

AN ORDINANCE AMENDING CHAPTER 25, STREETS, SIDEWALKS, AND MISCELLANEOUS PUBLIC PLACES BY ESTABLISHING A STREET MAINTENANCE FUND AND PROVIDING FOR COLLECTION OF STREET MAINTENANCE FEES; PROVIDING FOR EXEMPTIONS AND ADJUSTMENTS FROM STREET MAINTENANCE FEES; PROVIDING A REPEALER CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR A PENALTY; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, the City of Killeen, Texas is a home-rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and,

WHEREAS, the City Council of the City of Killeen deems the continued operation and functionality of the City’s transportation infrastructure to be of vital importance to the protection of the public health, safety, and welfare of its citizens; and,

WHEREAS, the City of Killeen has determined that in order to protect the citizenry from the deterioration of the quality and safety of the road system which they rely upon and use on a regular basis and to provide a properly maintained road system, it is necessary and in the best interest of the public health and safety to establish a Street Maintenance Fund; and,

WHEREAS, the City of Killeen will establish a schedule of Street Maintenance fees; and,

WHEREAS, the City of Killeen will offer the street maintenance service on nondiscriminatory, reasonable and equitable terms,

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KILLEEN, TEXAS:

SECTION I. That Chapter 25, Article VII of the City of Killeen Code of Ordinances is hereby amended by adding the following sections to read as follows:

ARTICLE VII. STREET MAINTENANCE FEE

Sec. 25-225. Definitions.

In this Article:

Benefitted property means a residence; a business; or a lot or parcel on which improvements have been constructed and that generates motor vehicle trips.

Monthly street maintenance cost per unit means the annual cost of street maintenance and operations including related materials, supplies, contracted treatments, pavement, concrete, signs, signals, marking, salaries, and equipment, and not including capital expenses such as existing debt, divided by the total number of single family equivalents divided by twelve months. The total number of single-family equivalents is total units within the City multiplied by each corresponding single-family equivalent.

Non-residential benefitted property means benefitted property not defined as residential benefitted property under this article. Non-residential property shall include, but not be limited to, property being used for the following purposes: commercial, industrial, institutional, lodging, medical, office, or religious.

Residential benefitted property means a single-family residence, modular home, townhouse, two-family housing, multi-family housing, mobile home, travel trailer, or manufactured home.

Street Maintenance fee means the fee established by this article.

Transportation system means the structures, streets, rights-of-way, bridges, alleys, and other facilities within the city limits that are dedicated to the use of vehicular traffic; the maintenance and repair of those facilities; and the operation and administration of such maintenance and repair.

Unit means a unit of measurement equaling:

- (a) Residential benefitted property: 1 per dwelling unit; OR

(b) Non-residential benefitted property: 1 per 1,000 square feet of improvements designated as living area/floor area as applicable in the records of the Bell County Appraisal District; OR

(c) Hotel/Motel: 1 per room; OR

(d) Self-Service Car Wash: 1 per stall.

Single-Family Equivalent is the equivalent number of trips per any other land use to single-family land use and is the principle basis of service measurement derived from trip generation rates, pass by percentages, and trip lengths published by the Institute of Transportation Engineers. The single-family equivalents of the following uses per unit are:

1. Single-Family Detached Housing Dwelling Unit	1.00
2. Multi-Family Housing (Low-Rise) Dwelling Unit	0.57
3. Multi-Family Housing (Mid-Rise) Dwelling Unit	0.44
4. Mobile Home Dwelling Unit	0.47
5. Assisted Living 1,000 SF GFA	0.49
6. Intermodal Truck Terminal 1,000 SF GFA	2.31
7. General Light Industrial 1,000 SF GFA	0.78
8. Industrial Park 1,000 SF GFA	0.49
9. Manufacturing 1,000 SF GFA	0.83
10. Warehousing 1,000 SF GFA	0.23
11. Mini-Warehouse 1,000 SF GFA	0.21
12. Hotel Room	0.50
13. Motel / Other Lodging Facilities Room	0.31
14. Multipurpose Recreational Facility 1,000 SF GFA	2.84
15. Bowling Alley 1,000 SF GFA	0.92
16. Adult Cabaret 1,000 SF GFA	2.32
17. Ice Skating Rink 1,000 SF GFA	1.05
18. Health/Fitness Club 1,000 SF GFA	2.74
19. Athletic Club 1,000 SF GFA	4.99
20. Recreational Community Center 1,000 SF GFA	1.83
21. Elementary School 1,000 SF GFA	1.01
22. Middle School/Junior High School 1,000 SF GFA	0.88
23. High School 1,000 SF GFA	0.72
24. Private School (K-8) 1,000 SF GFA	4.83
25. Junior / Community College 1,000 SF GFA	1.37
26. Church 1,000 SF GFA	0.24
27. Mosque 1,000 SF GFA	2.09
28. Day Care Center 1,000 SF GFA	4.60
29. Museum 1,000 SF GFA	0.13
30. Nursing Home 1,000 SF GFA	0.44
31. Clinic 1,000 SF GFA	2.42
32. Animal Hospital/Veterinary Clinic 1,000 SF GFA	1.83
33. General Office Building 1,000 SF GFA	0.85
34. Corporate Headquarters Building 1,000 SF GFA	1.03
35. Single Tenant Office Building 1,000 SF GFA	1.26

36. Medical-Dental Office Building 1,000 SF GFA	2.56
37. Office Park 1,000 SF GFA	0.98
38. Construction Equipment Rental Store 1,000 SF GFA	0.82
39. Building Materials and Lumber Store 1,000 SF GFA	1.70
40. Free-Standing Discount Superstore 1,000 SF GFA	2.53
41. Variety Store 1,000 SF GFA	3.72
42. Free-Standing Retail Store 1,000 SF GFA	2.79
43. Hardware/Paint Store 1,000 SF GFA	1.63
44. Nursery (Garden Center) 1,000 SF GFA	4.01
45. Shopping Center 1,000 SF GLA	2.07
46. New and Used Car Sales 1,000 SF GFA	2.38
47. Recreational Vehicle Sales 1,000 SF GFA	0.61
48. Automobile Parts Sales 1,000 SF GFA	2.22
49. Tire Store 1,000 SF GFA	2.28
50. Tire Superstore 1,000 SF GFA	1.20
51. Supermarket 1,000 SF GFA	4.88
52. Convenience Market (Open 24 Hours) 1,000 SF GFA	19.85
53. Convenience Market w/ Gasoline Pumps 1,000 SF GFA	13.83
54. Discount Supermarket 1,000 SF GFA	5.46
55. Home Improvement Superstore 1,000 SF GFA	1.11
56. Office Supply Superstore 1,000 SF GFA	2.29
57. Discount Home Furnishing Superstore 1,000 SF GFA	1.30
58. Department Store 1,000 SF GFA	1.13
59. Apparel Store 1,000 SF GFA	3.40
60. Pharmacy/Drugstore w/o Drive-through window 1,000 SF GFA	3.30
61. Pharmacy/Drugstore w/ Drive-through window 1,000 SF GFA	4.33
62. Furniture Store 1,000 SF GFA	0.20
63. Walk-In Bank 1,000 SF GFA	3.05
64. Drive-In Bank 1,000 SF GFA	5.31
65. Hair Salon 1,000 SF GFA	0.43
66. Drinking Place 1,000 SF GFA	3.83
67. Sit Down Restaurant 1,000 SF GFA	2.58
68. High Turnover (Sit-Down) Restaurant 1,000 SF GFA	3.29
69. Fast Food Restaurant without Drive-Thru Window 1,000 SF GFA	8.38
70. Fast Food Restaurant with Drive-Thru Window 1,000 SF GFA	9.66
71. Coffee/Donut Shop without Drive-through Window 1,000 SF GFA	2.36
72. Coffee/Donut Shop with Drive-Thru Window 1,000 SF GFA	2.82
73. Quick Lubrication Vehicle Shop 1,000 SF GFA	4.14
74. Automobile Care Center 1,000 SF GFA	1.48
75. Automobile Parts & Service Center 1,000 SF GFA	1.00
76. Self-Service Car Wash Stall	0.49
77. Automated Car Wash 1,000 SF GFA	1.00

User or utility customer means the person who is responsible for the payment of charges on a City utility meter for a benefitted property.

Sec. 25-226. Creation of Street Maintenance Special Revenue Fund.

A separate fund, within the City’s fund structure, shall be created as of the effective date of the ordinance, known as the Street Maintenance Special Revenue Fund, for the purpose of maintenance of the transportation system.

Such street maintenance revenues shall be used only for maintenance and operations costs of the transportation system. Money from sources other than the Street Maintenance fee may be deposited in the Street Maintenance Special Revenue Fund. An expenditure from the Street Maintenance Special Revenue Fund need not specifically relate to the property of a particular user from whom the Street Maintenance fee was collected.

Section 25-227. Administration; Calculation of Street Maintenance Costs; Review.

The City Manager, or designee, shall be responsible for the administration of this ordinance including, but not limited to, creating a policy for the administration of the Street Maintenance Fund and the Street Maintenance fee; enacting any procedures necessary for the administration of the Street Maintenance fees and the consideration of petitions for exemption or adjustment; developing maintenance programs; and establishing transportation system criteria and standards for the operation of maintenance of the transportation system.

The estimated annual cost of the City’s street maintenance and operations is \$6,221,640. The total single-family equivalents within the City limits equal 80,077.56. The monthly street maintenance cost per unit is \$6.47. ($\$6,221,640/80,077.56/12 \text{ months} = \6.47)

The annual street maintenance and operations costs and total single-family equivalents above shall be reviewed annually and updated as needed. A road condition survey shall be conducted every three years.

Section 25-228. Findings.

The City Council finds and determines the following:

- (1) It is appropriate that a benefitted property pay the prorated annual cost of the maintenance of the transportation system that can reasonably be attributed to the benefitted property.
- (2) The number of motor vehicle trips generated by a benefitted property may reasonably be used to estimate the prorated cost of the maintenance of the transportation system attributable to a benefitted property.
- (3) The size and use of a property may reasonably be used to estimate the number of motor vehicle trips generated by and single-family equivalent associated with the property.

- (4) Based on the best available data, the method of imposing the Street Maintenance fee reasonably prorates the cost of maintenance of the transportation system among benefitted properties.
- (5) If available, appraisal district property tax records may be relied on to determine the size of nonresidential benefitted property.
- (6) It is reasonable and equitable to derive trip generation rates or single-family equivalents for residential and nonresidential benefitted property as determined and published by the Institute of Transportation Engineers.
- (7) It is reasonable and equitable to assume that each utility meter in the service area serves a benefitted property.
- (8) It is reasonable to calculate the single-family equivalent and the monthly street maintenance cost components based on a representative year.
- (9) For purposes of this article, a property's use does not depend on the property's zoning. If a property fits more than one (1) category of land use, the City Manager, or designee, shall assign a composite single-family equivalent which will be calculated by combining the single-family equivalents for the existing land uses in percentages corresponding to the percentage of property used for each land use.

Sec. 25-229. Fee Established.

The city council hereby establishes a Street Maintenance fee intended to fund approximately 26.35 percent of annual street maintenance and operations costs. The Street Maintenance fee shall be calculated as provided herein and be paid by each City of Killeen utility customer within the city limits of Killeen, Texas.

Sec. 25-230. Calculation of Fee.

The Street Maintenance fee shall be calculated using the following formula:

$$\frac{\text{Monthly Street Maintenance Cost per unit} \times \text{Number of Units} \times \text{Single-Family Equivalent}}{\text{x Percentage Funded by Fee}} = \text{Monthly Bill}$$

For example, a similarly situated customer shall pay an amount equal to the following each month:

Single-family: $\$6.47 \times 1 \text{ unit} \times 1 \times .2635 = \1.70

Multifamily (Low-Rise): $\$6.47 \times 4 \text{ units} \times .57 \times .2635 = \3.89

Shopping Center: $\$6.47 \times 20 \text{ units (1 per 1,000 sq. ft.)} \times 2.07 \times .2635 = \70.58

Sec. 25-231. Allocation.

If one benefitted property is served by multiple meters or where one meter serves multiple benefitted properties, the City Manager, or designee, may determine the allocation of the fee among the users by any reasonable method that takes into account the relative contribution of each to traffic generation. In the absence of better information, the City Manager, or designee, may allocate the fee equally among the users.

Sec. 25-232. Exemptions.

- (A) This article does not apply to property owned by the City.
- (B) This article does not apply to a property that is vacant. The City Manager, or designee, may adopt any reasonable method to determine whether a property is vacant.
- (C) A user entitled to an exemption under this section must notify the City Manager, or designee, of the applicable exemption. A fee paid before the City Manager, or designee, is notified of an exemption may not be refunded.

Sec. 25-233. Adjustments.

- (A) A user may apply to the City Manager, or designee, for an adjustment in the user's monthly Street Maintenance fee if:
 - (1) the user disputes the category of land use used in calculating the fee for the owner's benefitted property; or
 - (2) the user believes the fee has been calculated in error.
- (B) The City Manager, or designee, may adjust the Street Maintenance fee for a user who has applied for an adjustment under this section according to best professional judgment.
- (C) A user who disagrees with a determination of the City Manager, or designee, under this section may apply for a hearing. The City Manager shall designate a hearing officer with authority to hold the hearing. The user requesting the hearing shall have the burden of proof to show by a preponderance of evidence that the adjustment should be granted. On completion of the hearing, the hearing officer shall recommend a disposition of the matter to the City Manager who may revise or reinstate the original determination.

Sec. 25-234. Billing and Payment.

- (A) Bills or statements for the Street Maintenance fee shall be rendered by the City for all properties subject to the fee. Bills shall be payable when rendered and shall be

considered as received by the customer/owner, whether actually received or not, when deposited in the United States mail, postage prepaid, addressed to the utility customer.

- (B) Bills shall be rendered monthly, and subject to late charges.
- (C) Bills shall be for services for the preceding month.
- (D) Street Maintenance fees shall be billed with the City's water and wastewater billings and shall be identified separately on the bill as a Street Maintenance fee.

Sec. 25-235. Recovery of Unpaid Fees; Enforcement.

The City may recover a Street Maintenance fee that is not paid when due in an action at law.

Sec. 25-236. Liability.

This article does not imply that a benefitted property will be free from inadequately maintained roads, and does not create additional duties on the part of the City. This article does not waive the City's immunity under any law.

SECTION II. That all ordinances or resolutions or parts of ordinances or resolutions in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

SECTION III. That should any section or part of any section, paragraph or clause of this ordinance be declared invalid or unconstitutional for any reason, it shall not invalidate or impair the validity, force or effect of any other section or sections or part of a section or paragraph of this ordinance.

SECTION IV. That the Code of Ordinances of the City of Killeen, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

SECTION V. That this ordinance shall be effective on December 12, 2018.

PASSED AND APPROVED at a regular meeting of the City Council of the City of Killeen, Texas, this 11th day of December, 2018, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, §551.001 *et seq.*

APPROVED

Jose L. Segarra, MAYOR

ATTEST:

APPROVED AS TO FORM:

Lucy C. Aldrich, CITY SECRETARY

Kathryn H. Davis, CITY ATTORNEY

ORD _____

Date: _____