuring building exterior dimensions.

EXHIBIT "B" CITY OF WINSTON ORDINANCE NO. 636
Schedule of Transportation Trip Ends for Transportation Utility Fee
Formula for Commercial 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	Unit of Measure
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10. The number of students would be the average daily membership.

Daily Trip End			
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
High School	530		Student

**EXHIBIT "C" CITY OF WINSTON ORDINANCE NO. 636
CALCULATION OF CHARGES FOR TRANSPORTATION UTILITY FEE**

Formula for Commercial Transportation Utility Fee: **Monthly Transportation utility fee =
Number of Units times Chargeable Daily Trip-Ends times Rate per Trip-end.**

Residential Rates

Land Use	Unit of Measure	Monthly Utility Fee
Single Family (210)	dwelling unit	\$ 1.50
Multi-Family (220)	dwelling unit	\$1.50
Mobile Home Park (240)	dwelling unit	\$1.50
Senior Housing (252)	dwelling unit	\$1.50
Affordable Housing	dwelling unit	\$1.50

Commercial Rates

Land Use	Chargeable Daily Trips	Unit of Measure	Fee per Trip	Monthly Utility Fee
Church/Institution (560)	6.377	1,000 sf gfa	\$0.38	Use formula
Lodging (320)	5.63	room	\$0.38	Use formula
RV Parks (416)	0.426	occupied site	\$0.38	Use formula
Industry (110)	6.97	1,000 sf gfa	\$0.38	Use formula
Mini-Warehouse (151)	2.50	1,000 sf	\$0.38	Use formula
Warehouse/Furniture (150)	4.96	1,000 sf gfa	\$0.38	Use formula
Business Park (770)	10.846	1,000 sf gfa	\$0.38	Use formula
Offices (710)	9.359	1,000 sf gfa	\$0.38	Use formula
<i>Low Volume Commercial (814)</i>		1,000 sf gfa for all categories		Use formula
<i>A. 0-10,000 sf</i>	17.711		\$0.38	
<i>B. 10,001-20,000 sf</i>	12.0		\$0.38	
<i>C. 20,001+ sf</i>	10.0		\$0.38	

Medium Volume. Commercial (815)	24.662	1,000 sf gfa	\$0.38	Use formula
High Vol. Commercial (912)		1,000 sf gfa for all categories		Use formula
A. Restaurants serving 1 meal/day	27.838		\$0.38	
B. Restaurants serving 2 meals/day	55.676		\$0.38	
C. Restaurants serving 3 meals/day	83.514		\$0.38	
Medical Clinic/Office (630)	38.684	1,000 sf	\$0.38	Use formula
Vehicle Sales (841)	31.875	1,000 sf	\$0.38	Use formula
Elementary School (520)	0.714	student	\$0.38	Use formula
Middle School (522)	1.015	student	\$0.38	Use formula
High School (530)	1.385	student	\$0.38	Use formula

NOTES:

1. Numbers in parentheses are ITE land use codes in the 7th ED. Of Trip Generation
2. Chargeable Daily Trip-Ends adjusts for pass by trips and trip length.
3. Square feet (sf); gross floor area (gfa).

RESOLUTION 687

A RESOLUTION IMPLEMENTING A FEE FOR THE TRANSPORTATION UTILITY FEE USING METHODOLOGY ADOPTED IN ORDINANCE 636

WHEREAS, the City Council in the City of Winston recognized that funding for the street repair program was disappearing from Douglas County; that funding for the Transit System would be required long into the future and that Dial-A-Ride funding via special transportation funds could be eliminated in the near future; and

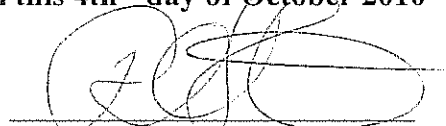
WHEREAS, Ordinance 636 described methodology to collect funds to help make these programs possible into the future; and

WHEREAS, the estimated needs to fully fund all programs at their previous levels would require a fee of approximately \$4 per unit; and

WHEREAS, the Winston City Council realizes that a fee at that level would be very difficult for many of our citizens;

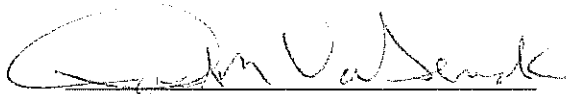
NOW THEREFORE BE IT RESOLVED, that the City Council of the City of Winston hereby implements the Transportation Utility Fee at \$1 per unit, as described in the methodology described in Ordinance 636, effective November 1, 2010.

Passed and Adopted by the Winston City Council this 4thth day of October 2010



Rex A. Stevens, Mayor

Attest:



David M. Van Dermark, City Administrator