

CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
ORDINANCE NO. 14- 14

AN ORDINANCE AMENDING TIGARD MUNICIPAL CODE CHAPTER 15.06 "FRANCHISED UTILITY ORDINANCE" TO MODIFY THE UTILITY RIGHT-OF-WAY USAGE FEE STRUCTURE.

WHEREAS, Tigard Municipal Code ("TMC") Chapter 15.06 governs use of the rights-of-way by utility operators; and

WHEREAS, TMC Section 15.06.100 A "Right-of-Way Usage Fee" provides for a fee to ensure the City receives fair and reasonable compensation for private use of the rights-of-way. Clarification is needed to address utility companies ownership of facilities in the rights-of-way and to update the annual fee; and

WHEREAS, TMC Section 15.06.020 defines "Gross Revenues" for purposes of calculating the Right-of-Way Usage Fee. Clarification is needed to ensure that the City is compensated based on the benefits derived from utility use of the public rights-of-way within the City.

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

SECTION 1: Sections of TMC Chapter 15.06 are amended as set forth as Exhibit A to this ordinance and are approved and adopted by the City Council.

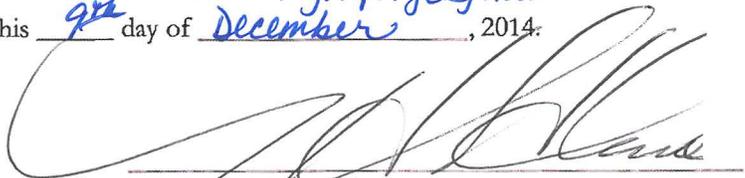
SECTION 2: This ordinance shall be effective 30 days after its passage by the council, signature by the mayor, and posting by the city recorder.

PASSED: By unanimous vote of all council members present after being read by number and title only, this 9th day of December, 2014.

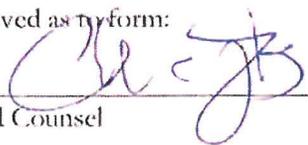


Carol A. Krager, City Recorder
Norma I. Alley, Deputy City Recorder

APPROVED: By Tigard City Council this 9th day of December, 2014:



John L. Cook, Mayor
Marland Henderson, Council President

Approved as to form:


Special Counsel

11-24-14

Date

EXHIBIT A

~~Strike through~~ text is deleted from the Code and underlined text is added to the Code.

Tigard Municipal Code Chapter 15.06 FRANCHISED UTILITY ORDINANCE

Section 15.06.100 Right-of-Way Usage Fee (subsection A)

- A. ~~All persons using~~ Any person that owns a utility system or facility in the right-of-way ~~to provide service to customers within of~~ the City of Tigard and derives gross revenues from such system or facility from customers within the City of Tigard shall pay a right-of-way usage fee that is the greater of: (1) the applicable percentage of gross revenues set forth in subsection B of this section or (2) ~~\$10,000.00~~ \$4,000.00. Any person that owns a utility system or facility in the right-of-way of the City of Tigard but does not derive any gross revenues from such system or facility ~~from customers within the City of Tigard~~ shall pay a right-of-way usage fee that is the greater of: (1) the linear foot fee set by council resolution pursuant to subsection C of this section or (2) ~~\$10,000.00~~ \$4,000.00. ~~Any person using a utility system or facility in the right-of-way which that person does not own to provide service to customers within the City of Tigard shall pay a right-of-way usage fee that is the applicable percentage of gross revenues set forth in subsection B of this section.~~ The right-of-way usage fee is subject to any applicable limitations imposed by federal and state statutes, including the privilege tax limitations set forth in ORS 221.410 through 221.655. Payment shall be made on the schedule set forth in subsection E of this section or as specified in a franchise agreement.

15.06.020 Definitions (definition of “gross revenues”)

“Gross revenues” means ~~revenues all amounts, less net uncollectibles, earned or~~ derived from the operation of a utility system and from the use of a utility system to serve customers within the city, ~~less net uncollectibles, including but not limited to amounts earned or derived~~ from the sale of electrical energy, gas, telecommunications, water, or sanitary sewage disposal and treatment service, and for the use, rental, or lease of utility facilities of the utility engaged in such business.

1. “Gross revenues” shall not include proceeds from the sale of bonds, mortgage or other evidence of indebtedness, securities or stocks.
2. To the extent that the city’s authority to tax gross revenues of an entity is limited by ORS 221.410 through 221.655, the city shall apply the statutory limitations to the definition of “gross revenues.”